

IDAHO ADMINISTRATIVE BULLETIN

September 5, 2012 -- Volume 12-9

Idaho Department of Administration
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IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

September 5, 2012 -- Volume 12-9

PREFACE	5
THE OFFICE OF THE GOVERNOR	
Executive Order No. 2012-04	
Establishing the Workforce Development Council for Planning and Oversight of the State's Workforce Development System - Repealing and Replacing Executive Order 2010-02	15
IDAPA 02 - DEPARTMENT OF AGRICULTURE	
02.06.02 - <i>Rules Pertaining to the Idaho Commercial Feed Law</i>	
Docket No. 02-0602-1201 (Fee Rule)	
Notice of Rulemaking - Temporary and Proposed Rule	17
IDAPA 07 - DIVISION OF BUILDING SAFETY	
07.05.01 - <i>Rules of the Public Works Contractors License Board</i>	
Docket No. 07-0501-1201 (Fee Rule)	
Notice of Rulemaking - Temporary and Proposed Rule	22
Docket No. 07-0501-1202	
Notice of Rulemaking - Proposed Rule	27
IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE	
16.03.09 - <i>Medicaid Basic Plan Benefits</i>	
Docket No. 16-0309-1202	
Notice of Rulemaking - Proposed Rule	30
Docket No. 16-0309-1204	
Notice of Rulemaking - Proposed Rule	33
16.05.01 - <i>Use and Disclosure of Department Records</i>	
Docket No. 16-0501-1201	
Notice of Rulemaking - Proposed Rule	57
16.06.01 - <i>Child and Family Services</i>	
Docket No. 16-0601-1202	
Notice of Rulemaking - Proposed Rule	59
16.06.08 - <i>Rules and Minimum Standards for DUI Evaluators</i>	
Docket No. 16-0608-1201 - (Chapter Repeal)	
Notice of Rulemaking - Proposed Rule	63
16.07.01 - <i>Behavioral Health Sliding Fee Schedules</i>	
Docket No. 16-0701-1201	
Notice of Rulemaking - Proposed Rule	65
16.07.17 - <i>Alcohol and Substance Use Disorder Services</i>	
Docket No. 16-0717-1201	
Notice of Rulemaking - Proposed Rule	70

16.07.20 - <i>Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs</i> Docket No. 16-0720-1201 Notice of Rulemaking - Proposed Rule.....	78
IDAPA 18 - DEPARTMENT OF INSURANCE	
18.01.09 - <i>Consumer Protection in Annuity Transactions</i> Docket No. 18-0109-1201 (Chapter Repeal) Notice of Rulemaking - Proposed Rule.....	135
18.01.09 - <i>Suitability in Annuity Transactions</i> Docket No. 18-0109-1202 (Chapter Rewrite) Notice of Rulemaking - Proposed Rule.....	136
18.01.19 - <i>Insurance Rates and Credit Rating</i> Docket No. 18-0119-1201 Notice of Rulemaking - Proposed Rule.....	145
18.01.44 - <i>Schedule of Fees, Licenses and Miscellaneous Charges</i> Docket No. 18-0144-1201 (Fee Rule) Notice of Rulemaking - Proposed Rule.....	147
18.01.56 - <i>Rebates and Illegal Inducements to Obtaining Title Insurance Business</i> Docket No. 18-0156-1201 Notice of Rulemaking - Proposed Rule.....	150
IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION	
26.01.20 - <i>Rules Governing the Administration of Park and Recreation Areas and Facilities</i> Docket No. 26-0120-1202 (Fee Rule) Notice of Rulemaking - Temporary and Proposed Rule	152
IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION	
31.41.01 - <i>Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to Customer Service Regulation by the Idaho Public Utilities Commission (The Telephone Customer Relations Rules)</i> Docket No. 31-4101-1201 Notice of Rulemaking - Temporary and Proposed Rule	164
IDAPA 35 - STATE TAX COMMISSION	
35.01.03 - <i>Property Tax Administrative Rules</i> Docket No. 35-0103-1206 Notice of Rulemaking - Adoption of Temporary Rule	167
IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT	
39.02.12 - <i>Rules Governing Issuing Certificates of Title and Bonded Certificates of Title</i> Docket No. 39-0212-1201 Notice of Rulemaking - Temporary and Proposed Rule	173
39.02.60 - <i>Rules Governing License Plate Provisions</i> Docket No. 39-0260-1201 Notice of Rulemaking - Temporary and Proposed Rule	178
39.03.04 - <i>Rules Governing Movement of Disabled Vehicles</i> Docket No. 39-0304-1201 (New Chapter) Notice of Rulemaking - Temporary and Proposed Rule	183

39.03.10 - <i>Rules Governing When an Overlegal Permit Is Required</i> Docket No. 39-0310-1201 Notice of Rulemaking - Temporary and Proposed Rule	187
39.03.41 - <i>Rules Governing Traffic Control Devices</i> Docket No. 39-0341-1201 Notice of Rulemaking - Temporary and Proposed Rule	190
39.04.02 - <i>Rules Governing Marking of Hazards to Air Flight</i> Docket No. 39-0402-1201 Notice of Rulemaking - Temporary and Proposed Rule	200
IDAPA 46 - BOARD OF VETERINARY MEDICINE	
46.01.01 - <i>Rules of the State of Idaho Board of Veterinary Medicine</i> Docket No. 46-0101-1201 Notice of Rulemaking - Proposed Rule.....	205
IDAPA 52 - IDAHO STATE LOTTERY COMMISSION	
52.01.03 - <i>Rules Governing Operations of the Idaho State Lottery</i> Docket No. 52-0103-1203 Notice of Intent to Promulgate Rules - Negotiated Rulemaking.....	218
IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY	
58.01.02 - <i>Water Quality Standards</i> Docket No. 58-0102-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking.....	219
SECTIONS AFFECTED INDEX	221
LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS	226
CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES	229
SUBJECT INDEX	238

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

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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.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 01	Accountancy , Board of
IDAPA 38	Administration , Department of
IDAPA 44	Administrative Rules Coordinator , Office of the
IDAPA 02	Agriculture , Idaho Department of
IDAPA 40	Arts , Idaho Commission on the
IDAPA 03	Athletic Commission
IDAPA 04	Attorney General , Office of the
IDAPA 53	Barley Commission , Idaho
IDAPA 51	Beef Council , Idaho
IDAPA 07	Building Safety , Division of Electrical Board (07.01) Plumbing Board (07.02) Building Codes & Manufactured Homes (07.03) Building Code Advisory Board (07.03.01) Public Works Contractors License Board (07.05) Uniform School Building Safety (07.06) HVAC Board (07.07)
IDAPA 43	Canola and Rapeseed Commission , Idaho
IDAPA 28	Commerce , Idaho Department of
IDAPA 06	Correction , Board of
IDAPA 19	Dentistry , Board of
IDAPA 08	Education , State Board of and State Department of
IDAPA 10	Engineers and Land Surveyors , Board of Professional
IDAPA 58	Environmental Quality , Department of
IDAPA 12	Finance , Department of
IDAPA 13	Fish and Game , Department of
IDAPA 14	Geologists , Board of Registration for Professional

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 15	Governor, Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Liquor Division (15.10) Idaho Emergency Communications Commission (15.06) Emergency Response Commission (15.13)
IDAPA 48	Grape Growers and Wine Producers Commission, Idaho
IDAPA 16	Health and Welfare, Department of
IDAPA 41	Health Districts, Public
IDAPA 45	Human Rights Commission
IDAPA 17	Industrial Commission
IDAPA 18	Insurance, Department of
IDAPA 05	Juvenile Corrections, Department of
IDAPA 09	Labor, Idaho Department of
IDAPA 20	Lands, Department of
IDAPA 30	Libraries, Commission for
IDAPA 52	Lottery Commission, Idaho State
IDAPA 22	Medicine, Board of
IDAPA 23	Nursing, Board of

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

IDAPA 24	Occupational Licenses, Board of (24.20) Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Barber Examiners, Board of (24.02) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho (24.21) Cosmetology, Board of (24.04) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board, Idaho State (24.22) Midwifery, Idaho Board of (24.26) Morticians, State Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, State Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, State Board of (24.11) Psychologist Examiners, Idaho State Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of Examiners of (24.19) Social Work Examiners, State Board of (24.14) Speech and Hearing Services Licensure Board (24.23)
IDAPA 25	Outfitters and Guides Licensing Board
IDAPA 50	Pardons and Parole, Commission for
IDAPA 26	Parks and Recreation, Department of
IDAPA 27	Pharmacy, Board of
IDAPA 11	Police, Idaho State
IDAPA 29	Potato Commission, Idaho
IDAPA 55	Professional-Technical Education, Division of
IDAPA 59	Public Employee Retirement System of Idaho (PERSI)
IDAPA 31	Public Utilities Commission
IDAPA 56	Rangeland Resources Commission, Idaho
IDAPA 33	Real Estate Commission, Idaho
IDAPA 34	Secretary of State, Office of the
IDAPA 57	Sexual Offender Management Board
IDAPA 49	Shorthand Reporters Board, Idaho Certified
IDAPA 60	Soil and Water Conservation Commission, Idaho State

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 36	Tax Appeals, Board of
IDAPA 35	Tax Commission, State
IDAPA 39	Transportation Department, Idaho
IDAPA 54	Treasurer, Office of the State
IDAPA 21	Veterans Services, Division of
IDAPA 46	Veterinary Medical Examiners, Board of
IDAPA 47	Vocational Rehabilitation, Division of
IDAPA 37	Water Resources, Department of
IDAPA 42	Wheat Commission

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2012-04

**ESTABLISHING THE WORKFORCE DEVELOPMENT COUNCIL FOR PLANNING
AND OVERSIGHT OF THE STATE'S WORKFORCE DEVELOPMENT SYSTEM
REPEALING AND REPLACING EXECUTIVE ORDER 2010-02**

WHEREAS, the economic future of Idaho and the prosperity of its residents depends upon the ability of businesses in Idaho to compete in the world economy; and

WHEREAS, a well-educated and highly skilled workforce provides businesses in Idaho with a competitive edge critical for their success; and

WHEREAS Idaho is committed to preparing its current and future workforce with the skills necessary for the 21st century; and

WHEREAS, empowering business, labor and community leaders to take a more active and strategic role in crafting the state's economic and workforce development policy will enhance the quality and responsiveness of these programs; and

WHEREAS, a comprehensive workforce development strategy for Idaho will improve planning and oversight functions; improve the effectiveness, quality and coordination of services designed to maintain a highly skilled workforce; and help provide for the most efficient use of federal, state and local workforce development resources;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order that:

1. *The Idaho Workforce Development Council (the "Council") is established in accordance with section 111(e) and 117(c)(2)(A) of the Workforce Investment Act (WIA) of 1998, as amended.*
2. *The Council shall consist of not more than 33 members appointed by the Governor, consistent with federal nomination and composition requirements set forth in section 702 of the Job Training Partnership Act as amended. The Council's membership, shall be as follows:*
 - a. *Representatives of business and industry shall comprise at least 40% of the members;*
 - b. *At least 15% of the members shall be representatives of local public education, postsecondary institutions, and secondary or postsecondary vocational educational institutions;*
 - c. *At least 15% of the members shall be representatives of organized labor based on nominations from recognized state labor federations;*
 - d. *Representatives from the Department of Commerce, Department of Labor, the Department of Health and Welfare, the State Board of Education, the Commission on Aging, the Office of Energy Resources, the Idaho Education Network, and the Superintendent of Public Instruction; and*
 - e. *A representative of a community-based organization.*
3. *The Council will be responsible for advising the Governor and the State Board of Education, as appropriate and at regular intervals, on the following:*
 - a. *Development of a statewide strategy for workforce development programs which encompasses all workforce programs;*
 - b. *Development of the WIA State plan;*

- c. *Development and continuous improvement of services offered under the statewide workforce investment system;*
 - d. *Development of comments at least once annually on the Carl D. Perkins Vocational and applied Technology Education Act;*
 - e. *Development and continuous improvement of comprehensive State performance measures;*
 - f. *Preparation of the annual report to the United States Secretary of Labor as required under section 136 of the WIA;*
 - g. *Development of a statewide employment statistic program;*
 - h. *Development of a plan for comprehensive labor market information; and*
 - i. *Development of applications for an incentive grant under section 503 of the WIA.*
4. *The Council shall also be responsible for:*
 - a. *Approval and oversight of the expenditures from the Employment Security Reserve Fund as set forth in Section 72-1347A, Idaho Code;*
 - b. *Development and oversight of procedures, criteria and performance measures for the Workforce Development Training fund established under Section 72-1347B, Idaho Code; and*
 - c. *Such other duties as assigned by the Governor.*
 5. *The Council may empanel subcommittees, appointed by the chair. Subcommittee members may include individuals from the general public who have special knowledge and qualifications to be of assistance to the Council.*
 6. *The Governor shall name the chair and vice-chair from among the private sector members of the Council.*
 7. *The Council shall be jointly staffed by a management team of directors or administrators of state agencies that administer workforce development programs, as designated by the Governor. Funding for the council shall be provided by the agencies staffing the council, which shall agree upon appropriate ratios for the allocation of administrative funding. The Idaho Department of Labor shall have responsibility for providing secretarial and logistical support to the Council.*
 8. *The Council's members shall serve at the pleasure of the Governor, and appointments shall be for three-year terms.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 20th day of July in the year of our Lord two thousand and twelve and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1201 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 5, 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 25-2710, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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:

Add a new section, 011 - Exemptions, to define those feed products that will be exempt from registration.

Add a new section, 020 - Registration & Fees, to set in rule a fee of \$45 per product.

Add a subsection, 050.01.h., to include in the definition of "labeling" all statements and promotion on company websites or other internet-based customer interfaces.

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 agency facilitated three negotiated rulemaking meetings on July 11, July 18, and August 1, 2012. In these meetings, participants provided input on each of the new sections referenced above. The temporary rule is important in order to provide a registration fee for new and renewed products. Without the temporary rule, the program would be unable to register products and provide funding for program activities.

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

The registration fee included in this temporary rule is authorized in Section 25-2704(2), which authorizes the Director to set a registration fee in rule. This authorization is the result of SB 1236, which was passed by the 2012 Idaho Legislature. Changes to the statute included the authorization to set the registration fee in rule, as well as the elimination of the tonnage fee.

The registration fee is set at \$45 per product. This is an increase in the per product registration fee of \$5 or \$25. The new registration fee also replaces the former tonnage fee requirement.

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

The commercial feed program is a dedicated fund program and there is no impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 6, 2012 Idaho Administrative Bulletin, [Volume 12-6, Page 14](#).

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:

ISDA has incorporated the Association of American Feed Control Officials (AAFCO) Official Publication into

the Rules Pertaining to the Idaho Commercial Feed law for a number of years. The only change to the incorporation by reference section is to the date of the Official Publication.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kathryn Mink, Section Manager Feed, Fertilizer & Seed at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR FEE DOCKET NO. 02-0602-1201

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2012³ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: www.aafco.org. (~~3-29-12~~)(9-5-12)T

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

011. EXEMPTIONS.

Exemptions from product registration shall include: (9-5-12)T

01. Unmixed Whole Seeds. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (9-5-12)T

02. Seed Mixtures. Seeds mixed and planted as such mixture, grown and harvested as one (1) crop and processed as one (1) mixture when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (9-5-12)T

03. Hay. All hay, except commercially dehydrated legumes and grasses and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (9-5-12)T

04. Straw. Whole or ground straw, stover, silage, cobs, husks, hulls, wet or pressed beet pulp, pea screenings and beet discard molasses when not mixed with other materials and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (9-5-12)T

05. Animals. Live, whole or unprocessed animals when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (9-5-12)T

06. Animal Remedies. Animal remedies when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (9-5-12)T

07. Minerals. Individual mineral substances when not mixed with another material and when not adulterated within the meaning of Section 25-2707, Idaho Code, or misbranded within the meaning of Section 25-2708, Idaho Code. (9-5-12)T

012. -- 019. (RESERVED)

020. REGISTRATION AND FEES.

01. Product Registration Fee. Whenever a commercial feed is registered for distribution in the state of Idaho, a fee of forty-five dollars (\$45) per product shall be collected. (9-5-12)T

a. The Department shall utilize these funds for the operation of all program activities, including but not limited to, registration, label review, inspection and sampling, and laboratory analysis. (9-5-12)T

b. The fee shall be set by the Department such that all costs associated with the commercial feed program will be covered by the registration fee without the need for additional state general or dedicated funding. A dedicated fund balance of not more than one million dollars (\$1,000,000) will be maintained. The registration fee will be reduced or increased by the Department in order to maintain this balance. (9-5-12)T

02. Product Registration Fee Exemption. Sellers who are not regularly engaged in the business of manufacturing or selling commercial feed and whose total amount of gross annual sales does not exceed five hundred dollars (\$500) shall be exempt from payment of the registration fee. However, the Department retains the right to inspect any feed in the possession of those persons exempted by Subsection 020.02 at any time. (9-5-12)T

a. This exemption pertains to the registration fee only, and does not exempt a person or business from other sections of these rules and/or the Idaho Commercial Feed Law. (9-5-12)T

b. The Department reserves the right to review the records of sellers who are claiming or who have claimed that they are exempt from the payment of the registration fee, in order to ensure that they qualify for the exemption. (9-5-12)T

c. The Department further reserves the right to conduct any and all inspections allowed under Section 25-2709, Idaho Code, in order to ensure compliance with these rules and/or the Idaho Commercial Feed Law. (9-5-12)T

0421. -- 049. (RESERVED)

050. LABEL FORMAT.

01. Label Format. Commercial feeds shall be labeled with the information prescribed in this rule on the principal display panel of the product and in the following general format. (8-16-71)

- a.** Net Weight. (8-16-71)
- b.** Product name and brand name if any. (8-16-71)
- c.** If a drug is used: (8-16-71)
 - i.** The word “Medicated” shall appear directly following and below the product name in type size, no smaller than one-half (1/2) the type size of the product name. (8-16-71)
 - ii.** The purpose of medication (claim statement). (8-16-71)
 - iii.** An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection 150.04. (8-16-71)
 - iv.** The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Sections 250 and 300 appear elsewhere on the label. (8-16-71)
- d.** The guaranteed analysis of the feed as required under the provisions of Section 25-2705(1)(c) of the Commercial Feed Law include the following items, unless exempted in Subsection 050.01.d.viii., and in the order listed: (3-30-07)
 - i.** Minimum percentage of crude protein. (8-16-71)
 - ii.** Maximum or minimum percentage of equivalent protein from non-protein nitrogen as required in Subsection 150.05. (8-16-71)
 - iii.** Minimum percentage of crude fat. (8-16-71)
 - iv.** Maximum percentage of crude fiber. (8-16-71)
 - v.** Minerals, to include, in the following order: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum and maximum percentages of salt (NaCl), and other minerals. (8-16-71)
 - vi.** Vitamins in such terms as specified in Subsection 150.03. (8-16-71)
 - vii.** Total sugars as invert on dried molasses products or products being sold primarily for their sugar content. (8-16-71)
 - viii.** Exemptions. Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than six and one-half percent (6 1/2%) of Calcium, Phosphorus, Sodium, or Chloride. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses. (4-7-11)
- e.** Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 25-2705(1)(d) of the Commercial Feed Law shall be listed in decreasing order of predominance by weight: (4-7-11)
 - i.** The name of each ingredient as defined in the Official Publication of the Association of American

Feed Control Officials, common or usual name, or one approved by the Director. (8-16-71)

ii. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients within a defined group, that are or have been used at manufacturing facilities distributing in or into the state. (8-16-71)

iii. The registrant may affix the statement, "ingredients as registered with the State" in lieu of the ingredient list on the label. The list of ingredients must be on file with the Director. This list shall be made available to the feed purchaser upon request. (8-16-71)

f. Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory. (8-16-71)

g. The information required in Section 25-2705 of the Commercial Feed Law must appear in its entirety on the principal display panel of the container. (4-7-11)

h. Labeling shall include all statements and promotion on company websites or other internet based customer interfaces. (9-5-12)T

02. Customer Formula Invoice and Tag Requirements. (8-16-71)

a. Bulk shipments of customer-formula feed shall be accompanied by an invoice, delivery slip or other shipping documents identifying the shipment as customer-formula feed and the name and address of the customer to whose order it is made. (8-16-71)

b. Bagged customer-formula feed will be labeled with a tag identifying each bag as such. The total bags in each customer's shipment will be segregated from other bagged feed and identified with the name and address of the customer to whose order it is made. (8-16-71)

c. Nutritional guarantees and guarantees of other analytes, and a list of ingredients, in descending order of predominance by weight, of a customer-formula feed may be used in lieu of specific weights or volumes of each ingredient, as required in Section 25-2705(2)(d), Idaho Code, when so ordered by the customer. (4-7-11)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1201 (FEE RULE)

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 54-1907, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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:

In 2012, a new classification of public works contractor licensing (PWCL) was created in Section 54-1904, Idaho Code, called a "Class CC" license. This new class of license was brought forward in response to requests from contractors and public agencies in an attempt to broaden the base of qualified contractors available to bid on construction projects in the \$200,000 to \$400,000 range. Many contractors wanted to be able to bid on projects in this range, but were unable to qualify for the B license due to financial requirements. The CC license allows a contractor to perform work on public works involving an estimated cost of not more than \$400,000. Section 54-1904 allows the Public Works Contractor Licensing Board to establish rules to determine in which classification a contractor is qualified to engage in public works construction according to each applicant's responsibility and scope of operations. Accordingly, by rule all classifications have minimum financial requirements and amendment must be made to include the new Class CC. Additionally, Section 54-1904 only establishes a maximum initial and renewal fee for each classification of license; accordingly, actual fees for the Class CC license still must be established in rule. Finally, rule section related to financial statements submitted with an application for licensure must account for the new CC classification of licensure. The rulemaking establishes minimum financial requirements for obtaining and maintaining a Class CC license in the amount of \$75,000 of net worth and \$25,000 of working capital. Additionally, it establishes an initial and renewal license fee for the Class CC license in the amount of \$125. Finally, it requires financial statements submitted with an application for a Class CC license to be accompanied by an independent audit report or reviewed or compiled by a certified public accountant.

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

The Legislature, in its last session, approved the new CC class license predicated on the need for the new class. The Public Works Contractor Licensing Board must, by administrative rule, establish the license fee and financial requirements before it can be implemented. House Bill 465 reflected a maximum license fee of \$150, and the projected financial requirements were included in the Statement of Purpose and addressed with the legislative committees when the legislation was considered. This rulemaking reflects the agreed-upon fees and financial requirements. Quick implementation of this CC class license is in the best interest of the public's health and safety because of the benefits from having more qualified contractors participating in bidding construction projects or subcontracts within the \$200,000 to \$400,000 range which aids in ensuring the safe and efficient construction of public works.

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

The rulemaking establishes minimum financial requirements for obtaining and maintaining a Class CC license in the amount of \$75,000 of net worth and \$25,000 of working capital. Additionally, it establishes an initial and renewal license fee for the Class CC license in the amount of \$125.

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

No anticipated impact to the Division or applicants for licensure in the aggregate, as any upgrades from C to CC would likely be offset by downgrades from B to CC.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking pursuant to amendments to governing law passed by the 2012 Idaho Legislature.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations at (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 7th day of August, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

**THE FOLLOWING IS THE TEMPORARY RULE AND PROPOSED TEXT
FOR FEE DOCKET NO. 07-0501-1201**

110. APPLICATION FOR LICENSURE -- DOCUMENTATION, APPRAISALS, REFERENCES, BONDING, AND FINANCIAL STATEMENTS.

01. Application Documentation. To obtain a license, the applicant shall submit to the administrator, on such forms as the administrator shall prescribe, accompanied by the required fee for the class of license applied for, a written, notarized application for such license. All of the information submitted by the applicant shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: (3-20-04)

a. A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (3-20-04)

b. A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; (3-20-04)

c. A general description of applicant's machinery and equipment; and (3-30-07)

d. An annual financial statement, as herein defined, that was issued no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with: (3-30-07)

i. Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation; (3-30-07)

ii. Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third-party in which the third-party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.e. of this rule, shall be submitted with the license application. (3-30-07)

e. For Class A, AA, AAA, and Unlimited license applications, financial statements shall be accompanied by an independent auditor's report or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. ~~(5-8-09)~~(7-1-12)T

f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. (3-20-04)

g. Applicants requesting a licensing class higher than that for which the applicant is currently licensed shall provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed. (4-11-06)

02. Application for Change in Licensing Class. Requests for a licensing class higher than that for which the applicant is currently licensed shall be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules shall be valid for a period of twelve (12) months from the date of issuance. (4-11-06)

03. Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application shall be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license shall be valid for a period of twelve (12) months from the date of the issuance of the renewal license. (3-20-04)

04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals shall be conducted by a disinterested person or firm established and qualified to perform such services. (3-20-04)

05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications. (3-20-04)

111. FINANCIAL REQUIREMENTS.

The financial requirements for obtaining and maintaining a license under this Act shall be as follows: (4-11-06)

01. Heavy, Highway, Building, and Specialty Construction Class Unlimited License. An applicant requesting a Class Unlimited license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of one million dollars (\$1,000,000) with six hundred thousand dollars (\$600,000) in working capital. (5-8-09)

02. Heavy, Highway, Building, and Specialty Construction Class AAA License. An applicant requesting a Class AAA license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of six hundred thousand dollars (\$600,000) with two hundred thousand dollars (\$200,000) in working capital. (3-19-99)

03. Heavy, Highway, Building, and Specialty Construction Class AA License. An applicant requesting a Class AA license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of four hundred fifty thousand dollars (\$450,000) with one hundred fifty thousand dollars (\$150,000) in working capital. (3-19-99)

04. Heavy, Highway, Building, and Specialty Construction Class A License. An applicant requesting a Class A license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of three hundred thousand dollars (\$300,000) with one hundred thousand dollars (\$100,000) in working capital. (3-19-99)

05. Heavy, Highway, Building, and Specialty Construction Class B License. An applicant requesting a Class B license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of one hundred fifty thousand dollars (\$150,000) with fifty thousand dollars (\$50,000) in working capital. (3-19-99)

06. Heavy, Highway, Building, and Specialty Construction Class CC License. An applicant requesting a Class CC license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of seventy-five thousand dollars (\$75,000) with twenty-five thousand dollars (\$25,000) in working capital. (7-1-12)T

067. Heavy, Highway, Building, and Specialty Construction Class C License. An applicant requesting a Class C license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of twenty-five thousand dollars (\$25,000) with seven thousand five hundred dollars (\$7,500) in working capital. (3-19-99)

078. Heavy, Highway, Building, and Specialty Construction Class D License. An applicant requesting a Class D license in Heavy, Highway, Specialty or Building Construction shall have a minimum net worth of ten thousand dollars (\$10,000) with three thousand dollars (\$3,000) in working capital. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

201. FEES.

01. Public Works Contractor Licensing Fees. Initial licensing and renewal fees for each class of public works contractor licenses shall be, in accordance with Section 54-1904, Idaho Code, as follows: (4-9-09)

a. The fee for a Class Unlimited license shall be five hundred fifty dollars (\$550). (4-9-09)

- b.** The fee for a Class A license shall be two hundred fifty dollars (\$250). (3-19-07)
 - c.** The fee for a Class AA license shall be three hundred fifty dollars (\$350). (3-19-07)
 - d.** The fee for a Class AAA license shall be four hundred fifty dollars (\$450). (3-19-07)
 - e.** The fee for a Class B license shall be one hundred fifty dollars (\$150). (3-19-07)
 - f.** The fee for a Class CC license shall be one hundred twenty-five dollars (\$125). (7-1-12)T
 - fg.** The fee for a Class C license shall be one hundred dollars (\$100). (3-19-07)
 - gh.** The fee for a Class D license shall be fifty dollars (\$50). (3-19-07)
- 02. Construction Manager Licensing Fees.** Initial licensing and renewal fees for construction manager licenses shall be, in accordance with Section 54-4510, Idaho Code, as follows: (4-9-09)
- a.** The fee for initial examination and licensing shall be two hundred dollars (\$200). (3-19-99)
 - b.** The fee for license renewal shall be two hundred dollars (\$200). (3-19-99)
 - c.** The fee for an inactive license shall be fifty dollars (\$50). (3-19-99)
 - d.** The fee for license reinstatement shall be two hundred dollars (\$200). (3-19-99)
 - e.** The fee for administering the examination shall be the standard fee established for taking that examination. (3-19-99)
 - f.** The fee for issuing and for reinstating a certificate of authority shall be one hundred dollars (\$100). (3-19-99)
- 03. Payment of Fees.** Fees shall be payable to “Division of Building Safety -- Public Works Contractors.” (3-20-04)
- 04. Application Filed With Fees.** Required fees shall accompany all applications. An application filed without the required fees shall be deemed incomplete and returned to the applicant. (3-20-04)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1202

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 Sections 54-1907 and 54-1910(4)(e), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 application for a public works contractor's license, an applicant must submit an annual financial statement, among other items. The current rule requires the applicant to submit a financial statement that details the financial condition of the applicant. However, the language contained in the rule requires only that the statement was issued within the 12 months prior to submission of the application. Recently, the Division has received statements issued within the past year that reflect financial data significantly more than a year out-of-date. This change requires that the period of time covered by the financial statement ended within the last 12 months prior to submission of the application. Timely financial data plays a prominent role in determining the qualifications of a Public Works Contractor. The rulemaking would clarify that the annual financial statement required with the application for a public works contractor's license covers a period of time ending no more than 12 months prior to the date of submission of the application.

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:

No financial impact to the Division or applicants for licensure is expected.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature. Current financial information plays a critical role in review of a license application, and the original rule was formulated to address this. The new verbiage simply addresses an unintended administrative loophole that has been exploited by some applicants. The rulemaking amendment has been discussed at three separate Public Works Contractor Licensing Board meetings during 2012. All affected parties (public entities and licensees) have voiced support for the change.

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 Steve Keys, Deputy Administrator - Operations at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 9th day of August, 2012.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 1-877-810-2840

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0501-1202

110. APPLICATION FOR LICENSURE -- DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.

01. Application Documentation. To obtain a license, the applicant shall submit to the administrator, on such forms as the administrator shall prescribe, accompanied by the required fee for the class of license applied for, a written, notarized application for such license. All of the information submitted by the applicant shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: (3-20-04)

a. A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (3-20-04)

b. A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; (3-20-04)

c. A general description of applicant's machinery and equipment; and (3-30-07)

d. An annual financial statement, as herein defined, that ~~was issued~~ covers a period of time ending no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with: (3-30-07)()

i. Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation; (3-30-07)

ii. Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third-party in which the third-party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.e. of this rule, shall be submitted with the license application. (3-30-07)

e. For Class A, AA, AAA, and Unlimited license applications, financial statements shall be accompanied by an independent auditor's report or be reviewed. For Class B license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license.

(5-8-09)

f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee.

(3-20-04)

g. Applicants requesting a licensing class higher than that for which the applicant is currently licensed shall provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed.

(4-11-06)

02. Application for Change in Licensing Class. Requests for a licensing class higher than that for which the applicant is currently licensed shall be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules shall be valid for a period of twelve (12) months from the date of issuance.

(4-11-06)

03. Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application shall be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license shall be valid for a period of twelve (12) months from the date of the issuance of the renewal license.

(3-20-04)

04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals shall be conducted by a disinterested person or firm established and qualified to perform such services.

(3-20-04)

05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications.

(3-20-04)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1202

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 Sections 56-202, 56-264, and 56-1610, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 new rule change is being added to clarify the Department's current interpretation and practice relating to estate recovery of life estate interests after the death of a Medicaid participant. This rule change was requested by the Trust and Estate Professionals of Idaho (TEPI).

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

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

There is no fiscal impact due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 7, 2012, Idaho Administrative Bulletin, [Vol. 12-3, page 30](#).

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 proposed rule, contact Lisa Hettinger at (208) 287-1141.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 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
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e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0309-1202

905. LIENS AND ESTATE RECOVERY: LIMITATIONS AND EXCLUSIONS.

01. Limitations on Estate Claims. Limits on the Department's claim against the assets of a deceased participant or spouse are subject to Sections 56-218 and 56-218A, Idaho Code. A claim against the estate of a spouse of a participant is limited to the value of the assets of the estate that had been, at any time after October 1, 1993, community property, or the deceased participant's share of the separate property, and jointly owned property. Recovery will not be made until the deceased participant no longer is survived by a spouse, a child who is under age twenty-one (21), or a blind or disabled child, as defined in 42 U.S.C. 1382c as amended and, when applicable, as provided in Subsection 903.05 of these rules. No recovery will be made if the participant received medical assistance as the result of a crime committed against the participant. (4-7-11)

02. Expenses Deducted From Estate. The following expenses may be deducted from the available assets to determine the amount available to satisfy the Department's claim: (3-30-07)

a. Burial expenses, which include only those reasonably necessary for embalming, transportation of the body, cremation, flowers, clothing, and services of the funeral director and staff may be deducted. (3-30-07)

b. Other legally enforceable and necessary debts with priority may be deducted. The Department's claim is classified and paid as a debt with preference as defined in Section 15-03-805, Idaho Code. Debts of the deceased participant that may be deducted from the estate prior to satisfaction of the Department's claim must be legally enforceable debts given preference over the Department's claim under Section 15-03-805, Idaho Code. (3-30-07)

03. Interest on Claim. The Department's claim does not bear interest except as otherwise provided by statute or agreement. (3-30-07)

04. Excluded Land. Restricted allotted land, owned by a deceased participant who was an enrolled member of a federally recognized American Indian tribe, or eligible for tribal membership, which cannot be sold or transferred without permission from the Indian tribe or an agency of the Federal Government, will not be subject to estate recovery. (3-30-07)

05. Certain Life Estates. The value of a life estate owned by a Medicaid participant or his or her spouse will not be subject to estate recovery if: ()

a. Neither the Medicaid participant or his or her spouse ever owned the remainder interest; or ()

b. The life estate was created prior to July 1, 1995. ()

056. Marriage Settlement Agreement or Other Such Agreement. A marriage settlement agreement or other such agreement which separates assets for a married couple does not eliminate the debt against the estate of the deceased participant or the spouse. Transfers under a marriage settlement agreement or other such agreement may be voided if not for adequate consideration. (3-30-07)

067. Release of Estate Claims. The Department will release a claim when the Department's claim has been fully satisfied and may release its claim under the following conditions: (3-30-07)

a. When an undue hardship waiver as defined in Subsection 905.07 of this rule has been granted; or (4-7-11)

b. When a written agreement with the authorized representative to pay the Department's claim in thirty-six (36) monthly payments or less has been achieved. (3-30-07)

078. Purpose of the Undue Hardship Exception. The undue hardship exception is intended to avoid

the impoverishment of the deceased participant's family due to the Department exercising its estate recovery right. The fact that family members anticipate or expect an inheritance, or will be inconvenienced economically by the lack of an inheritance, is not cause for the Department to declare an undue hardship. (3-30-07)

089. **Application for Undue Hardship Waiver.** An applicant for an undue hardship waiver must have a beneficial interest in the estate and must apply for the waiver within ninety (90) days of the death of the participant or within thirty (30) days of receiving notice of the Department's claim, whichever is later. The filing of a claim by the Department in a probate proceeding constitutes notice to all heirs. (3-30-07)

0910. **Basis for Undue Hardship Waiver.** Undue hardship waivers will be considered in the following circumstances: (3-30-07)

a. The estate subject to recovery is income-producing property that provides the primary source of support for other family members; or (3-30-07)

b. Payment of the Department's claim would cause heirs of the deceased participant to be eligible for public assistance; or (3-30-07)

c. The Department's claim is less than five hundred dollars (\$500) or the total assets of the entire estate are less than five hundred dollars (\$500), excluding trust accounts or other bank accounts. (3-30-07)

d. The participant received medical assistance as the result of a crime committed against the participant. (3-30-07)

4011. **Limitations on Undue Hardship Waiver.** Any beneficiary of the estate of a deceased participant may apply for waiver of the estate recovery claim based on undue hardship. Any claim may be waived by the Department, partially or fully, because of undue hardship. An undue hardship does not exist if action taken by the participant prior to his death, or by his legal representative, divested or diverted assets from the estate. The Department grants undue hardship waivers on a case by case basis upon review of all facts and circumstances, including any action taken to diminish assets available for estate recovery or to circumvent estate recovery. (3-30-07)

412. **Set Aside of Transfers.** Transfers of real or personal property of the participant without adequate consideration are voidable and may be set aside by the district court whether or not the asset transfer resulted, or could have resulted, in a period of ineligibility. (3-30-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1204

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Wednesday, September 19, 2012 6:00 p.m. (MDT Time)	Wednesday, September 19, 2012 6:00 p.m. (PDT Time)	Wednesday, September 19, 2012 6:00 p.m. (MDT Time)
1720 Westgate Dr. Suite A Boise, ID 83704	2195 Ironwood Court Coeur d'Alene, ID 83814	421 Memorial Drive Pocatello, ID 83201

If you are unable to attend a public hearing in any of the physical locations listed above, you can join the Boise public hearing from anywhere in the state via teleconference.

Teleconference number: 1-888-706-6468

Participant Code: 526505

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:

In 2011, the Idaho Legislature approved the Children's System Redesign. Under the redesign, the Department is moving from a one-size-fits-all system that was only able to deliver therapy, to a system that provides a continuum of care based on the child's level of need. The new array of benefits replaces developmental therapy and intensive behavioral intervention (IBI) services.

Removing developmental disabilities benefits from the State Plan directly impacts the school-based service providers who deliver the same services. Rule changes are needed to incorporate replacement services for school-based providers when developmental therapy and IBI are no longer available starting July 1, 2013.

The Department has worked in collaboration with the State Department of Education, the Idaho Association of School Administrators, and several other school district representatives as part of a School-Based Medicaid Committee, to identify replacement services (both new and existing) that can be used to address children's developmental disabilities needs in the school setting. While developing these services, the committee kept in mind the purpose of Medicaid funding in the schools and regulations that must be followed under the State Plan authority.

The new replacement school-based services are proposed to be implemented on July 1, 2013.

Specifically, the following changes are being made:

1. References to DDA services are being removed from this chapter.
2. The services of developmental therapy and intensive behavioral intervention are being removed from the rules for school-based services.
3. Idaho Infant Toddler Program (ITP) is being removed from the rules for school-based services. The ITP delivers services in the home and community, rather than school setting. To better align with

their service delivery system, the ITP will become a provider of community therapy services and community children's developmental disabilities services rather than be subject to school-based services requirements.

4. New behavioral intervention services are being added to the rules for school-based services.
5. Clarifications are being made to various existing school-based services and processes.

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

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

There is no anticipated fiscal impact to the state general fund. However, because of the change in covered school-based services benefits, schools that continue to deliver the old benefits may see a potential negative impact in federal funding of approximately \$2.8 million.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on June 20, 2012. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 6, 2012, Idaho Administrative Bulletin, [Volume 12-6, pages 20 and 21](#).

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 proposed rule, contact Aaron Haws at (208) 364-1864.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 6th day of August, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
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e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0309-1204

004. INCORPORATION BY REFERENCE.

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

01. 42 CFR Part 447. 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations internet site at <http://practice.aap.org/content.aspx?aid=1599>. (3-30-07)

02. American Academy of Pediatrics (AAP) Periodicity Schedule. This document is available on the internet at <http://practice.aap.org/content.aspx?aid=1599>. The schedule is also available at the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (3-30-07)

- 03. American Speech-Language-Hearing Association (ASHA): Medicaid Guidance for Speech-Language Pathology Services.** The American Speech-Language-Hearing Association (2004) Medicaid Guidance for Speech-Language Pathology Services: Addressing the “Under the Direction of” Rule technical report is available on the internet at: <http://www.asha.org/docs/html/TR2004-00142.html>. The report may also be obtained at the ASHA National Office, 2200 Research Boulevard, Rockville, MD 20850-3289, telephone (301) 296-5700. (3-29-10)
- 04. CDC Child and Teen BMI Calculator.** The Centers for Disease Control (CDC) Child and Teen Body Mass Index (BMI) Calculator is available on the internet at <http://www.cdc.gov/nccdphp/dnpa/bmi/index.htm>. The Calculator is also available through the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (3-30-07)
- 05. DSM-IV-TR.** American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (3-30-07)
- 06. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives.** This document may be obtained from American Hospital Publishing, Inc., 211 East Chicago Avenue, Chicago, IL, 60611. (3-30-07)
- 07. Idaho Infant Toddler Program Implementation Manual (Revised September 1999).** The full text of the “Idaho Infant Toddler Program Implementation Manual,” revised September 1999, is available at ~~the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702~~ <http://www.infanttoddler.idaho.gov>. ~~(3-30-07)~~ ()
- 08. Idaho Special Education Manual, September 2001.** The full text of the “Idaho Special Education Manual, September 2001” is available on the Internet at http://www.sde.idaho.gov/site/special_edu/. A copy is also available at the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, Idaho 83720-0027. (3-30-07)
- 09. Medicare Durable Medical Equipment (DME) Medicare Administrative Contractor (MAC) Jurisdiction D Supplier Manual 2007, As Amended.** Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual. The full text of the Medicare. DME MAC Jurisdiction D Supplier Manual is available via the Internet at <https://www.noridianmedicare.com/dme/news/manual/index.html%3f>. (3-30-07)
- 10. Physician's Current Procedural Terminology (CPT® Manual).** This document may be obtained from the American Medical Association, P.O. Box 10950, Chicago, Illinois 60610, or online at <http://www.ama-assn.org/ama/pub/category/3113.html>. (3-30-07)
- 11. Provider Reimbursement Manual (PRM).** The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available on the CMS website at <http://www.cms.gov/Manuals/PBM/list.asp>. (3-30-07)
- 12. SIB-R Comprehensive Manual.** Scales of Independent Behavior - Revised Comprehensive Manual, 1996, Riverside Publishing Co, 425 Spring Lake Drive, Itasca, IL 60143-2079. A copy is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702. (3-30-07)
- 13. Travel Policies and Procedures of the Idaho State Board of Examiners.** The text of “Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners,” Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.idaho.gov>. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS: I THROUGH O.

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

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

02. Idaho Infant Toddler Program. The Idaho Infant Toddler Program serves children from birth up to three (3) years of age (36 months), and must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. ()

a. These requirements for the Idaho Infant Toddler Program include: ()

i. Adherence to procedural safeguards and time lines; ()

ii. Use of multi-disciplinary assessments and Individualized Family Service Plans (IFSPs); ()

iii. Provision of early intervention services in the natural environment; ()

iv. Transition planning; and ()

v. Program enrollment and reporting requirements. ()

b. The Idaho Infant Toddler Program may provide the following services for Medicaid reimbursement: ()

i. Occupational therapy; ()

ii. Physical therapy; ()

iii. Speech-language pathology; ()

iv. Audiology; and ()

v. Children's developmental disabilities services defined under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ()

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

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

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

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

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

078. Level of Care. The classification in which a participant is placed, based on severity of need for institutional care. (3-30-07)

089. Licensed, Qualified Professionals. Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (3-30-07)

0910. Lock-In Program. An administrative sanction, required of a participant found to have misused the services provided by the Medical Assistance Program. The participant is required to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (3-30-07)

1011. Locum Tenens/Reciprocal Billing. The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the "Locum Tenens" physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less. (3-30-07)

112. Medical Assistance. Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)

123. Medicaid. Idaho's Medical Assistance Program. (3-30-07)

134. Medicaid-Related Ancillary Costs. For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. (3-30-07)

145. Medical Necessity (Medically Necessary). A service is medically necessary if: (3-30-07)

a. It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-30-07)

b. There is no other equally effective course of treatment available or suitable for the participant requesting the service which is more conservative or substantially less costly. (3-30-07)

c. Medical services must be of a quality that meets professionally-recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (3-30-07)

156. Medical Supplies. Items excluding drugs, biologicals, and equipment furnished incident to a physician's professional services commonly furnished in a physician's office or items ordered by a physician for the treatment of a specific medical condition. These items are generally not useful to an individual in the absence of an illness and are consumable, nonreusable, disposable, and generally have no salvage value. Surgical dressings, ace bandages, splints and casts, and other devices used for reduction of fractures or dislocations are considered supplies. (3-30-07)

167. Midwife. An individual qualified as one of the following: (3-29-12)

a. Licensed Midwife. A person who is licensed by the Idaho Board of Midwifery under Title 54, Chapter 55, Idaho Code, and IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (3-29-12)

b. Nurse Midwife (NM). An advanced practice professional nurse who is licensed by the Idaho Board of nursing and who meets all the applicable requirements to practice as a nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-29-12)

178. Nominal Charges. A public provider's charges are nominal where aggregate charges amount to

less than one-half (1/2) of the reasonable cost of the services provided. (3-30-07)

189. Nonambulatory. Unable to walk without assistance. (3-30-07)

1920. Non-Legend Drug. Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-30-07)

201. Nurse Practitioner (NP). A registered nurse or licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." ~~(3-30-07)~~()

212. Nursing Facility (NF). An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-30-07)

223. Orthotic. Pertaining to or promoting the support of an impaired joint or limb. (3-30-07)

234. Outpatient Hospital Services. Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of inpatient hospital care. (3-30-07)

245. Out-of-State Care. Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-30-07)

256. Oxygen-Related Equipment. Equipment which is utilized or acquired for the routine administration of oxygen in the home. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment which is used solely for the administration of medication into the lungs is excluded from this definition. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

245. PROVIDERS OF SCHOOL-BASED SERVICES.

Only school districts; and charter schools; ~~and the Idaho Infant Toddler Program~~ can be reimbursed for the services described in Sections 850 through 856 of these rules. ~~(3-30-07)~~()

(BREAK IN CONTINUITY OF SECTIONS)

615. ADDITIONAL ASSESSMENT AND EVALUATION SERVICES.

In addition to evaluations for services as defined in this Chapter, the Department will reimburse for the following evaluations if needed to determine eligibility for Medicaid Enhanced Plan Benefits. (3-30-07)

01. Enhanced Mental Health Services. Enhanced mental health services are not covered under the Basic Plan with the exception of assessment services. The assessment for determination of need for enhanced mental health services is subject to the requirements for comprehensive assessments at IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 114, and provider qualifications under Section 715 of these rules and under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 130 and 131. (3-29-12)

~~**02. Developmental Disability Agency Services (DDA).** DDA services are not covered under the Basic Plan with the exception of assessment and evaluation services. The assessment and/or evaluation for the need for DDA services is subject to the requirements for DDA services under IDAPA 16.03.10, "Medicaid Enhanced Plan~~

~~Benefits,” Subsection 653.02, and IDAPA 16.04.11, “Developmental Disabilities Agencies,” Sections 600 through 604. (3-30-07)~~

~~032.~~ **Service Coordination Services.** Service coordination services are not covered under the Basic Plan, with the exception of assessment services. The assessment for the need for service coordination services is subject to the requirements for service coordination under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Subsection 727.03, as applicable to the service being requested, and provider qualifications under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 729. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

732. THERAPY SERVICES: COVERAGE AND LIMITATIONS.

Therapy services are covered under these rules when provided by the following providers: outpatient hospitals, outpatient rehabilitation facilities, comprehensive outpatient rehabilitative facilities, nursing facilities, ~~developmental disability agencies~~, school-based services, Idaho Infant Toddler Program, independent practitioners, and home health agencies. (4-2-08)()

01. Service Description: Occupational Therapy and Physical Therapy. Modalities, therapeutic procedures, tests, and measurements as described in the Physical Medicine and Rehabilitation Subsection and the Neurology and Neuromuscular Procedures Subsection of the Physician's Current Procedural Terminology (CPT Manual) are covered with the following limitations: (4-2-08)

a. Any evaluation or re-evaluation may only be performed by the therapist. Any changes in the participant's condition not consistent with planned progress or treatment goals necessitate a documented re-evaluation by the therapist before further treatment is carried out. (4-2-08)

b. Any CPT procedure code that falls under the heading of either, “Active Wound Care Management,” or “Tests and Measurements,” requires the therapist to have direct, one-to-one, patient contact. (4-2-08)

c. The therapist may be reimbursed for the technical component of muscle testing, joint range of motion, electromyography, or nerve velocity determinations as described in the CPT Manual when ordered by a physician, nurse practitioner, or physician assistant. (4-2-08)

d. Any assessment provided under the heading “Orthotic Management and Prosthetic Management” must be completed by the therapist. (4-2-08)

e. Any modality that is defined as “unlisted” in the CPT Manual requires prior authorization by the Department. In this case, the therapist and the physician, nurse practitioner, or physician assistant must provide information in writing to the Department that documents the medical necessity of the modality requested. (4-2-08)

f. The services of therapy assistants used when providing covered therapy benefits are included as part of the covered service. These services are billed by the supervising therapist. Therapy assistants may not provide evaluation services, make clinical judgments or decisions, or take responsibility for the service. Therapy assistants act at the direction and under the supervision of the treating therapist and in accordance with state licensure rules. (4-2-08)

02. Service Description: Speech-Language Pathology. Speech-language pathology services must be provided as defined in Section 730 of these rules. Services provided by speech-language pathology assistants are considered unskilled services, and will be denied as not medically necessary if they are billed as speech-language pathology services. (4-2-08)

03. Non-Covered Services: Occupational Therapy, Physical Therapy, and Speech-Language Pathology. (4-2-08)

- a. Continuing services for participants who do not exhibit the capability to achieve measurable improvement. (4-2-08)
- b. Services that address developmentally acceptable error patterns. (4-2-08)
- c. Services that do not require the skills of a therapist or therapy assistant. (4-2-08)
- d. Services provided by unlicensed aides or technicians, even if under the supervision of a therapist, except as provided under Section 854 of these rules. (4-2-08)
- e. Massage, work hardening, and conditioning. (4-2-08)
- f. Services that are not medically necessary, as defined in Section 011 of these rules. (4-2-08)
- g. Maintenance programs, as defined under Section 730 of these rules. (4-2-08)
- h. Duplicate services, as defined under Section 730 of these rules. (4-2-08)
- i. Group therapy in settings other than school-based services and ~~developmental disability agencies~~ the Idaho Infant Toddler Program. ~~(4-2-08)~~ ()

04. Service Limitations. (4-2-08)

- a. Physical therapy (PT) and speech-language pathology (SLP) services are limited to a combined annual dollar amount for all PT and SLP services. The Department will set the total amount based on the annual Medicare caps. The Department may authorize additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided to the Department. (3-29-12)
- b. Occupational therapy services are limited to an annual dollar amount set by the Department based on the annual Medicare caps. The Department may authorize additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided to the Department. (3-29-12)
- c. Exceptions to service limitations. (3-29-12)
 - i. Therapy provided by home health agencies is subject to the limitations on home health services contained in Section 722 of these rules. (3-29-12)
 - ii. Therapy provided through school-based services or the Idaho Infant Toddler Program is not included in the service limitations under Subsection 732.04 of this rule. ~~(3-29-12)~~ ()
 - iii. Therapy provided to EPSDT participants under the age of twenty-one (21) in accordance with the EPSDT requirements contained in Sections 881 through 883 of these rules, and in Section 1905(r) of the Social Security Act, will be authorized by the Department when additional therapy services are medically necessary. (3-29-12)

733. THERAPY SERVICES: PROCEDURAL REQUIREMENTS.

The Department will pay for therapy services rendered by or under the supervision of a licensed therapist if such services are ordered by the attending physician, nurse practitioner, or physician assistant as part of a plan of care. (4-2-08)

01. Physician Orders. (4-2-08)

- a. All therapy must be ordered by a physician, nurse practitioner, or physician assistant. Such orders must include at a minimum, the service to be provided, the frequency, and, where applicable, the duration of each therapeutic session. (4-2-08)
- b. In the event that services are required for extended periods, these services must be reordered as

necessary, but at least every ninety (90) days for all participants with the following exceptions: (5-8-09)

i. Therapy provided by home health agencies must be included in the home health plan of care and be reordered at least every sixty (60) days. (4-2-08)

ii. Therapy for individuals with chronic medical conditions, as documented by physician, nurse practitioner, or physician assistant, must be reordered at least every six (6) months. (4-2-08)

02. Level of Supervision. (4-2-08)

a. General supervision of therapy assistants is required when therapy services are provided by outpatient hospitals, nursing facilities, home health agencies, outpatient rehabilitation facilities, comprehensive outpatient rehabilitation facilities, [the Idaho Infant Toddler Program](#), and providers of school-based services. (4-2-08)()

b. Direct supervision of therapy assistants is required when therapy services are provided by independent practitioners. (4-2-08)

~~e. All therapy services provided in a developmental disabilities agency must be provided by the therapist in accordance with IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." (4-2-08)~~

(BREAK IN CONTINUITY OF SECTIONS)

735. THERAPY SERVICES: PROVIDER REIMBURSEMENT.

01. Payment for Therapy Services. The payment for therapy includes the use of therapeutic equipment to provide the modality or therapy. No additional charge may be made to either the Medicaid program or the participant for the use of such equipment. (4-2-08)

02. Payment Procedures. Payment procedures are as follows: (3-30-07)

a. Therapy provided by home health agencies will be paid at a per visit rate as described in Section 725 of these rules and in accordance with IDAPA 16.03.07, "Rules for Home Health Agencies." (4-2-08)

b. Therapists identified by Medicare as independent practitioners, licensed by the appropriate state licensing board and enrolled as Medicaid providers will be reimbursed on a fee-for-service basis. Exceptions to the requirement for Medicare certification include: (5-8-09)

i. Provider types that Medicare does not certify as is the case for speech-language pathologists; and (5-8-09)

ii. Providers that only treat pediatric participants and do not expect to treat Medicare participants. (5-8-09)

iii. Only those independent practitioners who have been enrolled as Medicaid providers can bill the Department directly for their services. A therapy assistant cannot bill Medicaid directly. The maximum fee will be based upon the Department's fee schedule, available from the central office for the Division of Medicaid, the contact information for which is found in Section 005 of these rules. (5-8-09)

c. Therapy rendered on-site to hospital inpatients or outpatients will be paid at a rate not to exceed the payment determined as reasonable cost using Title XVIII (Medicare) standards and principles. (4-2-08)

d. Payment for therapy services rendered to participants in long-term care facilities ~~or Developmental Disabilities Agencies~~ is included in the facility ~~or agency~~ reimbursement as described in IDAPA 16.03.10, "Medicaid

Enhanced Plan Benefits.”

~~(4-2-08)~~()

e. Payment for therapy services rendered to participants in school-based services is described in Section 855 of these rules. (4-2-08)

f. Payment for therapy services rendered by the Idaho Infant Toddler Program will be reimbursed on a fee-for-service basis. ()

(BREAK IN CONTINUITY OF SECTIONS)

850. SCHOOL-BASED SERVICE: DEFINITIONS.

01. **Activities of Daily Living (ADL).** The performance of basic self-care activities in meeting an individual's needs for sustaining him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (3-30-07)

02. **Educational Services.** Services that are provided in buildings, rooms, or areas designated or used as a school or as educational facilities, which are provided during the specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students, and which are included in the individual educational plan for the participant. (3-29-10)

03. **School-Based Services.** School-based services are health-related and rehabilitative services provided by Idaho public school districts, and charter schools, ~~and the Idaho Infant Toddler program~~ under the Individuals with Disabilities Education Act (IDEA). ~~(3-30-07)~~()

04. Practitioner of the Healing Arts. A physician's assistant, nurse practitioner, or clinical nurse specialist who is licensed and approved by the state of Idaho to make such recommendations or referrals for Medicaid services. ()

851. SCHOOL-BASED SERVICE: PARTICIPANT ELIGIBILITY.

To be eligible for medical assistance reimbursement for covered services, school districts, and charter schools, ~~and the Idaho Infant Toddler Program~~ must ensure the student is: ~~(3-30-07)~~()

01. **Medicaid Eligible.** Eligible for Medicaid and the service for which the school district, or charter school, ~~or Idaho Infant Toddler Program~~ is seeking reimbursement; ~~(3-30-07)~~()

02. **School Enrollment.** Enrolled in an Idaho school district, or charter school, ~~or the Idaho Infant Toddler Program~~; ~~(3-30-07)~~()

03. **Age.** Twenty-one (21) years of age or younger and the semester in which his twenty-first birthday falls is not finished; (3-30-07)

04. **Educational Disability.** ~~(3-30-07)~~

~~a-~~ Identified as having an educational disability under the Department of Education standards in IDAPA 08.02.03, "Rules Governing Thoroughness," ~~or~~ ~~(3-30-07)~~()

~~b-~~ A child from birth to three (3) years of age, who has been identified as needing early intervention services due to a developmental delay or disability or who meets the eligibility criteria of the Idaho Infant Toddler Program; ~~(3-30-07)~~

05. **Inpatients in Hospitals or Nursing Homes.** Payment for school-related ~~or Infant Toddler-based~~ services will not be provided to students who are inpatients in nursing homes or hospitals. Health-related services for students residing in an ICF/ID are eligible for reimbursement. ~~(3-30-07)~~()

06. **Service-Specific Eligibility.** Psychosocial Rehabilitation (PSR), ~~Developmental Therapy, and Intensive Behavioral Intervention (IBI), Behavioral Consultation, and Personal Care Services (PCS)~~ have additional eligibility requirements. (3-30-07)()

a. Psychosocial Rehabilitation (PSR). To be eligible for PSR, the student must meet the PSR eligibility criteria for children in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 112, or the Department of Education's criteria for emotional disturbance found in the Idaho Special Education Manual available online at [the Idaho Department of Education website, http://www.sde.idaho.gov/site/special_edu/](http://www.sde.idaho.gov/site/special_edu/). Districts are to coordinate the delivery of services if the student is receiving PSR services authorized by the Department. (3-30-07)()

b. ~~Developmental Therapy. To be eligible for developmental therapy, the student must meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501. Behavioral Intervention and Behavioral Consultation. To be eligible for behavioral intervention and behavioral consultation services, the student must:~~ (3-30-07)()

i. ~~Meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501; and~~ ()

ii. ~~Exhibit maladaptive behaviors that include frequent disruptive behaviors, aggression, self-injury, criminal or dangerous behavior evidenced by a score of at least one point five (1.5) standard deviations below the mean in two (2) behavior sub-tests or at least two (2) standard deviations below the mean in one (1) index score, on a standardized behavioral assessment approved by the Department; and~~ ()

iii. ~~Have maladaptive behaviors that interfere with the student's ability to access an education.~~ ()

c. ~~Intensive Behavioral Intervention (IBI). To be eligible for IBI services the student must:~~ **Personal Care Services. To be eligible for personal care services (PCS) the student must have a completed children's PCS assessment approved by the Department. To determine eligibility for PCS, the assessment results must find the student requires PCS due to a medical condition that impairs the physical or functional abilities of the student.** (3-30-07)()

i. ~~Meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501; and~~ (3-30-07)

ii. ~~Display self-injurious, aggressive or severely maladaptive behavior evidenced by a score of minus twenty two (-22) or below on the Scales of Independent Behavior Revised (SIB-R), and demonstrate functional abilities that are fifty percent (50%) or less of his chronological age in at least one (1) of the following: verbal or nonverbal communication, social interaction, or leisure and play skills.~~ (3-30-07)

iii. ~~Be a child birth through the last day of the month of his twenty-first birthday who has self-injurious, aggressive, or severely maladaptive behavior and severe deficits in the areas of verbal and nonverbal communication, social interaction, or leisure and play skills.~~ (3-30-07)

852. SCHOOL-BASED SERVICE: COVERAGE AND LIMITATIONS.

The Department will pay school districts, ~~and~~ charter schools, ~~and the Idaho Infant Toddler Program,~~ for covered rehabilitative and health-related services. Services include medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code. (3-30-07)()

01. **Excluded Services.** The following services are excluded from Medicaid payments to school-based programs: (3-30-07)

a. Vocational Services. (3-30-07)

b. Educational Services. Educational services (other than health related services) or education-based costs normally incurred to operate a school and provide an education. Evaluations completed for educational services only cannot be billed. (3-30-07)

c. Recreational Services. (3-30-07)

02. Evaluation And Diagnostic Services. Evaluations to determine eligibility or the need for health-related services may be reimbursed even if the student is not found eligible for health-related services. Evaluations completed for educational services only cannot be billed. Evaluations completed must: (3-30-07)

a. ~~Recommended or Referred by a Physician or Other Practitioner of the Healing Arts.~~ Be recommended or referred by a physician or other practitioner of the healing arts, ~~licensed and approved by the state of Idaho to make such recommendations or referrals~~ A school district or charter school may not seek reimbursement for services provided prior to receiving a signed and dated recommendation or referral; (3-30-07)()

b. ~~Conducted by Qualified Professionals.~~ Be conducted by qualified professionals for the respective discipline as defined in Section 854 of these rules; (3-30-07)()

c. ~~Directed Toward Diagnosis.~~ Be directed toward a diagnosis; and (3-30-07)()

d. ~~Recommend Interventions.~~ Include recommended interventions to address each need. (3-30-07)()

03. Reimbursable Services. School districts, and charter schools, ~~and the Idaho Infant Toddler program~~ can bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other practitioner of the healing arts ~~licensed and approved by the state of Idaho to make such recommendations or referrals~~ for the Medicaid services for which the school district, or charter school, ~~or Idaho Infant Toddler Program~~ is seeking reimbursement. A school district or charter school may not seek reimbursement for services provided prior to receiving a signed and dated recommendation or referral. (3-30-07)()

a. ~~Developmental Therapy and Evaluation. Developmental therapy may be billed, including evaluation and instruction in daily living skills the student has not gained at the normal developmental stages in his life, or is not likely to develop without training or therapy beyond age appropriate learning situations. Developmental therapy does not include tutorial activities or assistance with educational tasks associated with educational needs that result from the student's disability.~~ Behavioral Intervention. Behavioral Intervention is used to promote the student's ability to participate in educational services, as defined in Section 850 of these rules, through a consistent, assertive, and continuous intervention process. It includes the development of replacement behaviors with the purpose to prevent or treat behavioral conditions of students who exhibit maladaptive behaviors. Services include individual or group behavioral interventions. The following staff-to-participant ratios apply; (3-30-07)()

i. There must be at least one (1) qualified staff providing direct services for every three (3) students, unless the student has a functional behavioral assessment and behavioral intervention plan. ()

ii. When intervention is provided by a professional for students with a functional behavioral assessment and behavioral intervention plan, there must be at least one (1) qualified staff for every two (2) students. ()

iii. When intervention is provided by a paraprofessional for students with a functional behavioral assessment and behavioral intervention plan, group intervention is not allowable. ()

iv. As the number and severity of the students with behavioral issues increases, the staff participant ratio must be adjusted accordingly. ()

v. Group services should only be delivered when the child's goals relate to benefiting from group interaction. ()

b. Behavioral Consultation. Behavioral consultation assists other service professionals by consulting with the IEP team during the assessment process, performing advanced assessment, coordinating the implementation of the behavior implementation plan and providing ongoing training to the behavioral interventionist and other team members. ()

i. Behavioral consultation cannot be provided as a direct intervention service. ()

ii. Behavioral consultation must be limited to thirty-six (36) hours per student per year. ()

bc. Medical Equipment and Supplies. Medical equipment and supplies that are covered by Medicaid must be ordered by a physician and prior authorized, based on medical necessity, in order to be billed. Authorized items must be used at school ~~or for the Idaho Infant Toddler Program~~ at the location where the service is provided. Equipment that is too large or unsanitary to transport from home to school may be covered if prior authorized. The equipment and supplies must be used for the student's exclusive use and transfer with the student if the student changes schools. Equipment no longer usable by the student, may be donated to the school ~~or Idaho Infant Toddler Program~~ by the student. (3-30-07)()

ed. Nursing Services. Skilled nursing services must be provided by a licensed nurse, within the scope of his practice. Emergency, first aid, or non-routine medications not identified on the plan as a health-related service are not reimbursed. (3-30-07)

de. Occupational Therapy and Evaluation. Occupational therapy and evaluation services for vocational assessment, training or vocational rehabilitation are not reimbursed. (3-30-07)

ef. Personal Care Services. School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements ~~such as basic personal care and grooming; assistance with bladder or bowel requirements; assistance with eating (including feeding); or other tasks delegated by a licensed professional nurse (RN).~~ The provider must deliver at least one (1) of the following services: (3-30-07)()

i. Basic personal care and grooming to include bathing, care of the hair, assistance with clothing, and basic skin care; ()

ii. Assistance with bladder or bowel requirements that may include helping the student to and from the bathroom or assisting the student with bedpan routines; ()

iii. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; ()

iv. The continuation of developmental disabilities programs to address the activities of daily living needs in the school setting as identified on the child's PCS assessment, in order to increase or maintain independence for the student with developmental disabilities as determined by the nurse or qualified intellectual disabilities professional (QIDP); ()

v. Assisting the student with physician-ordered medications that are ordinarily self-administered, in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 490.05; ()

vi. Non-nasogastric gastrostomy tube feedings, if the task is not complex and can be safely performed in the given student care situation, and the requirements are met in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 303.01. ()

fg. Physical Therapy and Evaluation. (3-30-07)

gh. Psychological Evaluation. (3-30-07)

hj. Psychotherapy. (3-30-07)

j. Psychosocial Rehabilitation (PSR) Services and Evaluation. Psychosocial rehabilitation (PSR) services and evaluation services to assist the student in gaining and utilizing skills necessary to participate in school. Training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, study skills, and coping skills are types of interventions that may be reimbursed. This service is to prevent placement of the student into a more restrictive educational situation. See IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 123 for a description of PSR services. (3-29-10)

~~**j.** *Intensive Behavioral Intervention (IBI). Intensive behavioral interventions are individualized, comprehensive, proven interventions used on a short term, one-to-one basis that produce measurable outcomes which diminish behaviors that interfere with the development and use of language and appropriate social interaction skills or broaden an otherwise severely restricted range of interest. Professionals may provide consultation to parents and to other staff who provide therapy for the child in other disciplines to assure successful integration and transition from IBI to other therapies and environments.* (3-30-07)~~

k. Speech/Audiological Therapy and Evaluation. (3-30-07)

l. Social History and Evaluation. (3-30-07)

m. Transportation Services. School districts, and charter schools, ~~and the Idaho Infant Toddler programs~~ can receive reimbursement for mileage for transporting a student to and from home, school, or location of services when: (3-30-07)()

i. The student requires special transportation assistance such as a wheelchair lift, an attendant, or both, when medically necessary for the health and safety of the student and ordered by a physician; (3-30-07)

ii. The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a disability; (3-30-07)

iii. The student requires and receives another Medicaid reimbursable service billed by the school-based services provider, other than transportation, on the day that transportation is being provided; (3-30-07)

iv. Both the Medicaid-covered service and the need for the special transportation are included on the student's plan; and (3-30-07)

v. The mileage, as well as the services performed by the attendant, are documented. See Section 854 of these rules for documentation requirements. (3-30-07)

n. Interpretive Services. Interpretive services needed by a student who is deaf or does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health-related service may be billed with the following limitations: (3-30-07)()

i. Payment for interpretive services is limited to the specific time that the student is receiving the health-related service; (3-30-07)

ii. Both the Medicaid-covered service and the need for interpretive services must be included on the student's plan; and (3-30-07)

iii. Interpretive services are not covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (3-30-07)

853. SCHOOL-BASED SERVICE: PROCEDURAL REQUIREMENTS.

The following documentation must be maintained by the provider and retained for a period of six (6) years: ()

01. Individualized Education Program (IEP) and Other Service Plans. School districts and charter schools may bill for Medicaid services ~~C~~covered by a current Individualized Education Program (IEP), transitional Individualized Family Service Plan (IFSP) when the child turns three (3) years old, or Services Plan (SP); defined in

the Idaho Special Education Manual on the State Department of Education website for parentally placed private school students with disabilities when designated funds are available for special education and related services. The plan must be developed within the previous three hundred sixty-five (365) days which indicates the need for one (1) or more medically-necessary health-related services, and lists all the Medicaid reimbursable services for which the school district or charter school agency is requesting reimbursement; ~~and~~. The IEP and transitional IFSP must include: (3-30-07)()

- i. Type, frequency, and duration of the service(s) provided; ()
- ii. Title of the provider(s), including the direct care staff delivering services under the supervision of the professional; ()
- iii. Measurable goals, when goals are required for the service; and ()
- iv. Specific place of service. ()

02. Referred by a Physician or Other Practitioner of the Healing Arts Evaluations and Assessments. ~~Recommended or referred by a physician or other practitioner of the healing arts such as a nurse practitioner, clinical nurse specialist, or physician's assistant, who is licensed and approved by the state of Idaho to make such recommendations or referrals, for all Medicaid services for which the school district, charter school, or the Idaho Infant Toddler Program is receiving reimbursement.~~ Evaluations and assessments must support services billed to Medicaid, and must accurately reflect the student's current status. (3-30-07)()

03. Service Detail Reports. A service detail report that includes: ()

- a. Name of student; ()
- b. Name and title of the person providing the service; ()
- c. Date, time, and duration of service; ()
- d. Place of service, if provided in a location other than school; ()
- e. Category of service and brief description of the specific areas addressed; and ()
- f. Student's response to the service when required for the service. ()

04. One Hundred Twenty Day Review. A documented review of progress toward each service plan goal completed at least every one hundred twenty (120) days from the date of the annual plan. ()

05. Documentation of Qualifications of Providers. ()

06. Copies of Required Referrals and Recommendations. Copies of required referrals and recommendations. ()

a. School-based services must be recommended or referred by a physician or other practitioner of the healing arts for all Medicaid services for which the school district or charter school is receiving reimbursement. ()

b. A recommendation or referral must be obtained prior to the provision of services for which the school district or charter school is seeking reimbursement. ()

07. Parental Notification. School districts and charter schools must document that parents were notified of the health-related services and equipment for which they will bill Medicaid. Notification must comply with the requirements in Subsection 853.08 of this rule. ()

08. Requirements for Cooperation with and Notification of Parents and Agencies. Each school

district or charter school billing for Medicaid services must act in cooperation with students' parents and with community and state agencies and professionals who provide like Medicaid services to the student. ()

a. Notification of Parents. For all students who are receiving Medicaid reimbursed services, school districts and charter schools must ensure that parents are notified of the Medicaid services and equipment for which they will bill Medicaid. Notification must describe the service(s), service provider(s), and state the type, location, frequency, and duration of the service(s). The school district must provide the student's parent or guardian with a current copy of the child's plan and any pertinent addenda; and ()

b. Notification to Primary Care Physician. School districts and charter schools must request the name of the student's primary care physician from the parent or guardian so the school program can share health-related information with the physician with written consent from the parent or guardian. The following information must be sent to the student's primary care physician: ()

i. Results of evaluations within sixty (60) days of completion; ()

ii. A copy of the cover sheet and services page within thirty (30) days of the plan meeting; and ()

iii. A copy of progress notes, if requested by the physician, within sixty (60) days of completion. ()

c. Other Community and State Agencies. Upon receiving a request for a copy of the evaluations or the current plan, the school district or charter school must furnish the requesting agency or professional with a copy of the plan or appropriate evaluation after obtaining consent for release of information from the student's parent or guardian. ()

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

~~In addition to the evaluations and maintenance of the plans, the following documentation must be maintained by the provider and retained for a period of six (6) years~~ Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (3-30-07)()

~~01. Service Detail Reports~~ **Behavioral Intervention.** ~~A service detail report which includes:~~ Behavioral intervention must be provided by or under the supervision of a professional. (3-30-07)()

~~a. Name of student;~~ A behavioral intervention professional must meet the following: (3-30-07)()

i. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028; or ()

ii. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019; or ()

iii. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 029; or ()

iv. Habilitative intervention professional who meets the requirements defined in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits," Section 685; or ()

v. Individuals employed by a school as certified Intensive Behavioral Intervention (IBI) professionals prior to July 1, 2013, are qualified to provide behavioral intervention; and ()

vi. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. This can be achieved by previous work experience gained through paid employment, university practicum experience, or internship. It can also be achieved by increased on-the-job supervision experience gained during employment at a school district or charter school. ()

~~b. Name and title of the person providing the service;~~ A paraprofessional under the direction of a

qualified behavioral intervention professional, must meet the following: (3-30-07)()

i. Must be at least eighteen (18) years of age; ()
ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned, and meet the requirements under the “Standards for Paraprofessionals Supporting Students with Special Needs,” available online at the State Department of Education website; and ()

iii. Must meet the paraprofessional requirements under the Elementary and Secondary Education Act of 1965, as amended, Title I, Part A, Section 1119. ()

c. Date, time, and duration of service: A paraprofessional delivering behavioral intervention services must be under the supervision of a behavioral intervention professional or behavioral consultation provider. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the behavioral intervention service. (3-30-07)()

d. Place of service, if provided in a location other than school; and (3-30-07)

e. Student's response to the service. (3-30-07)

02. ~~One Hundred Twenty Day Review~~ **Behavioral Consultation.** ~~A documented review of progress toward each service plan goal completed at least every one hundred twenty (120) days from the date of the annual plan.~~ Behavioral consultation must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and who meets one (1) of the following: (3-30-07)()

a. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, “Rules Governing Uniformity,” Section 028. ()

b. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, “Rules Governing Uniformity,” Section 019. ()

c. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, “Rules Governing Uniformity” Section 029. ()

d. An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, “Rules Governing Uniformity,” Section 027, excluding a registered nurse or audiologist. ()

e. An occupation therapist who is qualified and registered to practice in Idaho. ()

f. Therapeutic consultation professional who meets the requirements defined in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 685. ()

03. ~~Documentation of Qualifications of Providers~~ **Medical Equipment and Supplies.** See Subsection 852.03 of these rules. (3-30-07)()

04. ~~Copies of Required Referrals and Recommendations~~ **Nursing Services.** ~~Copies of required referrals and recommendations.~~ Nursing services must be provided by a registered nurse or licensed professional nurse (RN), or by a licensed practical nurse (LPN) licensed to practice in Idaho. (3-30-07)()

05. ~~Parental Notification~~ **Occupational Therapy and Evaluation.** ~~School districts, charter schools, and the Idaho Infant Toddler programs must document that parents were notified of the health-related services and equipment for which they will bill Medicaid. Notification must comply with the requirements in Subsection 854.06 of this rule.~~ Occupation therapy and evaluation must be provided by or under the supervision of an individual qualified

and registered to practice in Idaho.

(3-30-07)()

06. ~~*Requirements for Cooperation with and Notification of Parents and Agencies*~~ **Personal Care Services.** ~~*Each school district, charter school, or Idaho Infant Toddler Program billing for Medicaid services must act in cooperation with students' parents and with community and state agencies and professionals who provide like Medicaid services to the student.*~~ Personal care services must be provided by or under the direction of a registered nurse licensed by the State of Idaho.

(3-30-07)()

a. ~~*Notification of Parents. For all students who are receiving Medicaid reimbursed services, school districts, charter schools, and the Idaho Infant Toddler program must ensure that parents are notified of the Medicaid services and equipment for which they will bill Medicaid. Notification must describe the service(s), service provider(s), and state the type, location, frequency, and duration of the service(s). The school district must provide the student's parent or guardian with a current copy of the child's plan and any pertinent addenda; and*~~ **Providers of PCS must have at least one (1) of the following qualifications:**

(3-29-12)()

i. Registered Nurse or Licensed Professional Nurse (RN). A person currently licensed by the Idaho State Board of Nursing as a registered nurse or licensed professional nurse;

()

ii. Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; or

()

iii. Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. Medically-oriented services may be delegated to an aide in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." The professional nurse may require a certified nursing assistant (CNA) if, in their professional judgment, the student's medical condition warrants a CNA.

()

b. ~~*Notification to Primary Care Physician. School districts, charter schools, and the Idaho Infant Toddler program must request the name of the student's primary care physician from the parent or guardian so the school program can share health-related information with the physician with written consent from the parent or guardian. The following information must be sent to the student's primary care physician: The registered nurse (RN) must complete the PCS assessment and develop the written plan of care annually. Oversight provided by the RN must include all of the following:*~~

(3-30-07)()

i. ~~*Results of evaluations within sixty (60) days of completion*~~ Development of the written PCS plan of care;

(3-30-07)()

ii. ~~*A copy of the cover sheet and services page within thirty (30) days of the plan meeting*~~ Review of the treatment given by the personal assistant through a review of the student's PCS record as maintained by the provider; and

(3-30-07)()

iii. ~~*A copy of progress notes, if requested by the physician, within sixty (60) days of completion*~~ Reevaluation of the plan of care as necessary, but at least annually.

(3-30-07)()

c. ~~*Other Community and State Agencies. Upon receiving a request for a copy of the evaluations or the current plan, the school district, charter school, or Idaho Infant Toddler Program must furnish the requesting agency or professional with a copy of the plan or appropriate evaluation after obtaining consent for release of information from the student's parent or guardian. In addition to the RN oversight, the RN determines if oversight is required by a*~~ Qualified Intellectual Disabilities Professional (QIDP) as defined in 42 CFR 483.430 for students with developmentally disabilities. The QIDP must complete a QIDP assessment annually. Oversight must include:

(3-30-07)()

i. Assistance in the development of the PCS plan of care for those aspects of developmental disabilities programs that address the student's activities of daily living needs provided in the school by the personal assistant;

()

ii. Review of the developmental disabilities programs given by the personal assistant through a review

of the student's PCS record as maintained by the provider and through on-site interviews with the student; and(____)

iii. Reevaluation of the PCS plan of care as necessary, but at least annually. (____)

d. ~~Parental Consent to Release Information. School districts, charter schools, and the Idaho Infant Toddler program:~~ The RN, QIDP, or a combination of both, must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (3-30-07)(____)

i. ~~Must obtain consent from the parent to release information regarding education-related services, in accordance with Federal Education Rights and Privacy Act (FERPA) regulations;~~ (3-30-07)

ii. ~~Must document the parent's denial of consent if the parent refuses to consent to the release of information regarding education-related services, including release of the name of the student's primary care physician.~~ (3-30-07)

07. ~~Provider Staff Qualifications~~ Physical Therapy and Evaluation. ~~Medicaid will only reimburse for services provided by qualified staff. See Subsection 854.08 of this rule for the limitations and requirements for paraprofessional service providers. The following are the minimum qualifications for professional providers of covered services:~~ Physical therapy and evaluation must be provided by an individual qualified and licensed as a physical therapist to practice in Idaho. (3-30-07)(____)

a. ~~Developmental Therapy and Evaluation. Must be provided by or under the direction of a developmental specialist, as set forth in IDAPA 16.04.11, "Developmental Disabilities Agencies." Certified special education teachers are not required to take the Department-approved course indicated in IDAPA 16.04.11 and be certified as a Developmental Specialist, Child. Only those school personnel who are working under a Letter of Authorization or as a Specialty Consultant must meet the certification requirements in IDAPA 16.04.11.~~ (3-30-07)

b. ~~Medical Equipment and Supplies. See Subsection 852.03 of these rules.~~ (3-30-07)

c. ~~Nursing Services. Must be provided by a licensed professional nurse (RN) or licensed practical nurse (LPN) licensed to practice in Idaho.~~ (3-30-07)

d. ~~Occupational Therapy and Evaluation. Must be provided by or under the supervision of an individual qualified and registered to practice in Idaho.~~ (3-30-07)

e. ~~Personal Care Services. Must be provided by or under the direction of, a licensed professional nurse (RN) or licensed practical nurse (LPN), licensed by the State of Idaho. When services are provided by a CNA, the CNA must be supervised by an RN. Medically oriented services having to do with the student's physical or functional requirements, such as basic personal care and grooming, assistance with bladder or bowel requirements, and assistance with eating (including feeding), must be identified on the plan of care and may be delegated to an aide in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing."~~ (3-30-07)

f. ~~Physical Therapy and Evaluation. Must be provided by an individual qualified and licensed as a physical therapist to practice in Idaho.~~ (3-30-07)

g. ~~Psychological Evaluation. Must be provided by a:~~ (3-30-07)

i. ~~Licensed psychiatrist;~~ (3-30-07)

ii. ~~Licensed physician;~~ (3-30-07)

iii. ~~Licensed psychologist;~~ (3-30-07)

iv. ~~Psychologist extender registered with the Bureau of Occupational Licenses; or~~ (3-30-07)

v. ~~Certified school psychologist.~~ (3-30-07)

- ~~h. Psychotherapy. Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: (3-30-07)~~
- ~~i. Psychiatrist, M.D.; (3-30-07)~~
 - ~~ii. Physician, M.D.; (3-30-07)~~
 - ~~iii. Licensed psychologist; (3-30-07)~~
 - ~~iv. Licensed clinical social worker; (3-30-07)~~
 - ~~v. Licensed clinical professional counselor; (3-30-07)~~
 - ~~vi. Licensed marriage and family therapist; (3-30-07)~~
 - ~~vii. Certified psychiatric nurse (R.N.), as described in Subsection 707.13 of these rules; (3-29-10)~~
 - ~~viii. Licensed professional counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (3-29-10)~~
 - ~~ix. Licensed masters social worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (3-29-10)~~
 - ~~x. Licensed associate marriage and family therapist whose provision of psychotherapy is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or (3-29-10)~~
 - ~~xi. Psychologist extender, registered with the Bureau of Occupational Licenses, whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (3-29-10)~~
- ~~i. Psychosocial Rehabilitation. Must be provided by a: (3-30-07)~~
- ~~i. Licensed physician, licensed practitioner of the healing arts, or licensed psychiatrist; (3-29-10)~~
 - ~~ii. Licensed master's level psychiatric nurse; (3-30-07)~~
 - ~~iii. Licensed psychologist; (3-30-07)~~
 - ~~iv. Licensed clinical professional counselor or professional counselor; (3-30-07)~~
 - ~~v. Licensed marriage and family therapist or associate marriage and family therapist; (3-29-10)~~
 - ~~vi. Licensed masters social worker, licensed clinical social worker, or licensed social worker; (3-30-07)~~
 - ~~vii. Psychologist extender registered with the Bureau of Occupational Licenses; (3-30-07)~~
 - ~~viii. Licensed professional nurse (RN); (3-30-07)~~
 - ~~ix. Psychosocial rehabilitation specialist as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 131; (3-29-10)~~
 - ~~x. Licensed occupational therapist; (3-30-07)~~
 - ~~xi. Certified school psychologist; or (3-30-07)~~

- xii. ~~Certified school social worker. (3-30-07)~~
- ~~j. Intensive Behavioral Intervention. Must be provided by or under the direction of a qualified professional who meets the requirements set forth in IDAPA 16.04.11 "Developmental Disabilities Agencies." (3-30-07)~~
- ~~k. Speech/Audiological Therapy and Evaluation. Must be provided by or under the direction of a speech pathologist or audiologist who possesses a certificate of clinical competence from the American Speech, Language and Hearing Association (ASHA); or who will be eligible for certification within one (1) year of employment. Personnel records must reflect the expected date of certification. (3-30-07)~~
- ~~l. Social History and Evaluation. Must be provided by a licensed professional nurse (RN), psychologist, M.D, school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho. (3-30-07)~~
- ~~m. Transportation. Must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. (3-30-07)~~
- 08. Paraprofessionals Psychological Evaluation.** ~~The schools and Infant Toddler Program may use paraprofessionals to provide developmental therapy; occupational therapy; physical therapy; and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist as defined by the appropriate licensure and certification rules. The portions of the treatment plan which can be delegated to the paraprofessional must be identified in the IEP or HFSP. A psychological evaluation must be provided by a: (3-29-10)()~~
- ~~a. Occupational Therapy. Refer to IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," for supervision and service requirements. Licensed psychiatrist; (3-29-10)()~~
- ~~b. Physical Therapy. Refer to IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," for supervision and service requirements Licensed physician; (3-29-10)()~~
- ~~c. Speech-Language Pathology. Refer to IDAPA 24.23.01, "Rule of the Speech and Hearing Services Licensure Board," and the American Speech Language Hearing Association (ASHA) guidelines for supervision and service requirements for speech language pathology. The guidelines have been incorporated by reference in Section 004 of these rules. Licensed psychologist; (3-29-10)()~~
- ~~d. Developmental Therapy. Refer to IDAPA 16.04.11, "Developmental Disabilities Agencies," for supervision and service requirements. Psychologist extender registered with the Bureau of Occupational Licenses; or (3-29-10)()~~
- ~~e. Certified school psychologist. ()~~
- 09. Psychotherapy.** ~~Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: ()~~
- ~~a. Psychiatrist, M.D.; ()~~
- ~~b. Physician, M.D.; ()~~
- ~~c. Licensed psychologist; ()~~
- ~~d. Licensed clinical social worker; ()~~
- ~~e. Licensed clinical professional counselor; ()~~

- f.** Licensed marriage and family therapist: ()
- g.** Certified psychiatric nurse (R.N.), as described in Subsection 707.13 of these rules: ()
- h.** Licensed professional counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists": ()
- i.** Licensed masters social worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners": ()
- j.** Licensed associate marriage and family therapist whose provision of psychotherapy is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or ()
- k.** Psychologist extender, registered with the Bureau of Occupational Licenses, whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." ()
- 10. Psychosocial Rehabilitation (PSR).** Psychosocial rehabilitation must be provided by a: ()
- a.** Licensed physician, licensed practitioner of the healing arts, or licensed psychiatrist: ()
- b.** Licensed master's level psychiatric nurse: ()
- c.** Licensed psychologist: ()
- d.** Licensed clinical professional counselor or professional counselor: ()
- e.** Licensed marriage and family therapist or associate marriage and family therapist: ()
- f.** Licensed masters social worker, licensed clinical social worker, or licensed social worker: ()
- g.** Psychologist extender registered with the Bureau of Occupational Licenses: ()
- h.** Licensed professional or registered nurse (RN): ()
- i.** Psychosocial rehabilitation specialist as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 131: ()
- j.** Licensed occupational therapist: ()
- k.** Certified school psychologist; or ()
- l.** Certified school social worker. ()
- 11. Speech/Audiological Therapy and Evaluation.** Speech/audiological therapy and evaluation must be provided by or under the direction of a speech pathologist or audiologist who possesses a certificate of clinical competence from the American Speech, Language and Hearing Association (ASHA); or who will be eligible for certification within one (1) year of employment. Personnel records must reflect the expected date of certification. ()
- 12. Social History and Evaluation.** Social history and evaluation must be provided by a registered nurse or licensed professional nurse (RN), psychologist, M.D., school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho. ()
- 13. Transportation.** Transportation must be provided by an individual who has a current Idaho driver's

license and is covered under vehicle liability insurance that covers passengers for business use. ()

14. Paraprofessionals. The schools may use paraprofessionals to provide occupational therapy, physical therapy, and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist as defined by the appropriate licensure and certification rules. The portions of the treatment plan that can be delegated to the paraprofessional must be identified in the IEP or transitional IFSP. ()

a. Occupational Therapy. Refer to IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," for qualifications, supervision, and service requirements. ()

b. Physical Therapy. Refer to IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," for qualifications, supervision and service requirements. ()

c. Speech-Language Pathology. Refer to IDAPA 24.23.01, "Rule of the Speech and Hearing Services Licensure Board," and the American Speech-Language-Hearing Association (ASHA) guidelines for qualifications, supervision and service requirements for speech-language pathology. The guidelines have been incorporated by reference in Section 004 of these rules. ()

855. SCHOOL-BASED SERVICE: PROVIDER REIMBURSEMENT.

Payment for health-related services provided by school districts, and charter schools, ~~and the Idaho Infant Toddler program~~ must be in accordance with rates established by the Department. (3-30-07)()

01. Payment in Full. Providers of services must accept as payment in full the school district, ~~or~~ charter school, ~~or Idaho Infant Toddler Program~~ payment for such services and must not bill Medicaid or Medicaid participants for any portion of any charges. (3-30-07)()

02. Third Party. For requirements regarding third party billing, see Section 215 of these rules. (3-30-07)

03. Recoupment of Federal Share. Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of the Federal share of payments for services, sanctions, or both. (3-30-07)

04. Matching Funds. Federal funds cannot be used as the State's portion of match for Medicaid service reimbursement. School districts and charter schools must, for their own internal record keeping, calculate and document the non-federal funds (maintenance of effort assurance) that have been designated as their certified match. This documentation needs to include the source of all funds that have been submitted to the State and the original source of those dollars. The appropriate matching funds will be handled in the following manner: (3-30-07)

a. Schools will estimate the amount needed to meet match requirements based on their anticipated monthly billings. (3-30-07)

b. School districts and charter schools will send the Department the matching funds, either by check or automated clearing house (ACH) electronic funds transfers. (3-30-07)

c. The Department will hold matching funds in an interest bearing trust account. The average daily balance during a month must exceed one hundred dollars (\$100) in order to receive interest for that month. (3-30-07)

d. The payments to the districts will include both the federal and non-federal share (matching funds). (3-30-07)

e. Matching fund payments must be received and posted in advance of the weekly Medicaid payment cycle. (3-30-07)

f. If sufficient matching funds are not received in advance, all Medicaid payments to the school district will be suspended and the school district will be notified of the shortage. Once sufficient matching funds are

received, suspended payments will be processed and reimbursement will be made during the next payment cycle.
(3-30-07)

g. The Department will provide the school districts a monthly statement which will show the matching amounts received, interest earned, total claims paid, the matching funds used for the paid claims, and the balance of their funds in the trust account.
(3-30-07)

h. The school districts will estimate the amount of their next billing and the amount of matching funds needed to pay the Department.
(3-30-07)

i. The estimated match requirement may be adjusted up or down based on the remaining balance held in the trust account.
(3-30-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-1201

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 Sections 39-242, 39-5403, 56-221, 56-222, 56- 1003, and 56-1004, Idaho Code (Board authority); the Child Abuse Prevention and Treatment Act (CAPTA) (42 USC 5101, et seq.); and Section 9-340B(7), Idaho Code, (from Senate Bill 1255a(2) (2012)).

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, September 18, 2012 6:00 p.m. (MDT Time)	Wednesday, September 19, 2012 6:00 p.m. (PDT Time)	Thursday, September 20, 2012 6:00 p.m. (MDT Time)
1720 Westgate Dr., Suite D Boise, ID 83704	1250 Ironwood Drive Coeur d'Alene, ID 83814	1070 Hiline, Suite 230 Pocatello, ID 83201

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:

Disclosure of information regarding child fatalities is required by the Child Abuse Prevention and Treatment Act (CAPTA) under 42 USC 5106a(b)(2)(B)(x). In accordance with CAPTA, this chapter is being amended to specify and clarify the information regarding child fatalities that the Department can disclose.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not deemed feasible as these rule changes are being made to bring this chapter into alignment with the Child Abuse Prevention and Treatment Act (CAPTA) (P.L. 111-320).

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 proposed rule, contact Miren Unsworth at (208) 334-5925.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 6th day of August, 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 PROPOSED TEXT OF DOCKET NO. 16-0501-1201

210. CHILD PROTECTION.

Unless allowed by these rules or other provision of law, the Department will disclose information from child protection records in its possession upon a court order obtained in compliance with Subsection 075.02 of these rules. Disclosure of Department records under the Child Protective Act is governed by Section 16-1629(6), Idaho Code. Court records of Child Protective Act proceedings are governed by Section 16-1626, Idaho Code. Pertinent federal laws and regulations include 42 USC 5106 and 45 CFR 134.20. Information regarding child fatalities or near fatalities ~~is required to~~ may be made public ~~by 42 USC 5106a(b)(2)(A)(x).~~ (4-2-08)

01. Child Fatalities. In accordance with 42 USC 5106a(b)(2)(B)(x), the Department will disclose non-identifying summary information to the Statewide Child Fatality Review Team, established by the Governor's Task Force on Children at Risk, regarding child fatalities that were determined to be the result of abuse, neglect, or abandonment.

02. Public Disclosure. The Department has the discretion to disclose child-specific information under this rule when the disclosure is not in conflict with the child's best interests and one (1) or more of the following applies:

a. Identifying information related to child-specific abuse, neglect, or abandonment has been previously published or broadcast through the media;

b. All or part of the child-specific information has been publicly disclosed in a judicial proceeding; or

c. The disclosure of information clarifies actions taken by the Department on a specific case.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1202

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 Sections 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code (Board authority); and the Child Protective Act, Idaho Code, Title 16, Chapter 16.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, September 18, 2012 6:00 p.m. (MDT Time)	Wednesday, September 19, 2012 6:00 p.m. (PDT Time)	Thursday, September 20, 2012 6:00 p.m. (MDT Time)
1720 Westgate Dr., Suite D Boise, ID 83704	1250 Ironwood Drive Coeur d'Alene, ID 83814	1070 Hiline, Suite 230 Pocatello, ID 83201

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:

Foster parents and professionals involved in the ongoing care of children in Idaho's child welfare system continue to report to Department personnel that they are not receiving information necessary to carry out their roles and duties in caring for children in Idaho's child welfare system. In order to remedy this, a rule change is being made to clarify what information the Department can and must provide to foster parents and other professionals involved in the ongoing care of children in Idaho's child welfare system.

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not deemed feasible as the purpose of this rulemaking is to provide clarification of the rules and guidance to Department staff regarding the disclosure of information to foster parents and professionals involved in the ongoing care of children in Idaho's child welfare system. It does not change, or in any way relax, the rules for disclosure of information. The actual requirements for the disclosure of information are in IDAPA 16.05.01, "Use and Disclosure of Department Records." Those rules reflect Idaho law on the matter, and are not subject to negotiation as a result of 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 proposed rule, contact Miren Unsworth at (208) 334-5925.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 6th day of August, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0601-1202

405. ALTERNATE CARE CASE MANAGEMENT.

Case management must continue while the child is in alternate care and must ensure the following: (3-30-07)

01. Preparation for Placement. Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker, and the alternate care provider. (3-30-07)

02. Information for Alternate Care Provider. The Department and the family must inform the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-30-07)

a. Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (3-18-99)

b. The name of the child's doctor; (3-18-99)

c. The child's current functioning and behaviors; (3-18-99)

d. ~~The child's history and past experiences and reasons for placement into alternate care~~ A copy of the child's portion of the service plan including any visitation arrangements; (3-30-01)()

e. The case history of the child, including the reason the child came into foster care, the child's legal status, and the permanency goal for the child; ()

f. A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; ()

eg. The child's cultural and racial identity; (3-18-99)

fh. Any educational, developmental, or special needs of the child; (3-18-99)

gi. The child's interest and talents; (3-18-99)

hj. The child's attachment to current caretakers; (3-18-99)

ik. The individualized and unique needs of the child; (3-18-99)

- j.** Procedures to follow in case of emergency; and (3-18-99)
- k.** Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-18-99)
- 03. Consent for Medical Care.** Parent(s) or legal guardian(s) must sign a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the family case record. (3-30-07)
- 04. Financial Arrangements.** The family services worker must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. (3-30-07)
- 05. Contact with Child.** The family, the family services worker, and the alternate care provider must establish a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. (5-8-09)
- a.** Face-to-face contact with a child by the responsible party must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the responsible party and the child occurs where the child resides a minimum of once every sixty (60) days. (5-8-09)
- b.** The Department will have strategies in place to detect abuse, neglect, or abandonment of children in alternate care. (5-8-09)
- c.** Face-to-face contact between the responsible party and a child placed in an in-state group or residential care facility, located a significant distance from the responsible party's office is required a minimum of once every ninety (90) days. Communication by phone between the responsible party and the child must occur at least monthly. (5-8-09)
- d.** Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (3-30-07)
- e.** Children who are in out-of-state placements through the Interstate Compact on the Placement of Children (ICPC) must be contacted face-to-face no less frequently than every six (6) months, by either the responsible party in Idaho, by a representative of the state in which the child is placed, or by a private agency contracted by either. Idaho will request the state in which the child is placed to have face-to-face contact with the child on a monthly basis. If the policy of the state in which the child is placed allows only for face-to-face contact every six (6) months, the responsible party in Idaho will contact the child and the child's caregiver each month by phone to confirm the child's safety and well-being. (4-7-11)
- 06. Discharge Planning.** Planning for discharge from alternate care will be developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (5-8-09)
- 07. Transition Planning.** Planning for discharge from alternate care into a permanent placement will be developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-30-07)
- 08. Financial and Support Services.** As part of the discharge planning, Departmental resources will be coordinated to expedite access to Department financial and medical assistance and community support services. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

554. RESPONSE PRIORITIES.

The Department must use the following statewide standards for responding to allegations of abuse, neglect, or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards must be documented in the family's case file with a description of action taken, and must be reviewed and signed by the Child and Family Services Supervisor. (5-8-09)

01. Priority I. The Department must respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement must be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child must be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger. (3-30-07)

02. Priority II. A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement must be notified within twenty-four (24) hours. The child must be seen by the family services worker within forty-eight hours (48) of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals which involve concerns of abuse, neglect, or abandonment. (5-8-09)

03. Priority III. A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parent(s) or legal guardian(s) will be interviewed for substantiation of the facts, and to assure that there is no abuse, neglect, or abandonment by parent(s) or legal guardian(s). A family services worker must respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral. (5-8-09)

04. Notification of the Person Who Made the Referral. The Department must notify the person who made the child protection referral of the receipt of the referral within five (5) days. (3-30-07)

05. Disclosure of Information to Professionals. The Department has the discretion to disclose, on a need-to-know basis, minimally necessary information to individuals who are professionally involved in the ongoing care of the child who is the subject of a report of abuse, neglect, or abandonment. This includes information that the professional will need to know in order to fulfill his or her role in maintaining the child's safety and well-being. This provision applies to: ()

- a.** Physicians, residents on a hospital staff, interns, and nurses; ()
- b.** School teachers, school staff, and day care personnel; and ()
- c.** Mental health professionals, including psychologists, counselors, marriage and family therapists, and social workers. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.08 - RULES AND MINIMUM STANDARDS FOR DUI EVALUATORS
DOCKET NO. 16-0608-1201 - (CHAPTER REPEAL)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 18-8005(11) and (14), 56-1003 (Director authority), and Section 39-311 (Board authority), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

ORIGINATING LOCATION -- LIVE MEETING Thursday, September 13, 2012 2:00 pm (PDT) -- 3:00 pm (MDT)
Idaho Department of Health and Welfare, Central Office Conference Room 3A (3rd floor) 450 West State Street Boise, ID 83702

VIDEOCONFERENCE LOCATIONS	
Region I Office – Coeur d’Alene Main Conference Room 2195 Ironwood Court Coeur d’Alene, ID 83814	Region II Office – Lewiston 1st Floor Conference Room 1118 “F” Street Lewiston, ID 83501
Region III Office – Caldwell Owyhee Conference Room (Rm. 226) 3402 Franklin Road Caldwell, ID 83605	Region IV Office – Boise Room 137 1720 Westgate Drive, Suite A Boise, ID 83704
Region V Office – Twin Falls Room 116 823 Harrison Twin Falls, ID 83301	Region VI Office – Pocatello Room 225 421 Memorial Drive Pocatello, ID 83201
Region VII Office – Idaho Falls Conference Room 240 150 Shoup Ave. Idaho Falls, ID 83402	

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 Courts and the Department have agreed it is more effective and efficient to end separate licensing for DUI Evaluators and have DUI evaluations conducted at treatment facilities approved under IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." Therefore, this chapter of rules will be repealed in its entirety.

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

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

The repeal of these rules will result in a revenue loss to the Department of approximately \$2,500 per year due to the loss of licensing/renewal fees imposed on DUI Evaluators under this chapter.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking is not feasible as this chapter is simply being repealed at the request of the Courts.

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 proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 6th day of August, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
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IDAPA 16.06.08 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

DOCKET NO. 16-0701-1201

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 Sections 16-2433, 19-2524, 20-520(i), 20-511A, and 39-3137 Idaho Code (Director's Authority), and Section 39-309, Idaho Code (Board Authority).

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

ORIGINATING LOCATION -- LIVE MEETING

Thursday, September 13, 2012

2:00 pm (PDT) -- 3:00 pm (MDT)

**Idaho Department of Health and Welfare, Central Office
Conference Room 3A (3rd floor)
450 West State Street
Boise, ID 83702**

VIDEOCONFERENCE LOCATIONS

Region I Office – Coeur d’Alene Main Conference Room 2195 Ironwood Court Coeur d’Alene, ID 83814	Region II Office – Lewiston 1st Floor Conference Rm. 1118 ‘F’ Street Lewiston, ID 83501
Region III Office – Caldwell Owyhee Conference Room (Rm. 226) 3402 Franklin Road Caldwell, ID 83605	Region IV Office – Boise Room 137 1720 Westgate Drive, Suite A Boise, ID 83704
Region V Office – Twin Falls Room 116 823 Harrison Twin Falls, ID 83301	Region VI Office – Pocatello Room 225 421 Memorial Drive Pocatello, ID 83201
Region VII Office – Idaho Falls Conference Room 240 150 Shoup Ave. Idaho Falls, ID 83402	

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:

In 2006, the Legislature passed House Bill 833 that amended the Alcoholism and Intoxication Treatment Act (AITA) to establish the Interagency Committee on Substance Abuse Prevention and Treatment (ICSA) effective until July 1, 2011. For a five-year period, starting in SFY 2007, budget decisions regarding substance use disorders treatment were made by the Interagency Committee on Substance Abuse Prevention and Treatment (ICSA). In accordance with AITA, ICSA sunsetted at the end of SFY 2011 and is no longer in existence. As result, the reference to ICSA in these rules is being removed.

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

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

No fiscal impact to the state general fund is anticipated due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking is not feasible as this change is being made to align this chapter of rules with the ICSA sunset clause in existing statute.

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 proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 6th day of August, 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 PROPOSED TEXT OF DOCKET NO. 16-0701-1201

010. DEFINITIONS.

For the purposes of this chapter, the following definitions apply. (4-9-09)

01. Ability to Pay. The financial capacity that is available to pay for the program services after allowable deductions in relation to gross income and family size exclusive of any liability of third party payor

- sources. (4-9-09)
- 02. Adjusted Gross Income.** Total family annual income less allowable annual deductions. (4-9-09)
- 03. Adult.** An individual 18 years of age or older. (4-9-09)
- 04. Adult Mental Health Program.** A program administered by the Idaho Department of Health and Welfare to serve severely and persistently mentally ill adults. (4-9-09)
- 05. Allowable Annual Deductions.** In determining the family's ability to pay for behavioral health services, the following are allowable annual deductions: (4-9-09)
- a.** Court-ordered obligations; (4-9-09)
 - b.** Dependent support; (4-9-09)
 - c.** Child care payments necessary for parental employment; (4-9-09)
 - d.** Medical expenses. (4-9-09)
 - e.** Transportation; (4-9-09)
 - f.** Extraordinary rehabilitative expenses; and (4-9-09)
 - g.** State and federal tax payments, including FICA taxes. (4-9-09)
- 06. Behavioral Health Services.** Services offered by the Department to improve behavioral health issues or alcohol and substance use disorders. (4-9-09)
- 07. Child.** An individual who is under the age of eighteen (18) years. (4-9-09)
- 08. Children's Mental Health Program.** A program as defined in IDAPA 16.07.37, "Children's Mental Health Services," administered by the Idaho Department of Health and Welfare. (4-9-09)
- 09. Client.** The recipient of services. The term "client" is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. (4-9-09)
- 10. Court-Ordered Obligations.** Financial payments which have been ordered by a court of law. (4-9-09)
- 11. Court-Ordered Recipient.** A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. (4-9-09)
- 12. Department.** The Idaho Department of Health and Welfare. (4-9-09)
- 13. Dependent Support.** An individual that is dependent on his family's income for over fifty percent (50%) of his financial support. (4-9-09)
- 14. Extraordinary Rehabilitative Expenses.** Those payments incurred as a result of the disability needs of the person receiving services. They include annual costs for items including, but not limited to, wheelchairs, adaptive equipment, medication, treatment, or therapy which were not included in the medical payments deduction and the annual estimate of the cost of services received. (4-9-09)
- 15. Family.** A family is an adult, or married adults, or adult(s) with children, living in a common residence. (4-9-09)
- 16. Family Household.** Persons in a family related by blood, marriage, or adoption. Adult siblings

who are not claimed as dependents and individuals receiving Supplemental Security Income (SSI) or Supplemental Security Disability Income (SSDI) are excluded from consideration as a member of the household for income and counting purposes. Income from minor siblings is excluded from household income. The term “family household” is synonymous with the term “family unit.” (3-29-10)

17. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found online at <http://aspe.hhs.gov/poverty>. (4-9-09)

18. Management Service Contractor (MSC). An independent contractor with whom the Department contracts to manage a statewide network of Department approved facilities and programs to deliver substance use disorders treatment and recovery support services. ()

189. Parent. The person who, by birth or through adoption, is legally responsible for a child. (4-9-09)

1920. Recipient. The person receiving services. The term “recipient” is synonymous with the terms: “patient,” “participant,” “resident,” “consumer,” or “client.” (4-9-09)

201. Sliding Fee Scale. A scale used to determine an individual’s financial obligation for services based on Federal Poverty Guidelines and the number of persons in the family household. (4-9-09)

212. Substance Use Disorders Program. A program administered by the Idaho Department of Health and Welfare to serve adolescents and adults with alcohol or substance use disorders. (4-9-09)

223. Third-Party Payer. A payer other than a person receiving services or a responsible party who is legally liable for all or part of the person’s care. (4-9-09)

(BREAK IN CONTINUITY OF SECTIONS)

600. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE DISORDERS SERVICES.

01. Ability to Pay. Charges are based upon the number of dependents and family income. (4-9-09)

a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible. (4-9-09)

b. Redetermination of ability to pay will be made at least annually or upon request demonstrating that a substantial material change of circumstances has occurred in family size, income, or allowable deductions. (4-9-09)

c. In determining an individual's ability to pay for services, the Department will deduct annualized amounts for: (4-9-09)

i. Court-ordered obligations; (4-9-09)

ii. Dependent support; (4-9-09)

iii. Child care payments necessary for employment; (4-9-09)

iv. Medical expenses; (4-9-09)

v. Transportation; (4-9-09)

vi. Extraordinary rehabilitative expenses; and (4-9-09)

vii. State and federal tax payments, including FICA. (4-9-09)

d. Information regarding third-party payors and other resources including Medicaid, or private insurance must be identified and developed in order to fully determine the individual's ability to pay and to maximize reimbursement for the cost of services provided. (4-9-09)

e. It is the responsibility of the individual requesting alcohol or substance use disorder services to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (4-9-09)

02. Time of Payment. Payment for services is due thirty (30) days from the date of the billing, unless other arrangements are made. (4-9-09)

03. Charges. Using the sliding fee scale in Section 500 of this rule, an amount will be charged based on family size, resources, income, assets, and allowable deductions, exclusive of third-party liable sources. In no case will the amount charged exceed the costs of the services. (4-9-09)

04. Established Fee. ~~The maximum hourly fees or flat fees charged for alcohol or substance use disorder services will be established by the Department in collaboration with the Interagency Committee on Substance Abuse Prevention and Treatment and the Board of Health and Welfare.~~ The maximum hourly fees or flat fees charged for alcohol or substance use disorder services are established by the Department of Health and Welfare. The fees for services are based on the cost for services as set forth in the Department contract with the Management Services Contractor. Current information regarding services and fee charges can be obtained from the Department office as specified in Section 005 of these rules. (4-9-09)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.07.17 - ALCOHOL AND SUBSTANCE USE DISORDER SERVICES
DOCKET NO. 16-0717-1201
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 Sections 39-304, 39-311, and 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

<p>*ORIGINATING LOCATION -- LIVE MEETING* Thursday, September 13, 2012 2:00 pm (PDT) -- 3:00 pm (MDT)</p>
<p>Idaho Department of Health and Welfare, Central Office Conference Room 3A (3rd floor) 450 West State Street Boise, ID 83702</p>

VIDEOCONFERENCE LOCATIONS	
<p>Region I Office – Coeur d’Alene Main Conference Room 2195 Ironwood Court Coeur d’Alene, ID 83814</p>	<p>Region II Office – Lewiston 1st Floor Conference Rm. 1118 “F” Street Lewiston, ID 83501</p>
<p>Region III Office – Caldwell Owyhee Conference Room (Rm. 226) 3402 Franklin Road Caldwell, ID 83605</p>	<p>Region IV Office – Boise Room 137 1720 Westgate Drive, Suite A Boise, ID 83704</p>
<p>Region V Office – Twin Falls Room 116 823 Harrison Twin Falls, ID 83301</p>	<p>Region VI Office – Pocatello Room 225 421 Memorial Drive Pocatello, ID 83201</p>
<p>Region VII Office – Idaho Falls Conference Room 240 150 Shoup Ave. Idaho Falls, ID 83402</p>	

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:

In 2006, the Legislature passed House Bill 833. HB 833 (2006) amended the Alcoholism and Intoxication Treatment Act (AITA) to establish the Interagency Committee on Substance Abuse Prevention and Treatment (ICSA) effective until July 1, 2011. For a five-year period, starting in SFY 2007, budget decisions regarding substance use disorders treatment were made by the Interagency Committee on Substance Abuse Prevention and Treatment (ICSA). In accordance with AITA, ICSA sunsetted at the end of SFY 2011 and is no longer in existence. As result, the reference to ICSA in these rules is being removed.

Also, these rules are being realigned with IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Program" to eliminate existing inconsistencies.

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

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

No fiscal impact to the state general fund is anticipated due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking is not feasible as this change is being made to align this chapter of rules with the ICSA sunset clause in existing statute, and with IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs."

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 proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 6th day of August, 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 PROPOSED TEXT OF DOCKET NO. 16-0717-1201

001. TITLE AND SCOPE.

01. Title. The title of these rules is, IDAPA 16.07.17, “Alcohol and Substance Use Disorders Services.” (5-8-09)

02. Scope. This chapter defines the scope of voluntary services administered under the Department’s Division of Behavioral Health, and describes the eligibility criteria, application requirements, individualized ~~treatment~~ service plan requirements, selection of providers, and appeal process under these rules. This chapter is not intended to and does not establish an entitlement for or to receive adult or adolescent alcohol or substance use disorder services, nor is it intended to be applicable to individuals ordered by the court to receive alcohol or substance use disorder services. (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (5-8-09)

01. Adolescent. An individual between the ages of fourteen (14) and eighteen (18). (5-8-09)

02. Adult. An individual eighteen (18) years or older. (5-8-09)

03. Applicant. An adult or adolescent individual who is seeking alcohol or substance use disorders services through the Department who has completed or had completed on his behalf an application for alcohol or substance use disorder services. (5-8-09)

04. ASAM PPC-2R. Refers to the second edition, revised, manual of the patient placement criteria for the treatment of substance-related disorders, published by the American Society of Addiction Medicine. (5-8-09)

~~**05. Biopsychosocial Assessment.** Those procedures by which a substance use disorder clinician evaluates an individual’s strengths, weaknesses, problems, needs, and determines priorities so that a treatment plan can be developed. (5-8-09)~~

05. Assessment and Referral Services. A substance use disorders program provides these services in order to treat, provide services, or refer individuals. An assessment is designed to gather and analyze information regarding a client’s current substance use disorder behavioral, social, medical, and treatment history. The purpose of the assessment is to provide sufficient information for problem identification and, if appropriate, substance abuse related treatment or referral. ()

06. Child. An individual under the age of fourteen (14) years. (5-8-09)()

07. Client. A person receiving treatment for an alcohol or substance use disorder. The term “client” is synonymous with the terms: patient, resident, consumer, or recipient of treatment. (5-8-09)

08. Clinical Judgment. Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual’s functional, mental, and behavioral attributes and alcohol and substance use disorders service needs. (5-8-09)

09. Clinical Necessity. Alcohol or substance use disorder services are deemed clinically necessary when the Department, in the exercise of clinical judgment, would recommend services to an applicant for the purpose of evaluating, diagnosing, or treating alcohol or substance use disorders that are: (5-8-09)

a. Clinically appropriate, in terms of type, frequency, extent, site and duration, and considered

effective for treating the applicant's alcohol or substance use disorder; and (5-8-09)

b. Not primarily for the convenience of the applicant or service provider and not more costly than an alternative service or sequence of services and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's alcohol or substance use disorder. (5-8-09)

10. Clinical Team. A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians and any other individual deemed appropriate and necessary to ensure that the assessment and subsequent treatment is comprehensive and meets the needs of the proposed client. (5-8-09)

~~**11. Clinically Managed High-Intensity Residential Treatment.** Frequently referred to as long-term residential care or a Therapeutic Community, twenty-four (24) hour intensive residential program designed to treat persons who have significant social and psychological problems. Individuals who are appropriate for this level of care typically have multiple deficits, which may include criminal activity, psychological problems, impaired functioning and disaffiliation from mainstream values. (5-8-09)~~

~~**12.1. Clinically Managed Low-Intensity Residential Treatment.** Is a program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured recovery environment, staffed twenty-four (24) hours per day, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House. (5-8-09)~~

~~**13.2. Clinically Managed Medium-Intensity Residential Treatment.** Frequently referred to as residential care, programs provide a structured, twenty-four (24) hour intensive residential program for clients who require treatment services in a highly structured setting. This type of program is appropriate for clients who need concentrated, therapeutic services prior to community residence. Community reintegration of residents in this level of care requires case management activities directed toward networking clients into community-based recovery support services such as housing, vocational services or transportation assistance so that the client is able to attend mutual/self-help meetings or vocational activities after discharge. (5-8-09)~~

~~**13. Comprehensive Assessment.** Those procedures by which a substance use disorder clinician evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a service plan can be developed. ()~~

14. Contracted Intermediary. A third party contractor of the Department who handles direct contracting with network providers for treatment services to include network management, claims payment, data gathering per Federal and State requirements and census management. (5-8-09)

15. Department. The Department of Health and Welfare or a person authorized to act on behalf of the Department. (5-8-09)

~~**16. Early Intervention Services.** ~~Early intervention s~~Services ~~that~~ are designed to explore and address ~~an adolescent's~~ problems or risk factors that appear to be related to substance use, ~~i.e., alcohol, tobacco, or other drugs, and to assist the adolescent in recognizing the harmful consequences of substance use. Early intervention services are intended to be a combination of prevention and treatment services for at risk youth.~~ (5-8-09)()~~

17. Emergency. An emergency exists if an adult or adolescent individual is gravely disabled due to mental illness or substance abuse or dependence or there is a substantial risk that physical harm will be inflicted by the proposed client: (5-8-09)

a. Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or (5-8-09)

b. Upon another person as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm. (5-8-09)

18. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and

Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: <http://aspe.hhs.gov/poverty/>. (5-8-09)

19. Gravely Disabled. An adult or adolescent who, as a result of mental illness or substance abuse or dependence, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, or essential medical care, or shelter or safety. (5-8-09)

20. Individualized ~~Treatment~~ Service Plan. A written action plan based on an intake eligibility screening and full clinical assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives and the criteria for terminating the specified interventions. (~~5-8-09~~)()

21. Intake Eligibility Screening. The collection of data, analysis, and review, which the Department, or its designee, uses to screen and determine whether an applicant is eligible for adult or adolescent alcohol or substance use disorder services available through the Department. (5-8-09)

22. Intensive Outpatient Services. An organized service delivered by addiction professionals or addiction-credentialed clinicians, which provides a planned regimen of treatment consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6) hours of treatment per week for adolescents. (5-8-09)

23. Medically Monitored Detoxification. Means medically supervised twenty-four (24) hour care for patients who require hospitalization for treatment of acute alcohol intoxication or withdrawal, from one (1) or more other substances of abuse, and other medical conditions which together warrant treatment in this type of setting. Length of stay varies depending on the severity of the disease and withdrawal symptoms. (~~5-8-09~~)()

24. Medically Monitored Inpatient Treatment. Medically supervised twenty-four (24) hour care for patients requiring hospitalization and treatment services. Medically monitored inpatient treatment provides treatment services and access to full range of services offered by the hospital. ()

~~24.5.~~ **Network Treatment Provider.** A treatment provider who has facility approval through the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website given in Section 005 of these rules. The list is also available by calling these telephone numbers: 1 (800) 922-3406; or dialing 211. (5-8-09)

26. Opioid Replacement Outpatient Services. This service is specifically offered to a client who has opioids as his substance use disorder. Services are offered under the guidelines of a federally accredited program. ()

~~25.7.~~ **Outpatient Services.** An organized non-residential service, delivered in a variety of settings, in which addiction treatment personnel provide professionally directed evaluation and treatment for alcohol and substance use disorders. (5-8-09)

~~26.8.~~ **Priority Population.** Priority populations are populations who receive services ahead of other persons and are determined yearly by the Department based on ~~F~~ederal regulations ~~and input from the Interagency Committee on Substance Abuse Prevention and Treatment~~. A current list of the priority population is available from the Department. (~~5-8-09~~)()

~~27.9.~~ **Recovery Support Services.** These services include: safe and sober housing that is staffed; transportation; child care; family education; life skills education; marriage education; drug testing; peer to peer mentoring; and case management. (5-8-09)

~~28.30.~~ **Residential Social Detoxification.** Means a medically supported twenty-four (24) hour, social rehabilitation residential program which provides physical care, education, and counseling as appropriate for the client's health and safety during his process of physical withdrawal from acute alcohol intoxication or withdrawal, or from one or more other substances of abuse. Social detoxification provides access into care and treatment of alcohol or substance use disorders through monitored withdrawal, evaluation of present or potential alcohol or substance

dependency and other physical ailments, and intervention into the progression of the disease through timely utilization or resources. Length of stay in a social detoxification program varies from three (3) to seven (7) days depending on the severity of the disease and withdrawal symptoms. (5-8-09)

2931. Sliding Fee Scale. A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (5-8-09)

302. Substance Dependence. Substance dependence is marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use alcohol or other drugs despite significant related problems. The cluster of symptoms can include: tolerance; withdrawal or use of a substance in larger amounts or over a longer period of time than intended; persistent desire or unsuccessful efforts to cut down or control substance use; a great deal of time spent in activities related to obtaining or using substances or to recover from their effects; relinquishing important social, occupational or recreational activities because of substance use; and continuing alcohol or drug use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been cause or exacerbated by such use as defined in the DSM-IV-TR. (5-8-09)

313. Substance-Related Disorders. Substance-related disorders include disorders related to the taking of alcohol or another drug of abuse, to the side effects of a medication and to toxin exposures. They are divided into two (2) groups: the Substance Use Disorders and the Substance-Induced Disorders as defined in the DSM-IV-TR. (5-8-09)

324. Substance Use Disorder. Includes Substance Dependence and Substance Abuse, according to the DSM-IV-TR. Substance Use Disorders are one (1) of two (2) subgroups of the broader diagnostic category of Substance-Related Disorders. (5-8-09)

335. Substantial Material Change in Circumstances. A substantial and material change in circumstances which renders the Department's decision denying alcohol and substance use disorders services arbitrary and capricious. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

102. ELIGIBILITY DETERMINATION.

01. Determination of Eligibility for Alcohol and Substance Use Disorders Services. The total number of adults and adolescents who are eligible for alcohol or substance use disorders services through the Department will be established by the Department, ~~in consultation with the Idaho Interagency Committee on Substance Abuse Prevention and Treatment.~~ The Department may, ~~in consultation with the Idaho Interagency Committee on Substance Abuse Prevention and Treatment,~~ limit or prioritize adult and adolescent alcohol or substance use disorder services, define eligibility criteria, and establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (5-8-09)()

02. Eligibility Requirements. To be eligible for alcohol and substance use disorders services through a voluntary application to the Department, the applicant must: (5-8-09)

a. Be an adult or adolescent with family income at or below two hundred percent (200%) of federal poverty guidelines; (5-8-09)

b. Be a resident of the state of Idaho; (5-8-09)

c. Be a member of the priority population; (5-8-09)

d. Meet diagnostic criteria for substance dependence, or a substance-related disorder as described in the DSM-IV-TR; and (5-8-09)

e. Meet specifications in each of the ASAM PPC-2R dimensions required for the recommended level of care. (5-8-09)

03. Admission to Treatment Program Requirements. In order to be admitted into an adult or adolescent alcohol or substance use disorders treatment program, there must be clinical evidence that provides a reasonable expectation that the applicant will benefit from the alcohol or substance use disorder services. (5-8-09)

04. Ineligible Conditions. An applicant who has epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, mental illness, or who is aged, is not eligible for alcohol and substance use disorders services, unless, in addition to such condition, they meet primary diagnostic criteria for substance abuse, substance dependence, or a substance related disorder as described in the DSM-IV-TR and the specification in each of the ASAM PPC-2R dimensions required for the recommended level of care. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

200. INDIVIDUALIZED TREATMENT SERVICE PLAN, SELECTION OF SERVICE PROVIDERS AND AVAILABLE TREATMENT SERVICES.

The Department's contracted treatment provider will prepare for every client an individualized treatment service plan that addresses the alcohol or substance disorders health affects on the client's major life areas. The treatment service plan will be based on a biopsychosocial comprehensive assessment ~~of the client's alcohol or substance use disorders treatment needs.~~ (5-8-09)()

01. Individualized Treatment Service Plan. ~~Overall~~ The responsibility for development and implementation of the plan will be assigned to a qualified professional staff member ~~within a Department contracted network treatment provider program.~~ A detailed individualized treatment service plan will be developed within fourteen (14) days following the Department's determination that an applicant is eligible for alcohol and substance use disorders services through the Department seventy-two (72) hours following admission to an inpatient or residential facility and within thirty (30) days of the completion or receipt of a state-approved assessment in an outpatient setting. The individualized treatment service plan will include the following: (5-8-09)()

a. The services deemed clinically necessary to meet facilitate the client's alcohol and substance use disorders needs recovery; (5-8-09)()

b. Referrals for needed adjunct services that the alcohol and substance use disorders treatment program does not provide services not provided by the program, including referrals for recovery support services; (5-8-09)()

c. Goals ~~that the client must~~ to achieve a recovery-oriented lifestyle; (5-8-09)()

d. ~~Specific o~~ Objectives that relate to the goals, written in measurable terms, with targeted expected achievement dates; (5-8-09)()

e. Service F ~~Frequency of services;~~ (5-8-09)()

f. ~~Specific e~~ Criteria to be met for discharge from treatment services; ~~and~~ (5-8-09)()

~~g.~~ A plan for services to be provided after discharge; ()

~~gh.~~ A specific plan for including the family or ~~significant~~ other: social supports; and (5-8-09)()

~~i.~~ Service plan goals and objectives that reflect the service needs identified on the assessment. ()

02. Selection of Providers. The client can choose from among the array of substance use disorders

treatment providers approved to provide services. The services must be within the recommended level of care according to ASAM PPC-2R and based on needs identified in the *biopsychosocial comprehensive* assessment and resultant individualized *treatment service* plan. The client does not have the option of choosing his treatment provider if he is within the criminal justice system and specific providers have been identified for the client. (5-8-09)()

03. Treatment Services Available. Available alcohol or substance use disorders treatment services, as defined in Section 010 of these rules, include: (5-8-09)

- a. ~~Early intervention~~ Assessment and Referral services; (5-8-09)()
- b. ~~Outpatient services~~ Residential social detoxification; (5-8-09)()
- c. ~~Intensive outpatient services~~ Medically monitored inpatient treatment; (5-8-09)()
- d. ~~Residential social detoxification~~ Medically monitored detoxification; (5-8-09)()
- e. ~~Medical detoxification~~ Clinically managed medium-intensity residential treatment; (5-8-09)()
- f. Clinically managed low-intensity residential treatment; (5-8-09)
- g. ~~Clinically managed medium-intensity residential treatment~~ Level I – Outpatient, and Level III Intensive Outpatient; and (5-8-09)()
- h. ~~Clinically managed high-intensity residential treatment.~~ Opioid treatment program; (5-8-09)()
- i. Recovery support services; and ()
- j. Early intervention services. ()

04. Treatment Services Not Available. Alcohol or substance use disorder treatment services, do not include: (5-8-09)

- a. Experimental or investigational procedures; (5-8-09)
- b. Technologies and related services; (5-8-09)
- c. Electroconvulsive therapy; (5-8-09)
- d. Treatment or services for epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, aged or the infirm; or (5-8-09)
- e. Any other services which are primarily recreational or diversional in nature. (5-8-09)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.07.20 - ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT
AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS**

DOCKET NO. 16-0720-1201

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 Title 39, Chapter 3, Idaho Code (Alcoholism and Intoxication Treatment Act (AITA)) (Board authority), and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code (Director authority).

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

ORIGINATING LOCATION -- LIVE MEETING Thursday, September 13, 2012 2:00 pm (PDT) -- 3:00 pm (MDT)
Idaho Department of Health and Welfare, Central Office Conference Room 3A (3rd floor) 450 West State Street Boise, ID 83702

VIDEOCONFERENCE LOCATIONS	
Region I Office – Coeur d’Alene Main Conference Room 2195 Ironwood Court Coeur d’Alene, ID 83814	Region II Office – Lewiston 1st Floor Conference Rm. 1118 “F” Street Lewiston, ID 83501
Region III Office – Caldwell Owyhee Conference Room (Rm. 226) 3402 Franklin Road Caldwell, ID 83605	Region IV Office – Boise Room 137 1720 Westgate Drive, Suite A Boise, ID 83704
Region V Office – Twin Falls Room 116 823 Harrison Twin Falls, ID 83301	Region VI Office – Pocatello Room 225 421 Memorial Drive Pocatello, ID 83201
Region VII Office – Idaho Falls Conference Room 240 150 Shoup Ave. Idaho Falls, ID 83402	

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:

In 2006, the Legislature passed House Bill 833. HB 833 amended the Alcoholism and Intoxication Treatment Act (AITA) to establish the Interagency Committee on Substance Abuse Prevention and Treatment (ICSA) effective until July 1, 2011. For a five-year period, starting in SFY 2007, budget decisions regarding substance use disorders treatment were made by the Interagency Committee on Substance Abuse Prevention and Treatment (ICSA). In accordance with AITA, ICSA sunsetted at the end of SFY 2011 and is no longer in existence. As result, the reference to ICSA in these rules needs to be removed.

Also, some rule revisions are needed to accommodate the current substance use disorder treatment environment. Treatment providers must now respond to four referral sources, each of which have different treatment and reporting requirements. Finally, provider requirements need to be streamlined to allow the provider system to function in a more efficient manner.

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

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

No fiscal impact to the state general fund is anticipated due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking is not feasible as this change is being made to align this chapter of rules with the ICSA sunset clause in existing statute, and with current practice in substance use disorder treatment.

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 proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 10th day of August, 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 PROPOSED TEXT OF DOCKET NO. 16-0720-1201

002. WRITTEN INTERPRETATIONS.

~~In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has a Minimum Case Management Standards Manual which contains forms, policies, procedures, and interpretations of these rules for the development and provision of case management services, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection as described in Sections 005 of these rules. The standards are also available by accessing the Department's website at <http://www.healthandwelfare.idaho.gov>, and clicking on the links under "RSS Case Management." (<http://healthandwelfare.idaho.gov/Medical/SubstanceUseDisorders/RecoverySupportServices/tabid/381/Default.aspx>)~~ There are no written interpretations of these rules. (5-1-10)()

(BREAK IN CONTINUITY OF SECTIONS)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. ~~All owners, operators, employees, transfers, reinstated former employees, student interns, contractors and volunteers hired or contracted with after May 1, 2010, who provide direct care or service or have direct client access, must comply with the provisions of IDAPA 16.05.06 "Criminal History and Background Checks."~~ Each alcohol and substance use disorders treatment and recovery support services program must comply with the provisions of IDAPA 16.05.06, "Criminal History and Background Checks." Criminal history and background checks must be completed on the owner, employees, applicants, transfers, reinstated former employees, trainees, contractors, and volunteers who provide care or services, or have access to clients in an alcohol and substance use disorders treatment and recovery support services program. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. (5-1-10)()

02. Availability to Work. An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application. An individual is allowed to work or have access to clients only under supervision until the criminal history and background check is completed. (5-1-10)

010. DEFINITIONS - A THROUGH C.

For the purposes of these rules, the following terms are used. (5-1-10)

01. Access. A client's ability to obtain alcohol or substance use disorder treatment or services that he is seeking. (5-1-10)

~~**02. Active Client.** A client who receives services from an approved alcohol and substance use disorders treatment or recovery support services program, who has had face-to-face contact with a program's qualified substance use disorders professional within the immediately preceding thirty (30) calendar days. (5-1-10)~~

~~**03.**~~ **Adolescent.** An individual between the ages of fourteen (14) and eighteen (18) years. (5-1-10)()

~~**04.**~~ **Admission.** The point in an applicant's relationship with a state-approved substance use disorders treatment program or recovery support services program when the screening and assessment process has been completed and the applicant has been found eligible by the Department to receive the services of the program. (5-1-10)

~~**05.**~~ **Adult.** An individual eighteen (18) years of age or older. (5-1-10)

~~**06.**~~ **Adjunct Services.** Those clinical and non-clinical services provided outside of an approved

alcohol and substance use disorders treatment or recovery support services program that support client recovery. Adjunct services may include: Women, Infant and Children (WIC), welfare, mental health services, and medical services. (5-1-10)

076. Advocacy. The act of pleading for, supporting, or recommending services, supports, treatment, or opportunities for a client. For example, a case manager advocates for the unmet needs of the client and encourages independence. Advocacy, as part of case management, can be done with or for a client. (5-1-10)

087. Alcohol and Drug Testing. The collection and initial screening of urine, hair, or oral fluid samples for screening and detecting alcohol and substance use. (5-1-10)

098. Applicant. A person, firm, partnership, association, corporation, agency, or organization which has filed an application with the Department to become an approved alcohol and substance use disorders treatment or recovery support services program under these rules. (5-1-10)

409. Appropriate. A term used to indicate that a particular procedure, treatment, test, or service is suitable or compatible in quantity, and provided in the best setting to meet the client's needs. (5-1-10)

140. Approved Private Treatment Facility. An alcohol and substance use disorders treatment program or recovery support services program meeting the standards prescribed in Section 39-305(1), Idaho Code, and approved under the provisions of Section 39-305(3), Idaho Code, and these rules. The term "facility" is synonymous with the term "program." (5-1-10)

121. Approved Public Treatment Facility. An alcohol and substance use disorders treatment program or recovery support services program operating under the Alcoholism and Intoxication Treatment Act (Title 39, Chapter 3, Idaho Code) through a contract with the Department and meeting the standards prescribed in Section 39-305(1), Idaho Code, and approved pursuant to Section 39-305(3), Idaho Code and these rules. The term "facility" is synonymous with the term "program." (5-1-10)

132. ASAM PPC-2R. Refers to the manual containing the patient placement criteria for the treatment of substance-related disorders, published by the American Society of Addiction Medicine (ASAM) as incorporated by reference in Section 004 of these rules. (5-1-10)

143. Assessment and Referral Services. A substance use disorders program provides these services in order to treat, provide services, or refer individuals. An assessment is designed to gather and analyze information regarding a client's current substance use disorder behavioral, social, medical, and treatment history. The purpose of the assessment is to provide sufficient information for problem identification and, if appropriate, substance abuse related treatment or referral. (5-1-10)

154. Behavioral Health Services. Services offered by the Department to treat behavioral health issues or alcohol and substance use disorders. (5-1-10)

~~**16. Biopsychosocial Assessment.** Those procedures by which a qualified substance use disorders professional evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a treatment plan can be developed. (5-1-10)~~

175. CARF. The Commission on Accreditation of Rehabilitation Facilities. (5-1-10)

186. Case Management. The administration and evaluation of an array of services that may include assessment of client and client family needs, service planning, linkage to other services, client advocacy, monitoring service provision, and coordination of services. (5-1-10)

17. Case Management Assessment. A determination of a client's strengths and needs including medical, psychosocial, educational, financial, and other services that includes a description of the client's strengths, informal support system, and environmental factors relative to his or her recovery. ()

18. Case Manager. An individual qualified to provide case management services under Section 745 of

these rules. ()

~~19. Case Management Planning. The planning process where the case manager and client, parent, guardian, spouse, or significant other, as applicable, define goals, strategies to achieve these goals, responsibilities for action, and time frames for action. It also includes community reintegration planning, and discharge planning to terminate case management services when case management is no longer required by the client, goals have been met, the client no longer wishes to participate in case management, or the client is no longer eligible for services.~~ (5-1-10)

~~20~~**19. Case Management Supervision.** Case management supervision includes planning, directing, monitoring, and evaluating the work of a case manager by an individual who meets the qualifications of a case manager supervisor. A clinical supervisor of a treatment agency may fulfill this role and may incorporate case management supervision into clinical supervision activities. (5-1-10)

~~21~~**20. Case Management Supervisor.** The program staff member responsible for oversight of all case management aspects of the case management services provided. A clinical supervisor of a treatment agency may also fulfill this role. (5-1-10)

~~22~~**21. Certificate of Approval.** A certificate issued by the Department under Section 145 of these rules to an alcohol and substance use disorders treatment or recovery support services program which the Department deems to be in compliance with these rules. (5-1-10)

~~23~~**22. Certified Home Inspection.** An inspection of a residential dwelling conducted by a registered, licensed, or certified home inspector to determine the quality, safety, and overall condition of the dwelling. (5-1-10)

~~24~~**23. Child.** An individual under the age of fourteen (14) years. (5-1-10)()

~~25~~**24. Client.** A person receiving treatment for an alcohol or a substance use disorder or receiving recovery support services. The term "client" is synonymous with the terms "patient," "resident," "consumer," "participant," or "recipient of treatment." (5-1-10)

~~26~~**25. Client Record.** All documentation of individual client treatment and related services. (5-1-10)

~~27. Clinical Case Management. Clinical case management is a service that integrates mental health and substance use disorders clinical expertise with case management skills to implement comprehensive interventions that address the overall maintenance of the client's physical and social environment. Clinical case management includes: engagement of the client, assessment, planning, treatment, linkage with resources, consultation with families, collaboration with psychiatrists, client education, and crisis intervention.~~ (5-1-10)

~~28~~**26. Clinical Judgment.** Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and alcohol and substance use disorders service needs. (5-1-10)

~~29~~**27. Clinical Supervision.** ~~Clinical supervision includes planning, directing, monitoring, and evaluating the clinical work of another staff person by a Department-qualified clinical supervisor. Supervision centered on the clinician's knowledge, skills and attitudes and includes: evaluation of competencies, observation of skills, mentoring, planning and monitoring the work of another clinical staff person by a qualified clinical supervisor.~~ (5-1-10)()

~~30~~**28. Clinical Supervisor.** ~~The program staff member~~ A professional qualified under Section 217 of these rules who is responsible for oversight of all clinical aspects of the treatment services provided. (5-1-10)()

~~31. Clinically Managed High Intensity Residential Treatment. A program that offers intensive residential treatment services, staffed twenty-four (24) hours per day, seven (7) days a week, which is designed to treat persons who have significant social and psychological problems. Individuals who are appropriate for this level of care typically have multiple deficits, which may include criminal activity, psychological problems, impaired~~

~~functioning, and disaffiliation from mainstream values. This level of care is also known as long-term residential care or a Therapeutic Community. (5-1-10)~~

329. Clinically Managed Low-Intensity Residential Treatment. A program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured residential recovery environment, staffed twenty-four (24) hours per day, seven (7) days a week, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House. (5-1-10)

330. Clinically Managed Medium-Intensity Residential Treatment. A program that offers structured residential treatment services, staffed twenty-four (24) hours per day, seven (7) days a week, which provides intensive residential program for clients who require treatment services in a highly-structured setting. This type of program is appropriate for clients who need concentrated, therapeutic services prior to community residence. Community reintegration of residents in this level of care requires case management activities directed toward networking clients into community-based recovery support services such as housing, vocational services, or transportation assistance so that the client is able to attend mutual self-help meetings or vocational activities after discharge. This level of care is also known as residential care. (5-1-10)

341. College of Professional Psychology. Professional certification entity of the American Psychological Association Practice Organization. (5-1-10)

352. Competencies. Competencies are the knowledge, skills, and attitudes required for the members of the alcohol and substance use disorders clinical staff as a prerequisite to proficiency in the professional treatment of alcohol and substance use disorders. The model of competencies is determined by the Department. (5-1-10)

363. Compliance. Demonstration that these rules, policies and procedures, and applicable federal and state statutes and regulations are observed. Compliance is determined by the Department. (5-1-10)

34. Comprehensive Assessment. Procedures by which a substance use disorder clinician evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a service plan can be developed. ()

375. Comprehensive Case Management Service Plan. A written comprehensive service plan based on a current assessment as described in Section 370 of these rules, that addresses the medical, psychosocial, legal, educational, and financial needs of the client. The comprehensive service plan provides for the coordination of services across multiple need dimensions. (5-1-10)

~~**38. Continuing Care.** Care that supports a client's progress, monitors his condition, and can respond to a return to substance use or a return of symptoms of mental disorder. It is both a process of post-treatment monitoring and a form of treatment itself. (5-1-10)~~

396. Contract. A formal agreement with any organization, agency, or individual specifying the services, personnel, products or space to be provided by, to, or on behalf of the program and the consideration to be expended in exchange. (5-1-10)

~~**4037. Contractor.** A person or company that performs work, provides supplies, or delivers services for another under a written agreement. (5-1-10)~~

~~**4138. Contracted Intermediary.** A third party contractor of the Department who handles direct contracting with network providers for alcohol and substance use disorders treatment and recovery support services. Direct services may include network management, claims payment, data gathering per federal and state requirements, and census management. (5-1-10)~~

~~**4239. Co-Occurring Capable.** The ability of a treatment provider to recognize the signs and symptoms of a co-occurring disorder and make a referral to an appropriate mental health facility. (5-1-10)~~

~~**430. Co-Occurring Disorders (COD).** The co-occurring diagnoses of mental health and substance use disorders. (5-1-10)~~

~~41.~~ **Correspondence.** Written or digital communication concerning the client or client's recovery. Correspondence may include: letters, emails, text messages, voicemails, or notes. ()

~~442.~~ **Criminogenic Need.** A client attribute shown by research to be correlated with criminal behavior and to be an appropriate target for treatment intervention. (5-1-10)

011. DEFINITIONS - D THROUGH H.
For the purposes of these rules, the following terms are used. (5-1-10)

01. Department. The Idaho Department of Health and Welfare. (5-1-10)

02. Detoxification Services. Services necessary to monitor individuals who are undergoing the systematic reduction of a toxic agent from the body during withdrawal. (5-1-10)

03. Direct Client Access. Direct client access means an employee, contractor, or volunteer who has accessibility to a client. (5-1-10)

04. Director. The Director of the Department of Health and Welfare or his designee. (5-1-10)

05. Discharge. The point at which the client's active involvement in treatment or recovery support services is terminated and the program no longer maintains active responsibility for the care of the client. (5-1-10)

~~06. Discharge Plan.~~ *The plan developed jointly by the qualified substance use disorders professional and the client that provides the client with the resources needed to support his recovery.* (5-1-10)

076. Discharge Summary. A document written by the client's provider upon discharge from treatment and contains a summary of the following: (5-1-10)

~~a. Assessment of client problems at admission;~~ (5-1-10)

~~b. Expected treatment outcomes;~~ (5-1-10)

~~c. Treatment plans and strategies;~~ (5-1-10)

~~da.~~ Client status at discharge; (5-1-10)

~~eb.~~ Treatment progress; (5-1-10)

~~fc.~~ Summaries of ~~continuing care plans~~ services to be provided after discharge; and (5-1-10)()

~~gd.~~ Referrals for further treatment. (5-1-10)

~~08. Drug Court Outpatient Treatment Program.~~ *A Department approved program for the treatment of alcohol and substance use disorders for individuals under the jurisdiction of a local drug court.* (5-1-10)

~~09. Drug Court Team.~~ *Individuals who collectively plan and evaluate services for drug court participants and determine participant compliance, progress, sanctions, movement from one (1) treatment phase to another, and continuation or termination of drug court treatment.* (5-1-10)

~~107.~~ **Early Intervention Services.** Services that are designed to explore and address problems or risk factors that appear to be related to substance use. (5-1-10)()

~~108.~~ **Education.** Strategies that teach people critical information about alcohol and other drugs and the physical, emotional, and social consequences of their use. (5-1-10)

~~1209.~~ **Executive Director.** The individual who is responsible for the overall management of the program

or facility. The executive director is appointed by the governing body to act on its behalf. The term “executive director” is synonymous with the terms “administrator,” “director,” “superintendent,” “president,” “vice-president,” and “executive vice-president.” (5-1-10)

130. Facility/location. The individual building or buildings, including furnishings and fixtures, or locations where persons with alcohol or substance use disorders receive services. The term “facility” is synonymous with office, clinic, or physical plant. (5-1-10)

141. Governing Body. The individual or individuals, board of directors, group, or agency that has ultimate authority and responsibility for the overall operation of an alcohol and substance use disorders treatment or recovery support services facility or program and for full compliance with these rules and minimum standards. (5-1-10)

152. Group Counseling. The application of formal counseling techniques involving interaction among members of a group of clients. (5-1-10)

163. Guardian. (5-1-10)

a. Under Title 15, Chapter 5, Part 2, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child; (5-1-10)

b. Under Title 66, Chapter 3 and 4, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a guardian for a person who is mentally ill or with a developmental disability; or (5-1-10)

c. Under Title 15, Chapter 5, Part 3, Idaho Code, an individual who has been appointed by a court of law to assist any incapacitated person to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person. (5-1-10)

012. DEFINITIONS - I THROUGH P.

For the purposes of these rules, the following terms are used. (5-1-10)

01. Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC). A board affiliated with the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC). The IBADCC is the certifying entity that oversees credentialing of Idaho Student of Addiction Studies (ISAS), Certified Alcohol/Drug Counselors (CADC), Advanced Certified Alcohol/Drug Counselors (ACADC), Certified Clinical Supervisors (CCS), and Certified Prevention Specialists (CPS) in the state of Idaho. The IBADCC may be contacted at: PO Box 1548, Meridian, ID 83680; phone (208) 468-8802; Fax: (208) 466-7693; email: IBADCC@ibadcc.org; <http://ibadcc.org/>. (5-1-10)

02. Idaho Student of Addiction Studies (ISAS). An entry-level certification for substance use disorder treatment granted by the IBADCC. (5-1-10)

03. Immediate Danger. Exposure to imminent, substantial injury, pain, harm, or loss. (5-1-10)

04. Individualized ~~Treatment~~ Service Plan. A written action plan, based on an intake eligibility screening and full clinical assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. (5-1-10)

~~**05. Informal Networks.** Informal networks are the web of relationships that people use to exchange resources and services. The content of their exchanges can be work related, personal, or social. Informal networks are distinct from formal networks in that they are not officially recognized or mandated by organizations. (5-1-10)~~

065. Intake Eligibility Screening. The collection of data, analysis, and review, which the Department or its designee, uses to screen and determine whether an applicant is eligible for adult or adolescent alcohol or

substance use disorders services available through the Department. (5-1-10)

~~07. **Intern.** An individual who has a written agreement with an educational institution that requires a student practicum in a behavioral health care setting. An intern may be referred to as a "Practicum Student," "Student," or an "Idaho Student of Addiction Studies."~~ (5-1-10)

086. Intensive Outpatient Services. An organized service delivered by addiction professionals or addiction-credentialed clinicians, which provides a planned regimen of treatment consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6) hours of treatment per week for adolescents. (5-1-10)

097. Inventory of Treatments. The various program activities intended to cause or support the reduction or elimination of alcohol or substance use. These activities may include: education, individual, group, or family counseling, vocational rehabilitation services, medical and psychological services, and self-help groups. These services may include activities provided by the program through contractual arrangement with an outside organization. (5-1-10)

~~10. **Level of Service Inventory—Revised (LSI-R).** An assessment tool used to assess criminal offenders for their risk to commit further offenses and their service needs. The LSI-R is available at this website at <http://www.assessments.com/default.asp>.~~ (5-1-10)

~~108. **Licensed Clinical Professional Counselor.** An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code.~~ (5-1-10)

~~109. **Licensed Clinical Social Worker.** An individual who has a master's degree or doctorate in social work and two (2) years of postgraduate supervised clinical experience licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code.~~ (5-1-10)

~~130. **Licensed Marriage and Family Therapist, Associate Marriage and Family Therapist, or Registered Marriage and Family Therapist Intern.** An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code.~~ (5-1-10)

~~141. **Licensed Masters Social Worker.** An individual who has a doctorate or master's degree in social work from a college or university licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code.~~ (5-1-10)

~~152. **Licensed Professional Counselor.** An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code.~~ (5-1-10)

~~163. **Licensed Social Worker.** An individual licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code.~~ (5-1-10)

~~174. **Management Service Contractor (MSC).** An independent contractor with whom the Department contracts to manage a statewide network of Department approved facilities and programs to deliver substance use disorders treatment and recovery support services.~~ (5-1-10)

~~185. **Medical Consultant.** A medical consultant provides medical advice in an advisory capacity. For the purpose of this rule a medical consultant is someone who is knowledgeable about medical detoxification procedures. A medical consultant may have worked previously as a nurse, doctor, or other healthcare specialist.~~ (5-1-10)

~~196. **Medical Screening.** An examination performed by a licensed professional nurse, nurse practitioner, physician's assistant, or a licensed physician.~~ (5-1-10)

17. Medically Monitored Inpatient Treatment. Medically supervised twenty-four (24) hour care for patients requiring hospitalization and treatment services. Medically monitored inpatient treatment provides treatment services and access to full range of services offered by a hospital. ()

2018. **Mental Health Services.** A variety of services for treating mental health disorders that include: emergency services, medication management, assessment, clinical treatment services, case management, family support, and consumer advocacy. (5-1-10)

219. **NFPA.** The National Fire Protection Association. (5-1-10)

220. **Network Provider.** A treatment or recovery support services provider who has been approved by the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website given in Section 005 of these rules. (5-1-10)

231. **Nurse.** A professional nurse (Registered Nurse or RN) or nurse practitioner licensed in Idaho by the State Board of Nursing under Title 54, Chapter 14, Idaho Code. (5-1-10)

242. **Northwest Indian Alcohol/Drug Specialist Certification Board.** A board that represents the Native American Chemical Dependency programs in the state of Washington, Oregon, and Idaho and offers certification for chemical dependency counselors. Information regarding certification standards may be obtained at the website at <http://www.nwiadcb.com/NWIADCB/index.html>. (5-1-10)

253. **On-Site Testing.** Using a device or kit at a treatment or recovery support service facility to test for alcohol or substance use. (5-1-10)

264. **Opioid Replacement Outpatient Services.** This service is specifically offered to a client who has opioids as his substance use disorder. Services are offered under the guidelines of an accredited program incorporated by reference in Section 004 of these rules. (5-1-10)

275. **Outpatient Services.** An organized non-residential service, delivered in a variety of settings, in which addiction treatment personnel provide professionally directed evaluation and treatment for alcohol and substance use disorders. (5-1-10)

286. **Physician.** An individual who holds a license issued by the Idaho State Board of Medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho." (5-1-10)

27. Professional Development Plan. A professional development plan: ()

a. Is developed cooperatively by the clinical supervisor and the clinician; ()

b. Is clinician-centered; ()

c. Is customized to the training needs of the clinician; ()

d. Details the way in which counselor performance may be improved; ()

e. Is based on counselor knowledge, skill, and attitude; and ()

f. At a minimum, is informed by use of Department-approved competency rating scales and observations of counselor's clinical work. ()

298. **Program.** Refers to the organization offering substance use disorders treatment or recovery support services, or both. It includes the organization's facilities, management, staffing pattern, treatment, and related activities. The term "program" is synonymous with the term "facility." (5-1-10)

3029. **Program Approval.** Refers to the certification under Section 145 of these rules to formally

recognize the facility, program, or service as having met the requirements of these rules that pertain to specific substance use disorder treatment services. (5-1-10)

310. Program Evaluation. Processes primarily used by the program's administration to assess and monitor, on a regular or continuous basis, program operation, service delivery, quality assurance, and client outcome. (5-1-10)

321. Provisional Approval. A temporary certificate of approval issued under Section 145 of these rules to an alcohol and substance use disorders treatment or recovery support services program in operation at the time of promulgation of new rules, in order to afford reasonable time to comply with the new rules and to obtain approval, or which, while not in full compliance with rules, has no deficiencies which would endanger the health, safety and welfare of clients and is in the process of making the necessary changes to comply fully. (5-1-10)

013. DEFINITIONS - Q THROUGH Z.
For the purposes of these rules, the following terms are used. (5-1-10)

01. Qualified Substance Use Disorders Professional. A professional qualified to provide substance use disorders services under Section 218 of these rules. (5-1-10)

02. Qualified Substance Use Disorders Professional Trainee. An individual practicing in an alcohol and substance use disorders program under Section 223 of these rules. ()

023. Quality Assurance. An ongoing process of evaluation that ensures compliance with minimum standards and provides for continuous improvements in the quality of services. (5-1-10)

034. Recovery Support Services. Non-clinical services that may include: adult safe and sober housing that is staffed, transportation, child care, family education, life skills education, marriage education, drug testing, peer-to- peer mentoring, and case management. (5-1-10)

045. Referral. The process of linking clients to appropriate treatment and recovery support services. (5-1-10)

056. Release of Information. A signed client authorization to exchange specific treatment information with a specified person or agency. (5-1-10)

067. Residential Treatment Facility. A setting for the treatment of alcohol and substance use disorders that provides twenty-four (24) hour per day, seven (7) days a week, living accommodations for clients. (5-1-10)

078. Screening. A brief process used to determine if an individual meets the program's admission criteria. The screening process is conducted prior to admission to an approved treatment program. (5-1-10)

089. Service. The activities of a treatment or recovery support services program grouped according to a common goal or purpose. Examples of services are Treatment Services, Food Services, Social Services, Nursing Services, Vocational Rehabilitation Services, and services provided to treat an alcohol or substance use disorder. (5-1-10)

10. Service Plan Review. Documented examination of service plans at regular intervals throughout the course of treatment to assess client progress in relation to planned treatment outcomes and make service plan adjustments as necessary. ()

0911. Staff Member. An person individual who is directly employed by, or assigned to, a program on either a full or part-time basis. This includes volunteers, contractors, and students of a program. (5-1-10)()

102. Student Practice. A formal education or training program for a student involved in the treatment of alcohol or substance use disorders. (5-1-10)

113. Substance Dependence. Substance dependence is marked by a cluster of cognitive, behavioral,

and physiological symptoms indicating that the individual continues to use alcohol or other substances despite significant related problems. The cluster of symptoms can include: (5-1-10)

- a. Tolerance; (5-1-10)
 - b. Withdrawal or use of a substance in larger amounts or over a longer period of time than intended; (5-1-10)
 - c. Persistent desire or unsuccessful efforts to cut down or control effects; (5-1-10)
 - d. Relinquishing important social, occupational or recreational activities because of substance use; (5-1-10)
- and
- e. Continuing alcohol or drug use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by such use as defined in the DSM-IV-TR. (5-1-10)

124. Substance-Related Disorders. Substance-related disorders include disorders related to the taking of alcohol or another substance of abuse, to the side effects of a medication, and to toxin exposures. They are divided into two (2) groups: the Substance Use Disorders and the Substance-Induced Disorders as defined in the DSM-IV-TR. (5-1-10)

135. Substance Use Disorder. Includes Substance Dependence and Substance Abuse, according to the DSM-IV-TR. Substance Use Disorders are one (1) of two (2) subgroups of the broader diagnostic category of Substance-Related Disorders. (5-1-10)

146. Supports. Formal and informal services and activities that are not paid for by the Department and that enable an individual to reside safely in the setting of his choice. (5-1-10)

~~**15. Trainee.** An individual who is acquiring the required one thousand forty (1,040) hours of clinical supervised experience in accordance with Section 223 of these rules. (5-1-10)~~

167. Transitional Treatment Facility. A clinically supervised, peer-supported therapeutic environment with clinical involvement that provides twenty-four (24) hours per day, seven (7) days a week, living accommodations for clients. (5-1-10)

178. Treatment(s). The provision of individual therapy, group therapy, assessment, education, and other services to eliminate or reduce alcohol and substance use and arrest, reverse or retard problems associated with alcohol or substance abuse, or both. (5-1-10)

~~**18. Treatment Plan Review.** Documented examination of treatment plans at regular intervals throughout the course of treatment to assess client progress in relation to planned treatment outcomes and make treatment plan adjustments as necessary. (5-1-10)~~

19. Treatment Supervisor. ~~The person~~ **A professional qualified under Section 216 of these rules who** is responsible for the overall management of all aspects of the provision of a treatment service or multiple treatment services. (5-1-10)()

20. Uniform Fire Code. Refers to the latest edition of the Uniform Fire Code, according to Section 41-253(1), Idaho Code, as minimum standards for the protection of life and property from fire and explosions. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

103. SERVICES FOR CO-OCCURRING DISORDERS (COD).

~~The objectives of integrated COD treatment services are to keep the client engaged in treatment, improve client outcomes, coordinate mental health and substance use disorders treatment services, and maintain the least restrictive level of care required for successful client outcomes. All approved treatment facilities and programs must be co-occurring capable as defined in Section 010 of these rules. In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment services program must meet the following requirements: (5-1-10)~~

01. Co-Occurring Capable. All alcohol and substance use disorders treatment programs must be co-occurring capable as defined in Section 010 of these rules. (5-1-10)

~~**02. Co-Occurring Disorders.** For clients with co-occurring disorders, coordinated services for these disorders must be provided or arranged, directly or indirectly. (5-1-10)~~

~~**a.** Each client must have access to a full range of services provided by qualified, trained staff. (5-1-10)~~

~~**b.** Each client must receive services necessary to fully address his treatment needs. The treatment program must: (5-1-10)~~

~~**i.** Directly provide all necessary services in accordance with the program's capabilities and certification; and (5-1-10)~~

~~**ii.** Provide those services within its capability and promptly arrange additional services from another program as necessary. (5-1-10)~~

~~**e.** Services must be continuously coordinated between programs, where applicable. Programs must: (5-1-10)~~

~~**i.** Ensure that services are not redundant or conflicting; and (5-1-10)~~

~~**ii.** Maintain communication regarding the individual's treatment plan and progress. (5-1-10)~~

~~**03. Duplication of Services.** Integrated COD treatment services must not duplicate services currently provided by or under any other state-funded program. (5-1-10)~~

042. COD Competency. All alcohol and substance use disorders treatment staff must demonstrate basic COD competencies as listed in Treatment Improvement Protocol (TIP) 42 - "Substance Abuse Treatment for Persons with Co-Occurring Disorders" incorporated by reference in Section 004 of these rules. (5-1-10)

~~**05. Written Agreements.** Alcohol and substance use treatment or recovery support services programs that do not provide COD treatment services must maintain written agreements with other approved programs that will be providing these services. This collaboration must be documented in the client's record. (5-1-10)~~

104. -- 129. (RESERVED)

APPLICATION FOR APPROVAL AND RENEWAL OF AN ALCOHOL AND SUBSTANCE USE
DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM
(Sections 130 through 159)

**130. INITIAL APPLICATION FOR APPROVAL OF AN ALCOHOL AND SUBSTANCE USE
DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.**

~~Application for approval of a program must be made to the Department at least ninety (90) days prior to the planned opening date. (5-1-10)~~

01. Initial Application for Approval. Initial application for approval forms are available upon written request or online at the Department of Health and Welfare website identified in Section 005 of these rules. The

applicant must provide the following items [to the Department](#) with the application for approval: ~~(5-1-10)~~()

- a.** A completed and signed Department application form. (5-1-10)
- b.** A non-refundable application fee for each facility being applied for as follows: (5-1-10)
 - i.** Treatment facility - one hundred dollars (\$100); (5-1-10)
 - ii.** Treatment and Recovery Support Services facility - one hundred dollars (\$100); and (5-1-10)
 - iii.** Recovery Support Services facility only - fifty dollars (\$50). (5-1-10)
- c.** A written statement that discloses the following with respect to the applicant, owner, or person proposed as executive director: (5-1-10)
 - i.** Any revocation of a license, certification, or approval that is held or previously held in Idaho or any other state or jurisdiction; or (5-1-10)
 - ii.** Other disciplinary action taken, or in the process of being taken in Idaho or any other state or jurisdiction. This includes on-going fraud, waste, and abuse investigations. (5-1-10)
- d.** A written statement that discloses any issues involving the Internal Revenue Service or Idaho State Tax Commission for the past five (5) years. (5-1-10)
- e.** A copy of the "Certificate of Assumed Business Name" from the Idaho Secretary of State. (5-1-10)
- f.** A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings. (5-1-10)
- g.** Disclosure of ownership as required in Section 160 of these rules. (5-1-10)
- h.** Copies of current and valid certificates, permits, or licenses as appropriate which may include: (5-1-10)
 - i.** Certificate of occupancy from the local building authority utilizing the latest edition of the Uniform Building Code according to Section 39-4109, Idaho Code, with a determination of either a Group R-1, Congregate Residence of more than ten (10) persons or a Group R-3, Congregate Residence of ten (10) persons or less for each facility site. (5-1-10)
 - ii.** Certificate of fire inspection in accordance with the Uniform Fire Code as adopted by the state fire marshal, with authority delegated to the local fire chief. If an inspection cannot be provided by the local fire department, it is the responsibility of the program to arrange for and, if necessary, to pay for the inspection. (5-1-10)
 - iii.** Food service permit from the district health department, if food is prepared and served at the facility. (5-1-10)
 - iv.** Joint Commission or CARF certificate, if accredited. (5-1-10)
 - i.** Documentation that the menus have been reviewed and approved by a registered dietician within the preceding twelve (12) months if food is prepared and served at the facility. (5-1-10)
 - j.** The written plan for an inventory of treatments as defined in Section 012 of these rules. This plan must include at a minimum: (5-1-10)
 - i.** A statement establishing the geographic area for which the applicant intends to provide services, the proposed location of all offices and facilities; (5-1-10)

- ii. A full and complete description of all services the applicant proposes to provide; (5-1-10)
- iii. Specific goals and objectives; (5-1-10)
- iv. The program's plans to secure additional funding; (5-1-10)
- v. A description of the fiscal and information management systems the applicant plans to use; and (5-1-10)
- vi. The applicant's plan for measuring and reporting outcomes and results. (5-1-10)
- k. A written statement that the applicant, owner, or person proposed as executive director have thoroughly read and reviewed the Alcoholism and Intoxication Treatment Act and these rules and are prepared to comply with all of their respective provisions. (5-1-10)
- l. Other information that may be requested by the Department for the proper administration and enforcement of these rules. (5-1-10)

02. Proof of Insurance. The minimum insurance required for all programs is professional liability, commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five-hundred thousand dollars to one million dollars (\$500,000/\$1,000,000) and general liability and automobile insurance in the amount of at least one million dollars to 3 million dollars (\$1,000,000/\$3,000,000). Copies of the declarations face-sheet for all policies must be provided to the Department prior to final approval and before any clients are admitted for services. (5-1-10)

03. Electronic Version of Agency Operating Policies and Procedures. A complete electronic version of the program's operating policies and procedures based on these rules must be provided with the application. (5-1-10)

04. Identification of the Executive Director, Clinical Supervisor, and Treatment Supervisor. In addition to documentation that demonstrates compliance with Sections 215, 216, 217, and 218 of these rules, the applicant must provide to the Department prior to final approval the following information for the staff identified as Executive Director, Clinical Supervisor, and Treatment Supervisor: (5-1-10)

- a. Current resume that includes a detailed work history with start and end dates, job descriptions, and contact information for references. (5-1-10)
- b. Copies of applicable licenses and certifications. (5-1-10)

05. Copy of the Lease. A copy of the lease must be provided prior to final approval, if the real property in which the program is located is leased. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

138. JOINT COMMISSION OR CARF ACCREDITATION.

The Department may approve programs or renew a program's certificate of approval based upon Joint Commission or CARF accreditation under the following conditions: (5-1-10)

01. Organization Chart Verifying Staffing Credentials. Organization chart with verification that staff meet minimum credential or certification standards; (5-1-10)

02. Criminal History and Background Checks. Satisfactory evidence that the owner, applicant, person proposed as executive director and all employees, transfers, reinstated former employees, student interns, contractors, volunteers, and any other persons hired or contracted with after May 1, 2010, who provide care or

services or have access to clients have successfully passed a criminal history and background check as described in Section 009 of these rules; (5-1-10)

03. Tuberculosis Testing. The personnel policies and procedures must establish tuberculosis testing requirements. All staff members, volunteers, and ~~student practice/ISAS interns~~ **trainees**, must have upon employment, or engagement, and **annually every three (3) years** thereafter, a tuberculin skin test by the Mantoux method, **or a blood test for tuberculosis infection**. Staff members, volunteers, and ~~student practice/ISAS interns~~ **trainees** who are known to be a positive reactor may have a **tuberculosis blood test or** chest x-ray examination in lieu of a required tuberculin skin test. Personnel who have active tuberculosis must be restricted from employment and attendance at the facility until it is determined by ~~laboratory evaluation~~ **a treating physician** that the tuberculosis is non-infectious. Results of the testing must be documented in personnel record; and (5-1-10)()

04. Application Fee. Payment of non-refundable application or renewal fee as described in Sections 130 and 135 of these rules. (5-1-10)

139. (RESERVED)

140. REVIEW OF APPLICATION AND INSPECTION PROCESS.

01. Departmental Review of Application for Approval or Renewal. Upon receipt of the completed application for approval or renewal of a program, the Department will review and advise the applicant within sixty (60) days if the application meets the requirements of Section 130 or Section 135 of these rules, whichever is appropriate. (5-1-10)

a. If the Department determines the application meets the requirements in Sections 130 or 135 of these rules, the Department will schedule an inspection of the program's facility site(s). The Department will make reasonable efforts to schedule an inspection within thirty (30) days of its determination. (5-1-10)

b. If the Department determines the application does not meet the requirements in Section 130 or 135 of these rules, it will be returned to the applicant, with written recommendations for correction and completion of the recommendations. Failure to meet the application requirements within six (6) months of the original date of application may result in a denial of the application. If the application is denied, the applicant may reapply no sooner than one (1) year from the date of the denial. (5-1-10)

02. Program Facility Inspection. The inspection of the program's facility site(s) will be conducted by a person or persons appointed by the Department. The Department may use the services of any qualified person or organization, either public or private, to examine, survey, or inspect any entity requesting or holding a certificate of program approval. (5-1-10)

a. The applicant's program facility site(s) will be open to Departmental inspection at any reasonable time necessary to determine compliance with these rules and with the "Alcoholism and Intoxication Treatment Act," Sections 39-301, et seq., Idaho Code. Inspections may be made without prior notice to the applicant. (5-1-10)

b. The applicant must, in compliance with federal and state confidentiality requirements, provide for review of the following: (5-1-10)

i. Any and all client records; (5-1-10)

ii. Administrative records; (5-1-10)

iii. Financial statements; (5-1-10)

iv. Other state and local inspection reports; and (5-1-10)

v. Other such documents required by the Department to make its determination, including any information that might have changed since the time the application was submitted. (5-1-10)

c. The applicant must arrange for Departmental inspection of the premises of any of its contractors to determine compliance with applicable requirements of these rules and with the “Alcoholism and Intoxication Treatment Act,” Sections 39-301, et seq., Idaho Code. (5-1-10)

03. Responsibility of the Department. Within ~~sixty~~ thirty (~~6~~3) days of the date of the inspection, the Department must submit a written report of findings to the applicant. Upon completion of the application and inspection process, the Department may take any of the following actions: (5-1-10)()

a. Issue a certificate of approval for a period of two (2) years if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards; (5-1-10)

b. Issue a certificate of approval for a period of one (1) year if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards; (5-1-10)

c. Issue a provisional certificate of approval for a period of six (6) months contingent on an approved plan to correct all deficiencies prior to the expiration of the provisional certificate if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards. A facility will not be issued more than one (1) provisional certificate of approval in any two (2) year period; or (5-1-10)

d. Deny a certificate of approval or renewal. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

210. PERSONNEL POLICIES AND PROCEDURES.

All alcohol and substance use disorders treatment or recovery support services programs must have and adhere to personnel policies and procedures that meet the following standards: (5-1-10)

01. Required Personnel Policies and Procedures. Personnel policies and procedures must be developed, adopted and maintained to promote the objectives of the program and provide for a sufficient number of qualified substance use disorders professionals, treatment and support staff to render the services of the program and provide quality care during all hours of operation. (5-1-10)

a. All personnel policies must be written, reviewed on an annual basis by the executive director and governing body, and signed and dated when reviewed or revised. (5-1-10)

b. The personnel policies must include procedures for recruiting, selecting, promoting and terminating staff. (5-1-10)

c. The personnel policies and procedures must apply to all employees, but may differ with respect to job classifications. (5-1-10)

d. The personnel policies and procedures must include information on the following: (5-1-10)

i. Employee benefits; (5-1-10)

ii. Recruitment and promotion; (5-1-10)

iii. Orientation; (5-1-10)

iv. Training and staff development; (5-1-10)

- v. Employee grievances; (5-1-10)
 - vi. Safety and employee injuries; (5-1-10)
 - vii. Relationships with employee organizations; (5-1-10)
 - viii. Disciplinary systems; (5-1-10)
 - ix. Suspension and termination mechanisms; (5-1-10)
 - x. Wages, hours and salary administration; (5-1-10)
 - xi. Rules of conduct; (5-1-10)
 - xii. Lines of authority; and (5-1-10)
 - xiii. Performance appraisals and evaluation schedule. (5-1-10)
- e.** The personnel policies and procedures must include a mechanism for determining that all personnel are capable of performing assigned tasks. (5-1-10)
- f.** The personnel policies and procedures must ensure that personnel who have a communicable disease, infectious wound or other transmittable condition and who provide care or services to clients or have access to clients are required to implement protective infection control techniques in accordance with these rules. If protective infection control techniques are not implemented, personnel who have a communicable disease, infectious wound or other transmittable condition must not work until the infectious state is corrected and non-infectious; or be reassigned to other areas where contact with others is not expected and the likelihood of transmission of infection is absent; or seek other remedies that will avoid spreading the infection. (5-1-10)
- g.** The personnel policies and procedures must describe methods and procedures for supervising all personnel, including volunteers and students. (5-1-10)
- h.** The personnel policies and procedures must assure confidentiality of personnel records and specify who has access to personnel information. (5-1-10)
- i.** There must be documentation to verify that the policies and procedures are made available to and discussed with each employee at the time of hire and are made available to others upon request. (5-1-10)
- j.** A mechanism must be established for notifying employees of changes in the policies and procedures. (5-1-10)
- k.** The personnel policies and procedures must establish tuberculosis testing requirements for all staff members. Each employee must have upon employment, and ~~annually~~ **every three (3) years** thereafter, a tuberculin skin test by the Mantoux method, **or tuberculosis blood test**. An employee who is known to be a positive reactor may have a **tuberculosis blood test or** chest x-ray examination in lieu of a required tuberculin skin test. Personnel who have active tuberculosis must be restricted from employment and attendance at the facility until it is determined by ~~laboratory evaluation~~ **a treating physician** that the tuberculosis is non-infectious. Results of the testing must be documented in personnel record. (~~5-1-10~~)()
- l.** The personnel policies and procedures must establish the requirement for CPR training and basic first aid training. A minimum of one (1) CPR and First Aid trained staff must be onsite during business hours. Staff responsible for client care must complete this training within ninety (90) days of employment. Additionally, the policies and procedures must establish the methods for renewal of CPR and first aid certification so that they remain current at all times. (5-1-10)
- m.** The personnel policies and procedures must establish the provision for criminal history background checks for all employees as described in Section 009 of these rules. (5-1-10)

- n. The personnel policies and procedures must establish the provision of clinical supervision. (5-1-10)
- o. Policy and procedures must be written that establish a drug free workplace. (5-1-10)
- 02. Hiring Practices.** Hiring practices must be specified in the written policies and procedures and must be consistent with the needs of the program and its services. (5-1-10)
 - a. The selection of personnel must be based on criteria that are demonstrably related to the job under consideration. (5-1-10)
 - b. Qualified substance use disorders professional staff must participate in determining what training, experience, and demonstrated competence will be required for assuming specific clinical service responsibility. (5-1-10)
 - c. There must be documentation to verify that qualified substance use disorders professionals meet all federal, state and local requirements for licensure, registration or certification. (5-1-10)
- 03. Equal Employment Opportunity.** No alcohol and substance use disorders treatment or recovery support services program approved under these rules will discriminate on the basis of race, creed, color, religion, age, gender, national origin, veteran, or disability, except in those instances where bona fide occupational qualifications exist. (5-1-10)
- 04. Responsible Staff Member to Implement Personnel Policies and Procedures.** The executive director must appoint a staff member to implement and coordinate personnel policies and procedures to accomplish the following tasks: (5-1-10)
 - a. Develop a written organizational plan for personnel services; (5-1-10)
 - b. Maintain personnel records; (5-1-10)
 - c. Disseminate employment information to staff; (5-1-10)
 - d. Develop staff orientation programs; (5-1-10)
 - e. Implement procedures designed to assure compliance with federal, state and local laws related to employment practices; and (5-1-10)
 - f. Supervise the processing of employment-related forms. (5-1-10)
- 05. Contents of Personnel Record for Each Staff Member.** A personnel record must be kept on each staff member and must contain the following items: (5-1-10)
 - a. Application for employment including a record of the employee's education or training and work experience. This may be supplemented by a resume; (5-1-10)
 - b. A written record of all findings from verbal contacts with references, and letters of recommendation; (5-1-10)
 - c. Verification of licensure, certification, registration or renewals; (5-1-10)
 - d. A signed and dated commitment to a code of ethics appropriate for alcohol and substance use disorders treatment staff; (5-1-10)
 - e. Number of hours per pay period, wage and salary information, including all adjustments; (5-1-10)
 - f. Performance appraisals or contract compliance evaluation; (5-1-10)()

- g.** Counseling actions; (5-1-10)
 - h.** Disciplinary actions; (5-1-10)
 - i.** Commendations; (5-1-10)
 - j.** Employee incident reports; (5-1-10)
 - k.** A Department criminal history check; (5-1-10)
 - l.** Results of tuberculosis testing, treatment taken, including dates of treatment, for tuberculosis infection; (5-1-10)()
 - m.** Verification of employee and emergency orientation procedures; and (5-1-10)
 - n.** Verification of current cardiopulmonary resuscitation (CPR) training and basic first aid training, in accordance with the requirements under Subsection 01.1. of this rule and under Subsections 392.03, 520.03.d., and 520.04. For employees in direct care at Residential Social Detoxification Settings, verification of additional training specific to detoxification prior to being charged with the responsibility of client care. (5-1-10)()
- 06. Job Description for a Position in the Program.** For each position in the program, there must be a written job description that specifies the duties and responsibilities of the position and the minimum level of education, training or related work experience required or needed to fulfill it. (5-1-10)
- a.** Each job description must specify the following: (5-1-10)

 - i.** The position title; (5-1-10)
 - ii.** The program, department, service, or unit; (5-1-10)
 - iii.** Direct supervisor's title; (5-1-10)
 - iv.** Positions supervised, if any; (5-1-10)
 - v.** Clear descriptions of job functions; and (5-1-10)
 - vi.** Clinical, administrative, and procedural responsibility and authority. (5-1-10)
 - b.** Each job description must accurately reflect the job and must be revised whenever a change in qualifications, duties, supervision, or any other major job-related factor is made. (5-1-10)
 - c.** Each job description must be comprehensive enough to enable a new employee to understand the position, job functions, responsibility, chain-of-command, and authority. (5-1-10)
 - d.** Each job description must be sufficiently detailed to serve as a basis for performance appraisals. (5-1-10)
- 07. Performance Appraisals.** Performance appraisals must be conducted and must be related to the job description and job performance. (5-1-10)
- a.** The criteria used to evaluate job performance must be measurable and relate to the skills, knowledge and attitudes that the job requires. (5-1-10)
 - b.** Performance appraisals must be conducted, at a minimum, annually. (5-1-10)
 - c.** Performance appraisals must be in writing. (5-1-10)

d. There must be documentation to verify that the employee has reviewed the evaluation and has had an opportunity to comment on it. The employee must sign the appraisal after review and comments are completed. (5-1-10)

e. The program must develop policies and procedures to follow when there is a serious discrepancy between the staff member's actual job performance and the criteria for an acceptable level of job performance. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

216. SUPERVISORY STAFF QUALIFICATIONS.

Qualifications of the supervisory staff must be verified through written documentation of work experience, education, and classroom instruction. The supervisory staff must meet the requirements in Section 218 of these rules and the following requirements: (5-1-10)

01. Treatment Supervisor. The Treatment Supervisor must meet the requirements in Section 218 of this rule and ~~have a combination of education and experience as~~ **meet one (1) of the** following: (5-1-10)()

a. Equivalent of five (5) years full-time paid professional experience providing alcohol and substance use disorders treatment with at least two (2) of the five (5) years providing direct treatment in a state, federal, Joint Commission, or CARF-approved **behavioral health services** program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. This experience must be relevant for child and adolescent treatment if supervising treatment in a child and adolescent treatment program; or (5-1-10)()

b. Bachelor's Degree in relevant field and four (4) years paid full-time professional experience with two (2) years in direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; or (5-1-10)

c. Master's Degree and three (3) years paid full-time professional experiences with two (2) years in direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; ~~and~~. (5-1-10)()

~~d. Equivalent of one (1) year paid full-time supervision experience of alcohol and substance use disorders treatment services in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority or have a Clinical Supervisor designation from the Idaho Bureau of Occupational Licenses; and (5-1-10)~~

~~e. Knowledge and experience in providing alcohol and substance use disorders treatment including client evaluation, counseling techniques, relapse prevention, case management, and family therapy. (5-1-10)~~

02. Clinical Supervisor. The Clinical Supervisor must meet the requirements in Section 218 of this rule and ~~have a combination of education and experience as~~ **meet the** following: (5-1-10)()

a. Master's Degree from an accredited, approved, and recognized college or university in health and human services and the equivalent of four (4) years paid full-time professional experience with three (3) years providing direct substance use disorders treatment and one (1) year paid full-time supervision experience in a ~~substance use disorders treatment services~~ state, federal, Joint Commission, or CARF-approved **behavioral health services** program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority or have a Clinical Supervisor designation from the Idaho Board of Occupational Licensure. This experience must be relevant for child and adolescent treatment if

supervising treatment in child and adolescent treatment programs; or ~~(5-1-10)()~~

b. IBADCC Certified Clinical Supervisor; (5-1-10)

~~**e.** Knowledge and experience demonstrating competence in alcohol and substance use disorders treatment including client evaluation, counseling techniques, relapse prevention, case management, and family therapy; and (5-1-10)~~

~~**d.c.** For outpatient programs providing services to children and adolescents, the clinical supervisor must have two (2) years of experience working with families or children in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. Working knowledge of child and adolescent growth and development, and the effects of alcohol and drugs on a child's growth and development. (5-1-10)~~

~~**ed.** A clinical supervisor must have completed the Clinical Supervision training model as identified by the Department. The Clinical Supervision training must be completed within one hundred eighty (180) days of date of hire or date of designation as clinical supervisor. (5-1-10)~~

~~**f.** A Clinical Supervisor for Co-Occurring Disorders Enhanced Programs must meet all requirements in Subsection 216.02.b. of this rule, have a Master's Degree from an accredited, approved, and recognized college or university in health and human services, and possess a current Idaho state license to provide behavioral health clinical services. (5-1-10)~~

217. CLINICAL SUPERVISION.

The alcohol and substance use disorders treatment program must provide for supervision of all clinical activities by qualified substance use disorders professionals including: (5-1-10)

01. Inventory of Treatments Written Plan. A written plan for an inventory of treatments providing and defining the procedure for the supervision of all clinical activities by qualified substance use disorders professionals; (5-1-10)

02. Specific Treatment Responsibilities. All members of the treatment team who have been assigned specific treatment responsibilities must be qualified by training or experience and demonstrated competence; (5-1-10)

03. Supervision by a Clinical Supervisor. All members of the treatment team must be supervised by a clinical supervisor as defined in Section 010 of these rules; (5-1-10)

04. Evaluation of Competencies. Clinical supervision must include a documented evaluation of the competencies of the members of the clinical staff, and a plan of activities which bring those competencies to proficiency. The evaluation will be conducted within one (1) month of initial hire and annually thereafter. Documentation of the evaluation and a record of improvement activities must be present in each Clinical Supervision record. The clinical supervision record must contain at a minimum: (5-1-10)

a. Demographic information including name, date of hire, credential, and position; (5-1-10)

b. ~~Learning Professional Development p~~Plan(s) as defined in Section 012 of these rules; ~~(5-1-10)()~~

c. Observation documentation; (5-1-10)

d. Competency rating forms; (5-1-10)

~~**e.** Intensive supervision plan, if required; (5-1-10)~~

~~**fe.** Current resume; and (5-1-10)~~

~~g.f.~~ Documentation of clinical supervision activities which include date of clinical supervision, type of clinical supervision activity, length of time spent performing the clinical supervision activity. (5-1-10)

218. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL PERSONNEL REQUIRED.

The alcohol and substance use disorders program must employ the number and variety of staff to provide the services and treatments offered by the program as a multidisciplinary team. The program must employ at least one (1) qualified substance use disorders professional for each facility. (5-1-10)

01. Qualified Substance Use Disorders Professional. A qualified substance use disorders professional includes the following: (5-1-10)

a. IBADCC Certified Alcohol/Drug Counselor; (5-1-10)

b. IBADCC Advanced Certified Alcohol/Drug Counselor; (5-1-10)

~~e.~~ *Native American Certified Alcohol and Drug Abuse Counselor (NACADC); (5-1-10)*

~~d.c.~~ Northwest Indian Alcohol/Drug Specialist Certification - Counselor II or Counselor III; (5-1-10)

~~e.d.~~ National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); (5-1-10)

~~f.e.~~ "Licensed Clinical Social Worker" (LCSW) or a "Licensed Masters Social Worker" (LMSW) licensed under Title 54, Chapter 32, Idaho Code, ~~who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;~~ (5-1-10)(~~_____~~)

~~f.f.~~ "Marriage and Family Therapist," ~~"Registered Marriage and Family Therapist Intern,"~~ or "Associate Marriage and Family Therapist," licensed under Title 54, Chapter 34, Idaho Code, ~~who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;~~ (5-1-10)(~~_____~~)

~~f.g.~~ "Nurse Practitioner" licensed under Title 54, Chapter 14, Idaho Code, ~~may provide substance use disorder services. A nurse practitioner must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;~~ (5-1-10)(~~_____~~)

~~f.h.~~ "Clinical Nurse Specialist" licensed under Title 54, Chapter 14, Idaho Code, ~~may provide substance use disorder services. A clinical nurse specialist must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;~~ (5-1-10)(~~_____~~)

~~f.i.~~ "Physician Assistant" licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants" ~~may provide substance use disorder services. A physician assistant must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;~~ (5-1-10)(~~_____~~)

~~¶j.~~ “Licensed Professional Counselor” (LPC) or a “Licensed Clinical Professional Counselor” (LCPC) licensed under Title 54, Chapter 34, Idaho Code, ~~who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;~~ (5-1-10)()

~~¶k.~~ “Psychologist,” or a “Psychologist Extender” licensed under Title 54, Chapter 23, Idaho Code with a Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders as issued by the College of Professional Psychology, ~~or who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;~~ (5-1-10)()

~~¶l.~~ “Physician” licensed under Title 54, Chapter 18, Idaho Code, ~~may provide substance use disorder services. A licensed physician must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment;~~ (5-1-10)()

~~¶m.~~ “Professional Nurse” RN licensed under Title 54, Chapter 14, Idaho Code, ~~may provide substance use disorder services. An RN must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority.~~ (5-1-10)()

02. Qualified Substance Use Disorders Professional Status Granted Prior to May 1, 2010. Subsections 218.01 and 218.02 of this section are applicable to all new applications for appointment as a qualified Substance Use Disorders Professional submitted to the Department after May 1, 2010. If an individual was granted an appointment prior to May 1, 2010, and met the requirements at that time, he may continue to have his appointment recognized. ~~The appointment of this status will be given by the Department after the Department has received documentation affirming the qualified substance use disorder professional's education and experience meets standards in place prior to May 1, 2010.~~ (5-1-10)()

03. Arrangement for Provision of Counseling Services. If the program arranges for the provision of counseling services, it must maintain a valid written agreement or contract with a qualified substance use disorders professional as defined in Subsection 218.01 of this section. (5-1-10)

219. -- 220. (RESERVED)

221. VOLUNTEERS.

Alcohol and substance use disorders treatment or recovery support services programs that utilize volunteers must meet the following requirements. (5-1-10)

01. Objectives and Scope of Volunteer Services. In programs where volunteers are utilized, the objectives and scope of the volunteer services must be clearly stated in writing. The statement must be reviewed at least annually and signed and dated by the executive director or his designee. (5-1-10)

02. Orientation of Volunteers to Program Goals, Objectives, and Services. An orientation must be conducted to familiarize volunteers with the program's goals, objectives and services and to provide clinical orientation regarding the program's clients. At a minimum, the orientation must address at least the following: (5-1-10)

- a. The individual responsible for supervising the volunteer; (5-1-10)
- b. The requirements of maintaining confidentiality and protecting client's rights; (5-1-10)

- c. The emergency policies and procedures; and (5-1-10)
- d. The program's channels of communication and the distinctions between administrative and clinical authority and responsibility. (5-1-10)

03. Supervision of Volunteers. Volunteers must be under the direct supervision of the staff of the program, service or unit utilizing their services and must receive general direction and guidance. (5-1-10)

- a. When volunteers are used as members of treatment teams, they must supplement the total treatment program only under the direct supervision of qualified substance use disorders professionals and after consideration of client's needs. (5-1-10)
- b. Qualified substance use disorders professionals must be available to help volunteers establish the most effective relationship with clients. (5-1-10)
- c. Procedures must be established to assure that the observations of a volunteer are reported to the qualified substance use disorders professional staff member responsible for the client. These observations may be recorded in the client's record. (5-1-10)

04. Volunteer Activity Records. Volunteer activity records and reports must contain information that can be used to evaluate the effectiveness of the volunteers, based on effectiveness criteria identified by the program. (5-1-10)

05. Criminal History Check for Volunteers. Volunteers ~~hired or contracted with after May 1, 2010,~~ must submit to a criminal history and background check under Section 009 of these rules. ~~(5-1-10)~~()

06. Tuberculosis Testing Requirements. Under Section 210 of these rules, the personnel policies and procedures must establish tuberculosis testing requirements for all volunteers. (5-1-10)

222. (RESERVED)

223. ~~STUDENT/ISAS/TRAINEE — PRACTICE~~ QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL TRAINEE.

Each ~~student/ISAS/~~ qualified substance use disorders professional trainee practicing in an alcohol and substance use disorders treatment program must meet the requirements in these rules. ~~(5-1-10)~~()

01. Written Agreement Required for Students. When the participant is involved with an educational institution to obtain their practicum, the program must have a written agreement with the educational institution that defines the nature and scope of student activities within the program. (5-1-10)

02. Supervision of ~~Student/ISAS/~~ Qualified Substance Use Disorders Professional Trainee. Each ~~student/ISAS/~~ qualified substance use disorders professional trainee practicing in the alcohol and substance use disorders treatment program must be supervised by a qualified substance use disorders professional. There must be a qualified substance use disorders professional on duty at all times providing appropriate oversight. ~~(5-1-10)~~()

03. Informed of ~~Student/ISAS/~~ Qualified Substance Use Disorders Professional Trainee Providing Treatment. All staff, clients, their families or guardians must be informed when a ~~student/ISAS/~~ qualified substance use disorders professional trainee is providing client treatment. ~~(5-1-10)~~()

04. ~~Student/ISAS/~~ Qualified Substance Use Disorders Professional Trainee Criminal History Check. A ~~student/ISAS/trainee hired or contracted with after May 1, 2010,~~ qualified substance use disorders professional trainee must submit to a criminal history check in accordance with the provisions of Section 009 of these rules. ~~(5-1-10)~~()

05. ~~Student/ISAS/~~ Qualified Substance Use Disorders Professional Trainee Job Description. ~~Student/ISAS/~~ Qualified substance use disorders professional trainee status must be indicated by their job description.

and title presented to the public and clients. The job description must include the responsibilities of receiving supervision and maintaining documentation of the supervision plan. (5-1-10)()

~~06. Student/ISAS/Trainee Length of Appointment Status. Student/ISAS/trainee status is restricted to no more than three calendar (3) years from appointment to student/ISAS/trainee status. A student/ISAS/trainee who has not achieved counselor status must show an increased scope of work, with increased proficiency, as documented in the clinical supervision record. (5-1-10)~~

076. Orientation of Student/ISAS/ Qualified Substance Use Disorders Professional Trainee. An orientation must be conducted to familiarize individuals with the program's goals, objectives, and services and to provide clinical orientation regarding the program's clients. At a minimum, the orientation must address at least the following: (5-1-10)()

- a. Person responsible to supervise student/ISAS/ qualified substance use disorders professional trainee. (5-1-10)()
- b. The requirements of maintaining confidentiality and protecting client's rights; (5-1-10)
- c. The emergency policies and procedures; and (5-1-10)
- d. The program's channels of communication and the distinctions between administrative and clinical authority and responsibility. (5-1-10)

087. Work Qualifications for Students Qualified Substance Use Disorders Professional Trainee. Clinical staff designated as a student/ISAS/ qualified substance use disorders professional trainee and who with intensive supervision would be allowed to gradually add the tasks of a qualified substance use disorders professional, must have one (1) of the following levels of qualification to begin work: (5-1-10)()

- a. Idaho Student in Addiction Studies (ISAS); (5-1-10)
- ~~b. Formal designation from the ICRC of trainee status; (5-1-10)~~
- ~~c. Formal documentation as a Native American Certified Alcohol and Drug Abuse Counselor Intern; (5-1-10)~~
- ~~d. Formal documentation as a Northwest Indian Alcohol/Drug Specialist Counselor Intern; (5-1-10)()~~
- c. Formal documentation of current enrollment in a program in accordance with the qualifications of Section 218 of these rules. ()**
- ~~e. "Licensed Clinical Social Worker" (LCSW) or a "Licensed Masters Social Worker" (LMSW) licensed under Title 54, Chapter 32, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; (5-1-10)~~
- ~~f. "Marriage and Family Therapist," "Registered Marriage and Family Therapist Intern," or "Associate Marriage and Family Therapist" licensed under Title 54, Chapter 34, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; (5-1-10)~~
- ~~g. "Nurse Practitioner" licensed under Title 54, Chapter 14, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; (5-1-10)~~
- ~~h. "Clinical Nurse Specialist" licensed under Title 54, Chapter 14, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; (5-1-10)~~

~~i. "Physician Assistant" licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants" may provide substance use disorder services, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; (5-1-10)~~

~~j. "Licensed Professional Counselor" (LPC) or a "Licensed Clinical Professional Counselor" (LCPC) licensed under Title 54, Chapter 34, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; (5-1-10)~~

~~k. "Psychologist" or a "Psychologist Extender" licensed under Title 54, Chapter 23, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; (5-1-10)~~

~~l. "Physician" licensed under Title 54, Chapter 18, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; or (5-1-10)~~

~~m. "Professional Nurse" RN licensed under Title 54, Title 14, Idaho Code, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment. (5-1-10)~~

~~n.d. Individuals listed in Subsection 223.087.a. through 223.087.m.c. of this Section, working with children and adolescents, must document coursework specific to human development and child and adolescent behavior. (5-1-10)()~~

~~098. Tuberculosis Testing Requirements for Students Qualified Substance Use Disorders Professional Trainee. Under Section 210 of these rules, the personnel policies and procedures must establish tuberculosis testing requirements for all students/ASAS/ qualified substance use disorders professional trainees. (5-1-10)()~~

(BREAK IN CONTINUITY OF SECTIONS)

350. CLIENT RIGHTS.

All alcohol and substance use disorders treatment or recovery support services programs must have written policies and procedures to protect the fundamental human, civil, constitutional, and statutory rights of each client. (5-1-10)

01. General Rights. The client rights policies and procedures must address the following: (5-1-10)

a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability; (5-1-10)

b. Respect for personal dignity in the provision of all care and treatment; (5-1-10)

c. The right to humane services, regardless of the source of financial support; (5-1-10)

d. The right to receive services within the least restrictive environment possible; (5-1-10)

e. The right to an individualized treatment service plan, based on assessment of current needs; (5-1-10)()

f. The right of the client to participate in planning for treatment and recovery support services; and (5-1-10)

g. The right of the client to request Department staff review the ~~treatment~~ **service** plan or the services provided. (5-1-10)()

02. Personal Privacy. Each client's personal privacy must be assured and protected within the constraints of the individual ~~treatment~~ **service** plan. (5-1-10)()

a. The client's family and significant others, regardless of their age, must be allowed to visit the client, during regular hours of visitation, unless such visits are clinically contraindicated. (5-1-10)

b. Suitable areas must be provided for clients to visit in private, unless such visits are clinically contraindicated. (5-1-10)

c. Clients in residential settings must be allowed to send and receive mail without hindrance, unless clinically contraindicated. (5-1-10)

d. Clients in residential settings must be allowed to conduct private telephone conversations with family and friends, unless clinically contraindicated. (5-1-10)

e. If individual therapeutic indications in residential settings necessitate restrictions on visitors, telephone calls or other communications, those restrictions must be evaluated for therapeutic effectiveness by a qualified substance use disorders professional at least every three (3) days. (5-1-10)

f. Any restrictions on visitors, telephone calls or other communications must be fully explained to the client and the client's family. (5-1-10)

03. Visitation. There must be written procedures designed to protect clients' rights and privacy with respect to visitors in outpatient and residential programs. (5-1-10)

a. The client must be informed in advance of educational or other individual or group visitations available through the alcohol and substance use disorders treatment program. (5-1-10)

b. Visitations to the alcohol and substance use disorders treatment program's facility must be conducted so as to limit disruption of the client's usual activities and treatment processes. (5-1-10)

04. Individualized ~~Treatment~~ **Service Plan Review.** Each client will have the right to request the opinion of a consultant at his own expense or to request an in-house review of the individualized ~~treatment~~ **service** plan, as provided in specific procedures of the program. (5-1-10)()

05. Client to Be Informed of Rights. Each client must be informed of his rights. (5-1-10)

a. Each client must be given a written statement of client rights, which includes who the client may contact with questions, concerns or complaints regarding services provided. (5-1-10)

b. Copies of the program's client rights statement must be posted in conspicuous places at all sites. (5-1-10)

06. Client and Family to Be Informed Regarding Care and Treatment. The client and, where there is a valid release of information, the client's family must be fully informed regarding: (5-1-10)

a. Client's rights; (5-1-10)

b. The name, professional status and position of staff members responsible for the client's care; (5-1-10)

c. The nature of care, treatment and procedures that the client will receive; (5-1-10)

- d.** The current and future use and disposition of products of special observation and audiovisual techniques, such as one-way mirrors, tape recorders, video recorders, television, movies or photographs; (5-1-10)
- e.** Specific risk, benefit, or side effects of clinical care associated with their ~~treatment~~ **service** plan. This informed consent will address common risk or benefits associated with treatment and is not meant to be all-inclusive to every risk, benefit, or side effect; ~~(5-1-10)~~()
- f.** Alternative treatment procedures that are available; (5-1-10)
- g.** The right to refuse to participate in any research project without compromising his access to program services; (5-1-10)
- h.** The right to refuse specific treatment procedures; (5-1-10)
- i.** As appropriate, the cost, itemized when possible, of services rendered; (5-1-10)
- j.** The source of the program's reimbursement and any limitations placed on duration of services as it relates to each client's financial circumstance; (5-1-10)
- k.** The reasons for any proposed change in the professional staff responsible for the client or for any transfer of the client within or outside of the program; (5-1-10)
- l.** The rules and policies of the program applicable to client conduct; (5-1-10)
- m.** The right to initiate a complaint or grievance procedure and the means to request a hearing or review of the complaint. (5-1-10)
- n.** The ~~plan for~~ discharge ~~plan~~; and ~~(5-1-10)~~()
- o.** The plans for recovery support activities following discharge. (5-1-10)
- 07. Informed Consent.** In accordance with the requirements of any applicable law or any applicable standard contained in these rules, a written, dated, and signed informed consent form must be obtained from the client, the client's family or the client's guardian, as appropriate, for participation in any research project or other procedures or activities where informed consent is required by law. (5-1-10)
- 08. Client Abuse and Neglect.** Every alcohol and substance use disorders treatment or recovery support services program must have written policies and procedures for handling cases of client abuse and neglect. (5-1-10)
- a.** The policies and procedures on client abuse and neglect must be given to all personnel and must be made available to others upon request. (5-1-10)
- b.** The policies and procedures must ensure the reporting within twenty-four (24) hours to the proper law enforcement agency or to the Department of any allegations of client abuse and neglect under the following: (5-1-10)
- i.** "Idaho Child Protective Act," Section 16-1619, Idaho Code, for minors; and (5-1-10)
- ii.** "Adult Abuse, Exploitation, and Abandonment Act," Section 39-5303, Idaho Code, for adults. (5-1-10)
- c.** Any and all alleged violations of the policies and procedures must be investigated. (5-1-10)
- d.** There must be documentation that the results of such investigation must be reviewed and approved by the executive director and reported to the governing body. (5-1-10)

351. -- 359. (RESERVED)

360. ADMISSION POLICIES AND PROCEDURES.

All alcohol and substance use disorders treatment or recovery support services programs must have policies and procedures governing the admission process. These must be available to clients and their families and to the general public. (5-1-10)

01. Admission Policies. The admission policies and procedures must be in writing and must specify the following: (5-1-10)

a. Criteria for determining the eligibility of individuals for admission in accordance with ASAM placement criteria; (5-1-10)

b. The information to be obtained on all applicants or referrals for admission; (5-1-10)

c. The procedures for accepting referrals from outside agencies and organizations; (5-1-10)

d. The records to be kept on all applicants; (5-1-10)

e. The statistical data, as determined by the Department's MSC, to be kept on the admission process; and (5-1-10)

f. The procedures to be followed, including alternative referrals, when an applicant is found ineligible for admission. (5-1-10)

02. Screening. Screening must be based on the needs of clients as identified as follows: (5-1-10)

a. The screening is conducted prior to admission to treatment to determine if the client meets the admission criteria; (5-1-10)

b. The screening must be interpreted by a qualified substance use disorders professional; and (5-1-10)

c. The results of the screening must be clearly explained to the client, and family when appropriate. (5-1-10)

03. Acceptance for Treatment. Acceptance of a client for treatment must be based on an admission procedure that assures the following: (5-1-10)

a. The care provided by the program at that facility site is appropriate for the client and must be based on admission, continued stay, and discharge criteria approved by the Department; (5-1-10)

b. Assessment data is collected to develop a preliminary ~~treatment~~ service plan; (~~5-1-10~~)()

c. If the potential client is a minor or an incompetent person, a parent, guardian, or other legal representative may make application for voluntary admission to treatment; and (5-1-10)

d. No otherwise qualified individual is denied access to treatment services on the basis of race, creed, color, religion, gender, national origin, age, or disability. (5-1-10)

e. Acceptance for treatment is based on the program's scope of practice, capability, and capacity. (5-1-10)

04. Provisions for Persons Requiring Protective Custody. For persons coming voluntarily or being brought by a law enforcement officer to an alcohol and substance use disorders treatment program for protective custody, the program must comply with the provisions of Section 39-307A, Idaho Code. (5-1-10)

05. Assure Applicants Understand Rights and Responsibilities. During the admission process,

every effort must be made to assure that applicants understand the following: (5-1-10)

- a. The nature and goals of the treatment program; (5-1-10)
- b. The hours during which services are available; (5-1-10)
- c. The treatment costs, if any, to be borne by the client; and (5-1-10)
- d. The rights and responsibilities of clients, including the rules governing client conduct and the types of infractions that can result in disciplinary action or discharge from the program. (5-1-10)

06. Reasonable Precautions in All Admissions. Reasonable precautions must be taken in all admissions to ensure the safety of the client, other clients, staff of the program, and members of the community. Reasonable precautions are those that are fair, proper, or moderate under the circumstances. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

375. CLIENT RECORDS REQUIREMENTS.

Each alcohol and substance use disorders treatment or recovery support services program must meet the client records requirements set forth in these rules. (5-1-10)

01. ~~Written~~ Client Record Required. The alcohol and substance use disorders treatment or recovery support services program must maintain a ~~written~~ client record on each client. All entries in the client record must be signed and dated. Symbols and abbreviations may be used. An abbreviations legend must be available for the Department to review. The abbreviations legend must be located in the client record for reference. ~~(5-1-10)~~()

02. Content of Client Record. The client record must describe the client's situation at the time of admission and include the services provided, all progress notes, and the client's status at the time of discharge. At a minimum the record must contain: (5-1-10)

a. ~~Identifying data including~~ The client's name, ~~home~~ address, ~~home telephone number~~ contact information, date of birth, gender, marital status, race or ethnic origin, next of kin or person to contact, educational level, type and place of employment, date of initial contact or admission to the program, source of any referral, legal status including relevant legal documents, name of personal physician, record of any known drug reactions or allergies, and other identifying data as indicated. ~~(5-1-10)~~()

b. The identifying data as described in Subsection 375.02.a. of these rules must be dated with the date the information was gathered and signed by the staff member gathering the information. (5-1-10)

c. All staffing notes pertaining to the client. ()

d. All medical records regarding the client. These may include documentation of a medical examination, results of any medical tests, including drug and alcohol screening tests performed by the program, and results of any medical tests reported to the program which were performed outside the program. ()

e. Documentation that justifies the client meets criteria for admission, continued stay, and discharge. The documentation must be based on admission, continued stay and discharge criteria approved by the Department. ()

03. Assessments Completed With the Client. All assessments completed with the client must be dated, signed by the person providing the assessment, and give a full accounting of the findings of such assessments. (5-1-10)

04. Progress Notes. Notes for each ~~treatment session~~ service charting the client's progress must

include: (5-1-10)()

a. Date of session; (5-1-10)

b. Beginning and ending time of session; (5-1-10)

c. Description of the session and; (5-1-10)()

d. Signature of person conducting the session; (5-1-10)()

~~e. All staffing notes pertaining to the client; (5-1-10)~~

~~f. All medical records regarding the client. These may include documentation of a medical examination, results of any medical tests, including drug and alcohol screening tests performed by the program, and results of any medical tests reported to the program which were performed outside the program; and (5-1-10)~~

~~g. Documentation that justifies the client meets criteria for admission, continued stay, and discharge. The documentation must be based on admission, continued stay and discharge criteria approved by the Department. (5-1-10)~~

05. Unusual Client-Specific Occurrences. The client record must contain information on any unusual client-specific occurrences, such as: (5-1-10)()

a. Treatment complications; (5-1-10)

b. Accidents or injuries to the client; (5-1-10)

c. Serious illness; (5-1-10)

~~d. Death of the client. In the event of a client's death, the person must be pronounced dead in accordance with the provisions of Idaho law and a summation statement must be entered in the record in the form of a discharge summary. (5-1-10)()~~

06. Telephone Calls Correspondence. The client record must contain signed and dated documentation of any correspondence concerning the client's ~~treatment and signed and dated notations of telephone calls concerning the client's treatment~~ recovery. (5-1-10)()

~~07. Discharge Plan. The client record must contain a plan for discharge. (5-1-10)~~

08. Discharge Summary. A discharge summary must be entered in the client record within ~~a reasonable period of time not to exceed~~ fifteen (15) days following discharge, ~~as determined by the professional staff and policies or standards.~~ and must contain a summary of the following: (5-1-10)()

a. Client status at discharge; ()

b. Treatment progress; ()

c. Summary of services to be provided after discharge; and ()

d. Referrals for further treatment. ()

376. MAINTENANCE OF CLIENT RECORDS.

Every alcohol and substance use disorders treatment or recovery support services program must maintain, control and supervise client records and is responsible for maintaining their quality in accordance with the requirements set forth in these rules. (5-1-10)

01. Active Client Records Kept at the Facility Site. The active client's records must be kept at the

facility site where the client is being treated. (5-1-10)

02. Compilation, Storage, Dissemination, and Accessibility of Client Records. The program must have written policies and procedures governing the compilation, storage, dissemination, and accessibility of client records. The policies and procedures must be designed to ensure: (5-1-10)

a. The program fulfills its responsibility to safeguard and protect client records against loss, unauthorized alteration or disclosure of information; (5-1-10)

b. In the event of unauthorized release of client identifying information such as theft, the Department is notified immediately; (5-1-10)(____)

c. In the event of closure of program how and where records will be stored; (5-1-10)

d. Each client record contains all required information; (5-1-10)

e. Uniformity in the format and forms is used in client records; (5-1-10)

03. Entries in Client Records Are Dated and Signed. The policies and procedures must require entries in client records to be dated and signed. (5-1-10)

04. Storage Facilities. The program must provide facilities for the storage, processing and handling of client records, including locked and secured rooms and files. (5-1-10)

05. Electronic Storage of Client Data. When a program stores client data in electronic or other types of automated information systems, they must have security measures to prevent inadvertent or unauthorized access to such data. (5-1-10)

06. Length of Maintenance of Client Records. Client records must be maintained for a minimum of five (5) years from the date they are officially closed. (5-1-10)

07. Disposal of Client Records. The program must have a written policy governing the disposal of client records. Methods of disposal must be designed to assure the confidentiality of client information. (5-1-10)

08. Confidentiality and Disclosure of Information. The program must have written policies and procedures that protect the confidentiality of client records and govern the disclosure of information in the records under Section 006 of these rules. (5-1-10)

377. -- 379. (RESERVED)

380. INDIVIDUALIZED ~~TREATMENT~~ SERVICE PLAN.

01. Individualized ~~Treatment~~ Service Plan. ~~A state approved alcohol and substance use disorder treatment program must prepare for each client an individualized treatment plan that addresses the alcohol or substance use and co-occurring mental health disorders health affects on the client's major life areas.~~ All clients receiving services must have an individualized service plan. The development of a ~~treatment~~ service plan must be a collaborative process involving the client, ~~family members,~~ and other support and service systems. (5-1-10)(____)

02. ~~Treatment~~ Service Plan Based on a ~~Biopsychosocial~~ Comprehensive Assessment. The ~~treatment~~ service plan must be based on a Department-approved ~~biopsychosocial comprehensive~~ assessment ~~of the client's alcohol or substance use disorders treatment needs, and contributions provided by the informal support system.~~ (5-1-10)(____)

03. Development and Implementation of the ~~Treatment~~ Service Plan. ~~The assigned qualified substance use disorders professional staff member within a state approved program has overall responsibility for the development and implementation of the treatment plan.~~ The responsibility for the development and implementation of the service plan will be assigned to a qualified staff member. (5-1-10)(____)

04. **Timeline for Development of the Treatment Service Plan.** A treatment service plan must be developed within seventy-two (72) hours following admission to an inpatient or residential facility. A treatment service plan must be developed within thirty (30) days of the completion or receipt of a state approved assessment in an outpatient setting. The treatment service plan must be reviewed and updated, as needed at least every seven (7) days in a residential setting and at least every ninety (90) days in an outpatient setting. (5-1-10)()

05. **Content of the Treatment Service Plan.** The individualized treatment service plan must include the following: (5-1-10)()

a. The services deemed clinically necessary to facilitate the client's alcohol and substance use disorders recovery; (5-1-10)

b. Referrals for needed ~~adjunct services that the alcohol and substance use disorders treatment program does not provide~~ services not provided by the program including referrals for recovery support services that support treatment as defined in Subsection 012.03 of these rules. (5-1-10)()

~~c. Referrals for recovery support services that support treatment as defined in Subsection 012.03 of these rules;~~ (5-1-10)

~~d. Goals that the client must complete to reduce or eliminate alcohol or substance use and support recovery to achieve a recovery-oriented lifestyle;~~ (5-1-10)()

~~e. Objectives that relate to the goals, written in measurable terms, with targeted expected achievement dates;~~ (5-1-10)

~~f. Service frequency;~~ (5-1-10)

~~g. Criteria to be met for discharge from treatment service; and~~ (5-1-10)()

~~h. A plan for services to be provided after discharge;~~ ()

~~i. A plan for including the family or other social supports; and~~ (5-1-10)()

~~j. Service plan goals and objectives that reflect the service needs identified on the assessment.~~ ()

~~06. **Integrated COD Treatment Plan Development.** In addition to the information in Section 380.05 of this section, the individualized treatment plan for a client with a co-occurring disorder must address the COD treatment and recovery support service needs of the client as identified in the current assessment. These additional items include the following:~~ (5-1-10)

~~a. A list of COD problems and needs identified during the assessment;~~ (5-1-10)

~~b. Overall goals to be achieved consistent with the client's treatment and recovery support services needs and assessment;~~ (5-1-10)

~~c. Reference to all services and contributions provided by the informal support system;~~ (5-1-10)

~~d. Documentation of who participated in the selection of services;~~ (5-1-10)

~~e. Documentation of unmet needs and service gaps;~~ (5-1-10)

~~f. References to any formal services arranged including specific providers;~~ (5-1-10)

~~g. Time frames for achievement of the treatment plan goals and objectives.~~ (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

~~386. DISCHARGE REQUIREMENTS.~~

~~All alcohol and substance use disorders treatment programs must meet the discharge standards in these rules.~~

~~(5-1-10)~~

~~01. Discharge Plan. A discharge plan must be jointly developed by the qualified substance use disorders professional and the client. This discharge plan includes the resources needed to support their recovery.~~

~~(5-1-10)~~

~~a. The discharge plan must be initiated within forty eight (48) hours of admission to a residential program and completed prior to the conclusion of substance use disorders treatment and recovery support services.~~

~~(5-1-10)~~

~~b. The discharge plan must be initiated within thirty (30) days of admission to an outpatient program and completed prior to the conclusion of substance use disorders treatment and recovery support services.~~

~~(5-1-10)~~

~~c. A hard copy of the discharge plan must be given to the client at the time of discharge from treatment.~~

~~(5-1-10)~~

~~d. The discharge plan must include:~~

~~(5-1-10)~~

~~i. The recovery support services and adjunct services to be continued after discharge including the location and contact information of existing appointments;~~

~~(5-1-10)~~

~~ii. Information about accessing resources to maintain gains achieved while in treatment;~~

~~(5-1-10)~~

~~iii. Identification of stressors that may lead to a return to the use of alcohol or drugs and methods to address the stressors; and~~

~~(5-1-10)~~

~~iv. Identification of person(s) to contact if additional services are needed.~~

~~(5-1-10)~~

~~02. Discharge Summary. A discharge summary must be entered in the client record within fifteen (15) days following discharge.~~

~~(5-1-10)~~

~~a. The discharge summary must include the results of the initial assessment and diagnosis.~~

~~(5-1-10)~~

~~b. The discharge summary must include a clinical summary of the following:~~

~~(5-1-10)~~

~~i. The course and progress of the client with regard to each identified clinical problem;~~

~~(5-1-10)~~

~~ii. The clinical course of the client's treatment;~~

~~(5-1-10)~~

~~iii. The final assessment, including the general observations and understanding of the client's condition initially, during treatment and at discharge; and~~

~~(5-1-10)~~

~~iv. The recommendations and arrangements for further treatment as described in the discharge plan.~~

~~(5-1-10)~~

~~387.6. -- 389. (RESERVED)~~

390. ENVIRONMENT REQUIREMENTS.

Each facility site of the program must have appropriate space, equipment and fixtures to meet the needs of clients.

(5-1-10)

01. Fixtures and Equipment. Fixtures and equipment designated for each service must be constructed

or modified in a manner that provides, insofar as possible, pleasant and functional areas that are accessible to all clients regardless of their disabilities. (5-1-10)

02. Office Space. Private space must be provided for personal consultation and counseling as well as family and group counseling sessions. All space for offices, storage, and supplies must be accessible. (5-1-10)

03. Equipment and Supplies. There must be equipment and supplies to meet the needs of the client at each facility. (5-1-10)

04. Safety, Fire, Health, and Sanitation Requirements. Space, equipment and facilities utilized by the program must meet federal, state and local requirements for safety, fire prevention, health and sanitation. (5-1-10)

05. Accessibility for Persons With Mobility and Sensory Impairments. For clients with mobility or sensory impairments, the facility must provide a physical environment which meets the needs of the person for independent mobility. New construction must meet the requirements of the American with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities must comply, to the maximum extent feasible, with 28 CFR Sections 36.304 and 36.305 regarding removal of barriers under the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and must provide as required, reasonable accommodations. ~~The facility must provide the following:~~ (5-1-10) ()

~~a. Ramps for clients who require assistance with ambulation must comply with the requirements of the ADAAG 4.8;~~ (5-1-10)

~~b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13;~~ (5-1-10)

~~c. Grab bars in toilet and bathrooms in compliance with ADAAG 4.26;~~ (5-1-10)

~~d. Toilet facilities in compliance with ADAAG 4.16 and 4.23;~~ (5-1-10)

~~e. Non-retractable faucet handles in compliance with ADAAG 4.19, with the exception of self-closing valves under 4.19.5, and 4.27; and~~ (5-1-10)

~~f. Suitable hand-railing must be provided on both sides of all stairs leading into and out of a building for clients who require the use of crutches, walkers, or braces.~~ (5-1-10)

391. EMERGENCY PREPAREDNESS PLAN.

All alcohol and substance use disorders treatment or recovery support services programs must establish and maintain an Emergency Preparedness Plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the program's ability to provide care. (5-1-10)

01. External and Internal Disasters. The program must have written policies and procedures to enable them to effectively prepare for both external and internal disasters that can negatively affect its environment of care. The policies and procedures must include: (5-1-10)

a. Communication plan for business hours and after hours; (5-1-10)

b. Clear chain of command which includes how to contact supervisors at all times; and (5-1-10)

c. Disaster orientation for all workers; (5-1-10)

~~**02. The Role as a Provider of Care to the Residents of Its Community.** The program must have written policies and procedures describing how the program is ready to assist as needed in case of community emergency, and as appropriate integrates its Emergency Preparedness Plan with community disaster plans to support the community's response to a disaster.~~ (5-1-10)

032. Interruption of Utility Services. Policies and Procedures must be written describing what action

to be taken in the event of interruption of utility services, such as lighting, in order that staff can perform essential functions, back up computer data, and obtain urgent medical data to provide to a primary care physician; and (5-1-10)

043. Disruption of Services. Policies and procedures must be written describing what action will be taken in the event of disruption of services and management of space, supplies, communications, and security. (5-1-10)

392. MEDICAL EMERGENCY SERVICES.

All alcohol and substance use disorders treatment or recovery support services programs must have a written plan describing the manner in which medical emergency services must be accessed. (5-1-10)

01. Medical Emergency Services Policies and Procedures. The program must have written policies and procedures describing the type of medical emergency services available and the arrangements for referring or transferring clients to a medical facility. The policies and procedures must clearly specify the following: (5-1-10)

a. The staff of the program who are available and authorized to provide necessary emergency evaluations. (5-1-10)

b. The staff of the program who are authorized to arrange for clients to be referred or transferred to a medical facility. (5-1-10)

c. The arrangements the program has made for exchanging records with the medical facility when it is necessary for the care of the client. (5-1-10)

d. The location of the medical facility and the medical facilities contact information. (5-1-10)

e. The method of communication between the program and medical facility. (5-1-10)

f. The arrangements the program has made for transporting clients, when necessary, from the medical facility providing emergency services. (5-1-10)

g. Policies concerning notification of the client's family of emergencies and of arrangements that have been made for referring or transferring the client to another program or facility. (5-1-10)

02. Staff Training for Emergency Services. All staff must be trained in the emergency policies and procedures. (5-1-10)

03. CPR and Basic First Aid Training. A minimum of one (1) CPR/First Aid trained staff person must be onsite at all times during business hours. Staff responsible for CPR and First Aid client care must complete this training within ninety (90) days of employment. Additionally, the policies and procedures must establish the methods for renewal of CPR and first aid certification so that he remains current at all times. ~~(5-1-10)~~()

04. Annual Review and Revisions. There must be documentation that the policies and procedures are reviewed at least annually and revised as necessary. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

399. PLANT TECHNOLOGY AND SAFETY MANAGEMENT.

Alcohol and substance use disorders treatment or recovery support services programs must meet applicable standards set forth in these rules. (5-1-10)

01. Buildings. Buildings on the premises in which services are delivered must be in compliance with the requirements of the local, state and federal codes concerning access, construction, fire and life safety that are

applicable. (5-1-10)

a. Prior to initial occupancy and annually thereafter, the program's site(s) must be inspected for compliance with the Uniform Fire Code. Documentation of all findings, recommendations and corrective actions must be kept on file. (5-1-10)

b. Prior to initial occupancy and at the time of any structural change in a building, it must be inspected and found to be in compliance with local building codes. Written documentation of all findings, recommendations and corrective actions must be kept on file by the program. (5-1-10)

02. Grounds. The program grounds must be maintained in a manner that is designed to provide safe access in a safe environment for clients, personnel and visitors. (5-1-10)

a. The program must have specific plans and policies for the maintenance, supervision and safe use of all its grounds and equipment. (5-1-10)

b. The premises and all buildings must be kept free from the accumulation of weeds, trash and rubbish. (5-1-10)

03. General Safety. The program must have a plan that is designed to provide a safe environment for clients, personnel and visitors, and monitors that environment. (5-1-10)

a. There must be established procedures for the development, implementation and review of safety policies for all services. (5-1-10)

b. There must be a procedure for reporting, investigating and evaluating all accidents, injuries and safety hazards. The responses and follow-up actions are to be documented. (5-1-10)

c. Safety-related policies and procedures must be included in the orientation of all new employees and in the continuing education of all employees. (5-1-10)

04. Emergency Preparedness. There must be a plan for the protection of all persons in the event of a fire or other emergency. (5-1-10)

a. Each facility must develop and implement an emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency. (5-1-10)

b. The facility must have written procedures outlining steps to be taken in the event of an emergency including: (5-1-10)

i. The individual(s) who is to respond; (5-1-10)

ii. Each person's responsibilities; (5-1-10)

iii. Where and how clients are to be evacuated; and (5-1-10)

iv. Notification of emergency agencies. (5-1-10)

c. All clients and employees must be advised of the actions required under emergency conditions. Diagrams of the building showing emergency protection areas and evacuation routes and exits must be conspicuously posted throughout the building. An outline of emergency instructions must be posted with the diagram. (5-1-10)

d. There must be a minimum of one (1) 2-A-10BC type fire extinguisher per floor, and if there is a kitchen on the floor, fire extinguisher must be in or immediately adjacent to the kitchen. Each extinguisher must be inspected annually by a fire extinguisher service agency. (5-1-10)

e. All exits must be marked with a lighted exit sign. (5-1-10)

f. There is a fire plan that includes the use and function of fire alarm and detection systems, containment and the protection of lives. (5-1-10)

i. Each work shift must have personnel trained and responsible for implementing the fire plan and the activation of the non-automatic components of the fire safety systems. (5-1-10)

ii. A minimum of one (1) fire drill must be held at least every thirty (30) days at unexpected times and under varying conditions to simulate unusual circumstances encountered in case of a fire. A record of drills must be maintained which includes the date and time of the drill, response of the personnel and clients, problems encountered and recommendations for improvements. (5-1-10)

iii. The alarm and detection system and any sprinkler system must be under the direct supervision of a staff member who must cause proper tests to be made at specified intervals and must have general charge of all alterations and additions. (5-1-10)

g. Program employees and clients must be provided with training about emergency preparedness policies and procedures. (5-1-10)

h. The emergency preparedness policies and procedures must be evaluated annually and updated as needed. (5-1-10)

05. Report of Fire. A separate report of each fire incident occurring within the program's facility must be submitted to the Department within twenty-four (24) hours of the occurrence. The "Facility Fire Incident Report," will be issued to the Department to report specific information concerning date, origin, extent of damage, method of extinguishment and injuries, if any. (5-1-10)

06. Electrically Powered Equipment. The program must have procedures to assure that electrically powered, line-operated equipment is electrically safe. (5-1-10)

a. There must be a policy that identifies types of equipment that may pose an electrical hazard during intended use and outlines conditions of safe use. (5-1-10)

b. Policies for the use and control of personal electrical equipment must be developed and implemented. (5-1-10)

i. Clients must be apprised of the policies and procedures regarding use of personal electrical equipment upon admission to the program's facility. (5-1-10)

ii. Employees must be apprised of the policies and procedures regarding use of personal electrical equipment upon employment. (5-1-10)

c. There must be a policy that outlines the action to be taken by staff to ensure client safety during a power outage. All staff must be trained in the procedure. (5-1-10)

07. Electrical Distribution. The program's facility must have an electrical distribution system that is designed, installed, operated, and maintained to provide electrical power for all required operations. (5-1-10)

a. There must be a schedule for preventive maintenance to assure that the electrical distribution system operates safely and reliably. (5-1-10)

b. Inspections and corrective actions must be documented. (5-1-10)

08. Heating, Ventilating and Air Conditioning. Where provided, the heating, ventilating, and air-conditioning (HVAC) system must be designed, installed, operated and maintained in a manner that provides a comfortable and safe environment for clients, personnel and visitors. (5-1-10)

09. Plumbing. The plumbing systems must be designed, installed, operated, and maintained in a manner that provides a safe supply of water for all required facility operations and facilitates the complete and safe removal of all storm water and waste water. The plumbing systems must comply with applicable local and state codes. (5-1-10)

10. Hazardous Materials and Wastes. The program must comply with applicable federal, state and local codes concerning hazardous materials and waste management. (5-1-10)

11. Boiler and Steam. Where provided, boiler systems must be installed, operated and maintained in a manner that is designed to provide a safe supply of steam or hot water for all required facility operations. (5-1-10)

12. Safety Devices and Practices. The program must have in place and maintain safety devices and operational practices to assure the safety of clients and personnel. (5-1-10)

a. Facility sites that do not have emergency medical care resources must have first aid kits. (5-1-10)

b. All staff must be familiar with the locations, contents, and use of the first aid kits. (5-1-10)

13. Smoking. ~~Because smoking has been acknowledged to be a potential fire hazard, continuous efforts must be made to reduce such hazards in the facility.~~ Written regulations governing the use of smoking materials must be adopted, conspicuously posted and made known to all program clients, staff members and the public. ~~The written regulations must include at least the requirements listed below.~~ Nothing in this section requires that smoking be permitted by programs whose admission policies prohibit smoking. (5-1-10)()

a. Designated areas must be assigned for client, staff, and public smoking. (5-1-10)

~~**b.** Noncombustible ashtrays of a safe design must be provided in all areas where smoking is permitted. (5-1-10)~~

~~**c.** Metal containers with self-closing, tight-fitting lids or their equivalent must be provided in all areas where smoking is permitted. Containers must be twenty (20) feet from the entrance of the building. (5-1-10)~~

~~**d.** Tobacco products must not be used by children, adolescents, staff, volunteers, or visitors in any building used to house children or adolescents, or in the presence of children or adolescents, or in vehicles used to transport children or adolescents. (5-1-10)~~

14. Structure, Maintenance, Equipment to Assure Safety. The facility must be structurally sound, maintained, and equipped to assure the safety of clients, personnel, and the public including: (5-1-10)

a. Furnishings, decorations, or other objects cannot be placed so as to obstruct exit access or exits. (5-1-10)

b. All ramps, open porches, sidewalks, and open stairs must be maintained free of snow and ice buildup. (5-1-10)

c. Wood stoves must have railings or other protection designed to prevent residents from coming into contact with the stove surfaces. (5-1-10)

d. All fireplaces must have heat tempered glass fireplace enclosures or its equivalent. (5-1-10)

e. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves. (5-1-10)

f. Portable heating devices of any kind are prohibited; portable electric space heaters and moveable fuel-fired heaters are considered portable comfort heating devices. Exceptions: Heated mattress pads, electric blankets and heating pads when ordered by an authorized provider, physician. (5-1-10)

g. Flammable and highly combustible materials cannot be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. (5-1-10)

400. -- 449. (RESERVED)

APPROVED FACILITY AND PROGRAM SERVICES
(Sections 450 through 454)

450. ADULT FACILITY AND PROGRAM SERVICES.

The following are adult facility and program services that may be approved by the Department: (5-1-10)

- 01. Assessment and Referral Services. (5-1-10)
- 02. Residential Social Detoxification Facility. (5-1-10)
- 03. Medically Monitored Inpatient Treatment. ()
- 034. Clinically Managed Medium-Intensity Residential Treatment. (5-1-10)
- 045. Clinically Managed Low-Intensity Residential Treatment (Halfway House). (5-1-10)
- 056. Level I - Outpatient, and Level II.1 - Intensive Outpatient Treatment. (5-1-10)
- 067. Opioid Treatment Program. (5-1-10)
- 07. ~~Drug Court Outpatient Treatment Program.~~ (~~5-1-10~~)
- 08. Recovery Support Services. (5-1-10)
- 09. Early Intervention Services. (5-1-10)

451. CHILD AND ADOLESCENT FACILITY AND PROGRAM SERVICES.

The following are child and adolescent facility and program services that may be approved by the Department: (5-1-10)

- 01. Assessment and Referral Services. ()
- 02. Medically Monitored Inpatient Treatment. ()
- 043. Clinically Managed Medium-Intensity Residential Treatment. (5-1-10)
- 024. Level I - Outpatient, and Level II.1 - Intensive Outpatient Treatment. (5-1-10)
- 03. ~~Drug Court Outpatient Treatment Program.~~ (~~5-1-10~~)
- 045. Transitional Residential Treatment Services. (5-1-10)
- 056. Recovery Support Services. (5-1-10)
- 067. Early Intervention Services. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

453. SERVICES FOR WOMEN WITH DEPENDENT CHILDREN.

~~These s~~Services for pregnant women and women with dependent children including women who are attempting to regain custody of their children apply to all approved treatment facilities and programs seeking speciality status to provide services to pregnant women and women with dependent children. (5-1-10)()

01. Services. In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment or recovery support services program seeking approval to provide services to pregnant women and women with dependent children must provide the following services, either directly or indirectly: (5-1-10)()

- a.** Primary Medical and Prenatal Care. Primary medical care, including prenatal care for women in treatment. (5-1-10)
- b.** Primary Pediatric Care. Primary pediatric care for the children of women in treatment, including immunizations. (5-1-10)
- c.** Gender Specific Treatment. Gender specific alcohol and substance use disorders treatment. (5-1-10)
- d.** Therapeutic Interventions for Women. Therapeutic interventions for women addressing issues such as relationships, sexual and physical abuse, and parenting. (5-1-10)
- e.** Therapeutic Interventions for Children. Therapeutic interventions for children in custody of women in treatment to address, among other things, developmental needs, sexual abuse, physical abuse, and neglect.(5-1-10)
- f.** Child Care. Child care while the women are receiving services. (5-1-10)
- g.** Treatment Provided as a Family Unit. Treating the family as a unit and therefore admit both women and their children into treatment, when appropriate. (5-1-10)
- h.** Case Management. Case management to assist in establishing eligibility for public assistance programs provided by Federal, State, or local governments, employment, and training programs. (5-1-10)
- i.** Education and Special Education Programs. Education and special education programs. (5-1-10)
- j.** Drug-free and Safe Housing. Drug-free and safe housing for women and their children. (5-1-10)
- k.** Childhood Programs. Therapeutic day care, Head Start, and other early childhood programs for children. (5-1-10)
- l.** Sexual Harassment Training. Curriculum that covers sexual harassment training for the clients. (5-1-10)

02. Written Agreements. Alcohol and substance use treatment or recovery support services programs that do not directly provide one (1) or more of the services described in Subsection 453.01 of these rules directly to women with dependent children must maintain written agreements with other approved programs that will be providing these services. A copy of the written agreements must be retained in the client's record. (5-1-10)

454. (RESERVED)

455. ~~CLINICAL CASE MANAGEMENT SERVICES~~ EMERGENCY DETOXIFICATION TREATMENT.
~~Clinical case management is the process in which a clinician is responsible for the direct care of a client and for coordinating other services needed by the client. In addition to meeting all the rules and minimum standards contained in Subsections 000 through 499 of these rules, each alcohol and substance use disorders treatment service program seeking approval as a clinical case management facility must meet the requirements in this rule. Clinical case management services include the following services. Emergency detoxification treatment and medical treatment directly related thereto may be provided by a facility affiliated with or part of the medical service of a general~~

~~hospital.~~ (5-1-10)()

~~01. **Clinical Case Management Services Place of Service Provision.** Services must be provided in a hospital licensed under Title 39, Chapter 13, Idaho Code.~~ (5-1-10)()

~~a. Services must include a full biopsychosocial assessment, utilizing a Department-approved assessment tool, and a case-management assessment of the client and client family strength and needs, service planning, linkage to other services, client advocacy, and monitoring service provisions.~~ (5-1-10)

~~b. The facility must have policies and procedures for ensuring that multiple services are delivered in a coordinated and therapeutic manner to meet the goals of treatment outcomes.~~ (5-1-10)

~~c. Clinical case management services must not duplicate case management, substance use disorder treatment, or service coordination services currently being provided under any other state funded program.~~ (5-1-10)

~~d. Clinical case management services provided must not exceed the clinician's scope of practice as defined by the individual licensing boards.~~ (5-1-10)

~~02. **Eligibility Criteria Range of Services Available.** To be eligible for clinical case management, the client must meet the following criteria: The full range of services offered by the hospital must be available to the client.~~ (5-1-10)()

~~a. Meet ASAM criteria for a substance use disorder and be unstable in two (2) or more of ASAM dimensions 1, 2, 5, or 6;~~ (5-1-10)

~~b. Have a diagnosis of serious mental illness (SMI) as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): schizophrenia; paranoia and other psychotic disorders; bipolar disorders (mixed, manic and depressive); major depressive disorders (single episode or recurrent); schizoaffective disorders; and obsessive compulsive disorders; and~~ (5-1-10)

~~c. Be at risk for institutionalization.~~ (5-1-10)

~~03. **Clinical Case Manager Qualifications.**~~ (5-1-10)

~~a. A clinical case manager must be a Masters level licensed clinician and be a qualified substance use disorders professional as defined in Section 013 of these rules.~~ (5-1-10)

~~b. A clinical case manager may not hold trainee status.~~ (5-1-10)

~~04. **Caseload.** A clinical case manager's total caseload must not be so large that it cannot assure quality service delivery and client satisfaction. For clinical case managers who have other recovery support service or treatment caseloads, or both, the total caseload must not exceed thirty (30) clients at any given time.~~ (5-1-10)

~~05. **Clinical Supervision.** The clinical case management program must provide and document at least one (1) hour of clinical supervision per month for each clinical case manager.~~ (5-1-10)

~~06. **Limitations on Reimbursement.**~~ (5-1-10)

~~a. Clinical case managers will not be reimbursed for more than one (1) contact during a single fifteen (15) minute time period.~~ (5-1-10)

~~b. Clinical case managers may not bill the substance use disorders system for mental health services they provide.~~ (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

540. LEVEL III.1 - CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL TREATMENT FACILITY FOR ADULTS (HALFWAY HOUSE).

Each alcohol and substance use disorders treatment program seeking approval as a Level III.1 - Clinically Managed Low Intensity Residential Treatment Facility (Level III.1) must meet the requirements in Section 540 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499. (5-1-10)

01. Treatment Services for Adults Level III.1. (5-1-10)

a. A Level III.1 treatment facility provides living accommodations in a structured environment that encourages each adult client to assume responsibility for their own rehabilitation. (5-1-10)

b. Treatment and adjunct services may be provided on-site or arranged for by the program. If the program chooses to provide treatment services on-site, it must also meet the requirements in Section 600 of these rules. (5-1-10)

c. A Level III.1 treatment facility must ~~encourage use of~~ **provide information regarding** community resources ~~by~~ **to** persons recovering from alcohol and substance use disorders. (~~5-1-10~~)()

d. There must be written provisions for medical screening, care of clients requiring minor treatment or first aid and handling of medical emergencies. (5-1-10)

02. Supervision for Adults Level III.1. A Level III.1 treatment facility must be supervised by a qualified substance use disorders professional. Section 215 of these rules does not apply to this level of care in this setting. (5-1-10)

03. Staffing for Adults Level III.1. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week. The staff to client ratio must not exceed twelve (12) clients to one (1) staff person. The staff must be composed of: (5-1-10)

a. A house manager; and (5-1-10)

b. Other staff sufficient to meet the required staff to client ratio. (5-1-10)

541. -- 599. (RESERVED)

**ALCOHOL AND SUBSTANCE USE DISORDERS
OUTPATIENT TREATMENT COMPONENT SERVICES
(Sections 600 through 699)**

600. LEVEL I - OUTPATIENT, AND LEVEL II.1 - INTENSIVE OUTPATIENT TREATMENT FACILITIES FOR CHILDREN, ADOLESCENTS, AND ADULTS.

Each alcohol and substance use disorders treatment program seeking approval as a Level I - Outpatient Treatment Facility (Level I), or a Level II.1 - Intensive Outpatient Treatment Facility (Level II.1), must meet the requirements in Section 600 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. (5-1-10)

01. Treatment Services in Level I, and Level II.1. (5-1-10)

a. Services in outpatient facilities must be provided at specified times. (5-1-10)

b. Counseling services must be provided through the outpatient program on an individual, family, or group basis. (5-1-10)

- c.** The services must include educational instruction and written materials on the nature and effects of alcohol and substance use disorders and the recovery process. (5-1-10)
- d.** The program must provide adjunct services or refer the client to adjunct services as indicated by client need. (5-1-10)
- 02. Supervision in Level I, and Level II.1.** The program must provide supervisory staff as described in Section 215 of these rules. (5-1-10)
- 03. Staffing in Level I, and Level II.1.** There must be qualified staff to maintain appropriate staff to client ratios. (5-1-10)
- a.** Level I must employ at a minimum one (1) qualified substance use disorders professional staff person for every fifty (50) clients. Irrespective of whether the caseload is private or publicly funded, the maximum caseload for one (1) qualified substance use disorders professional is fifty (50) clients. (5-1-10)
- b.** Level II.1 must employ at a minimum one (1) qualified substance use disorders professional staff person for every thirty (30) clients. Irrespective of whether the caseload is private or publicly funded, the maximum caseload for one (1) qualified substance use disorders professional is fifty (50) clients. (5-1-10)
- 04. Treatment Service Delivery Settings Offsite in Levels I and II.1.** Provision of outpatient treatment services outside of an approved facility: (5-1-10)
- a.** Services must be provided by qualified substance use disorders professionals. (5-1-10)
- b.** Services must be provided in a city, county, state or federally approved institution or client's residence. (~~5-1-10~~)()
- c.** Services must be provided in a safe setting. (5-1-10)
- d.** Confidentiality according to 42 CFR and HIPAA regulations must be adhered to. (5-1-10)
- e.** Client records must be maintained in accordance to Sections 375 and 376 of these rules. (5-1-10)
- f.** Individual client needs, as reflected in the ~~treatment~~ service plan, indicate the need or appropriateness of providing treatment outside the approved facility. (~~5-1-10~~)()
- g.** The Department has final authority over the decision of whether a site meets Subsections 600.04.a. through 600.04.f. of these rules. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

~~611. -- 619. (RESERVED)~~

~~**620. DRUG COURT OUTPATIENT TREATMENT PROGRAM.**~~

~~Each alcohol and substance use disorders treatment program seeking approval as a drug court outpatient treatment program must meet the requirements in Sections 620 through 622 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. (5-1-10)~~

~~**01. Governing Body for a Drug Court Outpatient Treatment Program.** A drug court outpatient treatment program must have a governing body, which can be the local Drug Court Board. (5-1-10)~~

~~**a.** The governing body must develop a written mission statement, goals, and objectives that establish the drug court outpatient treatment program's philosophy and direction for treatment services. (5-1-10)~~

~~b. The governing body must establish bylaws and administrative policies to guide relationships between itself and the responsible administrative and professional staffs and the community. Current copies of the bylaws and administrative policies must be readily available to all members of the governing body, the Department, and other persons in accordance with their responsibilities or involvement in implementing the policies of the drug court outpatient treatment program. (5-1-10)~~

~~02. **Assessment and Participation Policies and Procedures for a Drug Court Outpatient Treatment Program.** The local Drug Court Board and State Drug Court Coordinating Committee are responsible for developing policies and procedures for assessment and participation in a drug court outpatient treatment program. (5-1-10)~~

~~03. **Admissions and Discharge Policies and Procedures for a Drug Court Outpatient Treatment Program.** The local Drug Court Board is responsible for developing policies and procedures governing the treatment admissions process which must include use of eligibility guidelines, the LSI R, substance use disorder assessments, program capacity, acceptance, and appropriateness for treatment. The Board is also responsible for developing policies and procedures governing the treatment discharge process. (5-1-10)~~

~~621. **DRUG COURT OUTPATIENT TREATMENT PROGRAM REQUIREMENTS.**~~

~~01. **Staff Composition in a Drug Court Outpatient Treatment Program.** The drug court outpatient treatment program must have a sufficient number of treatment staff, qualified substance use disorders professionals, and administrative and support staff to provide for the care and treatment of clients. (5-1-10)~~

~~a. Unless otherwise specified, programs providing treatment services must provide for the following supervisory staff: (5-1-10)~~

~~i. The program must provide for a Program Administrator who is responsible for oversight of all services provided by the program. (5-1-10)~~

~~ii. The program must provide for a Treatment Supervisor to provide on site supervision at the treatment facility. The individual may supervise more than one (1) treatment activity. This position can also be the Clinical Supervisor, Program Administrator, or both. In those instances where these positions are combined, requirements must be met for all positions. (5-1-10)~~

~~iii. The program must provide for a Clinical Supervisor who can be the same individual or position as the Program Administrator, Treatment Supervisor, or both. In those instances where these positions are combined, all requirements must be met for all positions. The Clinical Supervisor can be a single individual who will provide for statewide oversight of clinical activities but need not provide direct clinical supervision of staff. (5-1-10)~~

~~b. Supervisory staff, which includes the Program Administrator, Treatment Supervisor, and Clinical Supervisor, must meet the qualifications listed in Section 215 of these rules. (5-1-10)~~

~~e. The drug court treatment program must provide supervision as follows: (5-1-10)~~

~~i. Qualified substance use disorders professionals must supervise all treatment activities. (5-1-10)~~

~~ii. Procedures for supervision of all clinical activities must be established which specify frequency and type of supervisory contact, and periodic client file reviews. (5-1-10)~~

~~d. There must be qualified staff to maintain appropriate staff to client ratios as set by the State Drug Court Coordinating Committee, and staff to provide necessary support to the professional staff. (5-1-10)~~

~~e. The program must employ at least one (1) qualified substance use disorders professional for each facility; or (5-1-10)~~

~~i. If the program arranges for the provision of counseling services, it must maintain a valid written agreement or contract with a qualified substance use disorders professional. (5-1-10)~~

~~ii. When a qualified substance use disorders professional is not available or needed on a full time basis, arrangements must be made to obtain a qualified substance use disorders professional on an attending, continuing consultative, or part-time basis. (5-1-10)~~

~~02. Policies and Procedures for Drug Court Client Expectations. Drug court outpatient treatment programs must have written policies and procedures that specify client expectations of drug court outpatient treatment program including: (5-1-10)~~

~~a. Impartial access to treatment regardless of race, creed, color, religion, age, gender, national origin, veteran, or disability that does not preclude participation in the alcohol and substance use disorders treatment program; (5-1-10)~~

~~b. Respect for personal dignity in the provision of all care and treatment; (5-1-10)~~

~~c. Humane services, regardless of the source of financial support; (5-1-10)~~

~~d. An individualized treatment plan, based on assessment of current needs; (5-1-10)~~

~~e. Client access to their treatment plan; and (5-1-10)~~

~~f. What information will be shared and the nature of communications with members of the local drug court team. (5-1-10)~~

~~03. Client to be Informed of Expectations in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must inform each client of the drug court client expectations. The client must sign a written statement of drug court client expectations that includes who the client may contact with questions, concerns, or complaints regarding services provided. (5-1-10)~~

~~622. DRUG COURT OUTPATIENT TREATMENT PLAN AND SERVICES.~~

~~01. Individualized Treatment Plan in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must have a written, individualized treatment plan for each client that addresses the alcohol and substance use disorders affects on the major life areas and is based on assessment of the client's clinical and criminogenic needs. (5-1-10)~~

~~a. Overall responsibility for development and implementation of the treatment plan must be assigned to a qualified substance use disorders professional staff member. (5-1-10)~~

~~b. Beginning with the completion of the assessment process, and within time frames set by the local Drug Court Board, a detailed individualized treatment plan must be developed which meets the following requirements: (5-1-10)~~

~~i. Specifies the services necessary to meet the client's needs; (5-1-10)~~

~~ii. Includes referrals for needed services that the program does not provide; (5-1-10)~~

~~iii. Contains specific goals that the client must achieve to reduce or eliminate alcohol or drug use; (5-1-10)~~

~~iv. Contains specific objectives that relate to the goals, are written in measurable terms and includes expected achievement dates; and (5-1-10)~~

~~v. Specifies the frequency of treatments. (5-1-10)~~

~~e. When appropriate, the client must participate in the development of the treatment plan and such participation must be documented in the client's record. (5-1-10)~~

- ~~d. A specific plan for involving the family or significant others must be included when indicated. (5-1-10)~~
- ~~02. Treatment Services Provided in a Drug Court Outpatient Treatment Program. (5-1-10)~~
- ~~a. Services in outpatient facilities must be provided at specified times. (5-1-10)~~
- ~~b. Counseling services must be provided through the outpatient program on an individual, family, or group basis. (5-1-10)~~
- ~~e. The services must include educational instruction and written materials on the nature and effects of substance use disorders and the recovery process, as well as cognitive behavioral interventions to address the identified criminogenic needs. Assessments must include the use of the LSI-R. (5-1-10)~~
- ~~d. The program must provide adjunct services or refer the client to adjunct services as indicated by client need. (5-1-10)~~
- ~~e. Requirements for group treatment must be present for the effective delivery of education, skill training, and process groups, and must specify the maximum number of participants allowed for each type of group. (5-1-10)~~

~~623.~~ 629. (RESERVED)

630. CHILD AND ADOLESCENT TRANSITIONAL RESIDENTIAL TREATMENT FACILITY.

Each alcohol and substance use disorders treatment program seeking approval as a Child and Adolescent Transitional Residential Treatment Facility must meet the requirements in Section 630 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. (5-1-10)

01. Licensing of a Child and Adolescent Residential Transitional Facility. A Child and Adolescent Residential Transitional Facility must meet the requirements in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," and be licensed annually as a Children's Residential Care Facility. (5-1-10)

02. Treatment Services in a Child and Adolescent Residential Transitional Facility. (5-1-10)

a. Child and Adolescent Transitional Residential Treatment will be provided as a Level III.1 - Clinically Managed Low-Intensity Residential Service, which may include outpatient for clients who have completed Level III.5, Section 520, and lack supportive recovery environments. (5-1-10)

b. A Level III.1 facility provides living accommodations in a structured environment that encourages each child and adolescent client to assume responsibility for their own rehabilitation. (5-1-10)

c. Treatment and adjunct services ~~must not be provided but can be arranged for by the program~~ may be provided on-site or arranged for by the program. If the program chooses to provide treatment services on-site, it must also meet the requirements in Section 600 of these rules. (5-1-10)()

d. A Level III.1 treatment facility must ~~encourage use of~~ provide information regarding community resources ~~by~~ to persons recovering from alcohol and substance use disorders. (5-1-10)()

e. Treatment under Level III.1 is directed toward applying recovery skills, preventing relapse, improving social functioning and ability for self-care, promoting personal responsibility, developing a social network supportive of recovery, and reintegrating the individual into the worlds of school, work and family life. (5-1-10)

03. Case Management in a Child and Adolescent Residential Transitional Facility. Every Child and Adolescent Transitional Residential Treatment Facility must provide case management and meet the requirements set forth in Section 745 of these rules. (5-1-10)

631. -- 639. (RESERVED)

640. LEVEL .5 - EARLY INTERVENTION SERVICES FOR CHILDREN AND ADOLESCENTS.

Early intervention is a brief intensive service that is delivered in an approved treatment facility. (5-1-10)

01. Services in Child and Adolescent Level .5. Services must be provided by a qualified substance use disorders professional. (5-1-10)

02. Case Management in Child and Adolescent Level .5. Case Management may be provided as set forth in Section 745 of these rules. (5-1-10)

03. Individualized Intervention Plan in Child and Adolescent Level .5. The intervention program must prepare for each client an intervention plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the intervention plan must be a collaborative process involving the client, ~~family members~~, and other support/service systems. A written intervention plan must be developed and implemented within fifteen (15) days of initiation of services. The intervention plan must be updated at least every ninety (90) days. The individualized intervention plan must contain at least the following: (5-1-10)()

a. A list of problems describing areas of concern, and needs identified during the assessment; (5-1-10)

b. Overall goals, describing desired results to be achieved, consistent with the client's service needs and assessment; (5-1-10)

c. Identification of the nature, amount, frequency, and duration of the intervention services required by the client; (5-1-10)

d. Selection of the nature, amount, type, frequency, and duration of services will be determined with the participation of the client, the client's informal support network, and providers of services; (5-1-10)

e. Documentation of who participated in the selection of services; (5-1-10)

f. Documentation of unmet needs and service gaps; (5-1-10)

g. Concrete measurable goals, objectives, and interventions; ~~and~~ (5-1-10)()

h. Time frames for achievement of the case management goals and objectives; ~~and~~ (5-1-10)()

i. A plan for services to be provided after discharge. ()

04. Education in Child and Adolescent Level .5. All providers must utilize an evidence based education program from the Department's list of approved programs. (5-1-10)

05. Counseling in Child and Adolescent Level .5. Each program will provide individual and group counseling to support client's abstinence. (5-1-10)

06. Discharge from Child and Adolescent Level .5. Discharge is upon successful completion of the intervention plan or therapeutic discharge. (5-1-10)

~~**07. Discharge Plan in Child and Adolescent Level .5.** Each client must participate in the development of a discharge plan as described in Section 386 of these rules. (5-1-10)~~

~~**087. Client Intervention Services in Child and Adolescent Level .5.** Clients in intervention services are to be served separately from clients in other levels of care. (5-1-10)~~

641. -- 649. (RESERVED)

650. LEVEL .5 - EARLY INTERVENTION SERVICES FOR ADULTS.

Early intervention is a brief intensive service that is delivered in an approved treatment facility. (5-1-10)

01. Case Management in Adult Level .5. Case Management may be provided as set forth in Section 745 of these rules. (5-1-10)

02. Individualized Intervention Plan in Adult Level .5. The intervention program must prepare for each client an intervention plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the intervention plan must be a collaborative process involving the client, ~~family members~~, and other support/service systems. A written intervention plan must be developed and implemented within fifteen (15) days of initiation of services. The intervention plan must be updated at least every ninety (90) days. The individualized intervention plan must contain at least the following: ~~(5-1-10)~~()

a. A list of problems describing areas of concern, and needs identified during the assessment; (5-1-10)

b. Overall goals, describing desired results to be achieved, consistent with the client's service needs and assessment; (5-1-10)

c. Identification of the nature, amount, frequency, and duration of the intervention services required by the client; (5-1-10)

d. Selection of the nature, amount, type, frequency, and duration of services will be determined with the participation of the client, the client's informal support network, and providers of services; (5-1-10)

e. Documentation of who participated in the selection of services; (5-1-10)

f. Documentation of unmet needs and service gaps; (5-1-10)

g. Concrete measurable goals, objectives, and interventions; and (5-1-10)

h. Time frames for achievement of the case management goals and objectives. (5-1-10)

i. A plan for services to be provided after discharge. ()

03. Education in Adult Level .5. All providers must utilize an evidence based education program from the Department's list of approved programs. (5-1-10)

04. Counseling in Adult Level .5. Each program will provide individual and group counseling to support client's abstinence. (5-1-10)

05. Discharge in Adult Level .5. Discharge is upon successful completion of the intervention plan or therapeutic discharge. (5-1-10)

06. Clients in Intervention Services in Adult Level .5. Clients in intervention services are to be served separately from clients in other levels of care. (5-1-10)

~~07. Discharge Plan in Adult Level .5. Each client must participate in the development of a discharge plan as described in Section 386 of these rules. (5-1-10)~~

651. -- 699. (RESERVED)

RECOVERY SUPPORT COMPONENT SERVICES
(Sections 700 through 799)

700. ADULT STAFFED SAFE AND SOBER HOUSING FACILITY.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as an Adult Staffed Safe and Sober Housing facility must meet the requirements in Section 700 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. (5-1-10)

01. Services in an Adult Staffed Safe and Sober Housing Facility. (5-1-10)

a. Adult Staffed Safe and Sober Housing facilities provide a safe, clean, and sober environment for clients who are transitioning back into the community. (5-1-10)

b. There must be written policies and procedures that establish house rules and requirements and include procedures for monitoring client compliance and consequences for violating house rules and requirements. (5-1-10)

c. Adult Staffed Safe and Sober Housing programs must allow clients to participate in daily living activities, physical activities, and leisure time activities. Section 224 of these rules does not apply to this level of care in this setting. (5-1-10)

d. Adult Staffed Safe and Sober housing facilities must ~~encourage use of~~ **provide information regarding** community resources ~~by to~~ persons recovering from alcohol and substance use disorders. Sections 370 and 380 of these rules do not apply to this level of care in this setting. ~~(5-1-10)~~()

02. Program Fees for Expenses in an Adult Staffed Safe and Sober Housing Facility. (5-1-10)

a. An Adult Staffed Safe and Sober Housing facility must not bill rent to clients receiving state substance use disorders funding for housing but may impose a “program fee” to cover the following expenses: (5-1-10)

i. Basic utilities-electricity, gas, water, sewer, trash, etc.; (5-1-10)

ii Telephone service; (5-1-10)

iii Cable or satellite television; (5-1-10)

iv. Internet services, if available to client; (5-1-10)

v. Amenities fund covers wear and tear on home living items such as furniture, bedding, curtains, washer and dryer, cookware, dishes, appliances, etc.; (5-1-10)

vi. Cleaning supplies, if supplied by provider; (5-1-10)

b. Program fees must not exceed one hundred dollars (\$100) per month. (5-1-10)

c. Program fees must be imposed equally on residents receiving state funding for housing and non-state funded residents. (5-1-10)

d. Adult Staffed Safe and Sober Housing facilities must assure that clients fully understand the purpose of an imposed program fee and what it includes. (5-1-10)

e. Adult Staffed Safe and Sober Housing facilities must disclose to the Department any program fees imposed and what is included in the fee. Changes to program fees must be reported to the Department prior to being imposed. (5-1-10)

f. The client, client's guardian, or conservator must be notified in writing of an increase in the program fee at least thirty (30) calendar days prior to such a raise taking effect. (5-1-10)

03. Termination of Housing from an Adult Staffed Safe and Sober Housing Facility. ~~Section 386 of~~

~~these rules does not apply to this subsection.~~ The housing provider may discharge a client who violates house rules and requirements in accordance with the following: (5-1-10)()

- a. Client is informed verbally and in writing of reasons for discharge; (5-1-10)
- b. A process is in place that recognizes the rights of the client to due process and allows the client to request a formal review of the decision; (5-1-10)
- c. The reasons for discharge and any actions following are clearly documented in the client's file. (5-1-10)

04. Staffing in an Adult Staffed Safe and Sober Housing Facility. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week, and conduct daily site visits. Sections 215 through 218 of these rules does not apply to this level of care in this setting. At a minimum, the staff must include: (5-1-10)

- a. A house manager who is on-site a minimum of twenty (20) hours a week; or (5-1-10)
- b. A housing coordinator who is off-site, but monitors house activities on a daily basis. (5-1-10)

05. Staff Qualifications for an Adult Staffed Safe and Sober Housing Facility. A house manager and housing coordinator must have at least one (1) year of experience or training working with the substance use disorders clients. (5-1-10)

06. Certified Home Inspection in an Adult Staffed Safe and Sober Housing Facility. An Adult Staffed Safe and Sober Housing program must provide a certified home inspection in addition to the required fire inspection documentation. There must be documentation that any major health and safety issues identified in the certified home inspection have been corrected. (5-1-10)

07. Living Environment in an Adult Staffed Safe and Sober Housing Facility. Adult Staffed Safe and Sober Housing facilities must meet the requirements set forth in Section 396 of these rules. (5-1-10)

08. Facility Inspection of an Adult Staffed Safe and Sober Housing Facility. Adult Staffed Safe and Sober Housing facilities must be inspected by staff a minimum of three (3) times a week to determine if hazards or potential safety issues exist. A record of the inspection must be maintained that includes the date and time of the inspection, problems encountered, and recommendation for improvement. (5-1-10)

09. Fire Inspection of an Adult Staffed Safe and Sober Housing Facility. An Adult Staffed Safe and Sober Housing facility must provide documentation of a fire safety inspection conducted annually by the State Fire Marshall or designee. (5-1-10)

701. CHILD AND ADOLESCENT STAFFED SAFE AND SOBER HOUSING FACILITY.
Each alcohol and substance use disorders treatment or recovery support services program seeking approval as a Child and Adolescent Staffed Safe and Sober Housing facility must meet the requirements in this rule in addition to Sections 000 through 499 of these rules, unless otherwise specified in this rule. ()

01. Licensing of a Child and Adolescent Staffed Safe and Sober Housing Facility. A Child and Adolescent Staffed Safe and Sober Housing Facility must meet the requirements in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," and be licensed annually as a Children's Residential Care Facility. ()

02. Admission Criteria for Child and Adolescent Staffed Safe and Sober Housing. Individuals must be admitted to a Child and Adolescent Staffed Safe and Sober Housing facility prior to their 18th (eighteen) birthday. An individual may be eligible for continued care but must meet requirements set forth in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," Sections 530 and 531. A child or adolescent must meet one of the following for admission to a Child and Adolescent Staffed Safe and Sober Housing facility: ()

- a. The Child or Adolescent has completed a level III.5 residential substance use disorders treatment

program and is in need of a step down program with less intensive clinical needs but a continued need for both the client and the family to prepare for and ensure the child or adolescent's safe and effective return home; ()

b. The Child or Adolescent is re-entering the community from either a state run correctional facility or county detention with a verifiable substance use disorder and is unable to return home due to an unsupportive recovery environment; ()

c. The Child or Adolescent is unable to function in their home due to an unsupportive recovery environment but has less intensive clinical needs than those provided in a Level III.5 program. ()

03. Services in a Child and Adolescent Staffed Safe and Sober Housing Facility. ()

a. Child and Adolescent Staffed Safe and Sober Housing will be provided as a Recovery Support Service and includes housing, meals and supervision. ()

b. A Child and Adolescent Staffed Safe and Sober Housing Facility may provide or arrange for outpatient treatment services to be delivered if the child or adolescent meets criteria for these services. If the program chooses to provide treatment services on-site, it must also meet the requirements in Section 600 of these rules.()

c. A Child and Adolescent Staffed Safe and Sober Housing Facility must provide information regarding recovery support services and community resources to assist the child or adolescent in maintaining a supportive recovery lifestyle. ()

d. The Child or Adolescent must have access to transportation services as defined in Section 730 of this rule. ()

e. Services under Child and Adolescent Staffed Safe and Sober Housing are directed toward applying recovery skills, preventing relapse, improving social functioning and ability for self-care, promoting personal responsibility, developing a social network supportive of recovery, and reintegrating the individual into the worlds of school, work and family life and/or preparing for independent living. ()

04. Living Environment in a Child and Adolescent Staffed Safe and Sober Housing Facility. A Child and Adolescent Staffed Safe and Sober Housing Facility must meet the requirements set forth in Section 396 of these rules, in addition to the following: ()

a. A Child and Adolescent Staffed Safe and Sober Housing Facility provides a safe, clean, supportive and sober environment for children and adolescents transitioning back into the community. ()

b. A Child and Adolescent Staffed Safe and Sober Housing Facility provide living accommodations in a structured environment that encourages each child and adolescent to assume responsibility for their own rehabilitation. ()

c. A Child and Adolescent Staffed Safe and Sober Housing Facility must allow children and adolescents to participate in daily living activities, physical activities, and leisure time activities. ()

d. There must be written policies and procedures that establish house rules and requirements and include procedures for monitoring client compliance and consequences for violating house rules and requirements. ()

~~704~~2. -- 709. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

720. LIFE SKILLS.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as Life Skills provider must meet the requirements in Section 720 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in these rules. (5-1-10)

01. Services in a Life Skills Program. Life Skills programs are non-clinical services designed to enhance personal and family skills for work and home, reduce marriage and family conflict, and develop attitudes and capabilities that support the adoption of healthy, recovery-oriented behaviors and healthy re-engagement with the community. (5-1-10)

a. Services may be provided on an individual basis or in a group setting and can include activities that are culturally, spiritually, or gender-specific. Sections 370, and 380, ~~and 386~~ of these rules do not apply to this setting. (5-1-10)()

b. Services provided must be billable only as a recovery support service. ()

~~**c.**~~ Life Skills programs must have a written plan. This written plan must include the curriculum used. Section 224 of these rules does not apply to this setting. The list of activities must include: (5-1-10)

i. A description of each activity; (5-1-10)

ii. The measurable goals of each activity; and (5-1-10)

iii. The staff person responsible for providing or supervising each activity. (5-1-10)

~~**e.** Life Skills may be approved for clinical treatment providers on a case-by-case basis under the following conditions:~~ (5-1-10)

~~i. The service is billable only as a recovery support service; and~~ (5-1-10)

~~ii. The service is distinguishable from treatment services.~~ (5-1-10)

~~iii. Clients receiving individual services from a qualified substance use disorders professional must be included in the staff-to-client ratio counts required for treatment services.~~ (5-1-10)

02. Supervision in a Life Skills Program. The program must provide staff with supervision to ensure that services are provided effectively and appropriately. Sections 215 through 218 of these rules do not apply to this setting. (5-1-10)

03. Staffing and Documentation in a Life Skills Program. Each Life Skills program must ensure services are provided by qualified staff who meet the following requirements: (5-1-10)()

a. Each staff person has completed training ~~to deliver the service or has a record of performance in the provision of service of~~ or has at least one (1) year experience delivering the life skill service; (5-1-10)()

b. Personnel file must contain documentation that each staff person ~~is qualified~~ meets requirements under Subsection 720.03.a. of this rule; (5-1-10)()

c. There must be one (1) qualified staff person for every thirty (30) clients in a group setting; and (5-1-10)

~~**d.** The total client caseload of any qualified staff person must not exceed forty five (45) clients. Clients receiving individual services from a qualified substance use disorders professional must be included in the staff-to-client ratio counts required for treatment services.~~ (5-1-10)()

721. -- 729. (RESERVED)

730. TRANSPORTATION SERVICES.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as a transportation provider must meet the requirements in Section 730 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. (5-1-10)

01. Transportation Services. Transportation services are provided to clients who are engaged in alcohol and substance use disorders treatment or recovery support services, or both, and who have no other means of obtaining transportation. Reimbursement is not available for transportation services to and from employment. Sections 215, 216, 217, 218, 224, 370, 380, and 386 of these rules do not apply to this setting. Transportation services include any of the following types of transportation: (5-1-10)

a. Public Transportation. Any entity in the business of transportation that is organized to provide and actually provides transportation to the general public. (5-1-10)

b. Individual Transportation. Individual transportation is any individual providing transportation who does not meet the definition of public or Agency Transportation and provides only transportation services to an eligible client. Only individual transportation providers who are approved by the ~~Bureau of~~ Substance Use Disorders Program can be reimbursed. (5-1-10)()

c. Agency Transportation. Agency transportation is an entity whose employees or agents provide transportation services in addition to one (1) or more other services to the same eligible client. (5-1-10)

02. ~~Programs Seeking Approval for~~ Transportation Services. Programs seeking approval for transportation services must meet the following requirements: (5-1-10)()

a. Agencies must maintain documentation of a valid driver's license for each employee who transports clients; (5-1-10)

b. The program must adhere to all laws, rules, and regulations applicable to drivers and type of vehicles used; (5-1-10)

c. The minimum insurance required for all programs is professional liability, commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five hundred-thousand to one million dollars (\$500,000/\$1,000,000) and general liability and automobile insurance in the amount of at least one million to three million dollars (\$1,000,000/\$3,000,000). Copies of the declarations face-sheet for all policies must be included with the application. Individual providers must carry at least the minimum insurance required by Idaho law. If an agency permits employees to transport clients in employee's personal vehicles, the agency must ensure that insurance coverage is carried to cover those circumstances. (5-1-10)

d. The program must document that the person for whom services are billed was actually transported for all the distance billed. (5-1-10)

~~**e.** Transportation is paid on a reimbursement basis only. (5-1-10)~~

~~**f.** Only the least expensive, most appropriate means of transportation will be authorized. (5-1-10)~~

~~**g.** Transportation providers must provide the following services and perform the following tasks: (5-1-10)~~

~~**i.** Provide services to transport clients to and from alcohol and substance use disorders treatment or ~~recovery support~~ services needed to support recovery; (5-1-10)()~~

~~**ii.** Provide services at a time and location that is suitable for the client to attend alcohol and substance use disorders treatment or ~~recovery support~~ services needed to support recovery; and (5-1-10)()~~

~~**g.** The program must provide transportation by the most direct route practical. (5-1-10)~~

~~f~~**h.** Each transportation program must ensure the safety and well-being of all clients transported. This includes maintaining and operating vehicles in a manner that ensures protection of the health and safety of the clients transported. The transportation program must meet the following requirements: (5-1-10)

- i. The driver is prohibited from using a cell phone while transporting a client; (5-1-10)
- ii. No smoking in the vehicle; (5-1-10)
- iii. All vehicles must be equipped with a first aid kit and fire extinguisher; and (5-1-10)
- iv. The vehicle must be equipped with appropriate restraints. (5-1-10)

03. Staffing for Transportation Services. The operator of a motor vehicle transporting clients must be, at a minimum, eighteen (18) years of age. (5-1-10)

(BREAK IN CONTINUITY OF SECTIONS)

745. ~~BASIC AND INTENSIVE~~ CASE MANAGEMENT SERVICES.

In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment or recovery support services program seeking approval as a ~~Basic or Intensive~~ case management ~~facility provider~~ must meet the requirements in Section 745 of these rules. ~~Basic and Intensive c~~Case management services include: (5-1-10)()

01. ~~Basic and Intensive~~ Case Management Services. (5-1-10)()

a. Services must include a case management assessment of the client and client family strength and needs, service planning, linkage to other services, client advocacy and monitoring ~~service provisions~~. (5-1-10)()

b. ~~There must be~~ **The provider must have** policies and procedures for ensuring that multiple services are delivered in a coordinated and therapeutic manner to meet the goals of treatment outcomes. (5-1-10)()

c. Case management services must not duplicate ~~case management~~ services currently provided under any other state-funded program. (5-1-10)()

02. Comprehensive Case Management Service Plan Development. The case manager must prepare for each client a comprehensive service plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the comprehensive service plan must be a collaborative process involving the client, ~~family members~~, and other support and service systems. A written comprehensive service plan must be developed in accordance with Section 380 of these rules and implemented within thirty (30) days ~~after the date the agency first sees the client~~ of the completion of a case management assessment. The comprehensive service plan must be updated at least every ninety (90) days. Sections 370 ~~and 380~~ of these rules ~~do~~ not apply in this setting. ~~The individual's comprehensive service plan is based on the Department's Minimum Case Management Standards referenced under Section 002 of these rules.~~ (5-1-10)()

03. Case Manager Contact and Availability. At least every thirty (30) days, case managers must have face-to-face contact with the client, or have contact with the guardian, who can verify the client's well-being and whether services are being provided according to the written plan. The frequency, mode of contact, and person being contacted must be identified in the plan and must meet the needs of the client. (5-1-10)()

~~a-~~ Basic Case Management. The case manager must have a face to face contact with each client, at least every month. Contact may be made more often depending upon the level of case management. (5-1-10)

~~b-~~ Intensive Case Management. At least every thirty (30) days, depending upon the level of case management provided, case managers must have additional contact with the client, guardian, or provider who can

~~verify the client's well being and whether services are being provided according to the written plan. The frequency, mode of contact, and person being contacted must be identified in the plan and must meet the needs of the client.~~

~~(5-1-10)~~

04. Case Manager Qualifications. ~~A case manager must have completed training in the essentials of case management as identified by the Department. A case manager providing basic or intensive case management must:~~

~~(5-1-10)()~~

a. Be a qualified substance use disorders professional as defined in Section 013 of these rules, an ISAS as defined in Section 012 of these rules, or a **qualified substance use disorders professional** trainee as defined in Section 013 of these rules. An ISAS or **qualified substance use disorders professional** trainee may provide case management services only under direct ~~intensive~~ clinical supervision and a **learning professional development plan**;

~~(5-1-10)()~~

b. Have a bachelor's degree in a human services field from a nationally-accredited university or college ~~and at least six (6) months, or one thousand forty (1,040) hours, of supervised experience working with the substance use disorders population; and.~~

~~(5-1-10)()~~

~~**c.** Have a case management certificate issued by the Department after training is completed within six (6) months of hire.~~

~~(5-1-10)~~

~~**05. Case Manager Status Granted Prior to May 1, 2010.** Subsections 218.01 and 218.02 of these rules are applicable to all new applications for appointment as a case manager submitted to the Department after May 1, 2010. If an individual was granted an appointment prior to May 1, 2010, and met the requirements at that time, he may continue to have his appointment recognized. The appointment of this status will be given by the Department after the Department has received documentation affirming the qualified substance use disorder professional's education and experience meets standards in place prior to May 1, 2010.~~

~~(5-1-10)~~

065. Staffing. A case manager's total caseload must not be so large that it cannot assure quality service delivery and client satisfaction.

(5-1-10)

076. Supervision. The case management program must provide and document at least one (1) hour of case management supervision per month for each case manager.

(5-1-10)

a. Case management supervisors must:

(5-1-10)

i. Be a qualified substance use disorders professional with a Master's degree in a human services field; or

(5-1-10)

ii. Have a Master's degree in a human services field and ~~one (1) year treatment experience with at least six (6) months, or~~ one thousand forty (1,040) hours ~~being supervised while~~ working **experience** with the substance use disorders population.

~~(5-1-10)()~~

b. Case management supervision must be documented and include the following: the date supervision is provided, the times the supervision begins and ends, the topics discussed, the duration of each session, whether the supervision was to an individual or group, and the signatures and credentials of both the individual conducting the supervision and the individual(s) receiving supervision.

(5-1-10)

~~**08. Client Records For Case Management Program.** Department approved case management forms must be used and can be found on the Department's website as described in Sections 002 and 005 of these rules. The case management program must maintain a written client record and documentation of services on each client utilizing the forms and procedures described in the Minimum Case Management Standards referenced in Section 002 of these rules. All entries in the client record must be signed and dated. Symbols and abbreviations may be used only if they have been approved by professional staff and only when there is an explanatory legend. Sections 375 and 386 of these rules do not apply in this setting.~~

~~(5-1-10)~~

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.09 - CONSUMER PROTECTION IN ANNUITY TRANSACTIONS

DOCKET NO. 18-0109-1201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rule 18.01.09 concerns suitability standards applicable to insurers and insurance producers in recommending annuities to consumers. The Department of Insurance proposes to repeal the existing rule in Docket No. 18-0109-1201, "Consumer Protection in Annuity Transactions" and replace it with the proposed rule, 18-0109-1202, "Suitability in Annuity Transactions" in this bulletin.

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 18-0109-1201. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 100](#). A public meeting as provided in the notice was held on July 19, 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 the proposed rule, contact Tom Donovan, (208) 334-4214 or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

William Deal
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise ID 837290-0043
Phone: (208) 334-4250

IDAPA 18.01.09 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.09 - SUITABILITY IN ANNUITY TRANSACTIONS
DOCKET NO. 18-0109-1202 (CHAPTER REWRITE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 18.01.09 concerns suitability standards applicable to insurers and insurance producers in recommending annuities to consumers. The Department of Insurance proposes to repeal the existing rule in Docket No. 18-0109-1201, and replace it with the proposed rule in this rulemaking.

The proposed rulemaking is based on the 2010 NAIC Model Regulation 275 Suitability in Annuity Transactions. The new rule requires the producer or insurer to have reasonable grounds to believe an annuity is suitable based on specific information of the consumer prior to making a recommendation to the consumer. The rule also requires producers engaged in the sale of annuity products to complete a one-time, four-credit training course.

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 18-0109-1201. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 100](#). A public meeting as provided in the notice was held on July 19, 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: Provisions of federal law, namely, the Employee Retirement and Income Security Act and the Internal Revenue Code, and FINRA Rule 2111.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208) 334-4214 or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

William Deal
Idaho Department of Insurance
700 West State Street, 3rd Floor
PO Box 83720, Boise ID 83720-0043
Phone: (208) 334-4250

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 18-0109-1202

IDAPA 18
TITLE 01
CHAPTER 09

18.01.09 - SUITABILITY IN ANNUITY TRANSACTIONS

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to authority granted by Sections 41-211 and 41-1940, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.09, "Suitability in Annuity Transactions." ()

02. Scope. This rule applies to any recommendation to purchase or exchange an annuity made to a consumer by a producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended. ()

002. PURPOSE.

01. Purpose. The purpose of this rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. ()

02. Violation of Rule. Nothing herein is construed to create or imply a private cause of action for a violation of this rule. ()

003. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. ()

004. ADMINISTRATIVE APPEALS.

All administrative appeals are governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Subchapter B -- Contested Cases. ()

005. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 18.01.09, "Suitability in Annuity Transactions," adopts and incorporates by reference parts of the following documents: ()

a. United States Code, Title 29 - Labor, Chapter 18 - Employee Retirement and Income Security Act (ERISA). ()

b. United States Code, Title 26 - Internal Revenue Code. ()

c. FINRA Rule 2111, effective July 9, 2012. ()

02. Availability of Referenced Documents. ()

a. Printed copies of the documents described in Subsections 005.01.a. and 005.01.b. are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 as well as from the Department; the telephone number is (202) 512-1800, and electronic copies are available online at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title29/pdf/USCODE-2011-title29-chap18.pdf> and <http://www.law.cornell.edu/uscode/text/26>. ()

b. A printed copy of the document described in 005.01.c. is available from FINRA, Two Union Square, 601 Union Street, Suite 1616, Seattle, WA 98101-2327, telephone (206) 624-0790, as well as from the Department, and an electronic copy is available online at http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=9859. ()

006. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ()

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. ()

007. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. Annuity. An annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity. ()

02. Continuing Education Credit or CE Credit. One continuing education credit as more particularly described in IDAPA 18.01.53, "Continuing Education". ()

03. Continuing Education Provider or CE Provider. An individual or entity that is approved to offer continuing education courses pursuant to IDAPA 18.01.53, "Continuing Education". ()

04. FINRA. The Financial Industry Regulatory Authority or a succeeding agency. ()

05. Insurer. A company required to be licensed under the laws of this state to provide insurance products, including annuities. ()

06. Producer. A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. ()

07. Recommendation. Advice provided by a producer or an insurer to an individual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice. ()

08. Replacement. A transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer or to proposing insurer that by reason of the transaction, an existing policy or contract has been or is to be: ()

a. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated; ()

b. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values; ()

c. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid; ()

d. Reissued with any reduction in cash value; or ()

e. Used in a financed purchase. ()

09. Suitability Information. Information that is reasonably appropriate to determine the suitability of a recommendation, including the following: ()

a. Age; ()

b. Annual income; ()

c. Financial situation and needs, including the financial resources used for the funding of the annuity; ()

d. Financial experience; ()

e. Financial objectives; ()

f. Intended use of the annuity; ()

g. Financial time horizon; ()

h. Existing assets, including investment and life insurance holdings; ()

i. Liquidity needs; ()

j. Liquid net worth; ()

k. Risk tolerance; and ()

l. Tax status. ()

011. TRANSACTION EXEMPTIONS. Unless otherwise specifically included, this rule does not apply to transactions involving: ()

01. Direct Response Solicitations. A response to a direct solicitation where there is no recommendation made based on information collected from the consumer pursuant to this rule; ()

02. Contracts Used to Fund. Contracts that are used to fund: ()

a. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA); ()

b. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer; ()

c. A government or church plan defined in Section 414 of the IRC, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, as amended; ()

d. A nonqualified deferred compensation arrangement established or maintained by an employer or

- plan sponsor; ()
- e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; ()
 - f. Formal prepaid funeral contracts; or ()
 - g. Prepaid contracts used to fund funeral and related funeral expenses governed by Sections 54-1131 et seq., Idaho Code. ()

012. -- 014. (RESERVED)

015. DUTIES OF INSURERS AND OF PRODUCERS.

01. General Rule. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the producer or insurer must have a reasonable basis to believe that the recommendation is suitable for the consumer based on the facts disclosed by the consumer. These facts include the consumer's suitability information and information regarding the consumer's investments and other insurance products, and financial situation and needs. The seller must also have a reasonable basis to believe all of the following: ()

- a. The consumer has been reasonably informed of various features of the annuity, including: ()
 - i. The potential surrender period and surrender charge; ()
 - ii. The potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; ()
 - iii. Mortality and expense fees; ()
 - iv. Investment advisory fees; ()
 - v. Potential charges for and features of riders; ()
 - vi. Limitations on interest returns; ()
 - vii. Insurance and investment components; and ()
 - viii. Market risk; ()
- b. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or death or living benefit; ()
- c. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable for the particular consumer based on his suitability information; and ()
- d. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable and the producer or insurer has considered whether the consumer: ()
 - i. Will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements; or ()
 - ii. Would benefit from product enhancements and improvements; or ()
 - iii. Has had another annuity exchange or replacement and, in particular, an exchange or replacement

within the preceding thirty-six (36) months. ()

02. Collection of Information. Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, a producer, or insurer when no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information. ()

03. Reasonable Basis. Except as permitted under Subsection 015.04, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information. ()

04. Exceptions. ()

a. Except as provided under Paragraph 015.04.b., neither a producer nor an insurer shall have any obligation to a consumer under Subsection 015.01 or 015.03 related to any annuity transaction if: ()

i. No recommendation is made; or ()

ii. A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer; or ()

iii. A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or ()

iv. A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the producer. ()

b. An insurer's issuance of an annuity subject to Paragraph 015.04.a. will be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued. ()

05. Record Keeping. A producer or, when no producer is involved, the responsible insurer representative, shall at the time of sale: ()

a. Make a record of any recommendation subject to Subsection 015.01; ()

b. Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and ()

c. Obtain a customer signed statement that acknowledges that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's or insurer's recommendation. ()

06. Supervision for Compliance. ()

a. An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this rule. This includes, but is not limited to, the following: ()

i. Establishing and maintaining reasonable procedures to inform its producers of the requirements of this rule and incorporating the requirements of this rule into relevant producer training manuals; ()

ii. Establishing standards for producer product training and establishing and maintaining reasonable procedures to require its producers to comply with the requirements of Section 016 of this rule; ()

iii. Providing product-specific training and training materials that explain all material features of its annuity products to its producers; ()

iv. Establishing and maintaining procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. ()

Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria; ()

v. Establishing and maintaining procedures to detect recommendations that are not suitable. These procedures may include confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters; or programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this rule by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and ()

vi. Annually providing a report to senior management, including those responsible for audit functions, that details a review, with appropriate testing designed to determine the effectiveness of the supervision system, and includes any exceptions found and any corrective actions taken or recommended. ()

b. Contracting. ()

i. Nothing in this subsection restricts an insurer from contracting for performance of a function (including establishing and maintaining procedures) required under Paragraph 015.06.a. of this rule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to Section 025 of this rule regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with Subsection 015.06.a.ii.(2) of this rule. ()

ii. An insurer's supervision system under Paragraph 015.01.a. of this rule must include supervision of contractual performance under Subsection 015.06. This supervision of performance includes, but is not limited to, the following: ()

(1) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and ()

(2) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed. ()

c. An insurer is not required to include in its system of supervision a producer's recommendations to consumers of products other than the annuities offered by the insurer. ()

07. Prohibitions. A producer may not dissuade, or attempt to dissuade, a consumer from: ()

a. Truthfully responding to an insurer's request for confirmation of suitability information; ()

b. Filing a complaint; or ()

c. Cooperating with the investigation of a complaint. ()

08. Compliance With FINRA. ()

a. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions as reflected in FINRA Rule 2111 will satisfy the requirements under this rule. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection limits the Director's ability to enforce the provisions of this rule or investigate for compliance. ()

b. For Paragraph 015.08.a. to apply, an insurer must: ()

i. Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and ()

ii. Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system. ()

016. PRODUCER TRAINING.

01. General Rule. A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided, product-specific training standards and materials to comply with this subsection. ()

02. Required Producer Training Courses and Education. ()

a. A producer who engages in the sale of annuity products shall complete a one-time, four-credit training course approved by the Department and provided by the Department-approved education provider. ()

b. Producers who hold a life insurance line of authority on the effective date of this rule and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this rule. Individuals who obtain a life insurance line of authority on or after the effective date of this rule may not engage in the sale of annuities until the annuity training course required under this subsection has been completed. ()

c. The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) CE credits, but may be longer. ()

d. The training required under this subsection shall include information on the following topics: ()

i. The types of annuities and various classifications of annuities; ()

ii. Identification of the parties to an annuity; ()

iii. How fixed, variable and indexed annuity contract provisions affect consumers; ()

iv. The application of income taxation of qualified and non-qualified annuities; ()

v. The primary uses of annuities; and ()

vi. Appropriate sales practices, replacement and disclosure requirements. ()

e. Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline. ()

f. A provider of an annuity training course intended to comply with this subsection shall register as a CE provider in this State and comply with the rules and guidelines applicable to producer continuing education courses as set forth in IDAPA 18.01.53. ()

g. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with IDAPA 18.01.53. ()

h. Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with IDAPA 18.01.53. ()

i. The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State.

()

j. An insurer shall verify that a producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by Department-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers. ()

017. -- 020. (RESERVED)

021. RECORDKEEPING.

01. Maintaining Records. Insurers and producers must maintain, and be able to provide to the Director, records of all information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for as long as the insurance transaction remains in force. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer. ()

02. Termination. If the producer's appointment with the insurer is terminated or his license is suspended or revoked, the producer must remit copies of all records as described under Subsection 021.01 to the insurer within twenty-one (21) days of termination or change in license status. ()

03. Form. Records required to be maintained by this rule may be maintained on any media and by any process that accurately reproduces the original document. ()

022. -- 024. (RESERVED)

025. COMPLIANCE MITIGATION - VIOLATIONS - PENALTIES.

01. Corrective Action. An insurer is responsible for compliance with this rule. If a violation occurs, either because of the action or inaction of the insurer or its producer, the Director may order: ()

a. An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's or producer's violation of this rule; ()

b. A general agency, independent agency or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this rule; and ()

c. Appropriate penalties and sanctions. ()

02. Violation. Any violation of this rule will be deemed a violation of Section 41-1940, Idaho Code. ()

03. Reduction of Penalty. Any applicable penalty under Section 41-117, Idaho Code, for a violation of this rule may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice. ()

026. -- 999. (RESERVED)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.19 - INSURANCE RATES AND CREDIT RATING
DOCKET NO. 18-0119-1201
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 Sections 41-211 and 41-1843, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 amendment to IDAPA 18.01.19.100 clarifies when and how an insurer's use of consumer credit information will be deemed to be improper and in violation of Section 41-1843, Idaho Code, and permits insurers to use a neutral credit factor or score against which to measure compliance with Section 41-1843, Idaho Code, both at initial rating and upon renewal.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 101](#). A public meeting was held on July 20, 2012 as provided for in the notice.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208)334-4214, or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

William Deal
Department of Insurance
700 West State Street, 3rd Floor
Boise ID 83720-0043
Phone: (208)334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0119-1201

100. USE OF CREDIT FACTORS.

01. Prohibited Acts. An insurer shall not charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a policy, based in any part upon credit factors unless: (3-20-04)

a. The decision is also based on a noncredit factor or factors; and (3-20-04)

b. The aggregate weight given to the noncredit factors considered in making the decision is at least as great as the aggregate weight given to the credit factors considered in making the decision. (3-20-04)

02. Application of Rule. To determine whether a decision to issue, nonrenew or cancel a policy, or to charge a higher rate than would otherwise be charged, is not improperly based primarily upon a credit factor or factors and in violation of Section 41-1843, Idaho Code, the Department will apply the following criteria: (3-20-04)()

a. If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, the insurer must be able to show that it also relied upon a noncredit factor or combination of noncredit factors in making the decision and that the noncredit factor(s) played at least as great a role in the decision as did the credit factor. Nothing in this rule is intended to modify or alter any provisions contained in Title 41, Chapter 25, Idaho Code. (3-20-04)()

b. If an insurer relies in any part upon a credit factor in establishing an initial rate for new business or to impose an increase in premium rate for a customer, the insurer must be able to show that it also considered noncredit factors in establishing the initial rate and that not more than one-half (1/2) of the initial or renewal premium rate is attributable to the credit factor. To satisfy this requirement, an insurer shall do one (1) of the following: (3-20-04)()

i. Compare the premium rate using the highest credit factor to the premium rate using the lowest credit factor. The difference in the premium rate between the highest and lowest shall be not more than one-half (1/2) the highest premium rate; or ()

ii. Compare a premium rate calculated using the highest credit factor to a premium rate calculated without using credit. The premium rate calculated without using credit shall be equal to or greater than one-half (1/2) of the premium rate calculated using the highest credit factor. To calculate the premium rate without using credit, an insurer shall demonstrate that it has applied all the noncredit factors and replaced the actual credit factor with the average credit factor. The average credit factor must be calculated from the actual distribution of Idaho business by credit factor at the time the credit factor rating system was implemented or last revised. For purposes of this Subparagraph, 100.02.b.ii., "last revised" means any subsequent changes to the credit factor system utilized by the insurer as part of its overall rate filing. Under this approach, as long as the highest rate charged using a credit factor is not more than double the rate using the average credit factor, the rate will be treated as meeting the requirements of Section 41-1843, Idaho Code. ()

e. If an insurer relies in any part upon a credit factor to impose an increase in premium rate for a customer, the insurer must be able to show that the increase was also based upon a change in at least one noncredit factor and that not more than one-half (1/2) of the increase is attributable to the credit factor. (3-20-04)

03. Information Used in Reviewing Insurer's Decision. To evaluate whether an underwriting or rating decision was based primarily upon credit factors, the department may require the insurer to explain in detail the insurer's underwriting or rating process, identify all factors considered in the process, and describe how the process was applied in the case under review. The department may also require the insurer to apply its underwriting or rating process to hypothetical cases submitted to the insurer by the Department. (3-20-04)

IDAPA 18-DEPARTMENT OF INSURANCE

18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-1201 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-401, 41-1007(1)(b), and 41-1089(6), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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:

Adds vendor of portable electronic insurance as a new type of limited lines insurance producer license and the requisite fees to the DOI's general fee rule, pursuant to House Bill 649 (effective 7/1/2013). Increases fees for fingerprints as a result of increased costs from the Idaho State Police.

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

For the original license application, a vendor of portable electronics insurance, a type of limited lines producer, engaged in portable electronics transactions at more than ten locations in the state of Idaho, the fee is \$1,000. For a vendor engaged in portable electronics transactions at ten or fewer locations in the state of Idaho, the fee is \$100.

For license renewal, a vendor of portable electronics insurance engaged in portable electronics transactions at more than ten locations in the state of Idaho, the fee is \$500. For a vendor engaged in portable electronics transactions at ten or fewer locations in the state of Idaho, the fee is \$100.

Fingerprint processing fees are increased up to, but may not exceed, \$80.

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:

The rulemaking is expected to be revenue neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012 Idaho Administrative Bulletin, [Volume 12-7, page 102](#). A public meeting was held on July 19, 2012, as provided in the notice.

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 Tom Donovan, @ (208)334-4214, or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2012.

DATED this 26th day of July, 2012.

William W. Deal, Director
Idaho Department of Insurance
700 W. State St, 3rd Floor
Boise ID 83720-0043
Phone: (208)334-4250
Fax: (208)334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 18-0144-1201

030. PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and must be paid with the filing application for original license, which fees include the issuance of a license, if issued: (3-13-02)

- a. Administrators -- three hundred dollars (\$300). (7-1-00)
- b. Producers -- eighty dollars (\$80). (3-13-02)
- c. Designation as a managing general agent -- eighty dollars (\$80). (3-13-02)
- d. Adjusters -- eighty dollars (\$80). (3-13-02)
- e. Reinsurance intermediary -- eighty dollars (\$80). (3-13-02)
- f. Surplus line brokers -- eighty dollars (\$80). (3-13-02)
- g. Life settlement providers -- five hundred dollars (\$500). (3-29-10)
- h. Life settlement brokers -- three hundred dollars (\$300). (3-29-10)
- i. Independent review organization -- five hundred dollars (\$500). (3-29-10)

j. Vendor of portable electronics insurance, a type of limited lines producer: ()

i. A vendor of portable electronic insurance who is engaged in portable electronics transactions at more than ten (10) locations in the state of Idaho -- one thousand dollars (\$1,000). ()

ii. A vendor of portable electronic insurance who is engaged in portable electronics transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). ()

02. Examination Fees. The following fees are due and must be paid in order to take examinations for the following licenses: (3-13-02)

- a. Producers and adjusters -- application for examination and each time taken -- sixty dollars (\$60). (3-13-02)

03. Fingerprint Processing. Processing fingerprints (when required) -- ~~sixty~~ not to exceed eighty dollars (\$~~60~~80). (~~7-1-00~~)()

04. License Renewal. The following fees are due and must be paid for each license in order to renew or continue each and every license: (3-13-02)

- a.** Adjusters, producers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-16-04)
- i.** A vendor of portable electronic insurance who is engaged in portable electronics transactions at more than ten (10) locations in the state of Idaho -- five hundred dollars (\$500). ()
- ii.** A vendor of portable electronic insurance who is engaged in portable electronics transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). ()
- b.** Redesignation as managing general agent (annual) -- eighty dollars (\$80). (3-13-02)
- c.** Administrators (biennial) -- eighty dollars (\$80). (3-19-07)
- i.** Renewal form shall be filed on or before December 31. (3-19-07)
- ii.** Any renewal form postmarked after December 31 shall include a penalty in an amount equal to the renewal fee. (3-19-07)
- iii.** A renewal form postmarked after January 31 must be submitted as a new application with supporting documents and the full application fee. (3-19-07)
- d.** Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-16-04)
- e.** Life settlement providers (biennial) -- three hundred dollars (\$300). (3-29-10)
- f.** Life settlement brokers (biennial) -- eighty dollars (\$80). (3-29-10)
- g.** Independent review organization (biennial) -- three hundred dollars (\$300). (3-29-10)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.56 - REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS

DOCKET NO. 18-0156-1201

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 Sections 41-211 and 41-1314, and 14-2708(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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:

Language will be added to permit title agents to provide attorneys and appraisers plat maps and copies of CCRs without charge.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 103](#). A public meeting was held on July 18, 2012, pursuant to the notice.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208)334-4214 or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2012.

DATED this 26th day of July, 2012.

William Deal, Director
Department of Insurance
700 West State Street – 3rd Floor
Boise ID 83720-0043
Phone: (208)334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0156-1201

012. PERMITTED CONSUMER INFORMATION.

01. Information That May Be Provided. To facilitate the listing and sale of Idaho property, certain consumer information may be provided without charge to licensed real estate agents and brokers or to a person who owns the property for which the request is made, but is limited to the following information: (3-15-02)

02. Listing Package. A single copy of a “listing package,” “property profile,” or similarly named packet of information. (7-1-93)

a. A “listing package” shall consist of information relating to the ownership and status of title to real property, and may include a single copy of only the following six (6) items: (3-15-02)

- i. The last deed appearing of record; (7-1-93)
- ii. Deeds of trust or mortgages which appear to be in full force and effect; (7-1-93)
- iii. A plat map reproduction and/or a locator map; (3-15-02)
- iv. A copy of applicable restrictive covenants; (3-15-02)
- v. Tax information; and (3-15-02)
- vi. Property characteristics such as number of rooms, square footage and year built. (3-15-02)

b. A “listing package” may include no more than the six (6) above described items of information and shall not include market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances. A generic cover letter with the printed standard letterhead of the title entity may be attached to the “listing package.” The cover letter may include a brief statement identifying by name only, which of the six (6) permitted items of information are attached thereto. The cover letter may also contain a disclaimer as to conclusions of marketable ownership or encumbrances. The content of the cover letter or “listing package” is strictly limited to the foregoing and shall specifically not include any advertising or marketing for the benefit of the recipient. (3-15-02)

c. Market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances may be provided, but only upon receipt of a charge commensurate with the actual cost of the work performed and the material furnished (See Exhibit 1, #1). (3-15-02)

03. Additional Information That May Be Provided. A title entity may provide to licensed attorneys and licensed appraisers only the following documents without charge: ()

- a.** A plat map reproduction: ()
- b.** A copy of applicable restrictive covenants: ()
- c.** A cover letter as described in Paragraph 012.02.b. ()

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

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

DOCKET NO. 26-0120-1202 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 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 September 19, 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:

In order to implement the 2012 Legislative session H446 the Idaho Department of Parks and Recreation (IDPR) proposes changes to IDAPA 26, Title 1, Chapter 20 that establish fee structure and enforcement language in support of the Idaho State Parks Passport program. The Temporary Rule also includes definitions and language clean-up.

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

The rule changes are required to implement 2012 Legislative session H446

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

The rule changes proposed effect fees as follows:

1. Establish a fee for a State Parks Passport at the rate of \$10.00 per vehicle per registration year;
2. Establish a replacement sticker fee for the State Parks Passport at the rate of \$2.00;
3. Establish a replacement sticker fee for the Annual Motor Vehicle Entrance Fee at the rate of \$5.00;
4. Remove the Second Vehicle Annual Passport, currently at the rate of \$15.00; and
5. Remove the exemption on campers from paying the Daily charge per motorized vehicle (fee to stay at \$5.00 per day).

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

The fiscal impact of these changes affect IDPR, Idaho Transportation Department (ITD), and Recreational Users. The projected ongoing fiscal impact based upon a 20% participation rate and taking into account payment of a \$0.21 per transaction and a 7% administrative fee to the ITD is a net gain of \$1.9 million. First year startup costs are anticipated to be \$239,000 which includes the cost of modifications to ITD's legacy application environment (\$117,000) and \$122,000 for changes to ITD's "Garnet" system currently in development.

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 September 26, 2012.

DATED this 2nd day of August, 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 FEE DOCKET NO. 26-0120-1202**

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 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. Campsites that have been designated and built to meet ADA accessibility requirements. These campsites are not managed exclusively for ADA use.~~ ~~(3-30-06)~~(9-1-12)T

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. Annual Motor Vehicle Entrance Fee. A sticker that allows a single motor vehicle to enter Idaho State Parks without being charged a motor vehicle entrance fee. (9-1-12)T

a. The Annual Motor Vehicle Entrance Fee sticker expires December 31 of the year issued. (9-1-12)T

b. The Annual Motor Vehicle Entrance Fee sticker may be purchased at any Idaho State Park, the Idaho Department of Parks and Recreation central or regional offices, or online. (9-1-12)T

c. Automobiles, Trucks, Motorhomes. The sticker must be permanently affixed on the lower corner of the driver's side windshield. (9-1-12)T

d. All-Terrain Vehicles (ATVs), Utility Type Vehicles (UTVs), Speciality Off-Highway Vehicles (SOHVs). The sticker must be permanently affixed on the rear fender. (9-1-12)T

e. Motorbikes. The sticker must be permanently affixed on the rider's right fork. (9-1-12)T

f. Snowmobiles. The sticker must be permanently affixed to the right side of the cowling located just below the hood, to the right of the registration sticker. It must be visible and legible at all times. (9-1-12)T

03. Annual Motor Vehicle Entrance Fee Replacement. Replacement due to a motor vehicle sale or damage to an existing annual motor vehicle entrance fee sticker. (9-1-12)T

a. The applicant must apply at any Idaho State Park, at the Idaho Department of Parks and Recreation central or regional offices, or online for replacement sticker. (9-1-12)T

b. Proof of purchase must be established. (9-1-12)T

c. Display and placement of the replacement sticker will comply with Subsections 010.02.c. through 010.02.f. of this Chapter. (9-1-12)T

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

035. **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, 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. (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)

046. **Camping Day.** (3-30-06)

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

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

057. **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)

068. **Day Use.** Use of any non-camping lands and/or facilities between the hours of 7 a.m. and 10 p.m. unless otherwise posted. (3-30-06)

~~**07.** **Day Use Fee.** A fee charged for entry to a designated area. (3-30-06)~~

- ~~089~~. **Department.** The Idaho Department of Parks and Recreation. (1-1-94)
- ~~0910~~. **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)
- ~~101~~. **Designated Roads and Trails.** Facilities recognizable by reasonable formal development, signing, or posted rules. (3-7-03)
- ~~112~~. **Director.** The Director and chief administrator of the Department, or the designee of the Director. (1-1-94)
- ~~123~~. **Dock and Boating Facility.** Floats, piers, and mooring buoys owned or operated by the Department. (3-13-97)
- ~~134~~. **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
- ~~145~~. **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~~)(9-1-12)T
- ~~156~~. **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)
- ~~167~~. **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)
- 18.** Idaho State Parks Passport. A sticker, purchased from any county Department of Motor Vehicles' office in the state of Idaho, that matches a particular motor vehicle license number and expiration date, allowing that vehicle to enter Idaho State Parks without being charged a motor vehicle entrance fee. (9-1-12)T
- a.** Idaho State Parks Passport sticker expires concurrent with the expiration of that vehicle's registration. (9-1-12)T
- b.** Display and placement of the Idaho State Parks Passport will comply with Subsections 010.02.c. through 010.02.f. of this Chapter. (9-1-12)T
- 19.** Idaho State Parks Passport Replacement. Replacement due to a motor vehicle registration transfer or damage to an existing passport. (9-1-12)T
- a.** The applicant must apply in person to their county Department of Motor Vehicles' office for this replacement sticker. (9-1-12)T
- b.** Display and placement of the replacement sticker will comply with Subsections 010.02.c. through 010.02.f. of this Chapter. (9-1-12)T
- ~~1720~~. **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)(9-1-12)T
- 21.** Motor Vehicle Entrance Fee (MVEF). A fee charged for entry to or operation of a motor vehicle in an Idaho State Park. Day use expires at 10 p.m. on date of purchase or as posted; overnight camping use expires upon checkout which is 1 p.m. for a campsite and 12 noon for a facility. (9-1-12)T

~~18~~**22.** **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~~**23.** **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

~~20~~**4.** **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)

~~25.~~ **Recreational Vehicle (RV).** A “recreational vehicle” means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The entities are travel trailer, camping trailer, truck camper, fifth-wheel trailer, and motorhome. It does not include pickup hoods, shells, or canopies designed, created, or modified for occupational use. (Section 39, Idaho Code) (9-1-12)T

~~21~~**6.** **Standard Amenities.** Campsite with no serviced amenities. (3-30-06)

~~22~~**7.** **Serviced Amenities.** Serviced campsite amenities includes water, electricity, or sewer. (3-30-06)

~~23~~**8.** **Primary Season.** The time of the year when the majority of use occurs at a park facility. (3-7-03)

~~24~~**9.** **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 non-motorized 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)

~~25~~**30.** **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)

150. USE OF ~~MOTORIZED~~ VEHICLES.

Except where otherwise provided, motor vehicles may enter or be operated in park and recreation areas and facilities only upon payment of the motor vehicle entrance fee or display of a valid Idaho state Parks Passport or Annual Motor Vehicle Entrance Fee sticker. All ~~motorized~~ vehicles shall stay on authorized established Department roadways or parking areas except for trails and areas which are clearly identified by signs for off-road use. Drivers and ~~motor~~ vehicles operated within lands administered by the Department shall be licensed or certified as required under state law. The operators of all ~~motor~~ vehicles shall comply with the ~~day use~~ motor vehicle entrance fee requirements, speed and traffic rules of the Department, and all other federal, state, local laws, and ordinances governing traffic on public roads. (~~3-30-06~~)(9-1-12)T

01. Use of Parking Spaces for Persons With a Disability. Special zones and parking spaces within state parks are designated and signed for exclusive use by vehicles displaying a special license plate or card denoting legal handicap status as provided in Section 49-213, Idaho Code. (3-7-03)

02. Overdriving Road Conditions and Speeding Prohibited. No person shall drive a vehicle at a speed greater than the posted speed or a reasonable and prudent speed under the conditions, whichever is less. Every person shall drive at a safe and appropriate speed when traveling on park roads, in congested areas, when pedestrians or bicyclists are present, or by reason of weather or hazardous highway conditions as provided in Section 49-654, Idaho Code. (3-7-03)

03. Motorcycle and ATV Safety Helmets. Persons under eighteen (18) years of age shall wear a

protective safety helmet when riding upon a motorcycle or an all-terrain vehicle as operator or passenger as provided in Section 49-666, Idaho Code. (3-30-06)

04. Snowmobile Operation Limited. No person shall operate a snowmobile on any regularly plowed park road unless authorized by park manager or designee. Access on non-plowed roads and trails shall only be permitted when authorized by the park manager. (3-30-06)

05. Compliance With Posted Regulatory Signs Required. Persons operating vehicles within state parks are required to obey posted regulatory signs as provided in Section 49-807, Idaho Code. (3-7-03)

06. Obedience to Traffic Direction Required. No person shall willfully fail or refuse to comply with any lawful order or directions of any park employee invested with authority to direct, control, or regulate traffic within a state park. (3-30-01)

07. Restrictions. The operation of motorized vehicles within a designated campground is restricted to ingress and egress to a campsite or other in-park destination by the most direct route. ~~(3-30-06)~~(9-1-12)T

08. Official Use. This rule does not prohibit official use of motorized vehicles by Department employees anywhere within lands administered by the Department. ~~(1-1-94)~~(9-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

175. PUBLIC BEHAVIOR.

01. Resisting and Obstructing a Park Employee Prohibited. Persons shall not willfully resist, delay, obstruct, or interfere with any park employee in his duties to protect the state's resources and facilities and to provide a safe place to recreate. (3-30-01)

02. Day Use. ~~Between the hours of 10 p.m. and 7 a.m., unless otherwise posted, all persons not registered for the night or attending park sponsored activities are to leave the park.~~ Between the hours of 10 p.m. and 7 a.m., unless otherwise posted, all personal property must be removed from the day use area. ~~(3-30-06)~~(9-1-12)T

03. Quiet Hours. Within lands administered by the Department, the hours between 10 p.m. and 7 a.m. shall be considered quiet hours unless otherwise posted. During that time, users are restricted from the production of noise that may be disturbing to other users. (1-1-94)

04. Noise. Amplified sound, poorly muffled vehicles, loud conduct, or loud equipment are prohibited within lands administered by the Department, except in designated areas or by authority of the park manager. (1-1-94)

05. Alcohol. State laws regulating alcoholic beverages and public drunkenness shall be enforced within lands administered by the Department. (3-30-01)

06. Littering. Littering is prohibited within lands administered by the Department. (1-1-94)

07. Smoking. State Park facilities are designated as "smoke free" areas. Persons shall not smoke within park structures or at posted outdoor areas. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

200. CAMPING.

- 01. Occupancy.** Camping shall be permitted only in designated campsites, areas, or facilities. A campsite or facility will be determined occupied only after ~~the~~ all required ~~camping~~ fees have been paid, ~~and~~ registration information completed, and all permits properly displayed. Unique circumstances may arise, and specific sites or facilities by virtue of design may require exceptions to the capacity limits ~~outlined below.~~ ~~(3-30-06)~~ (9-1-12)T
- 02. Self Registration.** In those areas so posted, campers shall register themselves for the use of campsites and facilities, paying ~~the appropriate~~ all required fees as provided for herein and in accordance with all posted instructions. ~~(3-30-06)~~ (9-1-12)T
- 03. Length of Stay.** Except as provided herein, no person, party or organization may be permitted to camp 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 Operations Division Administrator or designee may authorize shorter or longer periods for any individual area. (3-30-06)
- 04. Registration Required.** All ~~camping~~ required fees must be paid, ~~and~~ registration information completed, and all permits properly displayed prior to occupying a campsite or facility. Saving or holding campsites or facilities for individuals not physically present at the time of registration for “first come first served” camping is prohibited. ~~(3-30-06)~~ (9-1-12)T
- 05. Condition of Campsite.** Campers shall keep their individual or group campsite or facility and other use areas clean. (3-30-06)
- 06. Liquid Waste Disposal.** All gray water and sewage wastes shall be held in self-contained units or collected in water-tight receptacles in compliance with state adopted standards and dumped in sanitary facilities provided for the disposal of such wastes. (3-30-01)
- 07. Motorized Equipment.** No generators or other motorized equipment emitting sound and exhaust are permitted to be operated during quiet hours. (7-1-93)
- 08. Campsite Parking.** All ~~motorized~~ ~~wheeled~~ vehicles and trailers, shall fit entirely within the campsite parking pad/area provided with the assigned individual or group campsite or facility. All equipment that does not fit entirely within the designated campsite parking area shall be parked at another location within the campground, or outside the campground, as may be designated by the park manager or designee. If no outside parking is available, the park manager or designee may require the party to register on a second campsite, if available. ~~(3-30-06)~~ (9-1-12)T
- 09. Equipment.** All camping equipment and personal belongings of a camper shall be maintained within the assigned individual or group campsite or facility perimeter. (3-30-06)
- 10. Check Out.** (3-30-06)
- a.** Campsite. Campers are required to check out and leave a clean individual or group campsite by 1 p.m. of the day following the last paid night of camping. (3-30-06)
- b.** Facility. Campers are required to check out and leave a clean individual or group camping facility by 12 noon of the day following the last paid night of camping. (3-30-06)
- 11. Visitors.** Individuals visiting campers shall park in designated areas, except with permission of the park manager or designee. Visitors shall conform to established day use hours and day use fee requirements. (3-30-06)
- 12. Responsible Party.** The individual purchasing an individual or group campsite or facility is responsible for ensuring compliance with the rules within this chapter. (3-30-06)
- 13. Camping Prohibited.** Camping in individual or group facility sites is prohibited unless in areas specifically designated for camping or by authorization of the park manager or designee. (3-30-06)

201. BOATING FACILITIES.

The provisions of this section do not apply to Department-operated marinas which provide moorage on a lease or long-term rental basis. (3-7-03)

01. Moorage and Use of Marine Facilities. No person or persons shall moor or berth a vessel of any type in a Department-owned or operated park or marine area that is signed for other use. Vessel moorage shall be limited to no more than fifteen (15) days in any consecutive thirty (30) day period. (3-30-06)

02. Moorage Fees. Vessels moored between 10 p.m. and 7 a.m. at designated facilities shall be charged an overnight moorage fee. (3-30-06)

03. Use of Onshore Campsites. If any person or persons from a vessel moored at a Department boating facility also occupies any designated campsite onshore, ~~the appropriate established~~ **all required** fees for such campsite(s) shall be paid in addition to any moorage fee provided herein. ~~(3-13-97)~~(9-1-12)T

04. Self-Registration. In those areas so posted, boaters shall register themselves for the use of marine facilities and onshore campsites, paying ~~the appropriate~~ **all required** moorage and campsite fees as provided for herein and in accordance with all posted instructions. ~~(3-13-97)~~(9-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

225. FEES AND SERVICES.

01. Authority. (3-13-97)

a. The Board shall adopt fees for the use of lands, facilities, and equipment. Visitors shall pay all ~~applicable~~ **required** fees. ~~(3-7-03)~~(9-1-12)T

b. Park managers or designees may set fees for goods available for resale and services provided by staff ~~that~~ **to** enhance the users experience unique to the individual park. Fees for lands, facilities, and equipment unique to an individual park will be posted at that site. ~~(3-7-03)~~(9-1-12)T

02. General Provisions. All fees in this chapter are maximum fees unless otherwise stated. Actual fees charged shall be established by Board Policy. (3-7-03)

03. Camping. Camping fees include the right to use designated campsites and facilities for the period camp fees are paid. Utilities and facilities may be restricted by weather or other factors. (3-16-04)

04. Group Use. (7-1-93)

a. Groups of twenty-five (25) persons or more, or any group needing special considerations or deviations from these rules shall obtain a permit. Permits may be issued after arrangements have been made for proper sanitation, population density limitations, safety of persons and property, and regulation of traffic. (3-30-06)

b. Permits for groups of up to two hundred fifty (250) people may be approved by the park manager with thirty (30) days advance notice. Permits for groups of two hundred fifty (250) ~~to one thousand (1,000)~~ **or more people** may be approved by the Director with forty-five (45) days advance notice. ~~Groups over one thousand (1,000) may be approved by the Board with sixty (60) days advance notice. The Director may approve groups over one thousand (1,000) with thirty (30) days advance notice, if they are repeat users.~~ ~~(1-1-94)~~(9-1-12)T

c. The ~~day use~~ **motor vehicle entrance** fee may be charged to groups entering a designated area for a non-camping visit. ~~(3-30-06)~~(9-1-12)T

05. Fees and Deposits. Fees and deposits may be required for certain uses or the reservation of certain

facilities unique to an individual park and will be posted at that site. (3-30-06)

06. Fee Collection Surcharge. A ten dollar (\$10) surcharge may be added to all established fees when the operator of a motorized vehicle or responsible party of a camping unit fails to pay all required fees prior to entering a park area or occupying a campsite. If the surcharge is assessed, and the operator of the vehicle or responsible party is not present, all required fees in addition to the ten dollar (\$10) surcharge will be assessed against the registered owner of the motorized vehicle or camping unit. ~~(4-7-11)~~(9-1-12)T

07. Admission Fees. A maximum per person fee of ten dollars (\$10) may be charged for internal park facilities which provide an educational opportunity or require special accommodations. (3-10-00)

08. Cooperative Fee Programs. The Department may collect and disperse fees in cooperation with fee programs of other state and federal agencies. (3-10-00)

09. Encroachment Permit Application Fee. The Department may assess an encroachment application fee as set by the Board to cover administrative costs incurred by the Department in reviewing the application and the site, and in preparing the appropriate document(s). (9-1-12)T

226. -- 249. (RESERVED)

250. FEE SCHEDULE: CAMPSITES.

01. Campsites:

CAMPSITE FEE TABLE	
<u>Maximum Fee Allowed</u>	
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
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

CAMPSITE FEE TABLE Maximum Fee Allowed	
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 <u>per motor vehicle or trailer per night</u> Applies to non-campers leaving a <u>motor</u> vehicle <u>unattended</u> or <u>trailer</u> 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-H)~~(9-1-12)T

02. Reservation Service Fees, Individual Campsite or Facility. A non-refundable non-transferable (from one 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~~ MOTOR VEHICLE ENTRANCE FEE.
~~Day Use Fee:-~~

DAY USE <u>MOTOR VEHICLE ENTRANCE</u> FEE TABLE. Maximum Fee Allowed	
Statewide Annual State Park Passport <u>Annual Motor Vehicle Entrance Fee</u> per motorized vehicle	\$40
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
<u>Annual Motor Vehicle Entrance Fee Replacement per motor vehicle</u>	<u>\$5</u>

DAY-USE MOTOR VEHICLE ENTRANCE FEE TABLE.	
Maximum Fee Allowed	
Daily charge per commercial motor coach (no annual pass available)	\$25
Disabled Idaho Resident Veterans - The <u>day-use motor vehicle entrance</u> fee is waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability	
Second Vehicle Annual Idaho State Parks Passport per motor vehicle.	\$150
Idaho State Parks Passport Replacement per motor vehicle	\$2

~~(4-7-11)~~(9-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

256. FEE SCHEDULE: BOATING FACILITIES.

Boating Facilities:

BOATING FACILITIES FEE TABLE	
Maximum Fee Allowed	
Vessel launching - (per vessel/per day) (Annual park passport or day-use <u>Annual Motor Vehicle Entrance Fee, Idaho State Parks Passport, or motor vehicle entrance</u> 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
Overnight moorage - persons camping on vessel	
Any length vessel	\$10/night
Any length vessel moored at buoy	\$9/night

~~(4-7-11)~~(9-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

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 required fees shall be made before a reservation is confirmed. ~~(3-30-06)~~(9-1-12)T
 - 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 required fees shall be made before a reservation is confirmed. ~~(3-30-06)~~(9-1-12)T
 - ii.** Payment of all camping and related service required 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)~~(9-1-12)T

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 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 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. (5-9-12)T

05. Park Manager Authority. The park manager or designee may deny entry to, or reservation of, any Department unit, campsite, or facility, to any individual whose prior documented behavior has violated Department rules or whose in-park activities are incompatible with the park's operation. (3-30-06)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.41.01 - CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING SERVICES IN IDAHO SUBJECT TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE TELEPHONE CUSTOMER RELATIONS RULES)

DOCKET NO. 31-4101-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 3, 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 Sections 61-515, 62-605(5)(b), and 62-622(5), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 IPUC adopted changes to IDAPA 31.41.01.502, effective July 3, 2012, by approving a stipulation signed by IPUC Staff and telephone companies affected by the rule. The proposed change was initiated by the telephone companies who face competitive pressures that did not exist in 1993 when the rule was promulgated. The rule change increases time to restore service when outages occur, eliminates penalty payments, and eliminates automatic reporting requirements. Particular references to Rule 502 in Rule 500 and Rule 501 are deleted to coincide with the changes to Rule 502.

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

The change to IDAPA 31.41.01.502 confers an economic benefit on telephone companies who currently face competition in local telephone markets. The rule change (a) increases time to restore service when outages occur, (b) eliminates penalty payments, and (c) eliminates automatic reporting requirements. Adopting the rule change as temporary allows benefit to be immediately effective.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted through a public workshop on April 30, 2012, and by written comments received by electronic mail. Members of the public and representatives of at least twelve (12) telecommunications companies participated in the informal negotiated rulemaking process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weldon B. Stutzman, Deputy Attorney General, at (208) 334-0318.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before September 26, 2012.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of July, 2012.

Jean D. Jewell, Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 31-410-1201

500. QUALITY OF SERVICE (RULE 500).

01. Service Standards. Each telephone company providing local exchange service pursuant to Title 61 or Title 62, Idaho Code, as applicable, and each eligible telecommunications carrier (ETC) is required to employ prudent management and engineering practices to ensure that customers receive the best quality of service practicable. Each telephone company is required to adopt and pursue a maintenance program aimed at achieving efficient operation of its systems to render safe, adequate and uninterrupted service. These programs must include guidelines for keeping all plant and equipment in good repair, including the following: (3-29-10)

- a. Broken, damaged or deteriorated equipment must be promptly repaired or replaced; and (7-1-93)
- b. Transmission problems (including induction, cross-talk, or other poor transmission on any line) must be promptly corrected when located or identified. (7-1-93)

02. Service Outage. If a customer's local telephone service quality deteriorates to such an extent that the customer cannot make local calls or cannot receive local calls or cannot use the service for voice grade communication because of cross-talk, static or other transmission problem, the telephone company must respond to a customer's report of such a "service outage" in accordance with Rule 502. ~~Customer's bills must be appropriately and automatically credited pursuant to the terms of Rule 502.~~ (3-29-10)(7-3-12)T

501. RESPONSE TO SERVICE OUTAGE (RULE 501).

01. Receipt and Recording of Reports. Each telephone company providing local exchange service shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of and response to all reports. The telephone company shall maintain an accurate record of trouble reports made by its customers. This record shall include accurate identification of the affected customer or service, the time, date and nature of the report, the action taken to clear the trouble or satisfy the customer, and the date and time of trouble clearance or other disposition. This record shall be available to the Commission or its authorized representatives upon request at any time within two (2) years of the date of the record. (3-29-10)

02. Repair Commitments. Commitments to customers for repair service shall be set in accordance with Rule 502. Each telephone company shall make every reasonable attempt to fulfill repair commitments to customers. Customers shall be timely notified of unavoidable changes. ~~Failure to meet a repair commitment does not relieve the telephone company of the credit provisions in Rule 502.01, unless the customer fails to keep an appointment the customer agreed to when the original commitment was made.~~ (3-29-10)(7-3-12)T

502. REPAIR SERVICE STANDARDS (RULE 502).

01. Restoration of Service. When a telephone company providing local exchange service is informed by a customer of a service outage as described in Rule 500.02, the telephone company must restore service within

forty-eight (48) hours after the report of the outage, except:

~~(3-29-10)~~(7-3-12)T

a. ~~Restore service within sixteen (16) hours after the report of the outage if the customer notifies the telephone company that the service outage creates an emergency for the customer; or~~ For outages reported on Thursday, the company must restore service no later than the following Monday by 6 p.m.; and ~~(7-1-93)~~(7-3-12)T

b. ~~Restore service within twenty-four (24) hours after the report of the outage if no emergency exists, except that outages reported between noon on Saturday and 6 p.m. on the following Sunday must be restored within forty-eight (48) hours or by 6 p.m. on the following Monday, whichever ever is sooner. If the telephone company does not restore service within the times required by this Rule the telephone company must credit the customer's account for an amount equal to the monthly rate for one (1) month of basic local exchange service.~~ For outages reported on Friday, Saturday or Sunday, the company must restore service no later than the following Tuesday by 6 p.m.

~~(7-1-93)~~(7-3-12)T

02. Extenuating Circumstances. Following disruption of telephone service caused by natural disaster or other causes not within the telephone company's control and affecting large groups of customers, or in conditions where the personal safety of an employee would be jeopardized, the telephone company is ~~not~~ required to ~~provide the credit referred to in Rule 502.01 as long as it~~ uses reasonable judgment and diligence to restore service, giving due regard for the needs of various customers. When a customer causes the customer's own service outage or does not make a reasonable effort to arrange a repair visit within the service restoration deadline, or when the telephone company determines that the outage is attributable to the customer's own equipment or inside wire, the telephone company is not required to ~~provide to that customer the credit referred to in~~ meet the restoration timelines of Rule 502.01.

~~(3-29-10)~~(7-3-12)T

03. Compliance Standard. Each month at least ninety eight percent (98%) of out-of-service trouble reports shall be cleared in accordance with Rules 502.01 and 502.02. ~~The telephone company shall keep a monthly service record as described in Rule 501.01 and shall notify the Commission if the record indicates the ninety percent (90%) level has not been met for a period of three (3) consecutive months.~~

~~(3-29-10)~~(7-3-12)T

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1206

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

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

AUTHORITY: In compliance with Sections and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section 63-105A, Idaho Code, and Section 63-802, Idaho Code.

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

Property Tax Rule 803 needs to be amended to provide instructions to implement recently enacted HB 697 with respect to the required use of foregone amount. The levy permitted pursuant to section 63-1305A, Idaho Code, requires that the taxing district first budgets the maximum amount of property tax permitted pursuant to Section 63-802, Idaho Code, including any foregone amount. This requirement shall be deemed to have been met if, despite additional budget allowed pursuant to Section 63-802, Idaho Code, every fund used by the taxing district levies at the maximum levy rate provided by law, or, if no maximum levy rate is provided, the fund levies the maximum permitted budget amount. To the extent necessary to enable all previously accrued foregone amounts to be levied, the taxing district may need to use additional funds within which it is permitted to levy property taxes before levying as permitted pursuant to Section 63-1305A, Idaho Code.

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

Compliance with deadlines in amendments to governing law or federal programs.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Alan Dornfest at (208) 334-7544.

DATED this 3rd day of August, 2012.

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

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 35-0103-1206

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803).
Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), and 63-3638(10), Idaho Code. (4-2-08)

01. Definitions. (4-5-00)

a. “Dollar Certification Form” (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code. (4-6-05)

b. “Prior Year’s Market Value for Assessment Purposes.” Prior year’s market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code. (4-2-08)

c. “Annual Budget.” For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f) or 63-802(1)(g), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(f) or 63-802(1)(g), Idaho Code, then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	FY 1999	FY 2000	FY 2001	FY 2002
Annual Budget	\$10,000	\$10,000	\$10,700	\$11,621
3% Increase	\$0	\$300	\$321	\$349
Subtotal	\$10,000	\$10,300	\$11,021	\$11,970
1999 Election Amount	\$0	\$400 of \$1,000	\$600 of \$1,000	\$0
Certified Budget	\$10,000	\$10,700	\$11,621	\$11,970

*The Library District with zero dollars (\$0) in value for new construction and/or annexation approves an additional budget amount of one thousand dollars (\$1,000) in 1999, but only certifies four hundred dollars (\$400) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. (4-6-05)

d. “Property Tax Funded Budget.” Property tax funded budget means that portion of any taxing district’s budget certified to the Board of County Commissioners, approved by the State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. “Recovered/Recaptured Property Substitute Funds Tax List.” Recovered/recaptured property tax substitute funds list means the report sent by the county auditor to the appropriate taxing district(s)/unit(s) by the first Monday in August and to the State Tax Commission with the L-2 Forms, listing the amount of revenue distributed to each appropriate taxing district/unit as recovery of property tax or other payments during the twelve (12) month period ending June 30 each year under the following sections: (5-8-09)

- i. Section 63-602G(5), Idaho Code; and (5-8-09)
- ii. Section 63-3029B(4), Idaho Code; and (5-8-09)
- iii. Section 31-808(11), Idaho Code. (5-8-09)

f. “Taxing District/Unit.” Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those noncountywide governmental entities without authority to levy property taxes but on whose behalf such taxes are levied or allocated by an authorized entity such as the county or city for such entities as county road and bridge funds or urban renewal agencies, respectively. (4-6-05)

g. “New Taxing District.” For property tax budget and levy purposes, new taxing district means any taxing district for which no property tax revenue has previously been levied. See the Idaho Supreme Court case of Idaho County Property Owners Association, Inc. v. Syringa General Hospital District, 119 Idaho 309, 805 P.2d 1233 (1991). (4-2-08)

02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located by submitting the completed L-2 Form prescribed by the State Tax Commission. (4-6-05)

03. Budget Certification Requested Documents. Using the completed L-2 Form, each board of county commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The board of county commissioners shall only submit documentation specifically requested by the State Tax Commission. (4-2-08)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. (3-20-04)

a. “Department or Fund.” Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. “Total Approved Budget.” List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. “Cash Forward Balance.” List any money brought forward from a prior year to help fund the approved budget. Cash forward balance (Column 3) is the difference between the total approved budget (Column 2) and the sum of amounts reported as other revenue not shown in Column 5 (Column 4), agricultural equipment property tax replacement (Column 5), and balance to be levied (Column 6). (3-15-02)

d. “Other Revenue not Shown in Column 5.” List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

e. “Property Tax Replacement.” Report the following: (5-8-09)

i. The amount of money received annually under Section 63-3638(10), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code; (4-2-08)

ii. The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the “Recovered/recaptured property tax substitute funds list”; (5-8-09)

iii. The amount of money received as recapture of the property tax benefit under Section 63-3029B(4), Idaho Code, and listed on the “Recovered/recaptured property tax substitute funds list”; and (5-8-09)

iv. The amount of money transferred from the interest-bearing trust to the county indigent fund under Section 31-808(11), Idaho Code. (5-8-09)

v. The appropriate amount of money listed on the statement and distributed to the county and each appropriate city under Section 63-2603, Idaho Code, as county property tax relief and detention facility debt retirement. (4-6-05)

f. “Balance to be Levied.” Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)

g. Other Information. Provide the following additional information. (4-5-00)

- i. The name of the taxing district or unit; (3-20-04)
- ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)
- iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; and (5-3-03)
- iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)
- h.** Attached Information. Other information submitted to the county auditor with the L-2 Form. (4-6-05)
- i. For all taxing districts, L-2 worksheet. (3-20-04)
- ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (3-20-04)
- iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, and plant facility funds), notice of election and election results. (3-20-04)
- iv. Voter approved fund tracker. (3-20-04)
- v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (3-20-04)
- vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the Board of County Commissioners and the Board of the Library District reporting the dedicated portion of that city's property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (3-20-04)
- vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the Board of County Commissioners a copy of the certification from that city reporting the information provided for in Subparagraph 803.04.h.vi., of this rule. (4-6-05)

05. Special Provisions for Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

- a.** The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)
- b.** Said new agreement succeeds the original agreement; and (3-30-01)
- c.** In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions for Property Tax Replacement other than Replacement Money Received for Property Subject to the Exemption Provided in Section 63-602KK, Idaho Code. With the exception of property tax replacement monies received for property subject to the exemption provided in Section 63-602KK, Idaho Code, property tax replacement monies must be reported on the L-2 Form and separately identified on accompanying worksheets. For all taxing districts, these monies must be subtracted from the "balance to be levied".

The reduced balance shall be used to compute levies, but the maximum amount permitted pursuant to Section 63-802, Idaho Code, shall be based on the sum of these property tax replacement monies, excluding monies received pursuant to Section 31-808(11), Idaho Code, and the amount actually levied. (5-8-09)

a. The State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money, pursuant to Section 63-3638(10), Idaho Code, to be paid to a taxing district changes from the amount paid in the preceding year. By the first Monday of May, the State Tax Commission shall further notify each school district and each county clerk of any changes in the amount of property tax replacement money to be received by that school district pursuant to Section 63-3638(10), Idaho Code. (5-8-09)

b. By no later than the first Monday of August of each year, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies that will be received. (4-2-08)

c. Except as provided in Paragraph 803.06.d. of this rule, the subtraction required in Subsection 803.06 of this rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code. For school districts this subtraction must be first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. (5-8-09)

d. For counties receiving monies described in Section 31-808(11), Idaho Code, the amount of money transferred from the interest-bearing trust to the county indigent fund shall be subtracted from the maximum amount of property tax revenue permitted pursuant to Section 63-802, Idaho Code. (5-8-09)

e. Levy limits shall be tested against the amount actually levied. (3-15-02)

07. Special Provisions for Property Tax Replacement Received for Property Subject to the Exemption Provided in Section 63-602KK, Idaho Code. The following procedure is to be used to calculate levy rates and maximum amounts of property tax revenue for taxing districts or units that receive property tax replacement money for property subject to the exemption in Section 63-602KK, Idaho Code. (5-8-09)

a. Such property tax replacement money is not to be subtracted from the "balance to be levied" amount certified on the L-2 Form. (5-8-09)

b. The otherwise taxable value of the property subject to the exemption provided in Section 63-602KK, Idaho Code, is to be included in the value of the taxing district or unit used to calculate the levy rate. (5-8-09)

c. The maximum amount permitted pursuant to Section 63-802, Idaho Code, shall be based on the amount actually levied plus other property tax replacement money as defined in Paragraph 803.4.e. of this rule, excluding any amount transferred as provided in Section 31-808(11), Idaho Code. (5-8-09)

08. Special Provisions for Library Districts Consolidating with Any City's Existing Library Operations or Services. For any library district consolidating with any city's existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule shall be added to that library district's property tax funded budget in effect at the time of the election for consolidation. This total shall be used as this district's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

09. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule shall be subtracted from that city's total property tax funded budget in effect at the time of the election for the consolidation. This difference shall be used as this city's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

10. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds. Whenever the "Calculated Levy Rate" column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the "Column Total" entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (4-6-05)

11. Special Provisions for School Districts' Tort Funds - Hypothetical New Construction Levy. To calculate the new construction portion of the allowed annual increase in a school district's tort fund under Section 63-802(1), Idaho Code, calculate a Hypothetical New Construction Levy. To calculate this levy, sum the school district's tort fund for the prior year and the agricultural equipment replacement revenue subtracted from that tort fund, then divide this sum by the school district's taxable value used to determine the tort fund's levy for the prior year. For the current year, the allowed tort fund increase for new construction is this Hypothetical New Construction Levy times the current year's new construction roll value for the school district. (4-2-08)

12. Special Provisions for Interim Abatement Districts. When an interim abatement district transitions into a formally defined abatement district under Section 39-2812, Idaho Code, the formally defined abatement district shall not be considered a new taxing district as defined in Paragraph 803.01.g. of this rule for the purposes of Section 63-802, Idaho Code. For the formally defined abatement district, the annual budget subject to the limitations of Section 63-802, Idaho Code, shall be the amount of property tax revenue approved for the interim abatement district. (4-2-08)

13. Special Provisions for Levies for Payment of Judgments by Order of Court. The levy permitted pursuant to Section 63-1305A, Idaho Code, requires that the taxing district first budgets the maximum amount of property tax permitted pursuant to Section 63-802, Idaho Code, including any foregone amount. This requirement shall be deemed to have been met if, despite additional budget allowed pursuant to Section 63-802, Idaho Code, every fund used by the taxing district levies at the maximum levy rate provided by law, or, if no maximum levy rate is provided, the fund levies the maximum permitted budget amount. To the extent necessary to enable all previously accrued foregone amounts to be levied, the taxing district may need to use additional funds within which it is permitted to levy property taxes before levying as permitted pursuant to Section 63-1305A, Idaho Code. (1-1-12)T

134. Cross Reference for School Districts with Tuition Funds. For any school district certifying a tuition fund levy in 2006 or any year thereafter, see Section 33-1408, Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature, for clarification that the amount of property tax revenue for a tuition fund is not subject to the limitations of Section 63-802, Idaho Code. (4-2-08)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.12 - RULES GOVERNING ISSUING CERTIFICATES OF TITLE AND BONDED CERTIFICATES OF TITLE

DOCKET NO. 39-0212-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 49-201, Idaho Code and based on the requirements established in Section 49-523, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rule-making:

This proposal will align a bonded title's brand expiration date with the bond's expiration date, thereby eliminating customer issues that may occur due to the bond expiring prior to the brand's expiration date. Subsequently, with the bonded title brand expiring at the same time as the bond, there is the concern that the owner may apply for the bonded title just before the bond expires. This proposal requires that the owner obtain a bond rider if more than 90 days has passed since the bond was obtained, thereby providing a significant amount of time for the bonded title to be of public record for the protection of any prior owner or lien-holder who still has an interest and is trying to locate the vehicle.

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

This rule-making confers a benefit by eliminating customer issues that may occur due to the bond expiring prior to the branded title expiration date.

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

There is no fee or charge associated with this rule-making.

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

There is no fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there is no clearly identified group or organization to which this particular process would apply. The circumstances associated with requiring a bonded title are considered somewhat uncommon.

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: No materials are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Barry Takeuchi, Outreach / Titles Program Specialist, 334-8662.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 1st day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department

linda.emry@itd.idaho.gov
Phone - 208-334-8810 / FAX - 208-332-4107
3311 W State St, PO Box 7129, Boise ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT
OF DOCKET NO. 39-0212-1201**

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 49-~~523~~201, Idaho Code. ~~(12-26-90)~~(8-1-12)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.02.12 "Rules Governing Issuing Certificates of Title and Bonded Certificates of Title." (8-1-12)T

02. Scope. This rule ~~outlines the procedures and limitations~~ contains guidelines and requirements for issuing certain certificates of title and bonded certificates of title, pursuant to Section 49-523, Idaho Code. ~~(12-26-90)~~(8-1-12)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (8-1-12)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (8-1-12)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (8-1-12)T

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (8-1-12)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (8-1-12)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8663 or by fax at 208-334-8658. (8-1-12)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (8-1-12)T

~~007~~. -- 099. (RESERVED)

100. GENERAL.

The Department shall issue a Certificate of Title on any ~~motor~~ vehicle if the applicant can show proper documentation of ownership, ~~and~~ there are no undisclosed security interests in the vehicle, and other requirements for titling have been satisfied. Such proper documentation shall be limited to: ~~(12-26-90)~~(8-1-12)T

01. Certificate of Title. A valid Idaho Certificate of Title or a valid Certificate of Ownership issued by another state, province or country according to the applicable laws of another state, province or country which has been duly assigned or transferred to the applicant; or (12-26-90)

02. MCO/MSO. A properly executed Manufacturer's Certificate of Origin (MCO) or Manufacturer's Statement of Origin (MSO) in the case of a new ~~motor~~ vehicle being titled for the first time. ~~(12-26-90)~~(8-1-12)T

03. Certificate of Registration. A Certificate of Registration from a non-titling state, province or country, together with a bill of sale from the registrant if other than the applicant. (8-1-12)T

04. Transfer by Operation of Law. In the case of a transfer by operation of law, a certified copy of a valid court order, decree, or instrument upon which the claim of possession and ownership is founded, passing title to the applicant as a matter of law (for example: a property settlement, divorce decree, bankruptcy, execution sale, or probate), together with an affidavit by the person or agent of the person to whom possession of the vehicle so passed, setting forth facts entitling him to possession and ownership. (8-1-12)T

05. Salvage Vehicles. For a salvage vehicle, a salvage certificate of title or other salvage ownership document issued by another state, province, or country according to the applicable laws of that state, province, or country, duly assigned or transferred to the applicant. (8-1-12)T

036. Homemade Vehicles. In the case of homemade vehicles (vehicles not made by a manufacturer as defined by Section 49-114, Idaho Code) a bill of sale for the major component parts which shall include the following information: (12-26-90)

- a. Name of builder; (12-26-90)
- b. Vehicle Identification Number (VIN) or engine number for a motorcycle, if applicable; (12-26-90)
- c. Description of major component part, (by make, body type, year of manufacture, if applicable); (12-26-90)
- d. Purchase price; (12-26-90)
- e. Signature of seller. (12-26-90)

047. Reconstructed and Specially Constructed Vehicles. For a reconstructed vehicle as defined by Section 49-123(~~m~~), Idaho Code, or a specially constructed vehicle as defined by Section 49-123(~~k~~), Idaho Code, ~~or~~ "kits," the original ownership document shall be submitted for the vehicle from which the body or cab being used has been taken unless the vehicle is from a state that requires the ownership document to remain with the frame in which case a copy of the ownership document verified to be a true and correct copy of the original, together with a bill of sale from the owner to whom the ownership document was issued if different than the applicant, shall be required. A bill of sale shall also be submitted for any of the following major components used in the vehicle's construction: ~~(12-26-90)~~(8-1-12)T

- a. Frame or rails; (12-26-90)
- b. Engine or short block; (12-26-90)
- c. Transmission and/or transfer case; (12-26-90)
- ~~d. Cab and/or body;~~ ~~(12-26-90)~~

ed. Front and rear clips; (12-26-90)

fe. Truck bed or box; or (12-26-90)

g. ~~A Certificate of Registration from a non-titling state, province or country; or~~ (~~12-26-90~~)

h. ~~A certified copy of a valid court order or decree passing title to the applicant as a matter of law (for example: a property settlement, divorce decree, bankruptcy or probate.)~~ (~~12-26-90~~)

101. -- 199. (RESERVED)

200. BONDED TITLE.

Application may be made for a “bonded title” when the applicant has actual possession of the vehicle but is unable to provide proper documentation of ownership. (12-26-90)

01. Proper Documentation Cannot Be Obtained. The applicant must satisfy the Department that proper documentation to obtain a regular title cannot be obtained. However, the applicant must provide sufficient documentation to satisfy the Department that it is more probable than not that the applicant is the owner of the vehicle. (~~12-26-90~~)(8-1-12)T

02. Vehicle Physical Inspection. The applicant must produce the vehicle for a physical inspection by a representative designated by the Department. (12-26-90)

03. Affidavit of Explanation. The applicant must provide an affidavit explaining the reasons for the absence of a valid Certificate of Title or Certificate of Ownership and how the vehicle came into the possession of the applicant. A listing of any liens (loans) or encumbrances against the vehicle, the name of the state, province or country where the vehicle was last titled, or last registered; if from a non-titling state, province, or country; and the name under which the vehicle was last titled, or last registered if from a non-titling state, province or country, ~~a registration~~ is also required. (~~12-26-90~~)(8-1-12)T

04. Bond Amount. The applicant must provide the Department with a bond in the amount of one (1) and one-half (1/2) times the value of the vehicle or a cash deposit of like amount, ~~with the Department as provided in Section 49-523(b), Idaho Code.~~ A cash bond shall be in the form of a cashiers check, money order or certified check made payable to the Idaho Transportation Department. The form of the bond shall conform to Exhibit 1 of this rule the form ITD 3909, Vehicle Ownership Bond, which can be obtained by calling 208-334-8663 during regular business hours. (~~12-26-90~~)(8-1-12)T

05. Vehicle Appraisal. The applicant shall provide an appraisal of the vehicle either by a licensed Idaho automobile dealer on the dealer’s letterhead with dealer’s number or by a Motor Vehicle Investigator. The appraisal shall reflect the current retail value of the vehicle. This appraisal shall be considered by the Department to determine the value of the vehicle. (~~12-26-90~~)(8-1-12)T

06. Application for Title. The applicant shall apply for title within ninety (90) days of the bond’s issuance. Should the application for title occur more than ninety (90) days from the issue date of the bond or any subsequent rider, the applicant shall obtain a rider to provide bond coverage for three (3) years. (8-1-12)T

07. Bonded Title Brand. Upon satisfying the department’s requirements for a bonded title, the applicant shall be issued a title bearing the brand “Bonded Title” and the brand’s expiration date, which shall be three (3) years from the date of issuance of the bond or receipt of the cash deposit. (8-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

202. CLAIMS AGAINST THE BOND.

Should any expense, loss or damage occur, for any reason covered by the bond, persons or entities suffering such loss shall make claim directly against the principal (applicant) and the surety. If the applicant has made a cash deposit, any claim shall be made through the Department's Motor Vehicle ~~Bureau Chief~~ Administrator. ~~(+2-26-90)~~(8-1-12)T

203. EXPIRATION OF BONDING REQUIREMENT.

Upon expiration of a three (3) year period from the date of issuance of the bonded ~~title~~ or receipt of a cash deposit, the bond or cash deposit shall be returned without interest unless the Department has been notified in writing of a pending claim or action to recover on the bond or deposit. If there has been no claim, the applicant shall surrender the bonded title and apply for a ~~clear~~ Certificate of Title free of the bonded title brand. A ~~clear~~ Certificate of Title free of the bonded title brand will be issued upon certification of the application and payment of ~~the proper~~ any applicable fees per Idaho Code Title 49, Chapters 2 and 5, and any applicable sales or use tax, per Title 63, Chapter 36, Idaho Code. ~~(+2-26-90)~~(8-1-12)T

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-1201

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 rule-making procedures have been initiated. The action is authorized pursuant to Section 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rule-making:

This rulemaking provides procedural requirements for the implementation of program changes established in statute, through Senate Bill 1243, enacted in 2012. It adopts specific provisions for prequalification and application procedures for special license plate programs, as outlined in statute. It also provides for duplicate use of a letter/number combination on a larger (passenger vehicle) plate and a smaller (motorcycle) plate and eliminates the 45-day limitation on a proof of registration receipt, in keeping with the improved plate production and delivery process.

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

Senate Bill 1243, 2012, established certain limitations and requirements relating to the application for and approval of Special License Plate Programs to ensure greater accountability for funds collected through those programs. The rule is being updated to reflect the implementation of these new requirements effective July 1, 2012.

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

The rulemaking does not impose a fee, but reflects a non-refundable fee that is imposed by new Idaho Code, Section 49-402D(2)(a).

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to the rule are reflective of requirements established in statute. As such, the rule changes do not lend themselves to negotiation.

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: This rulemaking does not incorporate by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Christine Fisher, Registration Program / Internal Communications Specialist, 334-8679.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department

linda.emry@itd.idaho.gov
Phone - 208-334-8810 / FAX - 208-332-4107
3311 W State St, PO Box 7129, Boise ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT
OF DOCKET NO. 39-0260-1201**

012. TEMPORARY PROOF OF REGISTRATION FOR NEW, REPLACEMENT, OR REISSUED LICENSE PLATES.

01. Temporary Proof of Registration. Upon receipt of payment for required registration and program fees, a ~~forty five (45) day temporary~~ proof of registration receipt document may be issued, indicating "license plates on order." This option will be used whenever license plates are required to be manufactured after the registration transaction has been completed. The ~~temporary proof of registration receipt document~~ shall provide proof that the vehicle has been registered and fees have been paid, and the vehicle may be operated until new plates have been received by the registrant. ~~At the discretion of the department, more than one (1) forty five (45) day temporary registration may be issued, if needed, in order to manufacture license plates.~~ (4-2-08)(7-1-12)T

02. Placement of Temporary Proof of Registration Document. The ~~forty five (45) day temporary~~ proof of registration receipt document shall be displayed in the rear window of the vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the ~~temporary proof of registration document~~ must be conspicuously displayed where the license plate number and expiration date of the ~~permit newly issued plate~~ may be easily read, and where it is protected from exposure to weather conditions, which would render it illegible. (4-2-08)(7-1-12)T

03. Issuance of Manually Completed Temporary Registrations When Automated System is Unavailable. Upon receipt of payment for required registration and program fees, the county may issue a manual temporary registration for thirty (30) days, through use of a temporary form provided by the department, in the event the automated system is unavailable. When the system resumes normal operation, the county office shall enter such registration information, and produce the registration form and validation decals and mail to the registered applicant. The manual temporary registration form shall be displayed in the rear window of the vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary registration must be conspicuously displayed where the number and expiration date of the permit may be easily read, and where it is protected from exposure to weather conditions, which would render it illegible. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

155. PROVISIONS FOR SPECIAL LICENSE PLATE PROGRAM PREQUALIFICATION AND APPLICATION PROCEDURES.

01. Special License Plate Prequalification. Anyone considering legislation to establish a special license plate program will make application to the department on a special plate program application form designed and provided by the department. If all the prequalification requirements are met by the submission of other documentation, this will also be acceptable. A special plate program development guide will also be provided to each applicant, detailing the procedures for the prequalification and application and providing information regarding the

steps required to successfully accomplish a special plate program from prequalification through passage of the legislation, statutory requirements and standards for the plate color and license plate design. (7-1-12)T

a. The individual responsible for representing the agency requesting the prequalification/application procedure will complete and sign a Special Plate Program application form which will contain a declaration of the responsible individual for certifying compliance with the requirements to the Department. (7-1-12)T

b. Responsible individual representing the agency will submit a financial plan detailing the use for the proceeds from the special plate sales. (7-1-12)T

c. For non-profit agencies, the responsible individual will provide evidence that the applicant has had 501 (c) Federal Income Tax status for at least two (2) years. (7-1-12)T

02. Special License Plate Program Application Approval. (7-1-12)T

a. Upon approval of application by department, applicant will, by September 1, deposit programming and administration fees determined by an estimate of projected programming hours required. One thousand dollars (\$1000) of this fee will not be refundable. (7-1-12)T

b. Applicant will complete and submit a list of two hundred fifty (250) applicants, currently registered in Idaho, who intend to purchase the Specialty License Plates when available. The form may be delivered to the Department by mail or electronic means such as e-mail or facsimile. (7-1-12)T

03. Submission to The Legislature. When all requirements have been met, the Department will forward the completed application to the chairmen of the Transportation and Defense Committees of the Senate and the House of Representatives for consideration in the next Legislative Session. This submission will be on a form developed by the Department or other documentation which meets all the requirements listed in this rule. (7-1-12)T

04. Annual Report. An Annual report form, designed and provided by the department will be made available to special license plate sponsors. The report will require an accounting of revenues and expenditures associated with the funds collected for the special license plate program. The report will be completed and submitted to the Department by January 1 so that by January 15 of each year the department has the data to compile the information required and to forward to the chairmen of the House and Senate Transportation Committees. If the agency fails to provide the required report, the Department will suspend special license plate sales for that program until the accounting is provided. Military License Plate programs will not be included in this requirement. (7-1-12)T

05. Appeals. The appeals process will allow the applicant for a special license plate program to appeal the Department's decision to deny the application (See Section 003 of this rule). The notice of the appeal will be sent in writing via mail, electronic mail, or facsimile within twenty (20) days of the denial. (7-1-12)T

156. -- 198. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.

01. Special Characters or Marks. No special characters, or punctuation marks, may be used for personalized messages on license plates. (1-3-92)

a. Up to seven (7) letters or any combination of seven (7) letters and numbers and spaces (no half spaces) may be used for personalized messages on eligible six inch by twelve inch (6" x 12") license plates. (5-8-09)

b. Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on four inch by seven inch (4" x 7") motorcycle plates. (5-8-09)

c. Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on specialty program license plates. (5-8-09)

d. Disability six inch by twelve inch (6" x 12") plates will display the international handicapped symbol followed by up to five (5) letters, numbers, and spaces in the personalized message. Disability four inch by seven inch (4" x 7") motorcycle plates will display the international handicapped symbol followed by up to four (4) letters, numbers, and spaces (no half spaces) in the personalized message. (5-8-09)

02. Issue of Personalized Plates. Personalized plates can be issued only to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to: (1-3-92)

a. Commercial vehicles registered under the International Registration Plan (IRP), because the designators PRP are required to be printed on the plate; (1-3-92)

b. Vehicles for which the designators "PRP" are required to be printed on the plate to identify the use; and (4-2-08)

c. Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers. (4-2-08)

03. Specific Requests. Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will not be considered valid until stamped in by the Department. Telephone requests will not be accepted. (4-2-08)

04. Lack of Current Plates. When an applicant for personalized plates does not have current regular number plates: (1-3-92)

a. The Department may issue a thirty (30) day temporary registration to allow time for the billing process for personalized plates. The fee for each thirty (30) day temporary registration shall be as required by Section 49-523, Idaho Code. (4-2-08)

b. The Department may, upon payment of all required fees, issue a ~~temporary~~ proof of registration document as provided in Section 012 of these rules. ~~(4-2-08)~~(7-1-12)T

05. Credits. When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only. (1-3-92)

06. Renewing Plates. The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due. New plates must be purchased every seven (7) years as provided in Section 49-443, Idaho Code. (4-2-08)

07. Transfer of Plates. When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled. (1-3-92)

08. Acceptability of Plates Message. Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (1-3-92)

a. The combination of numbers and letters requested or combinations of same may not duplicate an existing combination in use with the following exception. A duplication is allowed when the combination of numbers and letters requested or combinations of same is the same on a small (ie: motorcycle plate) and a large (ie: passenger car) sized plate. ~~(1-3-92)~~(7-1-12)T

b. The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of: obscenity; contempt; prejudice; hostility; insult; racial degradation; ethnical degradation; profanity; or refers to bodily functions, bodily fluids, or intimate body parts; sexual preference or orientation; act of violence, illegal substances; or vulgarity as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. (3-2-10)

c. The criteria in Paragraph 202.08.b. of these rules is not to be considered an exhaustive list. A compilation of offensive or obscene words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. (4-2-08)

d. When a complaint is received from the public concerning an issued plate, the name of the caller will not be recorded nor, if known, revealed. (1-3-92)

e. Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles. The determination process shall include a first review by technical staff, followed by a second review by supervisory and management staff. An applicant does, however, have a right to a hearing on the decision. (4-2-08)

09. Message Preferences. Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail, electronic mail or facsimile. ~~(4-2-08)~~(7-1-12)T

10. Recalled Plates. Personalized plates may be recalled by the Department for the following reasons: (1-3-92)

a. Error in manufacturing; or (1-3-92)

b. Clerical error. (1-3-92)

c. Unacceptable personalized messages as outlined in Paragraph 202.08.b. of these rules. (4-2-08)

11. Unexpired Fees. If a set of personalized plates is recalled, the personalized plate program fee, unexpired portion of the registration fee, E.M.S. fee, plate fee, (if plates are returned to the department), and all other applicable special plate fees, will be refunded or transferred to a new issue of personalized plates. (4-2-08)

12. Expired Plates. Personalized plates that are allowed to expire shall become immediately available for reissue to another applicant. There is no grace period. (1-3-92)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.04 - RULES GOVERNING MOVEMENT OF DISABLED VEHICLES
DOCKET NO. 39-0304-1201 (NEW CHAPTER)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rule-making:

Sections of existing rule, IDAPA 39.03.10.300.05.a. through 300.05.e., "Rules Governing When an Overlegal Permit Is Required," have been removed and used as the basis for a new rule, IDAPA 39.03.04, "Rules Governing Movement of Disabled Vehicles," to address the movement of vehicles by tow trucks. Language has been updated for better organization and to provide clarity. Industry needs are simply broader than what would be appropriate in the existing rule, 39.03.10, which addresses when overlegal permits are required. The guidance for movement of disabled vehicles was originally established in a section of this rule which primarily addresses the waiver of permit policy restrictions in emergency situations and was very limited in scope. The new rule provides greater clarity and authority for the industry since their role in providing service to a disabled vehicle is not always related to an emergency and there are frequently many other elements to consider in the movement of specialized equipment and the loads they may have been transporting.

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

At the request of the towing companies and the Idaho Trucking Association, the department has proposed changes that will clarify the role, responsibility and authority of tow trucks and wreckers in the removal of disabled vehicles. Confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact to the state general fund nor to the department or to the industry.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature. Language was removed from an existing rule and used as the basis for a new rule to meet the needs of the towing industry.

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: No materials are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department

linda.emry@itd.idaho.gov
Phone - 208-334-8810 / FAX - 208-332-4107
3311 W State St, PO Box 7129, Boise ID 83707-1129

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0304-1201

IDAPA 39
TITLE 03
CHAPTER 04

39.03.04 - RULES GOVERNING MOVEMENT OF DISABLED VEHICLES

000. LEGAL AUTHORITY.

This rule, governing the movement of disabled vehicles allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. (8-1-12)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.03.04, "Rules Governing Movement of Disabled Vehicles," IDAPA 39, Title 03, Chapter 04. (8-1-12)T

02. Scope. This rule provides the requirements for the movement of disabled vehicles. (8-1-12)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (8-1-12)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (8-1-12)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (8-1-12)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129. (8-1-12)T

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (8-1-12)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (8-1-12)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (8-1-12)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

Refer to IDAPA 39.03.01, "Rules Governing Definitions," for definitions of the terms used in this rule. (8-1-12)T

011. -- 099. (RESERVED)

100. GENERAL.

An overlegal permit, in writing, shall be required for any movement on any completed section of highway under the jurisdiction of the Department by any vehicle or vehicles which exceed the allowable weights or sizes established in Sections 49-1001, 49-1002 or 49-1010, Idaho Code. (8-1-12)T

101. – 199. (RESERVED)

200. REMOVAL OF DISABLED VEHICLES.

Annual Disabled Vehicle permits will be issued to heavy duty wrecker trucks or other vehicles used for the removal and secondary movement of disabled trucks and/or trailers or combinations and their unladen return, subject to the following rules: (8-1-12)T

01. Permitted Vehicle. The permitted vehicle involved in the removal of disabled vehicles shall be the proper class of vehicle and shall have adequate gross vehicle weight and traction to control the combination of wrecker and attached vehicles, and shall provide brakes to the trailer axles and stop signal and clearance lights to such towed disabled vehicle or vehicle combinations. (8-1-12)T

02. Loaded Weight. Loaded weight of the permitted vehicle's drive axle(s) will be permitted up to the basic allowable unit weight as shown on the current Idaho Transportation Department Route Capacity Map for the corresponding colored route, unless the highway route is posted with a weight restriction. The current Route Capacity Map is maintained by the Overlegal Permit Office and is available to the public from the Overlegal Permit Office at the address listed in Section 005 of this rule, and Idaho Ports of Entry or on line at http://itd.idaho.gov/dmv/poe/documents/route_cap2.pdf. Length of the combination will be limited to the legal or permitted length of the disabled combination plus forty-five (45) feet. Width will be limited to ten (10) feet or to the permitted width of the permitted disabled over-width vehicle/load. All VLS axles must be fully deployed when exceeding legal axle weights. (8-1-12)T

03. Time of Travel Restrictions. Time of travel restrictions shall be waived during the first movement of the disabled vehicle or vehicle combinations when necessary to clear the travel way. Disabled vehicles that are overwidth and moving at night shall be required to operate in accordance with the lighting requirements as listed in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." A front pilot vehicle will be required when disabled vehicle exceeding ten (10) feet wide are moved at night. (8-1-12)T

04. First Movement. First movement of disabled vehicles will be authorized from the point at which the vehicle or vehicle combination were disabled to a location (i.e. towing company, repair or company facility) where it can be safely secured. Secondary movements of disabled vehicles that have been separated shall be covered by the disabled vehicles permit as long as the weight/size limits as listed in Subsection 200.02 of this rule are not exceeded. (8-1-12)T

a. First Movement of disabled vehicle or vehicle combination shall be defined as follows: point of original disablement to a location where it can safely secured (i.e. towing company, repair or company facility). (8-1-12)T

b. Secondary Movement of disabled vehicles shall be defined as follows: a single vehicle or combination of disabled vehicles that have been separated into to single vehicles and are moving from other than the original point of disablement. (8-1-12)T

05. Annual Disabled Vehicle Permit. The permitted vehicle involved in the removal of a disabled vehicle shall be allowed (under annual disabled vehicle permit) to tow a functional replacement vehicle to the point of disablement, to replace the disabled vehicle. (8-1-12)T

300. HAZARDOUS TRAVEL CONDITIONS RESTRICTIONS.

Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. (8-1-12)T

301. -- 999. (RESERVED)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.10 - RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

DOCKET NO. 39-0310-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 rule-making procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rule-making:

At the request of the towing companies and the Idaho Trucking Association, the department has proposed changes that will remove guidelines related to the movement of disabled vehicles from this rule and move them to a new rule, 39.03.04, that will centralize the role, responsibility, and authority of tow trucks and wreckers in the movement of disabled vehicles. Two additional changes have been made to this rule, relating to office hours in Section 005.02 and to emergency movement of implements of husbandry in Section 300.03.

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

This rulemaking, along with the companion Docket 39-0304-1201, confers a benefit on the industry by creating a new rule that will better meet their needs.

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

There is no fee or charge associated with this rulemaking.

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

There is no fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature and proposed at the request of industry.

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:

No materials are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department

linda.emry@itd.idaho.gov
Phone - 208-334-8810 / FAX - 208-332-4107
3311 W State St, PO Box 7129, Boise ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT
OF DOCKET NO. 39-0310-1201**

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129. (4-2-08)

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. Mountain Time except Saturday, Sunday and state holidays. ~~(4-2-08)~~(8-1-12)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

300. WAIVER OF LIMITATIONS FOR EMERGENCY MOVEMENTS.

Notwithstanding other provisions of these rules, the Idaho Transportation Board may waive existing permit policy limitations in the event of an emergency, subject to such limitations or special requirements as the Board may impose. (8-25-94)

01. Military Emergency Affecting National Security. Any movement by or for a military or other government agency which is in excess of permit policy maximum limits of weight or size or which is otherwise outside established rules must be certified as a military necessity involving national security before receiving any special consideration to provide any waiver of normal permit rules. Certification of military necessity must be made by an official designated as having such authority by the Department of Defense Directory, issued by the Office of the Chief of Transportation, Department of Army. All applications for military emergency movements must be channeled through the Vehicle Size and Weight Specialist, Idaho Transportation Department. (8-25-94)

02. Emergencies Endangering the Public Health, Safety or Welfare Including but Not Limited to Fire, Flood, or Earthquake. During an emergency endangering the public health, safety or welfare, there may be an urgent and immediate need for equipment and it will not be in the public interest to require that an overlegal permit be in the vehicle prior to an over legal movement. Verbal approval to proceed without an overlegal permit in the vehicle may be obtained from the Overlegal Permit Office or an Idaho Port-of-Entry. Once the emergency movement is completed, formal application for an Overlegal Permit must be submitted to the Overlegal Permit Office. (4-2-08)

03. Emergency Movement of Implements of Husbandry. It shall be considered an emergency when an implement of husbandry being operated on an official state holiday or a weekend (the Overlegal Permit Office is closed on weekends and holidays - for hours of Permit Office operation see IDAPA 39.03.09, "Rules Governing Overlegal Permits-General Conditions and Requirements") breaks down and ~~needs to be taken to a dealer for immediate repair, or~~ a dealer brings replacement equipment to the farmer that exceeds the annual permit maximum width of fourteen (14) feet - six (6) inches. Verbal approval to proceed without an overlegal permit in the vehicle may

be obtained from an Idaho Port of Entry. That verbal authorization will include escort vehicle requirements based on the route of travel and width of load. Once the emergency movement is completed, the permittee shall make formal application for a permit to the Overlegal Permit Office on the first working day after the occurrence.

(4-2-08)(8-1-12)T

04. Economic Emergencies. When a circumstance occurs in which an economic hardship is expected to result due to the application of existing rules or limitations, the Transportation Board may consider a petition for the temporary waiver of those rules or limitations which are perceived as being the cause of such economic hardship. (8-25-94)

~~**05. Emergency Removal of Disabled Vehicles.** Annual Disabled Vehicle permits will be issued to heavy duty wrecker trucks or other vehicles used for the emergency removal and secondary movement of disabled trucks and/or trailers or combinations and their unladen return, subject to the following rules: (4-2-08)~~

~~**a.** The permitted vehicle involved in the removal of disabled vehicles shall have adequate weight and traction to control the combination of wrecker and attached vehicles, and shall provide brakes to the trailer axles and stop signal and clearance lights to such towed disabled vehicles. (12-26-90)~~

~~**b.** Loaded weight of the permitted vehicle's drive axle(s) will be permitted up to the basic allowable unit weight as shown on the current Idaho Transportation Department Route Capacity Map for the corresponding colored route, unless the highway route is posted with a weight restriction. The current Route Capacity Map is maintained by the Overlegal Permit Office and is available to the public from the Overlegal Permit Office and Idaho Ports of Entry. Length of the combination will be limited to the legal or permitted length of the disabled combination plus forty five (45) feet. Width will be limited to ten (10) feet or to the permitted width of a permitted disabled over width vehicle/load. (4-2-08)~~

~~**c.** Time of travel restrictions shall be waived during the emergency movement of the disabled vehicles when necessary to clear the travel way. (4-2-08)~~

~~**d.** Emergency movement of disabled vehicles will be authorized from the point at which the vehicles were disabled to the nearest appropriate site having facilities for separation of vehicle combinations into single units unless by nature of the load it presents a hazard to the public (i.e. hazardous materials as defined by CFR 49) due to cargo security. In this event, the emergency movement shall be allowed to be transported to the nearest location where the cargo can be safely secured. Secondary movements of disabled vehicles that have been separated shall be covered by the disabled vehicles permit as long as the weight/size limits as listed in Paragraph 300.05.b. of this rule are not exceeded. Secondary movements of disabled vehicles that are overwidth and moving at night shall be required to operate in accordance with the lighting requirements as listed in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." (4-2-08)~~

~~**e.** The permitted vehicle involved in the removal of a disabled vehicle shall be allowed (under annual disabled vehicle permit) to tow a non disabled vehicle to the point of disablement, to replace the disabled vehicle. (4-5-00)~~

06.5. Emergency Movements After Dark or Weekends. Any overwidth load moving after dark or on weekends on a red coded route of the Pilot/Escort Vehicle and Travel Time Requirements Map must be preceded by an escort vehicle displaying a rotating or flashing amber light to warn other traffic of the presence of the hazard. Any overwidth load moving after dark on black coded routes, if width exceeds ten (10) feet, must also be preceded by such a pilot/escort vehicle. All overwidth loads moved after dark shall have the extreme dimensions marked by lights as required by IDAPA 39.03.12, "Rules Governing Safety Requirements For Overlegal Permits." Self-propelled vehicles utilized to clear the travelway of snow or debris are exempt from the provisions listed in this Subsection. (4-2-08)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 20, 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 rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rule-making:

The recently revised 2009 Edition of the Manual on Uniform Traffic Control Devices, established certain requirements for sign replacement, including deadlines. In response to concerns from those impacted, FHWA opted to extend or eliminate certain requirements for sign replacement, depending on the sign classification. Immediate adoption of the rule confirms those changes for state and local jurisdictions throughout the state, which results in a delayed implementation and delayed fiscal impact.

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:

This rulemaking adopts the most recent version of the MUTCD, including Revisions 1 and 2. Revision 1 contains new definitions for engineering judgment with are consistent with the previously adopted conforming addition allowing us to strike the conforming addition from this rule. The purpose of Revision 2 is to revise certain information relating to target compliance dates for traffic control devices. The final rule revises Table I-2 of the MUTCD by eliminating the compliance dates for 46 items (8 that had already expired and 38 that had future compliance dates) and extends and/or revises the dates for 4 items. The target compliance dates for 8 items that are deemed to be of critical safety importance will remain in effect. In addition, this final rule adds a new Option statement exempting existing historic street name signs within a locally identified historic district from the Standards and Guidance of Section 2D.43 regarding street sign color, letter size, and other design features, including retroreflectivity. Consistent with Executive Order 13563, and in particular its emphasis on burden-reduction and on retrospective analysis of existing rules, the changes adopted are intended to reduce the costs and impacts of compliance dates on State and local highway agencies and to streamline and simplify the information.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees or charges imposed or increased by this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is based on a federal compliance issue which also confers a benefit to users.

Federal requirements in this rule were approved by the 2012 Legislature. Requirements for sign replacement have been extended or eliminated depending on the sign classification, resulting in a delayed implementation and delayed fiscal impact to users.

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:

This rulemaking incorporates by reference the 2009 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, including Revisions 1 and 2, with an effective date of June 13, 2012, with conforming additions as specified in Section 004 of the rule. The full document exceeds two-thousand pages and would not be practical to adopt in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Carl Main, Traffic Services Engineer, 334-8558.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department

linda.emry@itd.idaho.gov
Phone - 208-334-8810 / FAX - 208-332-4107
3311 W State St, PO Box 7129, Boise ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT
OF DOCKET NO. 39-0341-1201**

004. INCORPORATION BY REFERENCE.

The “Manual on Uniform Traffic Control Devices for Streets and Highways” is published by the Federal Highway Administration of the U.S. Department of Transportation. The 2009 edition including revisions 1 and 2 of the Manual with an effective date of January June 15³, 2010², is hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following conforming additions to the Manual are adopted by the Idaho Transportation Board: (3-29-12)(7-20-12)T

01- Section 1A.09, Engineering Study and Engineering Judgment. Page 4—replace the section in its entirety with Section 1A.09, page 1A-3 as published in the 2003 MUTCD, to read as follows:

<p>Standard: This Manual describes the application of traffic control devices, but shall not be a legal requirement for their installation.</p> <p>Guidance: The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. Thus, while this Manual provides Standards, Guidance, and Options for design and application of traffic control devices, this Manual should not be considered a substitute for engineering judgment.</p> <p>Engineering judgment should be exercised in the selection and application of traffic control devices, as well as in the location and design of the roads and streets that the devices complement. Jurisdictions with responsibility for traffic control that do not have engineers on their staffs should seek engineering assistance from others, such as the State transportation agency, their County, a nearby large City, or a traffic engineering consultant.</p>

(3-29-12)

021. **Section 1A.11, Relation to Other Documents.** On page 7 - in the first paragraph under Standard, change the paragraph to read as follows: To the extent that they are incorporated by specific reference, the latest editions of the following publications, or those editions specifically noted, shall be a part of this Manual: “Standard Highway Signs and Markings” book, the Idaho Transportation Department (ITD) Sign Chart; and “Color Specifications for Retroreflective Sign and Pavement Marking Materials” (appendix to subpart F of Part 655 of Title 23 of the Code of Federal Regulations). Add the following as the first sentence of the “Support” statement: Idaho Transportation Department Sign Chart includes all signs approved for use on a highway under the jurisdiction of the Idaho Transportation Department, their sign number designations and a cross reference index for comparison of all MUTCD approved signs and those included on the Idaho Transportation Department sign chart. (3-29-12)

03. **~~Section 1A.13, Definitions of Words and Phrases in this Manual.~~**

~~On page 10, modify the definition of A. Standard to read as follows:-~~

~~**Standard**— a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb “shall” is typically used. The verbs “should” and “may” are not used in Standard statements. Standard statements are sometimes modified by Options.~~

~~On page 14, replace definition 64, Engineering Judgment, with the definition 25, Engineering Judgment, as published in the 2003 MUTCD on page 1A-11:~~

~~**Engineering Judgment**— the evaluation of available pertinent information, and the application of appropriate principles, Standards, Guidance, and practices as contained in this Manual and other sources, for the purpose of deciding upon the applicability, design, operation, or installation of a traffic control device. Engineering judgment shall be exercised by an engineer, or by an individual working under the supervision of an engineer, through the application of procedures and criteria established by the engineer. Documentation of engineering judgment is not required.~~

~~On page 14, replace definition 65, Engineering Study, with the definition 26, Engineering Study, as published in the 2003 MUTCD on page 1A-11:~~

~~**Engineering Study**— the comprehensive analysis and evaluation of available pertinent information, and the application of appropriate principles, Standards, Guidance, and practices as contained in this Manual and other sources, for the purpose of deciding upon the applicability, design, operation, or installation of a traffic control device. An engineering study shall be performed by an engineer, or by an individual working under the supervision of an engineer, through the application of procedures and criteria established by the engineer. An engineering study shall be documented.~~

(3-29-12)

042. **Section 2C.48, Traffic Signal Signs (W25-1, W25-2).** On page 128 - delete the section in its entirety, and Figure 2C-9. Intersection Warning Signs and Plaques, on page 127, remove the W25-1 and W25-2 signs from the figure. (3-29-12)

053. **Section 2C.63, Object Marker Design and Placement Height.** (7-20-12)T

a. On page 134 - make the following changes to allow alternate methods of marker construction and additional types of markers:

Support:

Type 1, 2, 3, 5 and 6 object markers are used to mark obstructions within or adjacent to the roadway, Type 4 object markers are used to mark the end of a roadway, Type 5 for Rail-grade Crossings and Type 6 for Truck Escape Ramps.

Standard:

When used, object markers (see Figure 2C-13) shall not have a border and shall consist of an arrangement of one (1) or more of the following types:

~~a.~~ Type 1 - either a diamond-shaped sign, at least eighteen (18) inches on a side, consisting of either a yellow (OM1-1) or black (OM1-2) sign with nine (9) yellow retroreflective devices, each with a minimum diameter of three (3) inches, mounted symmetrically on the sign, or an all-yellow retroreflective sign (OM1-3) or a marker consisting of a rigid substrate sheeted with yellow retroreflective sheeting screen printed to display nine (9) yellow retroreflective circles, each with a minimum diameter of three (3) inches, arranged symmetrically on a black (OM1-2) diamond shaped panel eighteen (18) inches or more on a side; or an all-yellow retroreflective diamond shaped panel (OM1-3) of the same size. [\(3-29-12\)](#)

~~b.~~ Type 2 - either a marker (OM2-1V or OM2-1H) consisting of three (3) yellow retroreflective devices, each with a minimum diameter of three (3) inches, arranged either horizontally or vertically on a white sign measuring at least six (6) inches by twelve (12) inches; or an all-yellow horizontal or vertical retroreflective sign (OM2-2V or OM2-2H), measuring at least six (6) inches by twelve (12) inches; or a marker (OM2-1V or OM2-1H) consisting of a rigid substrate sheeted with white retroreflective sheeting and displaying three (3) yellow circles of retroreflective sheeting, each with a minimum diameter of three (3) inches, arranged either horizontally or vertically on a white panel measuring at least six (6) inches by twelve (12) inches; or on an all-yellow horizontal or vertical retroreflective panel (OM2-2V or OM2-2H), sheeted with retroreflective sheeting measuring at least six (6) inches by twelve (12) inches. [\(3-29-12\)](#)

~~c.~~ Type 3 - a striped marker, twelve (12) inches by thirty-six (36) inches, consisting of a rigid substrate sheeted with yellow retroreflective sheeting screen printed to display a vertical rectangle with alternating black stripes and retroreflective yellow stripes sloping downward at an angle of forty-five (45) degrees toward the side of the obstruction on which traffic is to pass. The minimum width of the yellow and black stripes shall be three (3) inches. [\(3-29-12\)](#)

~~d.~~ Type 4 - a diamond-shaped sign, at least eighteen (18) inches on a side, consisting of either a red (OM4-1) or black (OM4-2) sign with nine (9) red retroreflective devices, each with a minimum diameter of three (3) inches, mounted symmetrically on the sign, or an all-red retroreflective sign (OM4-3). [\(3-29-12\)](#)

~~e.~~ Type 5 - add a category for Type 5 object markers to read as follows: a striped marker to be used for marking of Highway-Rail Grade or Highway-Light Rail Transit Grade crossings ONLY. The marker is to be thirty-three (33) inches by thirty-eight (38) inches, consisting of a vertical rectangle with two (2), eleven point five (11.5) inch side wings and an eight point five (8.5) inch center section which are formed by bending the panel from top to bottom at a forty-five (45) degree angle away from approaching traffic. The rigid substrate panel is sheeted on both sides with white diamond grade prismatic retroreflective sheeting and has reflective chrome stripes and red transparent ink stripes applied to the side wings sloping downward from the top outer corners at an angle of forty-five (45) degrees toward the center of the marker where they meet corresponding stripes which have been placed at a ninety (90) degree angle across the center section of the marker, except on the back of the marker which shall have the center section unsheeted and on the areas of the bends which shall have a point seventy-five (.75) inch wide strip from top to bottom left unsheeted. The stripes shall meet the following dimensions: chrome stripes shall be one point five (1.5) inches and red stripes shall be five point five (5.5) inches. [\(3-29-12\)](#)

f. Type 6 - add a category for Type 6 object markers to read as follows: a striped marker, twelve (12) inches by thirty-six (36) inches, consisting of a vertical rectangle with alternating white and retroreflective red stripes sloping downward at an angle of forty-five (45) degrees toward the side of the obstruction on which traffic is to pass, to be used for entrance to Truck Escape Ramps ONLY. The minimum width of the white and red stripes shall be three (3) inches. Red retroreflective stripes shall meet the minimum requirements of sheeting.

(7-20-12)T

b. On page 134 ~~U~~under “Support:” add the following revised paragraph 2:

Type 3 and Type 6 object markers with stripes that begin at the upper right side and slope downward to the lower left side are designated as right object markers (OM3-R) or (OM6-R). Object markers with stripes that begin at the upper left side and slope downward to the lower right side are designated as left object markers (OM3-L) or (OM6-L).

~~Under “Support:” add the following as paragraph 3:~~

~~The Type 5 object marker, known in Idaho as OM-5 (IdaShield), shall be placed below the Highway-Rail Grade or Highway-Light Rail Transit Grade crossing Crossbuck Sign Assembly on the right hand side of the roadway on each approach to a crossing where automatic signal warning devices do not exist. The bottom of the shield should be twenty-four (24) inches above the top of the rail and shall not be more than thirty-six (36) inches above the ground.~~

(7-20-12)T

c. On page 134 ~~U~~under “Guidance:” add the following as paragraph 3 to read as follows:

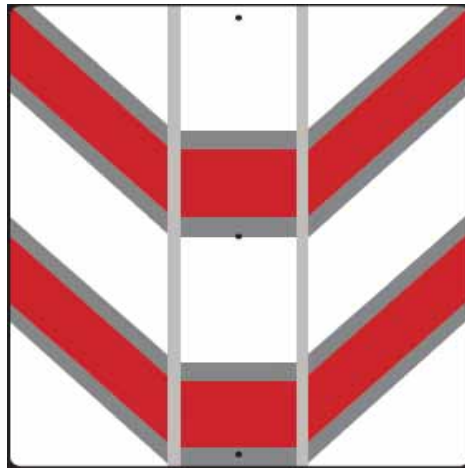
The Type 5 object marker, known in Idaho as OM-5 (IdaShield), ~~shall~~ **should** be placed below the Highway-Rail Grade or Highway-Light Rail Transit Grade crossing Crossbuck Sign Assembly on the right hand side of the roadway on each approach to a crossing where automatic signal warning devices do not exist. The bottom of the shield should be twenty-four (24) inches above the top of the rail and shall not be more than thirty-six (36) inches above the ground.

~~(3-29-12)~~(7-20-12)T

gd. On page 135, Figure 2C-13, Object Markers - add a Type 5 and Type 6 Object Marker category to the figure which shall include an example of an OM-5 object marker known in Idaho as IdaShield and the OM-6 object marker known as the Idaho Truck Escape Ramp marker:

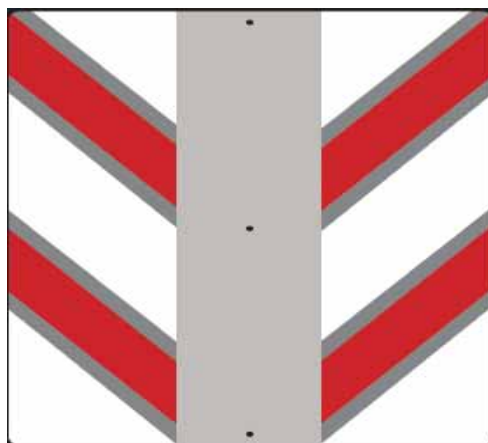
Type 5 Object Markers
OM-5 (IdaShield)

FRONT



Type 5 Object Markers
OM-5 (IdaShield)

BACK



Type 6 Object Markers
OM-6 (Truck Escape Ramp)



(3-29-12)

064. Section 2D.43, Street Name Signs (D3-1 or D3-1a). (3-29-12)

a. On page 162, change the second sentence of the fourteenth paragraph under the Standard statement to read as follows: The color of the legend and border shall contrast with the background color of the sign.” (3-29-12)

b. On page 162, change the fifteenth paragraph under the Option statement to read as follows: The border may not be omitted from a street name sign if used on the State Highway System or related roadways. (3-29-12)

075. Section 2E.31, Interchange Exit Numbering. On page 212, in the fourth sentence under “Standard” revise the sentence to read as follows: “The exit number plaque (E1-5P) (see Figure 2E-22) shall be thirty-six (36) inches in height and shall include the word “EXIT” along with the appropriate exit number.” (3-29-12)

086. Section 4D.04, Meaning of Vehicular Signal Indications. On page 451- in the second paragraph of Item C.1, substitute the following for the first sentence: “Except when a sign is in place prohibiting a turn on steady circular red signal or a RED ARROW signal indication is displayed, vehicular traffic facing a steady CIRCULAR RED signal indication may turn right or turn left from a one-way or two-way highway into a one-way street, after stopping in conformance with the provisions of the Idaho Vehicle Code.” (3-29-12)

097. Section 4L.03, Warning Beacon. On page 524 - in the second paragraph under “Standard,” add the following as a second sentence to read as follows: “The beacon shall not be included within the border of the sign or marker.” (3-29-12)

408. Figure 5C.1, Horizontal Alignment and Intersection Warning Signs and Plaques and Object Markers on Low-Volume Roads. On page 536, add a Type 5 Object Marker OM-5 (IdaShield) and a Type 6 Object Marker OM-6 (Truck Escape Ramp). (3-29-12)

H09. Section 5F.04, STOP and YIELD Signs (R1-1, R1-2). On page 543, delete “and YIELD” from the title and insert the following paragraph as the third paragraph under “Standard”: “Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.” (3-29-12)

120. Table 7B.1, School Area Sign and Plaque Sizes. On page 733, remove S4-2P, “When Children

Are Present.” (3-29-12)

131. **Figure 7B.1, School Area Signs.** On page 735, remove figure S4-2P. (3-29-12)

142. **Section 7B.15, School Speed Limit Assembly (S4-1P, S4-2P, S4-3P, S4-4P, S4-6P, S5-1).** (3-29-12)

a. On page 742, remove S4-2P in the title; and (3-29-12)

b. On page 743, in the second paragraph under “Standard” remove the S4-2P and in the third paragraph under “Option” add the following as a fourth sentence to read as follows: “The lenses of the Speed Limit Sign Beacon shall not be positioned within the face of the School Speed Limit (S5-1) sign.” (3-29-12)

153. **Section 8A.03, Use of Standard Devices, Systems, and Practices at Highway-LRT Grade Crossings.** On page 748, under “Standard” add the following statement as a second sentence to read as follows: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.” (3-29-12)

164. **Figure 8B.3, Crossbuck Assembly with a YIELD or STOP Sign on a Separate Sign Support (Sheet 1 of 2).** Delete figure in its entirety. (3-29-12)

175. **Figure 8B.3, Crossbuck Assembly with a YIELD or STOP Sign on a Separate Sign Support (Sheet 2 of 2).** Delete “YIELD or” from the title of the figure. Change Note 1 to read as follows: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.”” (3-29-12)

186. **Section 8B.04, Crossbuck Assemblies with YIELD or STOP Signs at Passive Grade Crossings.** On pages 754,757 and 758, delete “YIELD or” from the title and modify the Section to read as follows:

Standard:
A grade crossing Crossbuck Assembly shall consist of a Crossbuck (R15-1) sign, and a Number of Tracks (R15-2P) plaque if two (2) or more tracks are present, that complies with the provisions of Section 8B.03, and shall have a STOP (R1-1) sign installed on the same support, as pursuant to the following requirement: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.””

At all public highway-rail grade crossings that are not equipped with the active traffic control systems that are described in Chapter 8C, except crossings where road users are directed by an authorized person on the ground to not enter the crossing at all times that an approaching train is about to occupy the crossing, a Crossbuck Assembly shall be installed on the right-hand side of the highway on each approach to the highway-rail grade crossing.

If a Crossbuck sign is used on a highway approach to a public highway-LRT grade crossing that is not equipped with the active traffic control systems that are described in Chapter 8C, a Crossbuck Assembly shall be installed on the right-hand side of the highway on each approach to the highway-LRT grade crossing.

Where restricted sight distance or unfavorable highway geometry exists on an approach to a grade crossing that has a Crossbuck Assembly, or where there is a one-way multi-lane approach, an additional Crossbuck Assembly shall be installed on the left-hand side of the highway.

Guidance:

The use of STOP signs at passive grade crossings should be placed in accordance with Idaho law.

Support:

Sections 8A.02 and 8A.03 contain information regarding the responsibilities of the highway agency and the railroad company or LRT agency regarding the selection, design, and operation of traffic control devices placed at grade crossings.

Option:

When a STOP sign is installed for a Crossbuck Assembly at a grade crossing, it may be installed on the same support as the Crossbuck sign or it may be installed on a separate support at a point where the highway vehicle is to stop, or as near to that point as practical, but in either case, the STOP sign is considered to be a part of the Crossbuck Assembly.

Standard:

When a STOP sign is installed on an existing Crossbuck sign support, the minimum height, measured vertically from the bottom of the STOP sign to the top of the curb, or in the absence of curb, measured vertically from the bottom of the STOP sign to the elevation of the near edge of the traveled way, shall be four (4) feet (see Figure 8B-2).

If a Crossbuck Assembly is installed on a new sign support (see Figure 8B-2) or if the STOP sign is installed on a separate support (see Figure 8B-3), the minimum height, measured vertically from the bottom of the STOP sign to the top of the curb, or in the absence of curb, measured vertically from the bottom of the STOP sign to the elevation of the near edge of the traveled way, shall be seven (7) feet if the Crossbuck Assembly is installed in an area where parking or pedestrian movements are likely to occur.

Guidance:

If a STOP sign is installed for a Crossbuck Assembly at a grade crossing on a separate support than the Crossbuck sign (see Figure 8B-3), the STOP sign should be placed at a point where the highway vehicle is to stop, or as near that point as practical, but no closer than fifteen (15) feet measured perpendicular from the nearest rail.

Support:

Certain commercial motor vehicles and school buses are required to stop at all grade crossings in accordance with 49 CFR 392.10.

The meaning of a Crossbuck Assembly that includes a STOP sign is that a road user approaching the grade crossing must come to a full and complete stop not less than fifteen (15) feet short of the nearest rail, and remain stopped while the road user determines if there is rail traffic either occupying the crossing or approaching and in such close proximity to the crossing that the road user must yield the right-of-way to rail traffic. The road user is permitted to proceed when it is safe to cross.

Standard:

A vertical strip of retroreflective white material, not less than two (2) inches in width, shall be used on each Crossbuck support at passive grade crossings for the full length of the back of the support from the Crossbuck sign or Number of Tracks plaque to within two (2) feet above the ground, except as provided in Paragraph 16.

(3-29-12)

197. Section 8B.05, STOP (R1-1) Or YIELD (R1-2) Signs without Crossbuck Signs at Highway-LRT Grade Crossings. On page 758, delete “Or YIELD (R1-2)” from the title and delete the Guidance Statement, retaining the Standard and insert the following paragraph as the first paragraph under Standard: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.”” (3-29-12)

2018. Section 8B.07, EXEMPT Highway-Rail Grade Crossing Plaques (R15-3P, W10-1aP).

(3-29-12)

a. On page 759 - add the following paragraph titled as: “Standard: All EXEMPT (R15-3) signs placed at a highway-rail grade crossing, shall require train crews to flag the crossing and stop all vehicular traffic prior to allowing any railroad equipment to enter the crossing. Placement of an EXEMPT (R15-3) sign shall require a written agreement between the railroad company and the agency having jurisdiction over the highway which requires both parties to comply with the proper procedures for placement of EXEMPT signs at Highway-Rail Grade Crossings. A copy of all agreements shall be forwarded to the Idaho Transportation Department Highway-Rail Safety Coordinator.” (3-29-12)

b. Retain the “Option” statement and modify the “Support” statement on page 760 to read as follows: Support: These supplemental signs inform drivers of vehicles carrying passengers for hire, school buses carrying students, or vehicles carrying hazardous materials that a stop is not required at certain designated highway-rail grade crossings. (5-1-10)

219. Section 8B.09, DO NOT STOP ON TRACKS Sign (R8-8). On page 760, change the second paragraph of the Guidance statement to read as follows:

When a STOP sign is installed at a location, including at a circular intersection, that is downstream from the grade crossing such that highway vehicle queues are likely to extend beyond the tracks, a DO NOT STOP ON TRACKS sign (R8-8) should be used.

(3-29-12)

220. Section 8B.16, Divided Highway with Light Rail Transit Crossing Signs (R15-7 Series). On page 762, change the second sentence of the first paragraph of the Option statement to read as follows: The sign shall be mounted separately. (3-29-12)

231. Section 8B.18, Emergency Notification Sign (I-13). On page 763, change the second paragraph of the Guidance statement to read as follows: Emergency Notification signs should be oriented so as to face highway vehicles at the grade crossing or on the traveled way near the grade crossing. (3-29-12)

242. Section 8C.09, Traffic Control Signals at or Near Highway-Rail Grade Crossings. On page 777, in the fourth paragraph titled “Standard,” replace “if applicable” with “if justified by an engineering study,” at the end of the final sentence in the paragraph. (3-29-12)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.04.02 - RULES GOVERNING MARKING OF HAZARDS TO AIR FLIGHT
DOCKET NO. 39-0402-1201
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 rule-making procedures have been initiated. The action is authorized pursuant to Section 21-519, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rule-making:

This rule has been updated to comply with house Bill 511, as amended, from the 2012 Session. It establishes standards for lighting and marking of guyed towers above 50 feet in height, not regulated by the Federal Aviation Administration, to ensure the safety of pilots. The rulemaking also adds definitions for key terms, updates and clarifies existing requirements, and adds new requirements associated with the dimensions, design, color, and lighting of guyed towers along with deadlines for implementation established in the bill. It also identifies exemptions for power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, any structure with the primary purpose of supporting telecommunications equipment, and the military.

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

Compliance with House Bill 511, as amended, 2012 Session.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge imposed or increased in this rulemaking.

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

There is no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because other than some minor updates, changes to this rule are related to compliance with House Bill 511 from the 2012 session.

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:

There are no materials incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John DeThomas, Aeronautics Division Administrator, 208-334-8788.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department

linda.emry@itd.idaho.gov
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3311 W State St, PO Box 7129, Boise ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT
OF DOCKET NO. 39-0402-1201**

000. LEGAL AUTHORITY.

This rule is adopted Under the authority of Section 21-519, *Idaho Code, the Idaho Transportation Board adopts this rule.* ~~(11-28-90)~~(7-1-12)T

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.04.02 “Rules Governing Marking of Hazards to Air Flight,” IDAPA 39, Title 04, Chapter 02. (4-11-06)

02. Scope. This rule establishes the requirements for marking of hazards to air flight through the airspace of and over the state of Idaho in order to protect and ensure the general public safety, and the safety of persons operating, using or traveling in aircraft pursuant to Section 21-515 through 21-517, Idaho Code. ~~(4-11-06)~~(7-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise, ID 83707-1129. The Division of Aeronautics offices are physically located at 3483 Rickenbacker Street, Boise, ID ~~83707-1129~~. ~~(4-11-06)~~(7-1-12)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (4-11-06)

03. Telephone and FAX Numbers. The Aeronautics offices may be contacted during office hours at 208-334-8775 or by fax at 208-334-8789. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

007. -- ~~009~~. (RESERVED)

010. DEFINITIONS.

01. Guyed Tower. A tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself, towers used for military purposes excepted. (7-1-12)T

02. Height. The distance measured from the original grade at the base of the tower to the highest point of the tower. (7-1-12)T

03. Temporary or Permanent Guyed Tower. A guyed tower erected and standing for any period of time whatsoever. (7-1-12)T

04. Marking. Shall include illuminating, painting, lighting, or designating in a manner to be approved by the department. (7-1-12)T

011. -- 099. (RESERVED)

100. REQUIREMENTS.

01. Hazardous Structures. Any structure which obstructs the airspace more than two hundred (200) feet above the ground or water level, or at any height near an established airport as defined by Section 21-101(c), Idaho Code, when determined by the ~~Transportation Board or the Aeronautics Division Administrator acting in behalf of the Board,~~ Department to be an aviation hazard or a potential aviation hazard, as defined in Section 21-101(n), Idaho Code, to the safe flight of aircraft shall be plainly marked, illuminated, painted, lighted, or designated in a manner approved by the Board Department. ~~(4-11-06)~~(7-1-12)T

02. Guyed Towers. Any temporary or permanent guyed tower fifty (50) feet or more in height that is located outside the boundaries of an incorporated city or town on land that is primarily rural or undeveloped or used for agricultural purposes, or that is primarily desert, and where such guyed tower's appearance is not otherwise governed by state or federal law, rule or regulation, shall be lighted, marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than two thousand (2,000) feet. (7-1-12)T

a. Guyed towers shall be painted in seven (7) equal alternating bands of aviation orange and white. Such alternating bands shall begin with orange at the top of the tower and end with orange at the base. (7-1-12)T

b. Guyed towers shall have one flashing obstruction light at the top of the tower. Such light shall meet the technical requirements of medium intensity flashing white obstruction light systems as specified in Federal Aviation Administration Advisory Circular AC 70/7460-1K. (7-1-12)T

c. For guyed towers the surface area under the footprint of the tower and six (6) feet beyond the outer tower anchors shall have a contrasting appearance with any surrounding vegetation. (7-1-12)T

d. Guyed towers shall have two (2) marker balls, having a minimum diameter of twenty (20) inches attached to and evenly spaced on each of the outside guy wires. Said spheres to be of the split-sheet, clamp-on type which are to be alternated in two (2) contrasting solid colors of gloss yellow and international orange, and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam. (7-1-12)T

e. Guyed towers shall have a seven (7) foot long safety sleeve colored to contrast with background vegetation at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point. (7-1-12)T

f. Any guyed tower that was erected prior to July 1, 2012 shall be marked as required by the provisions of Section 100 before July 1, 2013. Any guyed tower that is erected on or after July 1, 2012 shall be marked as required by the provisions of Section 100 at the time it is erected. (7-1-12)T

g. The provisions of this Subsection 100.02, shall not apply to power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, or any structure, the primary purpose of which, is to support telecommunications equipment. (7-1-12)T

023. Lines, Wires, and Cables. Power lines, communication lines, wires, or cable more than two hundred (200) feet above the terrain crossing canyons, rivers, navigable bodies of water, terrain undulations, or guy

structures or any height where such wire, cable or obstruction cross navigable bodies of water near established seaplane bases, if determined by the Board Department to be a hazard to air navigation, shall be marked at two hundred (200) feet intervals of spacing by sphere-type markers having a minimum diameter of thirty-six (36) inches. Said sphere to be of the split-sheet, clamp-on type which are to be alternated in three (3) contrasting solid colors of gloss white, gloss yellow, and international orange and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam. ~~(4-11-06)~~(7-1-12)T

034. Spans Between Support Piers. Long spans that exceed lengths of one-half (1/2) mile between support piers, each pier shall be marked with flashing strobe or beacon lights of a type and brilliance acceptable to the Board Department if such is deemed pertinent to safety and recognition of obstructions. ~~(4-11-06)~~(7-1-12)T

045. Construction. Any construction sponsor is required to submit a notice to the Aeronautics Division Administrator if his construction ~~exceeds~~ meets one (1) or more of the following conditions: ~~(1-2-93)~~(7-1-12)T

a. ~~Greater than two hundred (200) feet in height.~~ If the proposed object ~~would~~ will be more than two hundred (200) feet above ground level at its location. ~~(4-11-06)~~(7-1-12)T

b. ~~Near an established airport or seaplane base.~~ If the proposed object ~~would~~ will be within twenty thousand (20,000) feet of an airport (*) or seaplane base with a runway of more than three thousand two hundred (3,200) feet in length; and ~~would exceed~~ will penetrate an imaginary surface that is one (1) foot in height for each one hundred (100) feet (100:1) horizontally from the nearest point of the nearest runway.

* To qualify, an airport as defined in Section 21-101(c), Idaho Code, must be listed in the Idaho Airport Facilities Directory, or in the Airport /Facility Directory published by the US-DOT, National Charting Office or operated by a public entity. ~~(4-11-06)~~(7-1-12)T

c. If the proposed object ~~would~~ will be within ten thousand (10,000) feet of an airport having no runway more than three thousand two hundred (3,200) feet in length; and ~~would exceed~~ will penetrate an imaginary surface that is one (1) foot in height for each fifty (50) feet (50:1) horizontally from the nearest runway. ~~(11-28-90)~~(7-1-12)T

d. ~~Near a Heliport.~~ If the proposed object ~~would~~ will be within five thousand (5,000) feet of a heliport listed in the "Airport Facilities Directory" or operated by a public entity; and ~~would exceed~~ will penetrate an imaginary surface that is one (1) foot in height for each twenty-five (25) feet (25:1), horizontally from the nearest landing and take-off area of that heliport. ~~(4-11-06)~~(7-1-12)T

e. ~~Highways and Railroads.~~ If the proposed object is a traverse way which ~~would~~ will exceed at least one (1) of the standards listed in Subsections 100.045.a. through 100.045.c. above, after its height is adjusted upward seventeen (17) feet for an Interstate Highway, fifteen (15) feet for any other public roadway, ten (10) feet (or the height of the highest mobile objects that would normally traverse the road) for a private road, twenty-three (23) feet for a railroad, or an amount equal to the height of the highest mobile objects that would traverse a waterway or any other thoroughfare not previously mentioned. ~~(11-28-90)~~(7-1-12)T

056. Notice Submittal. The notice required under Subsection 100.04 of this rule must be submitted: (1-2-93))

a. At least thirty (30) days before the construction or alteration is to begin; or the application for construction permit is to be filed. (11-28-90)

b. Immediately by telephone or other expeditious means, with written notification submitted within five (5) days thereafter, if immediate construction or alteration is required as in cases involving public services, health, or safety. (1-2-93))

067. Notice of Proposed Construction. A notice of proposed construction or alteration is required so that the State Transportation Board Department may: ~~(11-28-90)~~(7-1-12)T

a. Depict obstructions on aeronautical charts. (11-28-90)

- b. ~~Recommend~~ **Identify** appropriate markings as required by Section 21-515, Idaho Code. ~~(11-28-90)~~(7-1-12)T
- c. Be made aware of potential aeronautical hazards in order to minimize their danger to the flying public. (11-28-90)
- d. Protect the lives and property of persons in the air and on the ground. (11-28-90)

078. Submittal of Notice. ~~Written~~ **Notice** ~~must be given in writing~~ of intended construction or alteration ~~must be submitted by mail or hand-delivered~~ to the Aeronautics Division Administrator, ~~3483 Rickenbacker Street, Boise, ID 83705~~ using the contact information in Section 005 of this rule. ~~(1-2-93)~~(7-1-12)T

09. Intent. It is the intent that the resultant markings required in this rule be compatible with FAA policies and directives in order to maintain consistency of object marking and lighting. (7-1-12)T

101. -- 199. (RESERVED)

200. EXCEPTIONS.

No person is required to notify the Aeronautics Division Administrator for any of the following construction or alteration: ~~(1-2-93)~~(7-1-12)T

01. Shielded. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. (1-2-93)

02. Antennas. Any antenna structure of twenty (20) feet or less in height except one that would increase the height of another antenna structure. (11-28-90)

03. Air Navigation. Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device of a type approved by the Aeronautics Division Administrator, the location and height of which is fixed by its functional purpose. ~~(1-2-93)~~(7-1-12)T

IDAPA 46 - BOARD OF VETERINARY MEDICINE

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-1201

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 54-2105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 rulemaking will expressly authorize convenient methods for filing documents, allow the Board to more fully recover expenses incurred when an application for certification is withdrawn, and streamline and clarify certain obligations and procedures required of Certified Euthanasia Agencies and Certified Euthanasia Technicians for safe, efficient and accountable practice. The rulemaking makes a "housekeeping" change by adding the Board's website and e-mail information and simplifying filing requirements; adopts an updated version of the American Veterinary Medical Association's principles of ethics; makes all certified veterinary technician application fees nonrefundable; reorganizes existing provisions applicable to a Certified Euthanasia Agency (CEA) and a Certified Euthanasia Technician (CET); streamlines and clarifies procedures for a CEA and CET; eliminates any potential ambiguity in the grounds for discipline against a CEA or CET; and provides clarity to the procedures and requirements for addressing deficiencies found during an inspection of a CEA.

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:

The Board of Veterinary Medicine is a dedicated fund agency; therefore the General Fund will not be impacted by this rulemaking. It is estimated that the Board's dedicated fund account either will not be impacted, or that there will be a minimal positive impact of less than \$2,000/year.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it was not feasible for several reasons.

First, some of the rulemaking is of a simple, non-controversial nature (e.g., putting the Board's website and e-mail information in rule and simplifying filing options).

Second, the change to make all veterinary technician application fees nonrefundable is consistent with a suggestion made to the Board by a legislative committee during 2012 rulemaking; and the change is also consistent with an identical change in statute for veterinarian application fees (thereby treating the two groups the same).

Third, the amendments to the euthanasia rules were essentially the product of the Certified Euthanasia Task Force, an entity comprised of veterinarians and technicians involved in animal euthanasia practices in the state; therefore, input, comments and recommendations from these professionals in the affected field was considered in drafting the rulemaking.

Fourth, the changes clarify arguably ambiguous or vague procedures, thereby benefiting certificate holders.

Fifth, the rulemaking has been posted and discussed at two Board meetings, thereby allowing notice and opportunity for comments from the public and licensees.

Finally, because the agency is very small (employing only two full-time employees) and has an extremely tight budget, any minimal benefit that might result from holding meetings on the rulemaking for further comment from potentially affected persons does not justify the additional expense and burden placed on the Board, its staff and financial resources.

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:

An updated version of the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised November 2010, is being incorporated.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Ewing, Executive Director, at (208) 332-8588.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 25th day of July, 2012.

Karen Ewing, Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Rd.
P. O. Box 7249
Boise, ID 83707
Phone: (208) 332-8588
FAX: (208)334-2170

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 46-0101-1201

004. GENERAL PROVISIONS.

- 01. Office.** (7-1-97)
- a.** The office of the Board is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (7-1-97)
- b.** The office mailing address is P.O. Box 7249, Boise, Idaho 83707. (7-1-97)
- c.** The office telephone number is (208) 332-8588. (7-1-97)
- d.** The Board's facsimile (FAX) number is (208) 334-2170. (4-7-11)
- e.** The Board's e-mail address is bovminfo@agri.idaho.gov. ()
- f.** The Board's website address is <http://www.bovm.idaho.gov>. ()

eg. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (7-1-97)

02. Communications. All written communications and documents concerning any matter covered by these rules should be addressed to the office of the Board, and not to individual members of the Board or the Board's staff. All communications and documents are deemed to be officially received only when delivered to the Board

office during office hours.

(7-1-97)

03. Filing of Documents. All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case must be filed with the executive director of the Board. Filing can be accomplished by personal delivery, mail, facsimile transmission (FAX), or electronic mail (e-mail). FAX and e-mail filings submitted after Board office hours will be deemed filed as of the next business day the Board office is open. ()

a. In a rulemaking submission, the original and one (1) copy of all documents must be filed with the Board. ()

b. In a contested case proceeding, filing is sufficient if ~~One~~ one (1) original is ~~sufficient for submission delivered~~ to the executive director, one (1) copy for the Board, one (1) copy for the hearing officer, and one (1) copy submitted to the opposing party, as applicable. Whenever documents are filed by FAX ~~transmission or e-mail~~, originals and copies required under this rule shall be deposited in the mail the same day or hand delivered the following business day to the executive director, the Board, the hearing officer, and opposing parties, as applicable. (4-7-11)()

005. INCORPORATION BY REFERENCE.

01. Documents Incorporated. The following documents are incorporated herein by reference in accordance with the provision of Section 67-5229, Idaho Code. A copy of each of these documents may be obtained or electronically accessed via the Board of Veterinary Medicine's website at <http://www.bovm.idaho.gov>. (3-29-10)

a. The Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised ~~April 2008~~ November 2010. (3-29-10)()

b. The Educational Commission for Foreign Veterinary Graduates Information for Graduates of Colleges of Veterinary Medicine Outside the United States and Canada (ECFVG), adopted May 1, 2000. (3-30-01)

c. The American Association of Veterinary State Boards' (AAVSB) Program for the Assessment of Veterinary Education (PAVE), adopted August 15, 2002. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

100. CERTIFICATION OF VETERINARY TECHNICIANS.

Any person representing himself as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in the state of Idaho. (3-30-07)

01. Application for Certification -- Contents -- Examinations. An individual desiring to be certified as a veterinary technician shall make written application to the Board upon a form furnished by the Board. A complete application shall be valid and maintained at the Board office for a period of one (1) year, contain the applicant's notarized signature, and include: (3-30-01)

a. A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of age or older. (4-2-08)

b. Notarized affidavits issued during the year preceding certification from two (2) individuals, personally acquainted with the applicant, attesting to the fact that the applicant is of good moral character. (3-30-01)

c. Documentation of education/training/experience as follows: (3-30-01)

i. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary

technology program, accredited by the American Veterinary Medical Association; (3-29-10)

ii. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program equivalent to a program accredited by the American Veterinary Medical Association, or from another college or institution approved by the Board; (3-29-10)

iii. A certified copy of a diploma or transcript, or a letter verifying the award of a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or (3-29-10)

iv. If a foreign veterinary graduate, notarized verification of having been awarded a D.V.M. or V.M.D. degree or equivalent in a program of veterinary medicine from a foreign school of veterinary medicine or the veterinary department of a foreign university or another college or institution that is approved by the Board. (3-30-07)

d. Verification of a criterion-referenced passing score reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination. (3-30-01)

i. The VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time. (3-30-01)

ii. Scores for the VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards. (3-30-01)

e. A passing score for the jurisprudence examination, which should be ninety percent (90%) or such score as deemed appropriate by the Board. The jurisprudence examination, as prepared by the Board or its designee, may be taken more than once, at three-month intervals. (3-29-10)

02. Application for Certification -- Fee -- Deadline -- Validity. (3-30-01)

a. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. All application and certification fees are nonrefundable. ~~(3-30-01)()~~

b. The Board will review applications and issue certifications in January and June of each year. Veterinary Technician Certifications shall be consecutively numbered beginning with the number one (1) and all numbers shall be prefixed with the letters CVT. If an applicant is found not qualified, the Board shall notify the applicant in writing of such finding and grounds therefor. An applicant denied certification may request a hearing pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code. ~~Any applicant who is denied certification shall be allowed the return of the certification fee portion of the application fee.~~ ~~(3-30-01)()~~

~~**e.** Any applicant taking and passing the Idaho Veterinary Technician Jurisprudence Examination and not wanting to be certified at the next review by the Board shall be allowed the return of the certification fee portion of the application fee only.~~ ~~(3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

204. CERTIFIED EUTHANASIA AGENCY.

A certified euthanasia agency is a law enforcement agency, an animal control agency, a humane society, or a society for the prevention of cruelty to animals shelter that has been inspected and certified by the euthanasia task force or the Board, Section 54-2103(8), Idaho Code. In order to be certified to purchase and store approved drugs, certified euthanasia agencies shall be inspected by the CETF or the Board and shall meet the following criteria:

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

01. Approved Drugs. Approved drugs shall be kept in a locked cabinet securely attached to the building in which it is housed. (3-30-01)

a. Each agency shall maintain a current written list of CET(s). ~~(3-30-01)~~()

b. Access to the drug storage cabinet shall be limited to licensed veterinary supervisors and assigned CET. Such persons shall be responsible for the security of the approved drugs and shall allow withdrawal of the approved drugs only to a person certified by the Board and registered with the Idaho Board of Pharmacy to administer such drugs. (3-30-01)

c. All approved drugs shall be prepared according to the manufacturer's instructions. (7-1-97)

d. Needles in a range of sizes that are the appropriate gauge for the intended use. Needles shall be of medical quality, and shall not be used if they are dirty, clogged, barbed, or might otherwise cause unnecessary discomfort for the animal. ~~Needles shall not be used more than five (5) times.~~ ~~(3-29-10)~~()

~~**fe.** Used n~~Needles and syringes ~~that are to~~ **shall not** be reused ~~shall be kept in the same secure or temporary storage as the approved drugs.~~ ~~(7-1-97)~~()

~~**ef.** Three (3) different syringe sizes are required: three (3), six (6), and twelve (12) cc. An agency may have other syringe sizes according to its needs. Syringes shall be of medical quality. They may be reused if they are properly cleaned.~~ ~~(3-30-01)~~()

g. Spent needles and syringes shall be disposed of in a manner that makes their re-use impossible. (7-1-93)

02. Proper Storage. When no CET is on duty, proper storage for approved drugs is in a locked storage cabinet. (3-30-01)

a. The cabinet shall be of such material and construction that it will withstand strong attempts to break into it. A metal safe is preferred. (7-1-93)

b. The cabinet shall be securely attached to the building in which it is housed. (7-1-93)

c. The temperature and environment in the storage cabinet shall be adequate to assure the proper keeping of the drug. (7-1-93)

03. Proper Labeling. ~~Proper labeling of approved drugs shall include:~~ ~~(7-1-97)~~

~~**a.** Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number.~~ Upon removal from the shipment carton, each individual container of an approved drug shall be labeled with the drug name and strength, the date the drug was prepared, a drug hazard warning label and the name and address of the agency owning the drug. ~~(7-1-97)~~()

~~**b.** Administration records showing the date an approved drug was administered, weight, species of animal and dosage of each drug administered for euthanasia and restraint, identification of the person who dispensed the approved drugs and if applicable identification of the veterinarian or CET who supervised the dispensing shall be maintained.~~ ~~(3-30-01)~~

~~c. Records of wastage shall be maintained and signed by the person administering the approved drug and the CET responsible for security. (3-30-01)~~

~~d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET or person responsible for security. (3-30-01)~~

~~e. Disposal records of any expired or unwanted approved drugs shall be maintained. Disposal of unwanted drugs and the containers, instruments and equipment used in the administration of the approved drugs shall be in conformance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. (3-30-01)~~

04. Temporary Storage. When a CET is on duty and when animals are being euthanized throughout the workday, approved drugs may be kept in a temporary storage cabinet. When approved drugs are transported in a vehicle, the temporary storage cabinet shall be securely bolted to the vehicle. The cabinet shall be constructed of any strong material and shall be securely locked when not in use. The key to this cabinet shall be secured by a licensed veterinary supervisor or the lead CET designated on the DEA controlled substance registration, and made available only to the licensed veterinary supervisor and designated CET(s) performing euthanasias that day. (3-29-10)()

05. Record Keeping. Proper record keeping of approved drugs shall include the following: (7-1-97)()

a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number. ()

b. Administration records showing the date an approved drug was: ()

i. Administered; ()

ii. Weight and species of animal; ()

iii. Dosage of each drug administered for pre-euthanasia sedation, euthanasia, and remote chemical capture restraint; ()

iv. Identification of the person who dispensed the approved drugs; and, if applicable ()

v. Identification of the veterinarian or CET who supervised the dispensing shall be maintained.()

c. Records of wastage shall be maintained and signed by the CET administering the approved drug and the CET responsible for security. ()

d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security. ()

e. Disposal records of any expired or unwanted approved drugs shall be maintained. Disposal of unwanted drugs and the containers, instruments, and equipment used in the administration of the approved drugs shall be in conformance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. ()

~~f.~~ All records shall be filed in chronological order in a binder that is labeled with the name of the agency. (7-1-93)

~~g.~~ All records shall be kept for a period of three (3) years from the calendar date on the record. (7-1-93)

06. Proper Sanitation. The euthanasia area shall be clean and regularly disinfected. (3-30-01)

07. Other Site Conditions. Other site conditions relevant to the proper euthanasia environment.

- (7-1-93)
- a.** Each agency shall have a specific area designated for euthanasia. The area shall be: (7-1-93)
- i. A separate room; or (7-1-93)
- ii. An area that is physically separated from the rest of the agency by a wall, barrier or other divider; (7-1-93)
- or (7-1-93)
- iii. An area that is not used for any other purpose while animals are being euthanized. (7-1-93)
- b.** The euthanasia area shall meet the following minimum standards: (7-1-93)
- i. Lighting shall be bright and even; (7-1-93)
- ii. The air temperature shall be within a reasonable comfort range for both the personnel and animals. A minimum sixty (60) degrees F and maximum ninety (90) degrees F is recommended; (7-1-93)
- iii. The area shall have adequate ventilation that prevents the accumulation of odors. At least one (1) exhaust fan vented directly to the outside is recommended; and (7-1-93)
- iv. The floor of the area shall provide dry, non-slip footing to prevent accidents. (7-1-93)
- c.** The euthanasia area shall have the following equipment: (7-1-93)
- i. A table or other work area where animals can be handled while being euthanized. (7-1-93)
- ii. A cabinet, table or work bench where the drugs, needles, syringes and clippers can be placed. (7-1-93)
- d.** The following items and materials shall either be kept in the euthanasia area or brought to the area each time an animal is euthanized: (3-29-10)
- i. A first aid kit that meets minimum first aid supply standards; (7-1-93)
- ii. One (1) or more tourniquets; (7-1-93)
- iii. Standard electric clippers with No. 40 blade; (7-1-93)
- iv. Animal control stick for dogs and animal net for cats (if the agency handles cats); (7-1-93)
- v. Stethoscope; (7-1-93)
- vi. Disinfectant. (3-29-10)
- vii. The current certification cards for the CEA and all CETs working at the CEA, which shall be kept together. The CEA is strongly encouraged to keep all DEA and Idaho Board of Pharmacy registration cards together with the certification cards. (3-29-10)
- e.** All equipment shall be in good working order. (7-1-93)
- 08. Equipment Stored.** All equipment shall be stored so that it does not create a safety hazard for the personnel. All drugs and other chemical agents used in the euthanasia area shall be clearly labeled as specified by Subsection 204.03 of these rules. (3-30-01)

09. Certification Renewal. Certifications may be renewed upon successful completion of a facility inspection by a CETF member, a member of the Board or other individual appointed by the CETF and payment of the

annual renewal fee. (3-30-01)

205. CERTIFIED EUTHANASIA TECHNICIAN.

01. Training and Examinations. The CETF or the Board shall develop training sessions and materials that shall include, but not be limited to, the following topics: (3-30-01)

- a. Euthanasia: (3-30-01)
 - i. The theory and history of euthanasia methods; (3-30-01)
 - ii. Animal anatomy; (3-30-01)
 - iii. Proper animal handling to ease trauma and stress; (3-30-01)
 - iv. Dosages of chemical agents, record keeping and documentation of usage, storage, handling, and disposal of out-dated drugs and their containers, instruments and equipment used in their administration in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations; (3-30-01)
 - v. Proper injection techniques; and (3-30-01)
 - vi. Proper use and handling of approved euthanasia drugs and equipment; (3-30-01)
 - vii. Examination. Following the euthanasia training, a written examination shall be given. Those passing the written examination will be eligible for the practical examination. (3-30-01)

- b. Remote Chemical Capture: (3-30-01)
 - i. An overview of remote chemical capture; (3-30-01)
 - ii. Description and basic mechanism of action of approved drugs; (3-30-01)
 - iii. Laws, regulations and rules governing remote chemical capture; (3-30-01)
 - iv. Post-injection care; (3-30-01)
 - v. Proper use and handling of approved restraint drugs and equipment; (3-30-01)
 - vi. Human safety; (3-30-01)
 - vii. Tactics and strategy; and (3-30-01)
 - viii. Delivery systems and equipment. (3-30-01)

02. Certification Standards. Applicants for certification as a CET shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards: (4-7-11)

- a. Demonstrate ~~efficiency~~ **competency** in euthanasia techniques in the presence of a CETF or Board member, or a person approved by the Board: ~~(4-7-11)~~ ()
 - i. CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling; (3-30-01)
 - ii. CETs shall be able to ~~properly~~ **competently** perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, shall meet the standards listed in Subparagraph 205.02.a.ii.(1) of these

rules. Intracardiac injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subparagraph 205.02.a.ii.(3) of these rules. ~~(4-7-11)~~()

(1) Intravenous Injections: The CET shall be able to ~~properly and efficiently~~ competently insert the needle into an animal's vein ~~in no more than two (2) attempts on ninety percent (90%) of the~~ when an animals is injected by this method. A minimum of two (2) people shall be required for any IV injection. One (1) person shall be a CET and one (1) or more people shall be the handler. The handler does not need to be a CET, but the handler should be trained in human safety and animal handling techniques; ~~(4-7-11)~~()

(2) Intraperitoneal Injections: The CET shall be able to efficiently competently insert the needle into the proper ~~injection site in no more than two (2) attempts on ninety five percent (95%) of the~~ area of the peritoneal cavity when an animals is injected by this method. It is recommended that animals injected by this method be placed into a cage or carrier with no other animals. The ~~front of the~~ cage or carrier shall be covered with cloth or other material that can keep the ~~ease~~ injected animal isolated from the normal activities in the euthanasia area. Intraperitoneal injections may be administered by a CET without a handler. ~~(4-7-11)~~()

(3) Intracardiac Injections: Intracardiac injection shall be performed only on an anesthetized animal. CETs shall be able to efficiently competently insert the needle into the heart of an anesthetized animal, ~~in no more than two (2) attempts on ninety percent (90%) of the animals injected by this method.~~ and ~~fi~~ntracardiac injections may be administered by a CET without a handler. ~~(3-30-01)~~()

iii. No other euthanasia injection procedures are permitted in any type of animal with the exception of intramuscular and subcutaneous injections for pre-euthanasia sedation; ~~(3-30-01)~~()

iv. Oral administration of approved euthanasia drugs is permitted for any animal that cannot be captured or restrained without serious danger to human safety; ~~(3-30-01)~~()

b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept. The record shall contain the following information: (3-30-01)

i. A weekly verification of the drug stock on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security; ~~(3-30-01)~~()

ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET responsible for security; ~~(3-30-01)~~()

iii. The species and approximate weight of each animal administered a drug; (3-30-01)

iv. The amount of the drug that was administered; (3-30-01)

v. The date the drug was administered; ()

vi. The signature of the CET who administered the drug; (3-30-01)

vii. A record of the amount of the drug wasted, if any, signed by the CET administering the drug and the CET responsible for security; and ~~(3-30-01)~~()

viii. A record of any disposal of expired or unwanted approved drugs, other chemical agent or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. (3-30-01)

c. Demonstrate understanding and concern for the needs and humane treatment of individual animals: (4-7-11)

i. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler. Each animal shall be handled with the least amount of restraint necessary, but human safety shall always be the primary concern. Handling includes all aspects of moving an animal from one

(1) area to another; (4-7-11)

ii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and (3-30-01)

iii. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question. Animals shall not be overcrowded in a cage or kennel. (7-1-93)

d. Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within sixty (60) minutes of drug administration. If any animal does not show any of these signs within the designated time period, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met: (4-7-11)

i. Rigor mortis; or (7-1-93)

ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, and complete lack of corneal and palpebral reflexes. (4-2-08)

e. Demonstrate ability to communicate with handlers during the euthanasia process. (3-18-99)

03. Certification. An individual shall not be certified as a CET until such time as he has demonstrated proficiency in the practical examination that shall be conducted following the successful passing of the written exam. Training courses and written and practical examinations will be given as needed. Certification and renewal training sessions and examinations will be conducted prior to July 1 of each year at a place selected by the CETF or the Board. (3-29-10)

a. An individual who has passed the written exam, but has not attended a training session and has not passed the practical examination, may serve as a probationary euthanasia technician under the direct supervision of a currently certified CET until such time as the next training course, practical exam and certification are conducted by a CETF or Board member. (3-30-07)

b. An individual who has not passed the written exam may not serve as a euthanasia technician. (4-7-11)

c. An individual who attends a training session and passes the written exam but fails the practical exam may serve on probation until the CETF member re-examines the individual. If the individual fails to pass the practical exam a second time and wishes to apply again, the individual shall attend the next regular training session and written exam. (3-30-01)

d. Upon termination from an agency as defined in Section 204 of these rules, a CET's certification immediately becomes invalid and the CET shall not perform animal euthanasia until employed by another certified euthanasia agency, at which time the certification may be reinstated. (4-7-11)

e. The agency shall notify the Board office in writing within thirty (30) days from the date the CET's employment at that agency is terminated. (3-29-10)

f. If a CET is employed again by a CEA prior to the expiration of his certification, the CEA employer may request reinstatement of the CET's certification. If a CET has not attended a euthanasia training in the three (3)-year period preceding recertification, the CET may not be recertified and will need to reapply for certification, at CETF discretion. (4-7-11)

g. All certifications expire on July 1 of each year ~~and are effective for no longer than twelve (12) months from the date of certification.~~ (3-30-01) ()

04. Certification Renewal. (4-7-11)

a. Certifications may be renewed each year by payment of the annual renewal fee, provided that, every third year following the date of certification, the CET will need to attend a euthanasia training and pay the current training and certification fee prescribed by Section 014 of these rules. (4-7-11)

b. In addition to the above euthanasia training recertification requirement, CETs classified as law enforcement personnel who use chemical capture must recertify in remote chemical capture every third year following their original remote chemical capture certification. (4-7-11)

05. Duties. The duties of a CET shall include, but are not limited to: (7-1-97)

a. Preparing animals for euthanasia; (7-1-97)

b. Accurately recording the dosages for drugs that are administered and amounts for drugs wasted; (3-30-01)

c. Ordering supplies; (7-1-93)

d. Maintaining the security of all controlled substances and other approved drugs; (3-30-01)

e. Directly supervising probationary CET; (7-1-97)

f. Reporting to the Board violations or suspicions of a violation of these rules or any abuse of drugs; (3-30-01)

g. Humanely euthanizing animals; and (3-30-01)

h. Proper and lawful disposal of euthanized animals and expired or unwanted drugs, other chemical agent or the containers, instruments and equipment used in the administration of approved drugs. (3-30-01)

206. GROUNDS FOR DISCIPLINE -- CEAS AND CETs.

The Board may refuse to issue, renew, or reinstate the certification of a CEA or CET, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a CEA or CET, impose other forms of discipline, and enter into consent agreements and negotiated settlements with CEAs and CETs pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for any of the following reasons: (3-30-01)

01. Failure to Carry Out Duties. Failure to carry out the duties of a CEA or CET. (3-30-01)

02. Abuse of Chemical Substances. Abuse of any chemical substance by: (3-30-01)

a. Selling or giving chemical substances away; or (7-1-97)

b. Stealing chemical substances; or (7-1-97)

c. Using The diversion or use of any chemical substances for other than legitimate chemical capture or euthanasia purposes; or ~~(3-18-99)~~()

d. Abetting anyone in the foregoing activities. (7-1-97)

03. Euthanizing of Animals Without Proper Supervision. Allowing uncertified individuals or probationary CETs to euthanize animals or personally euthanizing animals without proper supervision. (3-30-01)

04. Administration of Approved Drugs Without Proper Supervision. Allowing uncertified individuals or probationary CETs to administer approved drugs or personally administering approved drugs without proper supervision. (3-30-01)

05. Euthanizing of Animals Without Proper Certification. Allowing individuals or probationary

CETs to euthanize animals or personally euthanizing animals without being properly certified to do so. (3-30-01)

06. Fraud, Misrepresentation, or Deception. The employment of fraud, misrepresentation of a material fact, or deception by an applicant or certificate holder in ~~obtaining certification~~ securing or attempting to secure the issuance or renewal of a certificate. (~~3-30-01~~)()

07. Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public and includes, but is not limited to: (3-30-01)

a. Working in conjunction with any agency or person illegally practicing as a CEA or CET; (3-30-01)

b. Failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; (3-30-01)

c. Euthanizing animals in a manner that endangers the health and welfare of the public. A CET shall not euthanize animals if his ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability; (3-30-01)

d. Gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice as CETs in this state; (3-30-01)

e. Intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and (3-30-01)

f. Swearing falsely in any testimony or affidavits relating to practicing as a CEA or CET. (3-30-01)

08. Conviction of Violating Any Federal or State Statute, Rule or Regulation. Conviction of a charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances. (3-30-01)

09. Conviction of a Charge or Crime. Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state of one (1) or more of the following: (3-30-01)

a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or (3-30-01)

b. Any crime constituting or having as an element the abuse of any drug, including alcohol. ()

~~b.c.~~ Any other criminal act that in any way is related to practicing as a CEA or CET as defined by Section 54-2103(8) and (9), Idaho Code. (3-30-01)

10. Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in the rules of the Board. (3-30-01)

11. Improper Security for Approved Drugs. Failure to provide and maintain proper security for approved euthanasia and restraint drugs as outlined in the rules of the Board. (3-30-01)

12. Improper Storage of Equipment and Approved Drugs. Failure to properly store equipment or approved drugs as outlined in the rules of the Board. (3-30-01)

13. Improper Disposal of Approved Drugs and Equipment. Failure to properly dispose of approved drugs and the containers, instruments and equipment used in their administration as outlined in the rules of the Board. (3-30-01)

14. Improper Labeling of Approved Drugs. Failure to properly label approved euthanasia and restraint drugs as outlined by the rules of the Board. (3-30-01)

15. Revocation, Suspension, Limitation or ~~Subjection~~ Restriction. The revocation, suspension, limitation, or ~~subjection~~ restriction of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a CEA or CET in that state or jurisdiction on grounds other than nonpayment of the renewal fee. ~~(3-30-01)~~()

16. Failure to Cooperate. (3-30-01)

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder; or (3-30-01)

b. Failure to comply with the terms of any order, negotiated settlement, or probationary agreement of the Board; or (3-30-01)

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees. (3-30-01)

17. Aiding and Abetting. Knowingly aiding or abetting an uncertified agency or person to practice as a CEA or CET. (3-30-01)

18. Current Certification. Practicing as a CEA or CET without a current certification. (3-30-01)

19. Improper Drug Preparation. Preparing approved drugs, contrary to manufacturer's instructions. (3-30-01)

20. Violation of any Law, Rules or Orders. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any provisions of the veterinary law and rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code, the Idaho Board of Pharmacy law and rules, or the Code of Federal Regulations. (3-30-01)

207. INSPECTION DEFICIENCIES.

If there are inspection deficiencies with either a CEA or CET, a CETF member or the Board shall document in writing areas for correction. The CEA or CET, or both, shall make corrections within ~~ten (10) days of receipt of the~~ time period specified in the notice of deficiency, and correction shall be verified by a CETF or Board member ~~shall re-inspect within ninety (90) days of the date of the initial notice of~~ as recorded on the deficiency documentation. If the deficiency has not been corrected, the certification may be revoked by the Board, and the Idaho Board of Pharmacy will be notified. ~~(3-30-01)~~()

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-1203

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 September 17, 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 many different play styles, from draw and Scratch games to PullTabs. This rule allows the Lottery to include a terminal produced Scratch style game in our current portfolio, which will appeal to social environment retailers and other non-traditional locations. The games are designed to be played on the Lottery's new player operated vending machine, the MP, which currently sells only draw tickets. The purpose of the machine is to reduce lines and speed transactions in high volume retail locations and improve the purchasing experience for customers and retailers. The change requested allows for a terminal game, which is structured like a Scratch game, with a finite number of tickets, pools and assigned pack and ticket numbers, but delivers the play via a multi-purpose vending machine, or MP.

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 September 17, 2012.

DATED this 2nd day of August, 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) 334-2610
www.idaholottery.com

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 *et seq.*, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the meeting at one of the following locations. The meeting locations will be connected by telephone and web conferencing. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding individual participation by telephone and web conferencing or scheduling of additional meetings, contact the undersigned. Individual requests to participate by telephone and web conferencing must be made by October 1, 2012.

Thursday, October 4, 2012, 9 a.m. to 12:30 p.m. Mountain Time	
Department of Environmental Quality Conference Rooms A & B 1410 N. Hilton, Boise, Idaho	Department of Environmental Quality 444 Hospital Way #300 Pocatello, Idaho
Department of Environmental Quality 2110 Ironwood Parkway, Coeur d'Alene, Idaho	Department of Environmental Quality 1118 F Street Lewiston, Idaho

PRELIMINARY DRAFT: DEQ did not draft a preliminary draft rule for public review prior to the first meeting. The first meeting has been scheduled for the purpose of presenting literature review findings, discussing criteria updates, gathering information, and setting a path forward. The website for this rule docket is located at www.deq.idaho.gov/58-0102-1201.

PRELIMINARY DRAFT: On May 10, 2012, the United States Environmental Protection Agency (EPA) disapproved the July 7, 2006 Idaho DEQ water quality standard rule submittal. The disapproval affects 167 of Idaho's revised human health criteria for 88 toxic pollutants. DEQ's proposed rule changed the fish consumption basis for determining the toxic standard from 6.5 g/day to 17.5 g/day (which was EPA's nationally recommended fish consumption rate). EPA disapproved the proposed criteria because EPA believes that the derivation of the criteria does not protect Idaho's designated uses. EPA was unable to ensure that the 17.5 g/day fish consumption rate was consistent with 40 CFR 131.11(a). EPA identified several sources of information on local and regional fish consumption, which they claim that Idaho did not consider before using the national default fish consumption rate. According to EPA, the information that EPA reviewed suggests that fish consumption among some Idaho population groups is greater than 17.5 g/day.

This rulemaking will evaluate local and regional fish consumption information to determine whether Idaho's statewide criteria are protective of designated uses and, if the current criteria are not protective, to determine appropriate new criteria. The rulemaking will derive the human health criteria for acrolein and phenol using updated reference dose values. This rulemaking will also set a human health criterion for copper based on drinking water standards.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Idahoans that recreate in, drink from, or fish Idaho's surface waters and all who discharge pollutants to those same waters may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: assistance on questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. Written comments regarding the initiation of this rule docket must be received by October 11, 2012. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 8th day of August, 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

Sections Affected Index

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law

Docket No. **02-0602-1201 (Fee Rule)**

004. Incorporation By Reference.	18
011. Exemptions.	18
012. -- 019. (Reserved).....	19
020. Registration And Fees.....	19
021. -- 049. (Reserved).....	19
050. Label Format.	19

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.05.01 - Rules of the Public Works Contractors License Board

Docket No. **07-0501-1201 (Fee Rule)**

110. Application For Licensure -- Documentation, Appraisals, References, Bonding, And Financial Statements.	23
111. Financial Requirements.	25
201. Fees.	25

Docket No. **07-0501-1202**

110. Application For Licensure -- Documentation; Appraisals; References; Bonding; And Financial Statements.	28
---	----

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - Medicaid Basic Plan Benefits

Docket No. **16-0309-1202**

905. Liens And Estate Recovery: Limitations And Exclusions.	31
--	----

Docket No. **16-0309-1204**

004. Incorporation By Reference.	34
011. Definitions: I Through O.	36
245. Providers Of School-Based Services.	38
615. Additional Assessment And Evaluation Services.	38
732. Therapy Services: Coverage And Limitations.	39
733. Therapy Services: Procedural Requirements.	40
735. Therapy Services: Provider Reimbursement.....	41
850. School-Based Service: Definitions.	42
851. School-Based Service: Participant Eligibility.	42
852. School-Based Service: Coverage And Limitations.	43
853. School-Based Service: Procedural Requirements.	46
854. School-Based Service: Provider Qualifications And Duties.	48
855. School-Based Service: Provider Reimbursement.	55

16.05.01 - Use and Disclosure of Department Records

Docket No. **16-0501-1201**

210. Child Protection.....	58
----------------------------	----

16.06.01 - Child and Family Services

Docket No. **16-0601-1202**

405. Alternate Care Case Management.....	60
554. Response Priorities.	62

16.07.01 - Behavioral Health Sliding Fee Schedules

Docket No. **16-0701-1201**

010. Definitions.	66
600. Calculating Income To Apply The Sliding Fee Schedule For Alcohol And Substance Disorders Services.	68

16.07.17 - Alcohol and Substance Use Disorder Services**Docket No. 16-0717-1201**

001. Title And Scope.....	72
010. Definitions.....	72
102. Eligibility Determination.....	75
200. Individualized Service Plan, Selection Of Service Providers And Available Treatment Services.....	76

**16.07.20 - Alcohol and Substance Use Disorders Treatment and Recovery Support Services
Facilities and Programs****Docket No. 16-0720-1201**

002. Written Interpretations.....	80
009. Criminal History And Background Check Requirements.....	80
010. Definitions - A Through C.....	80
011. Definitions - D Through H.....	84
012. Definitions - I Through P.....	85
013. Definitions - Q Through Z.....	88
103. Services For Co-Occurring Disorders (COD).....	89
104. -- 129. (Reserved).....	90
130. Initial Application For Approval Of An Alcohol And Substance Use Disorders Treatment Or Recovery Support Services Program.....	90
138. Joint Commission Or CARF Accreditation.....	92
139. (Reserved).....	93
140. Review Of Application And Inspection Process.....	93
210. Personnel Policies And Procedures.....	94
216. Supervisory Staff Qualifications.....	98
217. Clinical Supervision.....	99
218. Qualified Substance Use Disorders Professional Personnel Required.....	100
219. -- 220. (Reserved).....	101
221. Volunteers.....	101
222. (Reserved).....	102
223. Qualified Substance Use Disorders Professional Trainee.....	102
350. Client Rights.....	104
351. -- 359. (Reserved).....	107
360. Admission Policies And Procedures.....	107
375. Client Records Requirements.....	108
376. Maintenance Of Client Records.....	109
377. -- 379. (Reserved).....	110
380. Individualized Service Plan.....	110
386. -- 389. (Reserved).....	112
390. Environment Requirements.....	112
391. Emergency Preparedness Plan.....	113
392. Medical Emergency Services.....	114
399. Plant Technology And Safety Management.....	114
400. -- 449. (Reserved).....	118
450. Adult Facility And Program Services.....	118
451. Child And Adolescent Facility And Program Services.....	118
453. Services For Women With Dependent Children.....	119
454. (Reserved).....	119
455. Emergency Detoxification Treatment.....	119
540. Level III.1 - Clinically Managed Low-Intensity Residential Treatment Facility For Adults (Halfway House).....	121
541. -- 599. (Reserved).....	121

600. Level I - Outpatient, And Level II.1 - Intensive Outpatient Treatment Facilities For Children, Adolescents, And Adults.	121
611. -- 629. (Reserved).....	125
630. Child And Adolescent Transitional Residential Treatment Facility.....	125
631. -- 639. (Reserved).....	126
640. Level .5 - Early Intervention Services For Children And Adolescents.....	126
641. -- 649. (Reserved).....	126
650. Level .5 - Early Intervention Services For Adults.	127
651. -- 699. (Reserved).....	127
700. Adult Staffed Safe And Sober Housing Facility.....	128
701. Child And Adolescent Staffed Safe And Sober Housing Facility.....	129
702. -- 709. (Reserved).....	130
720. Life Skills.....	130
721. -- 729. (Reserved).....	131
730. Transportation Services.....	131
745. Case Management Services.....	133

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.09 - Suitability in Annuity Transactions

Docket No. **18-0109-1202 (Chapter Rewrite)**

000. Legal Authority.....	137
001. Title And Scope.....	137
002. Purpose.....	137
003. Written Interpretations.....	137
004. Administrative Appeals.....	137
005. Incorporation By Reference.....	137
006. Office Hours -- Mailing Address And Street Address.....	138
007. Public Records Act Compliance.....	138
008. -- 009. (Reserved).....	138
010. Definitions.....	138
011. Transaction Exemptions.....	139
012. -- 014. (Reserved).....	140
015. Duties Of Insurers And Of Producers.....	140
016. Producer Training.....	143
017. -- 020. (Reserved).....	144
021. Recordkeeping.....	144
022. -- 024. (Reserved).....	144
025. Compliance Mitigation - Violations - Penalties.....	144
026. -- 999. (Reserved).....	144

18.01.19 - Insurance Rates and Credit Rating

Docket No. **18-0119-1201**

100. Use Of Credit Factors.....	146
---------------------------------	-----

18.01.44 - Schedule of Fees, Licenses and Miscellaneous Charges

Docket No. **18-0144-1201 (Fee Rule)**

030. Producer And Miscellaneous Licensing Fees.....	148
---	-----

18.01.56 - Rebates and Illegal Inducements to Obtaining Title Insurance Business

Docket No. **18-0156-1201**

012. Permitted Consumer Information.....	151
--	-----

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 - Rules Governing the Administration of Park and Recreation Areas and Facilities

Docket No. **26-0120-1202 (Fee Rule)**

010. Definitions.	153
150. Use Of Motor Vehicles.	156
175. Public Behavior.	157
200. Camping.	157
201. Boating Facilities.	159
225. Fees And Services.	159
226. -- 249. (Reserved)	160
250. Fee Schedule: Campsites.	160
251. (Reserved)	161
252. Fee Schedule: Motor Vehicle Entrance Fee.	161
256. Fee Schedule: Boating Facilities.	162
275. Criteria For Individual Campsite, Camping Cabin, And Yurt Reservations.	162

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

*31.41.01 - Customer Relations Rules for Telephone Corporations Providing Services in Idaho
Subject to Customer Service Regulation by the Idaho Public Utilities Commission
(The Telephone Customer Relations Rules)*

Docket No. **31-4101-1201**

500. Quality Of Service (Rule 500).	165
501. Response To Service Outage (Rule 501).	165
502. Repair Service Standards (Rule 502).	165

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - Property Tax Administrative Rules

Docket No. **35-0103-1206**

803. Budget Certification -- Dollar Certification Form (L-2 Form) (Rule 803).	167
--	-----

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.12 - Rules Governing Issuing Certificates of Title and Bonded Certificates of Title

Docket No. **39-0212-1201**

000. Legal Authority.	174
001. Title And Scope.	174
002. Written Interpretations.	174
003. Administrative Appeals.	174
004. Incorporation By Reference.	174
005. Office – Office Hours – Mailing And Street Address – Phone Numbers.	174
006. Public Records Act Compliance.	174
007. -- 099. (Reserved)	174
100. General.	175
101. -- 199. (Reserved)	176
200. Bonded Title.	176
202. Claims Against The Bond.	176
203. Expiration Of Bonding Requirement.	177

39.02.60 - Rules Governing License Plate Provisions

Docket No. **39-0260-1201**

012. Proof Of Registration For New, Replacement, Or Reissued License Plates.	179
155. Provisions For Special License Plate Program Prequalification And Application Procedures. .	179
156. -- 198. (Reserved)	180
202. Provisions For Personalized License Plates.	180

39.03.04 - Rules Governing Movement of Disabled VehiclesDocket No. **39-0304-1201 (New Chapter)**

000. Legal Authority.....	184
001. Title And Scope.....	184
002. Written Interpretations.....	184
003. Administrative Appeals.....	184
004. Incorporation By Reference.....	184
005. Office -- Office Hours -- Mailing And Street Address -- Phone Numbers.....	184
006. Public Records Act Compliance.....	185
007. -- 009. (Reserved).....	185
010. Definitions.....	185
011. -- 099. (Reserved).....	185
100. General.....	185
101. -- 199. (Reserved).....	185
200. Removal Of Disabled Vehicles.....	185
300. Hazardous Travel Conditions Restrictions.....	186
301. -- 999. (Reserved).....	186

39.03.10 - Rules Governing When an Overlegal Permit Is RequiredDocket No. **39-0310-1201**

005. Office -- Office Hours -- Mailing And Street Address -- Phone Numbers.....	188
300. Waiver Of Limitations For Emergency Movements.....	188

39.03.41 - Rules Governing Traffic Control DevicesDocket No. **39-0341-1201**

004. Incorporation By Reference.....	191
--------------------------------------	-----

39.04.02 - Rules Governing Marking of Hazards to Air FlightDocket No. **39-0402-1201**

000. Legal Authority.....	201
001. Title And Scope.....	201
005. Office -- Office Hours -- Mailing And Street Address -- Phone Numbers.....	201
007. -- 009. (Reserved).....	201
010. Definitions.....	201
011. -- 099. (Reserved).....	202
100. Requirements.....	202
101. -- 199. (Reserved).....	204
200. Exceptions.....	204

IDAPA 46 - BOARD OF VETERINARY MEDICINE**46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine**Docket No. **46-0101-1201**

004. General Provisions.....	206
005. Incorporation By Reference.....	207
100. Certification Of Veterinary Technicians.....	207
204. Certified Euthanasia Agency.....	209
205. Certified Euthanasia Technician.....	212
206. Grounds For Discipline -- CEAs And CETs.....	215
207. Inspection Deficiencies.....	217

LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

*The written comment submission deadline is September 26, 2012 unless otherwise noted.
(Temp & Prop) indicates the rule is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 - DEPARTMENT OF AGRICULTURE

P.O. Box 790, Boise, ID 83701

02-0602-1201, Rules Pertaining to the Idaho Commercial Feed Law. (Temp & Prop) Establishes a fee for commercial feed products registered for distribution in Idaho; exempts certain feed products from registration and fee assessment; redefines "labeling" to include statements and promotions on company websites or other internet-based customer interfaces.

IDAPA 07 - DIVISION OF BUILDING SAFETY

P. O. Box 83720, Meridian, ID 83642

07.05.01 - Rules of the Public Works Contractors License Board

07-0501-1201, (Temp & Prop) Per statute creates a "Class CC" license for a contractor to work on a public works project with an estimated cost of up to \$400,000; establishes license classifications based on each applicant's responsibility and scope of operations; sets minimum financial requirements for licensure; establishes initial licensure and renewal fees for each license classification; requires that financial statements submitted with an application include an independent audit report or be reviewed or compiled by a certified public accountant.

07-0501-1202, Clarifies that the annual financial statement, which must be filed with an application for a public works contractor license, covers a period of time ending no more than 12 months prior to the date of submission of the application.

IDAPA 16 - IDAHO DEPARTMENT OF HEALTH AND WELFARE

Box 83720, Boise, ID 83720-0036

16.03.09 - Medicaid Basic Plan Benefits

16-0309-1202, Clarifies Department's current interpretation and practice for estate recovery of life estate interests after the death of the Medicaid participant.

***16-0309-1204,** (*PH) Implements the Children's System Redesign by incorporating both new and existing replacement services for school-based providers of developmental therapy and intensive behavioral intervention services; removes references to DDA services; removes developmental therapy, intensive behavioral intervention services, and Idaho Infant Toddler Program (ITP) from the rules for school-based services; adds new behavioral intervention services to school-based services and clarifies the various existing school-based services and processes.

***16-0501-1201, Use and Disclosure of Department Records.** (*PH) Specifies and clarifies the information regarding child fatalities that the Department can disclose pursuant to federal law under the Child Abuse Prevention and Treatment Act.

***16-0601-1202, Child and Family Services.** (*PH) Clarifies what information the Department can and must provide to foster parents and other professionals involved in the ongoing care of children in Idaho's child welfare system.

**16-0608-1201, Rules and Minimum Standards for DUI Evaluators.* (*PH) Chapter repeal.

**16-0701-1201, Behavioral Health Sliding Fee Schedules.* (*PH) Removes reference from rule to the ICSA (Interagency Committee on Substance Abuse Prevention and Treatment), which was created in 2006 by HB 833 and sunsetted in 2011.

**16-0717-1201, Alcohol and Substance Use Disorder Services.* (*PH) Removes reference from rule to the ICSA (Interagency Committee on Substance Abuse Prevention and Treatment), which was created in 2006 by HB 833 and sunsetted in 2011.

16-0720-1201, Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs. (*PH) (*PH) Removes reference from rule to the ICSA (Interagency Committee on Substance Abuse Prevention and Treatment), which was created in 2006 by HB 833 and sunsetted in 2011; treatment providers must now respond to four referral sources, each of which have different treatment and reporting requirements; streamlines provider requirements to make provider system more efficient.

IDAPA 18 - DEPARTMENT OF INSURANCE
PO Box 83720, Boise, ID 83720-0043

18-0109-1201, Consumer Protection in Annuity Transactions. Chapter repeal.

18-0109-1202, Suitability in Annuity Transactions. Chapter rewrite requires producers or insurer to have reasonable grounds to believe an annuity is suitable based on specific information of the consumer prior to making a recommendation to the consumer; requires producers engaged in the sale of annuity products to complete a one-time, four-credit training course.

18-0119-1201, Insurance Rates and Credit Rating. Clarifies how and when an insurer's use of consumer credit information is improper and violates Idaho Code; permits insurers to use a neutral credit factor or score as a compliance measure, both at initial rating and upon renewal.

18-0144-1201, Schedule of Fees, Licenses and Miscellaneous Charges. Sets original license application and license renewal fees for vendors of portable electronics insurance, a type of limited lines producer; increases fees for fingerprint processing.

18-0156-1201, Rebates and Illegal Inducements to Obtaining Title Insurance Business. Allows title agents to provide attorneys and appraisers plat maps and copies of CCRs without charge.

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

26-0120-1202, Rules Governing the Administration of Park and Recreation Areas and Facilities. Establishes the State Parks Passport annual vehicle registration and replacement sticker fees and a replacement sticker fee for the Annual Motor Vehicle Entrance permit; eliminates the Second Vehicle Annual Passport fee; and removes exemption on campers from paying the Daily charge per motorized vehicle.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074

31-4101-1201, The Telephone Customer Relations Rules. (Temp & Prop) Increases time telephone companies have to restore service when outages occur; eliminates penalty payments related to service restoration; and eliminates automatic reporting requirements.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129

39-0212-1201, Rules Governing Issuing Certificates of Title and Bonded Certificates of Title. (Temp & Prop) Aligns a bonded title's brand expiration date with the bond's expiration date; requires the owner to obtain a bond rider if more than 90 days has passed since the bond was obtained to provide sufficient time for the bonded title to be of public record to protect any prior owner or lien-holder who still has an interest and is trying to locate the vehicle.

39-0260-1201, Rules Governing License Plate Provisions. (Temp & Prop) Provides for prequalification and application procedures for special license plate programs, as outlined in statute; provides for duplicate use of a letter/number combination on a larger (passenger vehicle) plate and a smaller (motorcycle) plate and eliminates the 45-day limitation on a proof of registration receipt, in keeping with the improved plate production and delivery process.

39-0304-1201, Rules Governing Movement of Disabled Vehicles. (Temp & Prop) New chapter establishes requirements for the movement of disabled vehicles; clarifies and expands authority to the tow truck industry to provide service to disabled vehicles in non-emergency situations.

39-0310-1201, Rules Governing When An Overlegal Permit Is Required. (Temp & Prop) Removes requirements for moving disabled vehicles that are now in IDAPA 39.03.04; amends rule relating to the emergency movement of implements of husbandry.

39-0341-1201, Rules Governing Traffic Control Devices. Updates incorporation by reference to the recently revised 2009 Edition of the Manual on Uniform Traffic Control Devices.

39-0402-1201, Rules Governing Marking of Hazards to Air Flight. Complies with House Bill 511 by establishing standards for lighting and marking of guyed towers over 50 feet in height that are not FAA regulated; adds definitions and new requirements associated with the dimensions, design, color, and lighting of guyed towers and deadlines for implementation; identifies exemptions for power poles or structures owned and operated by an electric supplier, and any structure with the primary purpose of supporting telecommunications equipment, and the military.

**IDAPA 46 - BOARD OF VETERINARY MEDICINE
PO Box 7249, Boise, ID 83707**

46-0101-1201, Rules of the State of Idaho Board of Veterinary Medicine. Simplifies filing requirements; incorporates by reference the 2010 edition of the American Veterinary Medical Association's "Principles of Veterinary Medical Ethics"; makes all certified veterinary technician application fees nonrefundable; streamlines and clarifies procedures for a Certified Euthanasia Agency (CEA) and a Certified Euthanasia Technician (CET); clarifies grounds for discipline against a CEA or CET; and clarifies procedures and requirements for inspection deficiencies.

NOTICES OF ADOPTION OF TEMPORARY RULE

Idaho State Tax Commission

35-0103-1206, Property Tax Administrative Rules

NOTICES OF NEGOTIATED RULEMAKING

State Lottery Commission

52-0103-1203, Rules Governing Operations of the Idaho State Lottery

Department of Environmental Quality

58-0102-1201, Water Quality Standards

Please refer to the Idaho Administrative Bulletin, [September 5, 2012, Volume 12-9](#), 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 -- September 5, 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
adopted as final rules and all rulemakings being promulgated after March 29, 2012 - Sine Die.)*

IDAPA 02 -- DEPARTMENT OF AGRICULTURE**02.02.14, Rules for Weights and Measures****02-0214-1201** Proposed Rulemaking, Bulletin Vol. 12-7**02.03.03, Rules Governing Pesticide and Chemigation Use and Application****02-0303-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7**02.04.08, Rules Governing Grade A Milk and Milk Products****02-0408-1201** Temporary and Proposed Rulemaking, Bulletin Vol. 12-5 (eff. 6-1-12)T**02.04.14, Rules Governing Dairy Waste****02-0414-0902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-10**02.04.19, Rules Governing Domestic Cervidae****02-0419-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-8**02.04.21, Rules Governing the Importation of Animals****02-0421-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-8**02.06.02, Rules Pertaining to the Idaho Commercial Feed Law****02-0602-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6**02-0602-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7 - Second Notice**02-0602-1201** Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 12-9 (eff. 9-5-12)T**02.06.12, Rules Pertaining to the Idaho Fertilizer Law****02-0612-1201** Proposed Rulemaking, Bulletin Vol. 12-7**02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho****02-0613-0801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 08-9**02-0613-0801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 08-10**02-0613-0801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 08-11**02-0613-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7**02-0613-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Second Notice, Bulletin Vol. 12-8**02.06.14, Rules Pertaining to Annual Bluegrass (*Poa annua*)****02-0614-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7**02.06.16, Rules Governing Honey Standards****02-0616-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7**02-0616-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Second Notice, Bulletin Vol. 12-8**02.06.31, Noxious Weed Free Forage and Straw Certification Rules****02-0631-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7**02.06.33, Organic Food Products Rules****02-0633-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7**02.06.35, Rules Concerning Rough Bluegrass (*Poa trivialis*)****02-0635-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7**02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001****02-0641-1201** Proposed Rulemaking, Bulletin Vol. 12-7

IDAPA 07 -- DIVISION OF BUILDING SAFETY

07.01.06, Rules Governing the Use of National Electrical Code

07-0106-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-4

07.02.06, Rules Concerning Uniform Plumbing Code

07-0206-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5

07.03.01, Rules of Building Safety

07-0301-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-3

07-0301-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6 (Second Notice)

07.03.12, Rules Governing Manufactured or Mobile Home Installations

07-0312-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-4

07.05.01, Rules of the Public Works Contractors License Board

07-0501-1201 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 12-9 (eff. 7-1-12)T

07-0501-1202 Proposed Rulemaking, Bulletin Vol. 12-9

07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

07-0701-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5

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

08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools

08-0111-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

08.02.01, Rules Governing Administration

08-0201-1201 Temporary and Proposed Rulemaking, Bulletin Vol. 12-8 (eff. 6-21-12)T

08.02.02, Rules Governing Uniformity

08-0202-1201 Proposed Rulemaking, Bulletin Vol. 12-7

08-0202-1202 Proposed Rulemaking, Bulletin Vol. 12-8

08.02.03, Rules Governing Thoroughness

08-0203-1201 Temporary and Proposed Rulemaking, Bulletin Vol. 12-6 (eff. 4-19-12)T

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

08-0203-1204 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 12-8 (eff. 6-21-12)T

08.02.04, Rules Governing Public Charter Schools

08-0204-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

08.03.01, Rules of the Public Charter School Commission

08-0301-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

IDAPA 09 -- IDAHO DEPARTMENT OF LABOR

09.01.04, Unemployment Insurance Benefit Fraud and Overpayment Rules

09-0104-1201 Proposed Rulemaking, Bulletin Vol. 12-8

09.01.30, Unemployment Insurance Benefits Administration Rules

09-0130-1201 Proposed Rulemaking, Bulletin Vol. 12-8

09.01.35, Unemployment Insurance Tax Administration Rules

09-0135-1201 Proposed Rulemaking, Bulletin Vol. 12-8

**IDA PA 10 -- IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.01, Rules of Procedure

10-0101-1201 Temporary and Proposed Rulemaking, Bulletin Vol. 12-5 (eff. 7-1-12)T

10-0101-1201 Adoption of Pending Rule, Bulletin Vol. 12-7 (eff. *PLR 2013)

10.01.04, Rules of Continuing Professional Development

10-0104-1201 Temporary and Proposed Rulemaking, Bulletin Vol. 12-5 (eff. 7-1-12)T

10-0104-1201 Adoption of Pending Rule, Bulletin Vol. 12-7 (eff. *PLR 2013)

IDA PA 11 -- IDAHO STATE POLICE

11.02.01, Rules of the Idaho State Brand Board

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

11.02.02, Idaho Livestock Dealer Licensing

11-0202-1201 Temporary Rulemaking (Fee Rule), Bulletin Vol. 12-3 (eff. 2-1-12)T

11.03.01, Rules Governing Alcohol Testing, Idaho State Forensic Laboratory

11-0301-1201 Temporary Rulemaking, Bulletin Vol. 12-1 (eff. 11-1-11)T

11-0301-1201 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 129, Bulletin Vol. 12-5

11.05.01, Rules Governing Alcohol Beverage Control

11-0501-1101 Temporary Rulemaking, Bulletin Vol. 11-7 (eff. 7-6-11)T

11-0501-1201 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 129, Bulletin Vol. 12-5

11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

11-1101-1201 Temporary and Proposed Rulemaking, Bulletin Vol. 12-8 (eff. 7-1-12)T

11.13.01, The Motor Carrier Rules

11-1301-1201 Temporary Rulemaking, Bulletin Vol. 12-5 (eff. 3-1-12)T

IDA PA 15 -- OFFICE OF THE GOVERNOR

Executive Orders of the Governor

Executive Order No. **2012-01** Bulletin Vol. 12-3

Executive Order No. **2012-03** Bulletin Vol. 12-7

Executive Order No. **2012-02** Bulletin Vol. 12-5

Executive Order No. **2012-04** Bulletin Vol. 12-9

IDA PA 16 -- DEPARTMENT OF HEALTH AND WELFARE

16.02.02, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission

16-0202-1201 Proposed Rulemaking, Bulletin Vol. 12-7

16.03.09, Medicaid Basic Plan Benefits

- 16-0309-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-12 (eff. 9-28-11)T
- 16-0309-1101** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 129, Bulletin Vol. 12-5
- 16-0309-1202** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-3
- 16-0309-1101** Adoption of Pending Rule, Bulletin Vol. 12-6 (eff. *PLR 2013)
- 16-0309-1204** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6
- 16-0309-1203** Temporary and Proposed Rulemaking, Bulletin Vol. 12-7 (eff. 9-28-11)T - (3-29-12)T
- 16-0309-1202** Proposed Rulemaking, Bulletin Vol. 12-9
- 16-0309-1204** Proposed Rulemaking, Bulletin Vol. 12-9

16.03.10, Medicaid Enhanced Plan Benefits

- 16-0310-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5
- 16-0310-1202** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5
- 16-0310-1203** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6
- 16-0310-1204** Temporary and Proposed Rulemaking, Bulletin Vol. 12-7 (eff. 7-1-12)T

16.03.25, Idaho Medicaid Electronic Health Record (EHR) Incentive Program

- 16-0325-1201** Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 12-7 (eff. 7-1-12)T

16.04.10, Rules Governing the Community Services Block Grant Program

- 16-0410-1201** Temporary and Proposed Rulemaking, Bulletin Vol. 12-8 (eff. 10-1-11)T

16.05.01, Use and Disclosure of Department Records

- 16-0501-1201** Proposed Rulemaking, Bulletin Vol. 12-9

16.05.06, Criminal History and Background Checks

- 16-0506-1201** Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 12-7 (eff. 7-1-12)T

16.06.01, Child and Family Services

- 16-0601-1201** Temporary and Proposed Rulemaking, Bulletin Vol. 12-8 (eff. 7-1-12)T
- 16-0601-1202** Proposed Rulemaking, Bulletin Vol. 12-9

16.06.08, Rules and Minimum Standards for DUI Evaluators

- 16-0608-1201** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 12-9

16.06.12, Rules Governing the Idaho Child Care Program (ICCP)

- 16-0612-1201** Temporary and Proposed Rulemaking, Bulletin Vol. 12-1 (eff. 12-1-11)T
- 16-0612-1201** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 129, Bulletin Vol. 12-5
- 16-0612-1201** Adoption of Pending Rule, Bulletin Vol. 12-6 (eff. *PLR 2013)

16.07.01, Behavioral Health Sliding Fee Schedules

- 16-0701-1201** Proposed Rulemaking, Bulletin Vol. 12-9

16.07.17, Alcohol and Substance Use Disorders Services

- 16-0717-1201** Proposed Rulemaking, Bulletin Vol. 12-9

16.07.20, Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs

- 16-0720-1201** Proposed Rulemaking, Bulletin Vol. 12-9

IDAPA 17 -- INDUSTRIAL COMMISSION**17.02.04, Administrative Rules of the Industrial Commission Under the Worker's Compensation Law - Benefits**

- 17-0204-1201** Proposed Rulemaking, Bulletin Vol. 12-8

IDAPA 18 -- DEPARTMENT OF INSURANCE

18.01.09, Consumer Protection in Annuity Transactions

- 18-0109-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7
- 18-0109-1201** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 12-9
- 18-0109-1202*** Proposed Rulemaking (Chapter Rewrite), Bulletin Vol. 12-9
(*Rulemaking changes chapter name from: "Consumer Protection in Annuity Transactions"
to: "Suitability in Annuity Transactions")

18.01.19, Insurance Rates and Credit Rating

- 18-0119-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7
- 18-0119-1201** Proposed Rulemaking, Bulletin Vol. 12-9

18.01.44, Schedule of Fees, Licenses, and Miscellaneous Charges

- 18-0144-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7
- 18-0144-1201** Proposed Rulemaking (Fee Rule), Bulletin Vol. 12-9

18.01.56, Rebates and Illegal Inducements to Obtaining Title Insurance Business Rules

- 18-0156-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7
- 18-0156-1201** Proposed Rulemaking, Bulletin Vol. 12-9

IDAPA 20 -- DEPARTMENT OF LANDS

20.02.01, Rules Pertaining to the Idaho Forest Practices Act

- 20-0201-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6
- 20-0201-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7 - Second Notice

***20.03.14, Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation,
and Communication Site Leases***

- 20-0314-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6
- 20-0314-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7 - Second Notice

20.03.15, The Issuance of Geothermal Resource Leases

- 20-0315-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

IDAPA 24 -- BUREAU OF OCCUPATIONAL LICENSES

24.10.01, Rules of the State Board of Optometry

- 24-1001-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-2

24.18.01, Rules of the Real Estate Appraiser Board

- 24-1801-1201** Temporary and Proposed Rulemaking, Bulletin Vol. 12-5 (eff. 3-23-12)T

IDAPA 26 -- DEPARTMENT OF PARKS AND RECREATION

26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities

- 26-0120-1201** Temporary and Proposed Rulemaking, Bulletin Vol. 12-8 (eff. 5-9-12)T
- 26-0120-1202** Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 12-9 (eff. 9-1-12)T

IDAPA 27 -- BOARD OF PHARMACY

27.01.01, Rules of the Idaho State Board of Pharmacy

- 27-0101-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5
27-0101-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Second Notice, Bulletin Vol. 12-8

IDAPA 28 -- DEPARTMENT OF COMMERCE

28.02.06, Idaho Small Business Federal Funding Assistance Act Rules

- 28-0206-1201** Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 12-6 (eff. 6-1-12)T

IDAPA 31 -- PUBLIC UTILITIES COMMISSION

***31.41.01, Customer Relations Rules for Telephone Corporations Providing Services in Idaho
Subject to Customer Service Regulation by the Idaho Public Utilities Commission***

- 31-4101-1201** Temporary and Proposed Rulemaking, Bulletin Vol. 12-9 (eff. 7-3-12)T

IDAPA 35 -- STATE TAX COMMISSION

35.01.01, Income Tax Administrative Rules

- 35-0101-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6

35.01.02, Idaho Sales and Use Tax Administrative Rules

- 35-0102-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6

35.01.03, Property Tax Administrative Rules

- 35-0103-1201** Temporary Rulemaking, Bulletin Vol. 12-5 (eff. 1-1-12)T
35-0103-1202 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5
35-0103-1203 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6
35-0103-1204 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7
35-0103-1205 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-8
35-0103-1206 Temporary Rulemaking, Bulletin Vol. 12-9 (eff. 1-1-12)T

IDAPA 37 -- DEPARTMENT OF WATER RESOURCES

37.03.03, Rules and Minimum Standards for the Construction and Use of Injection Wells

- 37-0303-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-4

37.03.11, Rules for Conjunctive Management of Surface and Ground Water Resources

- 37-0311-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-2

37.03.13, The Water Management Rules

- 37-0313-9701** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 97-12
37-0313-9701 Proposed Rulemaking, Bulletin Vol. 98-10
37-0313-9701 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (2nd Notice), Bulletin Vol. 00-11

37.03.14, Transfers

- 37-0314-9801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 98-5

37.03.15, Water Management Rules - Eastern Snake Plain Aquifer

[37-0315-0001](#) Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 00-12

IDAPA 38 -- IDAHO DEPARTMENT OF ADMINISTRATION

38.04.06, Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities

[38-0406-1201](#) Temporary Rulemaking, Bulletin Vol. 12-5 (eff. 4-17-12)T

[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

[38-0408-1201](#) Temporary Rulemaking, Bulletin Vol. 12-5 (eff. 4-17-12)T

[38-0408-1201](#) Amendment to Temporary Rulemaking, Bulletin Vol. 12-6 (eff. 5-14-12)T

IDAPA 39 -- IDAHO TRANSPORTATION DEPARTMENT

39.02.12, Rules Governing Issuing Certificates of Title and Bonded Certificates of Title

[39-0212-1201](#) Temporary and Proposed Rulemaking, Bulletin Vol. 12-9 (eff. 8-1-12)T

39.02.60, Rules Governing License Plate Provisions

[39-0260-1201](#) Temporary and Proposed Rulemaking, Bulletin Vol. 12-9 (eff. 7-1-12)T

39.03.04, Rules Governing Movement of Disabled Vehicles

[39-0304-1201](#) Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 12-9 (eff. 8-1-12)T

39.03.10, Rules Governing When An Overlegal Permit Is Required

[39-0310-1201](#) Temporary and Proposed Rulemaking, Bulletin Vol. 12-9 (eff. 8-1-12)T

39.03.41, Rules Governing Traffic Control Devices

[39-0341-1201](#) Temporary and Proposed Rulemaking, Bulletin Vol. 12-9 (eff. 7-20-12)T

39.04.02, Rules Governing the Marking of Hazards to Air Flight

[39-0402-1201](#) Temporary and Proposed Rulemaking, Bulletin Vol. 12-9 (eff. 7-1-12)T

IDAPA 46 -- BOARD OF VETERINARY MEDICAL EXAMINERS

46.01.01, Rules of the State of Idaho Board of Veterinary Medicine

[46-0101-1201](#) Proposed Rulemaking, Bulletin Vol. 12-9

IDAPA 47 -- DIVISION OF VOCATIONAL REHABILITATION

47.01.01, Rules of the Idaho Division of Vocational Rehabilitation

[47-0101-1201](#) Temporary Rulemaking, Bulletin Vol. 12-4 (eff. 2-15-12)T

IDAPA 52 -- IDAHO STATE LOTTERY COMMISSION

52.01.03, Rules Governing Operations of the Idaho State Lottery

[52-0103-1201](#) Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-8

52-0103-1203 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-9

IDAPA 58 -- DEPARTMENT OF ENVIRONMENTAL QUALITY

- 58-0000-1201** The Cascade Reservoir Tributary TMDL Addendum (HUC 17050123), Bulletin Vol. 12-1
58-0000-1202 The Goose Creek Subbasin Temperature TMDL Addendum (HUC 17040211), Bulletin Vol. 12-3
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
58-0000-1207 American Falls Subbasin TMDL Plan (HUC 17040206), Bulletin Vol. 12-6
58-0000-1208 The Owyhee River Watershed TMDL Temperature Addendum (HUC 17050104, 17050105 & 17050107), Bulletin Vol. 12-7

58.01.01, Rules for the Control of Air Pollution in Idaho

- 58-0101-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-3
58-0101-1201 Proposed Rulemaking, Bulletin Vol. 12-6
58-0101-1202 Temporary and Proposed Rulemaking, Bulletin Vol. 12-6 (eff. 6-6-12)T
58-0101-1203 Proposed Rulemaking, Bulletin Vol. 12-8

58.01.02, Water Quality Standards

- 58-0102-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-9

58.01.05, Rules and Standards for Hazardous Waste

- 58-0105-1201** Proposed Rulemaking, Bulletin Vol. 12-8

58.01.08, Idaho Rules for Public Drinking Water Systems

- 58-0108-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-10
58-0108-1101 Proposed Rulemaking, Bulletin Vol. 12-5

58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality

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

IDAPA 59 -- PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.03, PERSI Contribution Rules

- 59-0103-1201** Temporary Rulemaking, Bulletin Vol. 12-3 (12-6-11)T
59-0103-1201 Proposed Rulemaking, Bulletin Vol. 12-5
59-0103-1201 Adoption of Pending Rule, Bulletin Vol. 12-7 (eff. *PLR 2013)

Subject Index

A

Additional Assessment & Evaluation Services 38
Enhanced Mental Health Services 38
Service Coordination Services 39
Adjusted Gross Income 67
Admission Policies & Procedures 107
Acceptance for Treatment 107
Admission Policies 107
Assure Applicants Understand Rights & Responsibilities 107
Provisions for Persons Requiring Protective Custody 107
Reasonable Precautions in All Admissions 108
Screening 107
Adult Facility & Program Services 118
Assessment & Referral Services 118
Clinically Managed Low-Intensity Residential Treatment (Halfway House) 118
Clinically Managed Medium-Intensity Residential Treatment 118
Early Intervention Services 118
Level I - Outpatient, and Level II.1 - Intensive Outpatient Treatment 118
Medically Monitored Inpatient Treatment 118
Opioid Treatment Program 118
Recovery Support Services 118
Residential Social Detoxification Facility 118
Adult Staffed Safe & Sober Housing Facility 128
Certified Home Inspection in an Adult Staffed Safe & Sober Housing Facility 129
Facility Inspection of an Adult Staffed Safe & Sober Housing Facility 129
Fire Inspection of an Adult Staffed Safe & Sober Housing Facility 129
Living Environment in an Adult Staffed Safe & Sober Housing Facility 129
Program Fees for Expenses in an Adult Staffed Safe & Sober Housing Facility 128
Services in an Adult Staffed Safe & Sober Housing Facility 128
Staff Qualifications for an Adult Staffed Safe & Sober Housing Facility 129
Staffing in an Adult Staffed Safe & Sober Housing Facility 129
Termination of Housing from an Adult Staffed Safe & Sober Housing Facility 128
Alternate Care Case Management 60

Consent for Medical Care 61
Contact with Child 61
Discharge Planning 61
Financial & Support Services 61
Financial Arrangements 61
Information for Alternate Care Provider 60
Preparation for Placement 60
Transition Planning 61
Application For Licensure - Documentation, Appraisals, References, Bonding, & Financial Statements 23, 28
Application Documentation 23, 28
Application for Change in Licensing Class 24, 29
Appraisals 24, 29
Extension of Time to File Financial Statement 24, 29
References 25, 29

B

Basic & Intensive Case Management Services
Staffing 134
Supervision 134
Boating Facilities 159
Moorage & Use of Marine Facilities 159
Moorage Fees 159
Self-Registration 159
Use of Onshore Campsites 159
Bonded Title 176
Affidavit of Explanation 176
Application for Title 176
Bond Amount 176
Bonded Title Brand 176
Proper Documentation Cannot Be Obtained 176
Vehicle Appraisal 176
Vehicle Physical Inspection 176
Budget Certification - Dollar Certification Form (L-2 Form) 167
Budget Certification 169
Budget Certification Requested Documents 169
Cross Reference for School Districts with Tuition Funds 172
Definitions 167
L-2 Form Contents 169
Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units With Multiple Funds 172
Special Provisions for Cities With Existing Library Operations or Services Consolidating With Any Library District 171
Special Provisions for Fire Districts Levying Against Operating Property 170
Special Provisions for Interim Abatement Districts 172

Special Provisions for Levies for Payment of Judgments by Order of Court 172
Special Provisions for Library Districts Consolidating With Any City's Existing Library Operations or Services 171
Special Provisions for Property Tax Replacement other than Replacement Money Received for Property Subject to the Exemption Provided in Section 63-602KK, Idaho Code 170
Special Provisions for Property Tax Replacement Received for Property Subject to the Exemption Provided in Section 63-602KK, Idaho Code 171
Special Provisions for School Districts' Tort Funds - Hypothetical New Construction Levy 172

C

Calculating Income To Apply The Sliding Fee Schedule For Alcohol & Substance Disorders Services 68
Ability to Pay 68
Charges 69
Established Fee 69
Time of Payment 69
Camping 157
Camping Prohibited 158
Campsite Parking 158
Check Out 158
Condition of Campsite 158
Equipment 158
Length of Stay 158
Liquid Waste Disposal 158
Motorized Equipment 158
Occupancy 158
Registration Required 158
Responsible Party 158
Self Registration 158
Visitors 158
Camping Day, Definitions 154
Campsites
Reservation Service Fees, Individual Campsite or Facility 161
Case Management Services 133
Case Manager Contact & Availability 133
Case Manager Qualifications 134
Comprehensive Case Management Service Plan Development 133
Certification Of Veterinary Technicians 207
Application for Certification -- Contents -- Examinations 207
Application for Certification -- Fee -- Deadline -- Validity 208
Certified Euthanasia Agency 209
Approved Drugs 209

- Certification Renewal 211
 Equipment Stored 211
 Other Site Conditions 210
 Proper Labeling 209
 Proper Sanitation 210
 Proper Storage 209
 Record Keeping 210
 Temporary Storage 210
 Certified Euthanasia Technician 212
 Certification 214
 Certification Renewal 214
 Certification Standards 212
 Duties 215
 Training & Examinations 212
 Child & Adolescent Facility & Program Services 118
 Assessment & Referral Services 118
 Clinically Managed Medium-Intensity Residential Treatment 118
 Early Intervention Services 118
 Level I - Outpatient, & Level II.1 - Intensive Outpatient Treatment 118
 Medically Monitored Inpatient Treatment 118
 Recovery Support Services 118
 Transitional Residential Treatment Services 118
 Child & Adolescent Staffed Safe & Sober Housing Facility 129
 Admission Criteria for Child & Adolescent Staffed Safe & Sober Housing 129
 Licensing of a Child & Adolescent Staffed Safe & Sober Housing Facility 129
 Living Environment in a Child & Adolescent Staffed Safe & Sober Housing Facility 130
 Services in a Child & Adolescent Staffed Safe & Sober Housing Facility 130
 Child & Adolescent Transitional Residential Treatment Facility 125
 Case Management in a Child & Adolescent Residential Transitional Facility 125
 Licensing of a Child & Adolescent Residential Transitional Facility 125
 Treatment Services in a Child & Adolescent Residential Transitional Facility 125
 Child Protection 58
 Child Fatalities 58
 Public Disclosure 58
 Claims Against The Bond 176
 Client Records Requirements 108
 Assessments Completed With the Client 108
 Client Record Required 108
 Client-Specific Occurrences 109
 Content of Client Record 108
 Correspondence 109
 Discharge Summary 109
 Progress Notes 108
 Client Rights 104
 Client & Family to Be Informed Regarding Care & Treatment 105
 Client Abuse & Neglect 106
 Client to Be Informed of Rights 105
 General Rights 104
 Individualized Service Plan Review 105
 Informed Consent 106
 Personal Privacy 105
 Visitation 105
 Clinical Supervision 99
 Evaluation of Competencies 99
 Inventory of Treatments Written Plan 99
 Specific Treatment Responsibilities 99
 Supervision by a Clinical Supervisor 99
 Compliance Mitigation - Violations - Penalties 144
 Corrective Action 144
 Reduction of Penalty 144
 Violation 144
 Criminal History & Background Check Requirements 80
 Criteria For Individual Campsite, Camping Cabin, & Yurt Reservations 162
 Confirmation Requirements 162
 Individual Campsite & Facility Reservations 163
 Park Manager Authority 163
 Reservation Cancellations 163
 Reservation Modifications 163
- D**
- Definitions 66, 72, 201
 A Through C 80
 Access 80
 Adjunct Services 80
 Admission 80
 Adolescent 80
 Adult 80
 Advocacy 81
 Alcohol & Drug Testing 81
 Applicant 81
 Appropriate 81
 Approved Private Treatment Facility 81
 Approved Public Treatment Facility 81
 ASAM PPC-2R 81
 Assessment & Referral Services 81
 Behavioral Health Services 81
 CARF, The Commission on Accreditation of Rehabilitation Facilities 81
 Case Management 81
 Case Management Assessment 81
 Case Management Supervision 82
 Case Management Supervisor 82
 Case Manager 81
 Certificate of Approval 82
 Certified Home Inspection 82
 Child 82
 Client 82
 Client Record 82
 Clinical Judgment 82
 Clinical Supervision 82
 Clinical Supervisor 82
 Clinically Managed Low-Intensity Residential Treatment 83
 Clinically Managed Medium-Intensity Residential Treatment 83
 College of Professional Psychology 83
 Competencies 83
 Compliance 83
 Comprehensive Assessment 83
 Comprehensive Case Management Service Plan 83
 Contract 83
 Contracted Intermediary 83
 Contractor 83
 Co-Occurring Capable (COD-C) 83
 Co-Occurring Disorders (COD) 83
 Correspondence 84
 Criminogenic Need 84
 Ability to Pay 66
 Adolescent 72
 Adult 67, 72
 Adult Mental Health Program 67
 Allowable Annual Deductions 67
 Applicant 72
 ASAM PPC-2R 72
 Behavioral Health Services 67
 Child 67, 72
 Children's Mental Health Program 67
 Client 67, 72
 Clinical Judgment 72
 Clinical Necessity 72
 Clinical Team 73
 Clinically Managed Low-Intensity Residential Treatment 73
 Clinically Managed Medium-Intensity Residential Treatment 73
 Comprehensive Assessment 73
 Contracted Intermediary 73
 Court-Ordered Obligations 67
 Court-Ordered Recipient 67
 D Through H 84
 Department 84
 Detoxification Services 84
 Direct Client Access 84
 Director 84
 Discharge 84
 Discharge Summary 84

- Early Intervention Services 84
Education 84
Executive Director 84
Facility/location 85
Governing Body 85
Group Counseling 85
Guardian 85
Department 67, 73
Dependent Support 67
Early Intervention Services 73
Emergency 73
Extraordinary Rehabilitative Expenses 67
Family 67
Family Household 67
Federal Poverty Guidelines 68, 73
Gravely Disabled 74
Guyed Tower 201
Height 202
I Through O 36
ICF/ID 36
Idaho Infant Toddler Program 36
In-Patient Hospital Services 36
Intermediary 36
Intermediate Care Facility Services 36
Legal Representative 36
Legend Drug 36
Level of Care 37
Licensed, Qualified Professionals 37
Lock-In Program 37
Locum Tenens/Reciprocal Billing 37
Medicaid 37
Medicaid-Related Ancillary Costs 37
Medical Assistance 37
Medical Necessity (Medically Necessary) 37
Medical Supplies 37
Midwife 37
Nominal Charges 37
Nonambulatory 38
Non-Legend Drug 38
Nurse Practitioner (NP) 38
Nursing Facility (NF) 38
Orthotic 38
Out-of-State Care 38
Outpatient Hospital Services 38
Oxygen-Related Equipment 38
I Through P 85
Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC) 85
Idaho Student of Addiction Studies (ISAS) 85
Immediate Danger 85
Individualized Service Plan 85
Intake Eligibility Screening 85
Intensive Outpatient Services 86
Inventory of Treatments 86
Licensed Clinical Professional Counselor 86
Licensed Clinical Social Worker 86
Licensed Marriage & Family Therapist, Associate Marriage & Family Therapist, or Registered Marriage & Family Therapist Intern 86
Licensed Masters Social Worker 86
Licensed Professional Counselor 86
Licensed Social Worker 86
Management Service Contractor (MSC) 86
Medical Consultant 86
Medical Screening 86
Medically Monitored Inpatient Treatment 87
Mental Health Services 87
Network Provider 87
NFPA, The National Fire Protection Association 87
Northwest Indian Alcohol/Drug Specialist Certification Board 87
Nurse 87
On-Site Testing 87
Opioid Replacement Outpatient Services 87
Outpatient Services 87
Physician 87
Professional Development Plan 87
Program 87
Program Approval 87
Program Evaluation 88
Provisional Approval 88
Individualized Service Plan 74
Intake Eligibility Screening 74
Intensive Outpatient Services 74
Management Service Contractor (MSC) 68
Marking 202
Medically Monitored Detoxification 74
Medically Monitored Inpatient Treatment 74
Network Treatment Provider 74
Opioid Replacement Outpatient Services 74
Outpatient Services 74
Parent 68
Priority Population 74
Q Through Z 88
Qualified Substance Use Disorders Professional 88
Qualified Substance Use Disorders Professional Trainee 88
Quality Assurance 88
Recovery Support Services 88
Referral 88
Release of Information 88
Residential Treatment Facility 88
Screening 88
Service 88
Staff Member 88
Student Practice 88
Substance Dependence 88
Substance Use Disorder 89
Substance-Related Disorders 89
Supports 89
Transitional Treatment Facility 89
Treatment Supervisor 89
Treatment(s) 89
Uniform Fire Code 89
Recipient 68
Recovery Support Services 74
Residential Social Detoxification 74
Sliding Fee Scale 68, 75
Substance Dependence 75
Substance Use Disorder 75
Substance Use Disorders Program 68
Substance-Related Disorders 75
Substantial Material Change in Circumstances 75
Temporary or Permanent Guyed Tower 202
Third-Party Payer 68
Definitions, IDAPA 18.01.09 138
Annuity 138
Continuing Education Credit or CE Credit 138
Continuing Education Provider or CE Provider 138
FINRA 138
Insurer 138
Producer 138
Recommendation 138
Replacement 138
Suitability Information 139
Definitions, IDAPA 26.01.20 153
ADA Accessible Facilities 153
ADA Campsites & Facilities 153
Board 154
Camping Day 154
Camping Unit 154
Campsite 154
Day Use 154
Day Use Fee 154
Department 155
Designated Beach 155
Designated Roads & Trails 155
Director 155
Dock & Boating Facility 155
Encroachments 155
Extra Vehicle 155
Facilities 155
Group Use 155
Motorized Vehicle 155
Overnight Use 156
Overnight Use Fee 156
Park or Program Manager 156
Primary Season 156
Serviced Amenities 156
Standard Amenities 156
Vessel 156

Vessel Length 156
Definitions, IDAPA 39.03.04, Rules
Governing Movement of Disabled
Vehicles 185
Duties Of Insurers & Of Producers 140
Collection of Information 141
Compliance With FINRA 142
Exceptions 141
General Rule 140
Prohibitions 142
Reasonable Basis 141
Record Keeping 141
Supervision for Compliance 141

E

Eligibility Determination 75
Admission to Treatment Program
Requirements 76
Determination of Eligibility for
Alcohol & Substance Use
Disorders Services 75
Eligibility Requirements 75
Ineligible Conditions 76
Emergency Detoxification
Treatment 119
Place of Service Provision 120
Range of Services Available 120
Emergency Movements After Dark or
Weekends, Waiver of Limitations for
Emergency Movements 189
Emergency Preparedness Plan 113
Disruption of Services 114
External & Internal Disasters 113
Interruption of Utility Services 113
Environment Requirements 112
Accessibility for Persons With
Mobility & Sensory
Impairments 113
Equipment & Supplies 113
Fixtures & Equipment 112
Office Space 113
Safety, Fire, Health, & Sanitation
Requirements 113
Exceptions 204
Air Navigation 204
Antennas 204
Shielded 204
Exemptions 18
Animal Remedies 19
Animals 19
Hay 19
Minerals 19
Seed Mixtures 19
Straw 19
Unmixed Whole Seeds 18
Expiration Of Bonding
Requirement 177

F

Fee Schedule
Boating Facilities 162
Campsites 160
Motor Vehicle Entrance Fee 161
Fees 25

Application Filed With Fees 26
Construction Manager Licensing
Fees 26
Payment of Fees 26
Public Works Contractor Licensing
Fees 25
Fees & Services 159
Admission Fees 160
Authority 159
Camping 159
Cooperative Fee Programs 160
Encroachment Permit Application
Fee 160
Fee Collection Surcharge 160
Fees & Deposits 159
General Provisions 159
Group Use 159
Financial Requirements 25
Heavy, Highway, Building, &
Specialty Construction Class A
License 25
Heavy, Highway, Building, &
Specialty Construction Class AA
License 25
Heavy, Highway, Building, &
Specialty Construction Class AAA
License 25
Heavy, Highway, Building, &
Specialty Construction Class B
License 25
Heavy, Highway, Building, &
Specialty Construction Class C
License 25
Heavy, Highway, Building, &
Specialty Construction Class CC
License 25
Heavy, Highway, Building, &
Specialty Construction Class D
License 25

G

General 175
Certificate of Registration 175
Certificate of Title 175
Homemade Vehicles 175
MCO/MSO 175
Reconstructed & Specially
Constructed Vehicles 175
Salvage Vehicles 175
Transfer by Operation of Law 175
General Provisions 206
Communications 206
Filing of Documents 207
Office 206
General, Overlegal Permit 185
Grounds For Discipline - CEAs &
CETs 215
Abuse of Chemical Substances 215
Administration of Approved Drugs
Without Proper Supervision 215
Aiding & Abetting 217
Conviction of a Charge or
Crime 216
Conviction of Violating Any Federal

or State Statute, Rule or
Regulation 216
Current Certification 217
Euthanizing of Animals Without
Proper Certification 215
Euthanizing of Animals Without
Proper Supervision 215
Failure to Carry Out Duties 215
Failure to Cooperate 217
Fraud, Misrepresentation, or
Deception 216
Improper Disposal of Approved
Drugs & Equipment 216
Improper Drug Preparation 217
Improper Labeling of Approved
Drugs 217
Improper Record Keeping 216
Improper Security for Approved
Drugs 216
Improper Storage of Equipment &
Approved Drugs 216
Revocation, Suspension, Limitation
or Restriction 217
Unethical or Unprofessional
Conduct 216
Violation of any Law, Rules or
Orders 217

H

Hazardous Travel Conditions
Restrictions 186

I

Improper 216
Incorporation By Reference 137
Individualized Service Plan 110
Content of the Service Plan 111
Development & Implementation of
the Service Plan 110
Service Plan Based on a
Comprehensive Assessment 110
Timeline for Development of the
Service Plan 111
Individualized Service Plan, Selection
Of Service Providers & Available
Treatment Services 76
Individualized Service Plan 76
Selection of Providers 76
Treatment Services Available 77
Treatment Services Not
Available 77
Initial Application For Approval Of An
Alcohol & Substance Use Disorders
Treatment Or Recovery Support
Services Program 90
Copy of the Lease 92
Electronic Version of Agency
Operating Policies and
Procedures 92
Identification of the Executive
Director, Clinical Supervisor, &
Treatment Supervisor 92
Initial Application for Approval 90
Proof of Insurance 92

Inspection Deficiencies 217

J

Joint Commission Or CARF

Accreditation 92

Application Fee 93

Criminal History & Background
Checks 92

Organization Chart Verifying
Staffing Credentials 92

Tuberculosis Testing 93

L

Label Format 19

Customer Formula Invoice & Tag
Requirements 21

Level .5 - Early Intervention Services
For Adults 127

Case Management in Adult Level
.5 127

Clients in Intervention Services in
Adult Level .5 127

Counseling in Adult Level .5 127

Discharge in Adult Level .5 127

Education in Adult Level .5 127

Individualized Intervention Plan in
Adult Level .5 127

Level .5 - Early Intervention Services

For Children & Adolescents 126

Case Management in Child &
Adolescent Level .5 126

Client Intervention Services in Child
& Adolescent Level .5 126

Counseling in Child & Adolescent
Level .5 126

Discharge from Child & Adolescent
Level .5 126

Education in Child & Adolescent
Level .5 126

Individualized Intervention Plan in
Child & Adolescent Level .5 126

Services in Child & Adolescent Level
.5 126

Level I - Outpatient, & Level II.1 -

Intensive Outpatient Treatment
Facilities For Children, Adolescents,
& Adults 121

Staffing in Level I, & Level II.1 122

Supervision in Level I, & Level
II.1 122

Treatment Service Delivery Settings

Offsite in Levels I and II.1 122

Treatment Services in Level I, &
Level II.1 121

Level III.1 - Clinically Managed Low-

Intensity Residential Treatment
Facility For Adults (Halfway
House) 121

Staffing for Adults Level III.1 121

Supervision for Adults Level
III.1 121

Treatment Services for Adults Level
III.1 121

Liens & Estate Recovery

Limitations & Exclusions 31

Application for Undue Hardship

Waiver 32

Basis for Undue Hardship

Waiver 32

Certain Life Estates 31

Excluded Land 31

Expenses Deducted From
Estate 31

Interest on Claim 31

Limitations on Estate Claims 31

Limitations on Undue Hardship

Waiver 32

Marriage Settlement Agreement or
Other Such Agreement 31

Purpose of the Undue Hardship

Exception 31

Release of Estate Claims 31

Set Aside of Transfers 32

Life Skills 130

Services in a Life Skills

Program 131

Staffing & Documentation in a Life

Skills Program 131

Supervision in a Life Skills

Program 131

M

Maintenance Of Client Records 109

Active Client Records Kept at the
Facility Site 109

Compilation, Storage, Dissemination,
& Accessibility of Client
Records 110

Confidentiality & Disclosure of

Information 110

Disposal of Client Records 110

Electronic Storage of Client

Data 110

Entries in Client Records are Dated &
Signed 110

Length of Maintenance of Client

Records 110

Storage Facilities 110

Medical Emergency Services 114

Annual Review & Revisions 114

CPR & Basic First Aid Training 114

Medical Emergency Services Policies

& Procedures 114

Staff Training for Emergency

Services 114

P

Permitted Consumer Information 151

Additional Information That May Be

Provided 151

Information That May Be

Provided 151

Listing Package 151

Personnel Policies & Procedures 94

Contents of Personnel Record for

Each Staff Member 96

Equal Employment Opportunity 96

Hiring Practices 96

Job Description for a Position in the
Program 97

Performance Appraisals 97

Required Personnel Policies &
Procedures 94

Responsible Staff Member to
Implement Personnel Policies &
Procedures 96

Plant Technology & Safety

Management 114

Boiler & Steam 117

Buildings 114

Electrical Distribution 116

Electrically Powered

Equipment 116

Emergency Preparedness 115

General Safety 115

Grounds 115

Hazardous Materials & Wastes 117

Heating, Ventilating & Air

Conditioning 116

Plumbing 117

Report of Fire 116

Safety Devices & Practices 117

Smoking 117

Structure, Maintenance, Equipment
to Assure Safety 117

Producer & Miscellaneous Licensing

Fees 148

Examination Fees 148

Fingerprint Processing 148

License Renewal 148

Original License Application 148

Producer Training 143

General Rule 143

Required Producer Training Courses
& Education 143

Proof Of Registration For New,
Replacement, Or Reissued License
Plates 179

Issuance of Manually Completed
Temporary Registrations When
Automated System is

Unavailable 179

Placement of Proof of Registration
Document 179

Proof of Registration 179

Providers Of School-Based

Services 38

Provisions For Personalized License
Plates 180

Acceptability of Plates Message 181

Credits 181

Expired Plates 182

Issue of Personalized Plates 181

Lack of Current Plates 181

Message Preferences 182

Recalled Plates 182

Renewing Plates 181

Special Characters or Marks 180

Specific Requests 181

Transfer of Plates 181

Unexpired Fees 182

Provisions For Special License Plate

Program Prequalification And Application Procedures 179
 Annual Report 180
 Appeals 180
 Special License Plate Prequalification 179
 Special License Plate Program Application Approval 180
 Submission to The Legislature 180
 Public Behavior 157
 Alcohol 157
 Day Use 157
 Littering 157
 Noise 157
 Quiet Hours 157
 Resisting & Obstructing a Park Employee Prohibited 157
 Smoking 157

Q

Qualified Substance Use Disorders Professional Personnel Required 100
 Arrangement for Provision of Counseling Services 101
 Qualified Substance Use Disorders Professional 100
 Qualified Substance Use Disorders Professional Status Granted Prior to May 1, 2010 101
 Qualified Substance Use Disorders Professional Trainee 102
 Informed of Qualified Substance Use Disorders Professional Trainee Providing Treatment 102
 Orientation of Qualified Substance Use Disorders Professional Trainee 103
 Qualified Substance Use Disorders Professional Trainee Criminal History Check 102
 Qualified Substance Use Disorders Professional Trainee Job Description 102
 Supervision of Qualified Substance Use Disorders Professional Trainee 102
 Tuberculosis Testing Requirements for Qualified Substance Use Disorders Professional Trainee 104
 Work Qualifications for Qualified Substance Use Disorders Professional Trainee 103
 Written Agreement Required for Students 102
 Quality Of Service 165
 Service Outage 165
 Service Standards 165

R

Recordkeeping 144
 Form 144
 Maintaining Records 144

Termination 144
 Registration & Fees 19
 Product Registration Fee 19
 Product Registration Fee Exemption 19
 Removal Of Disabled Vehicles 185
 Annual Disabled Vehicle Permit 186
 First Movement 185
 Loaded Weight 185
 Permitted Vehicle 185
 Time of Travel Restrictions 185
 Repair Service Standards 165
 Compliance Standard 166
 Extenuating Circumstances 166
 Restoration of Service 165
 Requirements 202
 Construction 203
 Guyed Towers 202
 Hazardous Structures 202
 Intent 204
 Lines, Wires, & Cable 202
 Notice of Proposed Construction 203
 Notice Submittal 203
 Spans Between Support Piers 203
 Submittal of Notice 204
 Response Priorities 62
 Disclosure of Information to Professionals 62
 Notification of the Person Who Made the Referral 62
 Priority I 62
 Priority II 62
 Priority III 62
 Response To Service Outage 165
 Receipt & Recording of Reports 165
 Repair Commitments 165
 Review Of Application & Inspection Process 93
 Departmental Review of Application for Approval or Renewal 93
 Program Facility Inspection 93
 Responsibility of the Department 94

S

School-Based Service Coverage & Limitations 43
 Evaluation & Diagnostic Services 44
 Excluded Services 43
 Reimbursable Services 44
 Definitions 42
 Activities of Daily Living (ADL) 42
 Educational Services 42
 Practitioner of the Healing Arts 42
 School-Based Services 42
 Participant Eligibility 42
 Age 42
 Educational Disability 42
 Inpatients in Hospitals or Nursing Homes 42

Medicaid Eligible 42
 School Enrollment 42
 Service-Specific Eligibility 43
 Procedural Requirements 46
 Copies of Required Referrals & Recommendations 47
 Documentation of Qualifications of Providers 47
 Evaluations & Assessments 47
 Individualized Education Program (IEP) & Other Service Plans 46
 One Hundred Twenty Day Review 47
 Parental Notification 47
 Referred by a Physician or Other Practitioner of the Healing Arts 47
 Requirements for Cooperation with & Notification of Parents & Agencies 47
 Service Detail Reports 47
 Provider Qualifications & Duties 48
 Behavioral Consultation 49
 Medical Equipment & Supplies 49
 Nursing Services 49
 Occupational Therapy & Evaluation 49
 Paraprofessionals 55
 Personal Care Services 50
 Physical Therapy & Evaluation 51
 Psychological Evaluation 53
 Psychosocial Rehabilitation (PSR) 54
 Psychotherapy 53
 Service Detail Reports 48
 Social History & Evaluation 54
 Speech/Audiological Therapy & Evaluation 54
 Transportation 54
 Provider Reimbursement 55
 Matching Funds 55
 Payment in Full 55
 Recoupment of Federal Share 55
 Third Party 55
 Services For Co-Occurring Disorders (COD) 89
 COD Competency 90
 Co-Occurring Capable 90
 Services For Women With Dependent Children 119
 Services 119
 Written Agreements 119
 Supervisory Staff Qualifications 98
 Clinical Supervisor 98
 Treatment Supervisor 98

T

Therapy Services Coverage & Limitations 39
 Non-Covered Services Occupational Therapy, Physical Therapy, & Speech-Language

Pathology 39
Service Description
Occupational Therapy &
Physical Therapy 39
Speech-Language
Pathology 39
Service Limitations 40
Procedural Requirements 40
Level of Supervision 41
Physician Orders 40
Provider Reimbursement 41
Payment for Therapy Services 41
Payment Procedures 41
Transaction Exemptions 139
Contracts Used to Fund 139
Direct Response Solicitations 139
Transportation Services 131
Approval for Transportation
Services 132
Staffing for Transportation
Services 133
Transportation Services 132

U

Use Of Credit Factors 146
Application of Rule 146
Information Used in Reviewing
Insurer's Decision 146
Prohibited Acts 146
Use of Motor Vehicles 156
Compliance With Posted Regulatory
Signs Required 157
Motorcycle & ATV Safety
Helmets 156
Obedience to Traffic Direction
Required 157
Official Use 157
Overdriving Road Conditions &
Speeding Prohibited 156
Restrictions 157
Snowmobile Operation Limited 157
Use of Parking Spaces for Persons
With a Disability 156

V

Volunteers 101
Criminal History Check for
Volunteers 102
Objectives & Scope of Volunteer
Services 101
Orientation of Volunteers to Program
Goals, Objectives, &
Services 101
Supervision of Volunteers 102
Tuberculosis Testing
Requirements 102
Volunteer Activity Records 102

W

Waiver Of Limitations For Emergency
Movements 188
Economic Emergencies 189
Emergencies Endangering the Public
Health, Safety or Welfare

Including but Not Limited to Fire,
Flood, or Earthquake 188
Emergency Movement of Implements
of Husbandry 188
Emergency Movements After Dark or
Weekends 189
Military Emergency Affecting
National Security 188