

IDAHO ADMINISTRATIVE BULLETIN

August 3, 2016 -- Volume 16-8

Idaho Department of Administration
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The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Department of Administration, Statehouse Mail, Boise, Idaho 83720-0306, pursuant to Title 67, Chapter 52, Idaho Code.

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IDAHO ADMINISTRATIVE BULLETIN

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Preface

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

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized 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 - Proposed Rule” 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 **13-1** refers to the first Bulletin issued in calendar year **2013**; Bulletin **14-1** refers to the first Bulletin issued in calendar year **2014**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **13-1** refers to January 2013; Volume No. **13-2** refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume **14-1**. The December 2015 Bulletin is cited as Volume **15-12**.

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 until approved as final.

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 must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. 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 rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so.

The agency files a “Notice of Intent to Promulgate - Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

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 for or is occasioning 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) if any document is incorporated by reference in the proposed rule, a brief written synopsis of why the incorporation is needed must be included in the notice of proposed rulemaking, along with a link to the electronic version of the incorporated material or information on how it can be obtained.
- e) the text of the proposed rule prepared in legislative format;
- f) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- g) 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;
- h) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- i) 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 web site or post this information on its own web site, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s web site.

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 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, however, 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 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 Administration’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 “-”, (**38-0501-1401**). 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. 38-0501-1401”

“**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**).

“**1401**” 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 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as “**1402**”. The docket number in this scenario would be 38-0501-**1402**.

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 2016

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
16-1	January 2016	*November 27, 2015	January 6, 2016	January 27, 2016
16-2	February 2016	January 8, 2016	February 3, 2016	February 24, 2016
16-3	March 2016	February 5, 2016	March 2, 2016	March 23, 2016
16-4	April 2016	March 4, 2016	April 6, 2016	April 27, 2016
16-5	May 2016	April 8, 2016	May 4, 2016	May 25, 2016
16-6	June 2016	May 6, 2016	June 1, 2016	June 22, 2016
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16-8	August 2016	July 8, 2016	August 3, 2016	August 24, 2016
16-9	September 2016	August 5, 2016	September 7, 2016	September 28, 2016
16-10	October 2016	**September 2, 2016	October 5, 2016	October 26, 2016
16-11	November 2016	October 7, 2016	November 2, 2016	November 23, 2016
16-12	December 2016	November 4, 2016	December 7, 2016	December 28, 2016

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2017

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17-6	June 2017	May 5, 2017	June 7, 2017	June 28, 2017
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17-9	September 2017	August 4, 2017	September 6, 2017	September 27, 2017
17-10	October 2017	**September 1, 2017	October 4, 2017	October 25, 2017
17-11	November 2017	October 6, 2017	November 1, 2017	November 22, 2017
17-12	December 2017	November 3, 2017	December 6, 2017	December 27, 2017

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

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

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IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1602
NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2016.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 22-101(3), 22-2403, 22-2411, 22-2412, and 22-2413, Idaho Code.

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

USDA no longer requires a CAN brand on animals imported from Canada as long as they have two other forms of identification. The additional requirement to CAN brand imported bison adds to the stress and risk of injury to an animal before shipment.

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:

USDA changed its animal import standards. Only cattle imported from Canada are required to have a CAN brand, not bison. Compliance with these national standards requires two other forms of identification for bison imported from Canada.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Bill Barton, Administrator – Division of Animal Industries at (208) 332-8544 or email Bill.Barton@isda.idaho.gov. Materials pertaining to the temporary rulemaking can be found on the ISDA website at the following web address: http://www.agri.idaho.gov/AGRI/Categories/LawsRules/sub_rules/Rulemaking.php.

DATED this 7th Day of July, 2016.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0421-1602
(Only Those Sections With Amendments Are Shown.)

201. CATTLE AND BISON IMPORTED FROM CANADA.

All cattle and bison imported into Idaho from Canada, except those imported directly to slaughter, must: (5-8-09)

~~01. CAN Brand. Be permanently hot iron branded with the letters CAN, not less than two (2) inches high nor more than three (3) inches high, placed high on the right hip. (5-8-09)~~

021. Idaho Requirements. Meet all Idaho import requirements. (5-8-09)

032. USDA Requirements. Meet all USDA import requirements. (5-8-09)

043. Individually Identified. Be individually identified on a certificate of veterinary inspection. (5-8-09)

054. Import Permit. Be accompanied by an import permit issued by the Division. (5-8-09)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1602

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 33-105, 33-1612, 33-1630, and 33-2002, Idaho Code.

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

Thursday, October 13, 2016 - 6:00 PM	Monday, October 17, 2016 - 6:00 PM
Lewis & Clark State College Williams Conference Center Clearwater Room 500 8th Avenue Lewiston, ID 83501	College of Western Idaho Nampa Campus Aspen Building, Room 108 6002 Birch Lane Nampa, ID 83687
Monday, October 24, 2016 - 6:00 PM	
Marshall Public Library Minnie Howard Community Room 113 S. Garfield Avenue Pocatello, ID 83204	

The hearing sites 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 order to effectively respond to the issues of bullying and harassment in Idaho schools, a proposed rule has been initiated by the State Board of Education to meet the requirements set forth in Section 33-1631, Idaho Code. This statute requires school districts and public charter schools to implement measures intended to prevent, identify and respond to bullying, harassment and intimidation.

The requirements include: the annual dissemination by school districts and charter schools to school personnel, parents and students information on harassment, intimidation and bullying; ongoing professional development to school staff to prevent, identify and respond to bullying, harassment and intimidation; graduated consequences in district policy for these types of incidences; and, an annual report by school districts and charter schools on these incidences. Additionally, the statute requires the State Board of Education to establish the provision of ongoing professional development, district policy guidelines, and the manner in which bullying incidents are to be reported to the State Department of Education through the promulgation of administrative rules.

The text following this notice is the same text that was previously adopted by the Board in February 2016 as a temporary rule promulgated under [Docket No. 08-0202-1601](#). The temporary rule was published in the April 2016 Administrative Bulletin, [Volume 16-4, page 16](#).

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 as a result of this rulemaking: N/A

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 April 6, 2016, Idaho Administrative Bulletin, **Volume 16-4, page 19-20**.

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 Matt McCarter, Director of Student Engagement and Career and Technical Readiness, at (208) 332-6961 or mamccarter@sde.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 August 24, 2016. Written comments will also be accepted during the scheduled public hearings.

DATED this 30th Day of June, 2016.

Sherri Ybarra
Superintendent of Public Instruction
650 West State Street, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
Office: (208) 332-6800
Fax: (208) 334-2228

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1602
(Only Those Sections With Amendments Are Shown.)**

111. BULLYING, HARASSMENT AND INTIMIDATION PREVENTION AND RESPONSE.

01. Dissemination of Information. School districts and charter schools shall make reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students. ()

02. Professional Development. The content of ongoing professional development for school staff related to bullying, harassment and intimidation shall include: ()

a. School philosophy regarding school climate and student behavior expectations; ()

b. Definitions of bullying, harassment, and intimidation; ()

c. School prevention strategies or programs including the identification of materials to be distributed annually to students and parents; ()

d. Expectations of staff intervention for bullying, harassment, and intimidation; ()

e. School process for responding to bullying, harassment, and intimidation including the reporting process for students and staff, investigation protocol, the involvement of law enforcement, related student support services and parental involvement; and ()

f. Other topics as determined appropriate by the school district or charter school. ()

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. ()

a. Graduated consequences may include, but are not limited to: ()

i. Meeting with the school counselor; ()

ii. Meeting with the school principal and student's parents or guardian; ()

iii. Detention, suspension or special programs; and ()

iv. Expulsion. ()

b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services, and/or to law enforcement pursuant to Section 18-917A, Idaho Code. ()

c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. ()

04. Intervention. School district and charter school employees are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation, and bullying. Intervention shall be reasonably calculated to: ()

a. Correct the problem behavior; ()

b. Prevent another occurrence of the problem; ()

c. Protect and provide support for the victim of the act; and ()

d. Take corrective action for documented systemic problems related to harassment, intimidation, or bullying. ()

05. Reporting. Annual reporting will occur at the end of the school year through an aggregate report identifying the total number of bullying incidents by school districts and charter schools, grade level, gender, and repeat offenders. The State Department of Education shall provide school districts and charter schools with the guidelines and forms for reporting. ()

~~1142~~. -- 119. (RESERVED)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1603

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 33-1254, 33-1258, and 33-1612, Idaho Code.

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

Thursday, October 13, 2016 - 6:00 PM	Monday, October 17, 2016 - 6:00 PM
Lewis & Clark State College Williams Conference Center Clearwater Room 500 8th Avenue Lewiston, ID 83501	College of Western Idaho Nampa Campus Aspen Building, Room 108 6002 Birch Lane Nampa, ID 83687
Monday, October 24, 2016 - 6:00 PM	
Marshall Public Library Minnie Howard Community Room 113 S. Garfield Avenue Pocatello, ID 83204	

The hearing sites 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 Professional Standards Commission (PSC) follows a Strategic Plan of annually reviewing twenty percent (20%) of the Idaho Standards for Initial Certification of Professional School Personnel. These standards are incorporated by reference in rule in IDAPA 08.02.02.004.01. The following certificates and endorsements were reviewed by committees of content experts: Art, Biology, Chemistry, Communication, Drama, Early Childhood/Early Childhood Special Education Blended Certificate, Earth and Space Science, Economics, Elementary, Generalist, Health, Journalism, Mathematics, Music, Natural Science, Physical Education, and School Social Worker.

All standards and endorsements were revised to better align with national standards and best practices. The proposed endorsement revisions include renaming the “Early Childhood/Early Childhood Special Education Blended Certificate” to “Blended Early Childhood Education/Early Childhood Special Education Certificate” to increase clarity regarding the intent of the certificate. Additionally, the specific Birth through Grade 3 range of the endorsement is now officially being named as an endorsement in rule. A new endorsement will provide Idaho universities the opportunity to prepare their “Blended Early Childhood Education/Early Childhood Special Education Certificate” candidates to teach elementary through Grade 6, to increase the number of teachers who can teach elementary special education by meeting additional requirements.

Two additional Generalist Endorsements will encourage teacher preparation candidates to consider adding a special education endorsement allowing them to specialize in either elementary or secondary grades to help address the need for more special education teachers. In addition, “All Subjects K through 8” endorsement has been added to rule. The name has been added to Elementary Certificates for a number of years to designate what the certificate holder can teach, but it was never officially listed in rule as an endorsement.

The final major change is the recommendation to eliminate the Physical Education/Health endorsement, as it is redundant. The only way to obtain the endorsement is to hold both the Physical Education and Health endorsements, which makes this combined endorsement unnecessary.

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 as a result of this rulemaking: N/A

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 April 6, 2016, Idaho Administrative Bulletin, **Volume 16-4, page 21**.

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:

Because of the number of pages within the document, the republication of the text would be unduly cumbersome and expensive. A complete copy of the Idaho Standards for the Initial Certification of Professional School Personnel, incorporated by reference document can be found on our website at <http://www.boardofed.idaho.gov>. The standards manual is currently incorporated by reference in the rule and is being updated from the 2015 edition to the 2016 edition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lisa Colón, Director of Certification and Professional Standards, at (208) 332-6886 or lcolon@sde.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 August 24, 2016. Written comments will also be accepted during the scheduled public hearings.

DATED this 30th Day of June, 2016.

Sherri Ybarra
Superintendent of Public Instruction
650 West State Street, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
Office: (208) 332-6800
Fax: (208) 334-2228

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1603
(Only Those Sections With Amendments Are Shown.)**

004. INCORPORATION BY REFERENCE.

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

(5-8-09)

01. Idaho Standards for the Initial Certification of Professional School Personnel as approved on ~~August 13, 2015~~ June 16, 2016. Copies of this document can be found on the Office of the State Board of Education website at <http://www.boardofed.idaho.gov>. (3-25-16)()

02. Standards for Idaho School Buses and Operations as approved on June 23, 2011. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.boardofed.idaho.gov>. (3-29-12)

03. Operating Procedures for Idaho Public Driver Education Programs as approved on August 15, 2013. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at <http://www.boardofed.idaho.gov>. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

015. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education authorizes the State Department of Education to issue certificates and endorsements to those individuals meeting the specific requirements for each area provided herein. (3-25-16)

01. Standard Elementary Certificate. A Standard Elementary Certificate makes an individual eligible to teach grades Kindergarten (K) through eight (8). ~~Individuals who complete the requirements will be granted an all subjects Kindergarten (K) through eight (8) endorsement with their standard elementary certificate. The All Subjects Kindergarten (K) through eight (8) endorsement allows one to teach in any educational setting grades Kindergarten (K) through (8). The certificate or the endorsement~~ ~~and~~ may be issued to any person who has a bachelor's degree from an accredited college or university and who meets the following requirements: (3-25-16)()

~~a.~~ Completion of the general education requirements at an accredited college or university ~~is required.~~ (3-25-16)()

~~b.~~ ~~Meets the following professional education requirements:~~ (3-25-16)

~~b.~~ A minimum of twenty-four (24) semester credit hours, or thirty-six (36) quarter credit hours, in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of elementary education, which shall include at least six (6) semester credit hours, or nine (9) quarter credit hours, in developmental reading and its application to the content area. (3-25-16)()

~~c.~~ The required minimum credit hours must include at least six (6) semester credit hours, or nine (9) quarter credit hours, of either student teaching in grades kindergarten (K) through eight (K-8), or two (2) years of satisfactory experience as a teacher in grades kindergarten (K) through eight (K-8). (3-25-16)()

~~d.~~ An institutional recommendation from an accredited college or university or verification of two (2) years of teaching experience in grades Kindergarten (K) through eight (8). (3-25-16)()

~~e.~~ All individuals, who begin an Idaho approved preparation program after July 1, 2013, seeking a Standard Elementary Certificate shall complete the requirements for a subject area endorsement as outlined under requirements for a Standard Secondary Certificate. An endorsement allowing teaching of that subject through grade eight (8) or a K-12 endorsement shall be added to the Standard Elementary Certificate. ~~and~~ (3-25-16)()

~~f.~~ Proficiency in areas noted above is measured by completion of the credit hour requirements provided herein. Additionally, each candidate must meet or exceed the state qualifying score on approved elementary or secondary content area and pedagogy assessments. (3-25-16)

02. Standard Secondary Certificate. A Standard Secondary Certificate makes an individual eligible to teach in grades six (6) through twelve (12). A Secondary Certificate may be issued to any person with a bachelor's degree from an accredited college or university and who meets the following minimum requirements: (3-25-16)

a. Completion of the general education requirements at an accredited college or university is required. (3-25-16)

b. Professional Education Requirements: (3-25-16)

i. A minimum of twenty (20) semester credit hours, or thirty (30) quarter credit hours, in the philosophical, psychological, and methodological foundations, instructional technology, and in the professional subject matter of secondary education, which must include at least three (3) semester credit hours, or four (4) quarter credit hours, of reading in the content area. (3-25-16)

ii. The required twenty (20) semester credit hours, or thirty (30) quarter credit hours, must also include at least six (6) semester credit hours, or nine (9) quarter credit hours, of secondary student teaching or two (2) years of satisfactory experience as a teacher in grades six (6) through twelve (12). (3-25-16)

c. Preparation in at least two (2) fields of secondary teaching: a first teaching field of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours, and a second teaching field of at least twenty (20) semester credit hours, or thirty (30) quarter credit hours. Preparation of not less than forty-five (45) semester credit hours, or sixty-seven (67) quarter credit hours, in a single subject area may be used in lieu of the first teaching field or second teaching field requirements. (3-25-16)

d. An institutional recommendation from an accredited college or university or verification of two (2) years of teaching experience in grades six (6) through twelve (12). (3-25-16)

e. Proficiency in areas noted above is measured by completion of the credit hour requirements provided herein. Additionally, each candidate must have a qualifying score on an approved content area assessment in any area(s) for which the certificate or endorsement(s) will be applied. (3-25-16)

03. Blended Early Childhood Education / Early Childhood Special Education Certificate. A Blended Early Childhood Education / Early Childhood Special Education Certificate makes an individual eligible to teach in any early childhood educational setting ~~for youth from birth to grade three (3), including those who are at risk or have developmental delays~~. This certificate may be issued to any person with a baccalaureate degree from an accredited college or university and who meets the ~~following minimum~~ requirements: in Subsections 015.03.a. through 015.03.d. Requirements in Subsection 015.03.e. must be met for an optional Pre-K through Six (6) endorsement. (3-25-16)()

a. Completion of the general education requirements at an accredited college or university is required. (3-25-16)

b. ~~Meets the following professional education requirements~~ Birth through Grade Three (3) Endorsement. The Birth through Grade Three (3) endorsement allows one to teach in any educational setting birth through grade three (3). To be eligible for a Blended Early Childhood/Early Childhood Special Education certificate with a Birth through Grade Three (3) endorsement, a candidate must have satisfied the following requirements: (3-25-16)()

i. A minimum of thirty (30) semester credit hours, or forty-five (45) quarter credit hours, in the philosophical, psychological, and methodological foundations, in instructional technology, and in the professional subject matter of early childhood and early childhood-special education. The professional subject matter of early childhood and early childhood-special education shall include course work specific to the child from birth through grade three (3) in the areas of child development and learning; curriculum development and implementation; family and community relationships; assessment and evaluation; professionalism; and, application of technologies. (3-25-16)

ii. The required thirty (30) semester credit hours, or forty-five (45) quarter credit hours, shall include not less than six (6) semester credit hours, or nine (9) quarter credit hours, of early childhood student teaching (K-3) and field experiences birth to age three (3) programs, and age three (3) to age five (5) programs, and three (3) semester credit hours, or four (4) quarter credit hours, of developmental reading. (3-25-16)()

c. An institutional recommendation from an accredited college or university and passage of the Idaho Comprehensive Literacy Assessment. (3-25-16)()

d. Proficiency in areas noted above is measured by ~~completion of the credit hour requirements provided herein.~~ one of the following options: (3-25-16)()

i. Option I: Demonstration of competency within the Idaho Standards for Blending Early Childhood Education/Early Childhood Special Education Teachers. Additionally, each candidate shall meet or exceed the state qualifying score on approved early-childhood assessments. (3-25-16)()

ii. Option II: Completion of a CAEP accredited program in blended early childhood education/early childhood special education birth through grade three (3). Additionally, each candidate shall meet or exceed the state qualifying score on approved early-childhood assessments. ()

e. Pre-K through Grade Six (6) Endorsement. The Pre-K through Grade Six (6) endorsement allows one to teach in any Pre-K through grade six (6) education setting, except in a middle school setting. This endorsement may only be added to the Blended Early Childhood Education/Early Childhood Special Education Certificate in conjunction with the Birth through Grade Three (3) endorsement. To be eligible for a Blended Early Childhood Education/Early Childhood Special Education Certificate with an Early Pre-K through Grade Six (6) endorsement, a candidate must have satisfied the following requirements: ()

i. Completion of a program of a minimum of twenty (20) semester credit hours in the area of Elementary Education to include coursework in each of the following areas: methodology (literacy, mathematics, science, physical education, art); content knowledge (mathematics, literacy, science, health, art); technology; assessment; and, field experiences in grades four (4) through six (6). ()

04. Exceptional Child Certificate. Holders of this certificate are authorized to work with children who have been identified as having an educational impairment. This certificate may be issued to any person with a baccalaureate degree from an accredited college or university; who completes the general education requirements from an accredited college or university; and six (6) or more semester credit hours, or nine (9) or more quarter credit hours of student teaching in a special education setting. (3-25-16)()

~~a. Completion of the general education requirements at an accredited college or university is required and six (6) or more semester credit hours, or nine (9) or more quarter credit hours of student teaching in a special education setting.~~ (3-25-16)

~~ba.~~ **ba.** Exceptional Child Generalist Endorsement (K-12). The Exceptional Child Generalist K-12 endorsement is non-categorical and allows one to teach in any K-12 special education setting. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years for renewal. Regardless of prior special education experience, all initial applicants must provide an institutional recommendation ~~that~~ and complete an approved special education program ~~has been completed~~, with field work to include student teaching in an elementary or secondary special education setting. To be eligible for an Exceptional Child Certificate with a Generalist K-12 endorsement, a candidate must have satisfied the following requirements: (3-25-16)()

~~i. Completion of a baccalaureate degree from an accredited college or university;~~ (3-25-16)

~~ii.~~ **ii.** Completion, in an Idaho college or university, of a program in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or completion, in an out-of-state college or university, of a program in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; (3-25-16)

~~iii.~~ **iii.** Completion of thirty (30) semester credit hours in special education, or closely related areas, as part of an approved special education program; and (3-25-16)

~~iv.~~ **iv.** Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. (3-25-16)

b. Exceptional Child Generalist Endorsement (K-8). The Exceptional Child Generalist K-8 endorsement is non-categorical and allows one to teach grades K-8 in a special education setting. Regardless of prior

special education experience, all initial applicants must provide an institutional recommendation and complete an approved special education program, with field work to include student teaching in an elementary special education setting. This endorsement can be added only to an Elementary Certificate or an Exceptional Child Certificate. To be eligible for an endorsement, a candidate must have satisfied the following requirements: ()

i. Completion, in an Idaho college or university, of a program in elementary, or special education currently approved by the Idaho State Board of Education, or completion, in an out-of-state college or university, of a program in elementary, or special education currently approved by the state educational agency of the state in which the program was completed. ()

ii. Completion of thirty (30) semester credit hours in special education, or closely related areas, as part of an approved special education program. ()

iii. Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. ()

c. Exceptional Child Generalist Endorsement (6-12). The Exceptional Child Generalist 6-12 endorsement is non-categorical and allows one to teach grades six (6) through twelve (12) in a special education setting. Regardless of prior special education experience, all initial applicants must provide an institutional recommendation and complete an approved special education program, with field work to include student teaching in a secondary special education setting. This endorsement can be added only to a Secondary Certificate or an Exceptional Child Certificate. To be eligible for an endorsement, a candidate must have satisfied the following requirements: ()

i. Completion, in an Idaho college or university, of a program in secondary, or special education currently approved by the Idaho State Board of Education, or completion, in an out-of-state college or university, of a program in secondary, or special education currently approved by the state educational agency of the state in which the program was completed. ()

ii. Completion of thirty (30) semester credit hours in special education, or closely related areas, as part of an approved special education program. ()

iii. Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. ()

ed. Early Childhood Special Education Endorsement (Pre-K-3). The Early Childhood Special Education (Pre-K-3) endorsement is non-categorical and allows one to teach in any Pre-K-3 special education setting. This endorsement may only be added to the ~~Standard~~ Exceptional Child Certificate in conjunction with the Generalist K-12 endorsement ~~and is valid for five (5) years. Six (6) credit hours are required every five (5) years for renewal~~ or the Exceptional Child Generalist K-8 endorsement. To be eligible for an Exceptional Child Certificate with an Early Childhood Special Education (Pre-K-3) endorsement, a candidate must have satisfied the following requirements: (3-25-16)()

i. Completion of a program of a minimum of twenty (20) semester credit hours in the area of Early Childhood Education to include course work in each of the following areas: child development and behavior with emphasis in cognitive-language, physical, social and emotional areas, birth through age eight (8); curriculum and program development for young children ages three (3) to eight (3-8); methodology: planning, implementing and evaluating environments and materials for young children ages three (3) to eight (3-8); guiding ~~young~~ children's behavior: observing, assessing and individualizing ages three (3) to eight (3-8); identifying and working with atypical ~~young~~ children ages three (3) to eight (3-8) parent-teacher relations; and, ~~field work to include an internship and~~ student teaching at the Pre-K - 3 grades. (3-25-16)()

de. Deaf/Hard of Hearing Endorsement (K-12). Completion of a minimum of thirty-three (33) semester credit hours in the area of deaf/hard of hearing with an emphasis on instruction for students who use sign language or completion of a minimum thirty-three (33) semester credit hours in the area of deaf/hard of hearing with an emphasis on instruction for students who use listening and spoken language. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Deaf/Hard of Hearing

endorsement, a candidate must have satisfied the following requirements: (3-25-16)

- i. Completion of a baccalaureate degree from an accredited college or university; (3-25-16)
- ii. Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or (3-25-16)
- iii. Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; and (3-25-16)
- iv. Completion of a program of a minimum of thirty-three (33) semester credit hours in the area of Deaf/Hard of Hearing and must receive an institutional recommendation specific to this endorsement from an accredited college or university. (3-25-16)

ef. Visual Impairment Endorsement (K-12). Completion of a program of a minimum of thirty (30) semester credit hours in the area of visual impairment. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Visually Impaired endorsement, a candidate must have satisfied the following requirements: (3-25-16)

- i. Completion of a baccalaureate degree from an accredited college or university; (3-25-16)
- ii. Completion in an Idaho college or university of a program in elementary, secondary, or special education currently approved by the Idaho State Board of Education, or completion in an out-of-state college or university of a program in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; (3-25-16)
- iii. Completion of a program of a minimum of thirty (30) semester credit hours in the area of Visual Impairment and must receive an institutional recommendation specific to this endorsement from an accredited college or university; and (3-25-16)
- iv. Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. (3-25-16)

05. Pupil Personnel Services Certificate. Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Personnel Services Certificate, with the respective endorsement(s) for which they qualify. (3-25-16)

a. Counselor Endorsement (K-12). To be eligible for a Pupil Personnel Services Certificate-~~Endorsed~~ Counselor K-12, a candidate must have satisfied the following requirements. The Pupil Personnel Services Certificate with a Counselor endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. ~~(3-25-16)~~ ()

i. Hold a master's degree and provide verification of completion of an approved program of graduate study in school counseling from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, seventy-five percent (75%) of which must be in a K-12 school setting. This K-12 experience must be in each of the following levels: elementary, middle/junior high, and high school. Previous school counseling experience may be considered to help offset the field experience clock hour requirement; and (3-25-16)

ii. An institutional recommendation is required for a Counselor K-12 Endorsement. (3-25-16)

b. School Psychologist Endorsement. This endorsement is valid for five (5) years. In order to renew the endorsement, six (6) professional development credits are required every five (5) years. The renewal credit requirement may be waived if the applicant holds a current valid National Certification for School Psychologists

(NCSP) offered through the National Association of School Psychologists (NASP). To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-25-16)

i. Completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hours, master's degree in education or psychology and completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hour, School Psychology Specialist Degree program, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-25-16)

ii. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, master's degree program in School Psychology, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-25-16)

iii. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum twelve hundred (1,200) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist; and (3-25-16)

iv. Earn a current and valid National Certification for School Psychologists (NCSP) issued by the National Association of School Psychologists (NASP). (3-25-16)

c. School Nurse Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of either requirements in Subsections 015.04.c.i. or 015.04.c.ii. in addition to the requirement of Subsection 015.04.c.iii. (3-25-16)

i. The candidate must possess a valid nursing (RN) license issued by the Idaho State Board of Nursing, and a bachelor's degree in nursing, education, or a health-related field from an accredited institution. (3-25-16)

ii. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing and have completed nine (9) semester credit hours from a university or college in at least three (3) of the following areas: (3-25-16)

(1) Health program management; (3-25-16)

(2) Child and adolescent health issues; (3-25-16)

(3) Counseling, psychology, or social work; or (3-25-16)

(4) Methods of instruction. (3-25-16)

iii. Additionally, each candidate must have two (2) years of full-time (or part-time equivalent) school nursing, community health nursing, or any area of pediatric, adolescent, or family nursing experience. (3-25-16)

d. Interim Endorsement - School Nurse. This certificate will be granted for those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. An Interim Certificate Endorsement - School Nurse - will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (3-25-16)

e. Speech-Language Pathologist Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. The initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in a speech/language pathology

program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-25-16)

f. Audiology Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. The initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-25-16)

g. School Social Worker Endorsement. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement ~~may~~ shall be accomplished through ~~possession of a social work certificate issued by the Idaho Bureau of Occupational Licenses, an institutional recommendation, and completion of one (1) of the following options: Subsections 015.05.g.i. through 015.05.g.iii., or Subsection 015.05.g.iv.~~ Subsections 015.05.g.i. through 015.05.g.iii., or Subsection 015.05.g.iv. (3-25-16)()

i. A master's degree in social work (MSW) from a postsecondary institution accredited by an organization recognized by the State Board of Education. The program must be currently approved by the state educational agency of the state in which the program was completed; ~~and~~ (3-25-16)()

ii. ~~A master's degree in guidance and counseling, sociology, or psychology plus thirty (30) semester credit hours of graduate work in social work education, including course work in all the following areas: understanding the individual; casework method; field placement; social welfare programs and community resources; and research methods. An institutional recommendation from an Idaho State Board of Education approved program; and~~ (3-25-16)()

iii. The successful completion of a school social work practicum in a K-12 setting. Post-MSW extensive experience working with children and families may be substituted for the completion of a school social work practicum in a K-12 setting. ()

iv. A current and valid master's level or higher Social Work License from the Idaho Bureau of Occupational Licenses. ()

h. Interim Endorsement-Speech Language Pathologist. This certificate will be granted for those who do not meet the educational requirements but who hold a bachelor's degree in speech language pathology and are pursuing a master's degree in order to obtain the pupil personnel services certificate endorsed in speech language pathology. An interim certificate will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (3-25-16)

06. Administrator Certificate. Every person who serves as a superintendent, a secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or is assigned administrative duties over and above those commonly assigned to teachers, is required to hold an Administrator Certificate. The certificate may be endorsed for service as a school principal, a superintendent, or a director of special education and related services. Assistant superintendents are required to hold the Superintendent endorsement. Assistant principals or vice-principals are required to hold the Principal endorsement. Applicants for the Director of Special Education and Related Services endorsement will hold that endorsement on an Administrator Certificate. Proof of proficiency in evaluating teacher performance shall be required of all Administrator Certificate holders. Proof of proficiency in evaluating performance shall be demonstrated by passing a proficiency assessment approved by the State Department of Education as an initial certification requirement. Possession of an Administrator Certificate does not entitle the holder to serve as a teacher at a grade level for which the educator is not qualified or certificated. All administrator certificates require candidates to meet the following competencies of the Idaho Foundation Standards for School Administrators: School Climate, Collaborative Leadership, and Instructional Leadership. (3-25-16)

a. School Principal Endorsement (Pre-K-12). To be eligible for an Administrator Certificate endorsed for School Principal Pre-K-12, a candidate must have satisfied the following requirements: (3-25-16)

i. Hold a master's degree from an accredited college or university. (3-25-16)

- ii. Have four (4) years of full-time certificated experience working with students, Pre-K-12, while under contract in an accredited school setting. (3-25-16)
- iii. Have completed an administrative internship in a state-approved program, or have one (1) year of experience as an administrator in grades Pre-K-12. (3-25-16)
- iv. Provide verification of completion of a state-approved program of at least thirty (30) semester credit hours, forty-five (45) quarter credit hours, of graduate study in school administration for the preparation of school principals at an accredited college or university. This program shall include the competencies of the Idaho Foundation Standards for School Administrators: School Climate, Collaborative Leadership, and Instructional Leadership. (3-25-16)
- v. An institutional recommendation is required for a School Principal Pre-K-12 Endorsement. (3-25-16)
- b. Superintendent Endorsement.** To be eligible for an Administrator Certificate with a Superintendent endorsement, a candidate must have satisfied the following requirements: (3-25-16)
 - i. Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university. (3-25-16)
 - ii. Have four (4) years of full-time certificated/licensed experience working with Pre-K-12 students while under contract in an accredited school setting. (3-25-16)
 - iii. Have completed an administrative internship in a state-approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent in grades Pre-K-12. (3-25-16)
 - iv. Provide verification of completion of an approved program of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours, of post-master's degree graduate study for the preparation of school superintendents at an accredited college or university. This program in school administration and interdisciplinary supporting areas shall include the competencies in Superintendent Leadership, in addition to the competencies in the Idaho Foundation Standards for School Administrators: School Climate, Collaborative Leadership, and Instructional Leadership. (3-25-16)
 - v. An institutional recommendation is required for a School Superintendent Endorsement. (3-25-16)
- c. Director of Special Education and Related Services Endorsement (Pre-K-12).** To be eligible for an Administrator Certificate endorsed for Director of Special Education and Related Services Pre-K-12, a candidate must have satisfied all of the following requirements: (3-25-16)
 - i. Hold a master's degree from an accredited college or university; (3-25-16)
 - ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting; (3-25-16)
 - iii. Obtain college or university verification of demonstrated the competencies of the Idaho Foundation Standards for School Administrators: School Climate, Collaborative Leadership, and Instructional Leadership; (3-25-16)
 - iv. Obtain college or university verification of demonstrated competencies in the following areas, in addition to the competencies in the Idaho Foundation Standards for School Administrators: Concepts of Least Restrictive Environment; Post-School Outcomes and Services for Students with Disabilities Ages Three (3) to Twenty-one (21); Collaboration Skills for General Education Intervention; Instructional and Behavioral Strategies; Individual Education Programs (IEPs); Assistive and Adaptive Technology; Community-Based Instruction and Experiences; Data Analysis for Instructional Needs and Professional Training; Strategies to Increase Program

Accessibility; Federal and State Laws and Regulations and School District Policies; Resource Advocacy; and Technology Skills for Referral Processes, and Record Keeping; (3-25-16)

v. Have completed an administrative internship/practicum in the area of administration of special education and related services; and (3-25-16)

vi. An institutional recommendation is required for Director of Special Education and Related Services Pre-K-12 Endorsement. (3-25-16)

07. Certification Standards For Professional-Technical Educators. Teachers of professional-technical classes or programs in secondary or postsecondary schools must hold an endorsement in an appropriate occupational discipline. This endorsement may be held on a secondary teaching certificate or on an Occupational Specialist Certificate. For postsecondary instructors and administrators, certification fees are set by the State Board for Professional-Technical Education, and application processes are managed by the Division of Professional-Technical Education. (3-25-16)

08. Degree Based Professional-Technical Certification. (3-25-16)

a. Individuals graduating from an approved occupational teacher preparation degree program qualify to teach in the following five (5) disciplines: Agricultural Science and Technology; Business Technology Education; Family and Consumer Sciences; Marketing Technology Education; and Technology Education. Occupational teacher preparation course work must meet the Idaho Standards for the Initial Certification of Professional School Personnel. The occupational teacher education program must provide appropriate content to constitute a major in the identified field. Student teaching shall be in an approved program and include experiences in the major field. Applicants shall have accumulated four-thousand (4,000) clock hours of related work experience or shall have completed an approved practicum in their respective field of specialization. (3-25-16)

b. The Professional-Technical Administrator certificate is required for an individual serving as an administrator, director, manager or coordinator of professional-technical education at the state, secondary or postsecondary level. Individuals must meet the following prerequisites to qualify for the Professional-Technical Administrator Certificate. Equivalence in each area will be determined on an individual basis by the State Division of Professional-Technical Education. (3-25-16)

i. Qualify for or hold an Occupational Specialist certificate or hold an occupational endorsement on a secondary teaching certificate; (3-25-16)

ii. Provide evidence of a minimum of three (3) years teaching in an occupational discipline; (3-25-16)

iii. Hold a master's degree; and (3-25-16)

iv. Complete at least fifteen (15) semester credits of administrative course work. Applicants must have completed: financial aspects of professional-technical education; administration of personnel; and legal aspects of professional-technical education. Additional course work can be selected from any of the following areas: administration and supervision of occupational programs; instructional supervision; administration internship; curriculum development; curriculum evaluation; research in curriculum; school community relations; communication; teaching the adult learner; coordination of work-based learning programs; and/or measurement and evaluation. (3-25-16)

v. To renew the Professional-Technical Administrator Certificate, individuals are required to complete six (6) semester hours of related course work or meet renewal requirements for professional-technical teachers. (3-25-16)

c. Work-Based Learning Coordinator Endorsement. Educators assigned to coordinate approved work-based experiences must hold the Work-Based Learning Coordinator endorsement. To be eligible, applicants must hold an occupational endorsement on the Standard Secondary Certificate or qualify for an Occupational Specialist Certificate, plus complete course work in coordination of work-based learning programs. (3-25-16)

d. Career Counselor Endorsement. The endorsement for a Career Counselor may be issued to applicants who hold a current Pupil Personnel Services Certificate-Endorsed Counselor K-12 and who have satisfied the following professional technical requirement: Career Pathways and Professional Technical Guidance; Principles/Foundations of Professional-Technical Education; and Theories of Occupational Choice. (3-25-16)

09. Occupational Specialist Certificate. The Occupational Specialist Certificate is an industry based professional-technical certifications. Persons who need to hold the Occupational Specialist Certificate include: secondary educators assigned to Health Professions Education and Technical Sciences; those in specialized occupational areas where specific degree-granting professional technical teacher education programs do not exist; and postsecondary professional-technical educators who teach courses with nine (9) to twelve (12) students per class. (3-25-16)

a. Applicants must: be eighteen (18) years of age; document full-time, successful, recent, gainful employment in the area for which certification is requested; possess either a high school diploma or General Educational Development (GED) certificate; meet provisions of Idaho Code; and, verify technical skills through work experience, certification or testing as listed below. When applicable, requirements of occupationally related state agencies must also be met. Since educational levels and work experiences vary, applicants may be determined highly qualified under any one (1) of the following three (3) options: (3-25-16)

i. Have sixteen-thousand (16,000) hours of full-time, successful, recent, gainful employment in the occupation for which certification is requested. Up to forty-eight (48) months credit can be counted toward the eight (8) years on a month-to-month basis for journeyman training and/or postsecondary training successfully completed as a full-time student in an approved/approvable, postsecondary, professional-technical education program; (3-25-16)

ii. Have a bachelor's degree in the specific occupation or related area, plus six-thousand (6,000) hours of full-time, successful, recent, gainful employment in the occupation; and (3-25-16)

iii. Meet one (1) of the following: (3-25-16)

(1) Have at least journeyman level plus two (2) years of recent, full-time, gainful, related work experience. A person who has completed a formal apprenticeship program in the occupation or related area for which certification is requested. The apprenticeship must be under the direction of an employer and the Bureau of Apprenticeship and Training or an approved State Apprenticeship Agency; (3-25-16)

(2) Pass approved state or national certification/certification examination plus three (3) years of recent, full-time, gainful, related work experience (length and type of work experience in emergency services and health professions will be determined on an individual basis); or (3-25-16)

(3) Pass approved industry related certification for skill level requirements (vendor and industry specific) plus three (3) years of recent, full-time, gainful, related work experience (length and type of work experience in emergency services and health professions will be determined on an individual basis). If no competency test exists, a written recommendation from a representative occupational advisory council/committee and recorded in its minutes is required to verify occupational competence. (3-25-16)

b. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching trades and health occupations professions in public schools. The certificate is valid for three (3) years and is non-renewable: (3-25-16)

i. Within the first eighteen (18) months, the holder must complete the pre-service workshop sponsored by the State Division of Professional-Technical Education and an approved course in professional technical methods and student assessment; (3-25-16)

ii. Complete a new-teacher induction workshop at the state or district level; (3-25-16)

iii. File a professional development plan with the State Division of Professional-Technical Education; and (3-25-16)

iv. Within the three (3) year period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily complete course work which includes competencies in four (4) of the following: Principles/ Foundations of Occupational Education; Career Pathways and Guidance; Analysis, Integration, and Curriculum Development; Measurement and Evaluation; and Methods of Teaching Occupational Education. (3-25-16)

c. Standard Occupational Specialist Certificate. This certificate is issued to individuals who have completed course work equivalent to that required of the Limited Occupational Specialist Certificate. The certificate must be renewed every five (5) years, which shall include completion of six (6) semester credit hours of approved course work or verification of two hundred-forty (240) hours of approved related work experience or ninety (90) hours of attendance at approved technical conferences, institutes, or workshops or any equivalent combination thereof, and file of a professional development plan for the next certification period. (3-25-16)

d. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who meet all the requirements outlined below: (3-25-16)

i. Meet the requirements for the Standard Occupational Specialist Certificate; (3-25-16)

ii. Provide evidence of completion of a teacher training degree program or eighteen (18) semester credits of approved course work in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); (3-25-16)

iii. File a new professional development plan for the next certification period; and (3-25-16)

iv. This certificate must be renewed every five (5) years, which shall include completion of six (6) semester credit hours of approved course work or submit verification of two hundred-forty (240) hours of approved related work experience or ninety (90) hours of attendance at approved technical conferences, institutes and workshops or any equivalent combination thereof, and file a new professional development plan for the next certification period. (3-25-16)

10. Postsecondary Specialist. A Postsecondary Specialist certificate will be granted to a current faculty member whose primary employment is with any accredited Idaho postsecondary institution. To be eligible to teach in the public schools under this postsecondary specialist certificate, the candidate must supply a recommendation from the employing institution (faculty's college dean). The primary use of this state-issued certificate will be for distance education, virtual classroom programs, and for public and postsecondary partnerships. (3-25-16)

a. Renewal. This certificate is good for five (5) years and is renewable. To renew the certificate, the renewal application must be accompanied with a new written recommendation from the postsecondary institution (faculty's college dean level or higher). (3-25-16)

b. Fees. The fee is the same as currently in effect for an initial or renewal certificate as established in Section 066 of these rules. (3-25-16)

c. The candidate must meet the following qualifications: (3-25-16)

i. Hold a master's degree or higher in the content area being taught; (3-25-16)

ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-25-16)

iii. Complete and pass a criminal history background check as required according to Section 33-130, Idaho Code. (3-25-16)

11. American Indian Language. Each Indian tribe shall provide to the State Department of Education the names of those highly and uniquely qualified individuals who have been designated to teach the tribe's native language in accordance with Section 33-1280, Idaho Code. Individuals identified by the tribe(s) may apply for an Idaho American Indian Certificate as American Indian languages teachers. (3-25-16)

a. The Office of Indian Education at the State Department of Education will process an application that has met the requirements of the Tribe(s) for an American Indian languages teacher. (3-25-16)

b. Once an application with Tribal approval has been received, it will be reviewed and, if approved, it will be forwarded to the Office of Certification for a criminal history background check as required in Section 33-130, Idaho Code. The application must include a ten (10) finger fingerprint card or scan and a fee for undergoing a criminal history check pursuant to Section 33-130, Idaho Code. ~~(3-25-16)~~ ()

c. The Office of Certification will review the application and verify the applicant is eligible for an Idaho American Indian Certificate. The State Department of Education shall authorize an eligible applicant as an American Indian languages teacher. An Idaho American Indian Certificate is valid for not more than five (5) years. Individuals may apply for a renewal certificate. (3-25-16)

12. Junior Reserved Officer Training Corps (Junior ROTC) Instructors. (3-25-16)

a. Each school district with a Junior ROTC program shall provide the State Department of Education with a list of the names of those individuals who have completed an official armed forces training program to qualify as Junior ROTC instructors in high schools. (3-25-16)

b. Each school district with a Junior ROTC program shall provide the State Department of Education with a notarized copy of their certificate(s) of completion. (3-25-16)

c. Authorization Letter. Upon receiving the items identified in Subsections 015.12.a. and b., the State Department of Education shall issue a letter authorizing these individuals as Junior ROTC instructors. (3-25-16)

13. Additional Renewal Requirements. In addition to specific certificate or endorsement renewal requirements, applicants must meet the following renewal requirements as applicable: (3-25-16)

a. Mathematics In-Service Program. In order to recertify, the state approved mathematics instruction course titled “Mathematical Thinking for Instruction”, or another State Department of Education approved alternative course, shall be required. The “Mathematical Thinking for Instruction” course consists of three (3) credits (or forty-five (45) contact hours of in-service training). Teachers and administrators must take one (1) of the three (3) courses developed that is most closely aligned with their current assignment prior to September 1, 2014. Any teacher or administrator successfully completing said course shall be deemed to have met the requirement of Subsection 060.03.c. of this rule, regardless of whether such course is part of any official transcript. Successful completion of a state approved mathematics instruction course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following must successfully complete the “Mathematical Thinking for Instruction” course in order to recertify: (3-25-16)

i. Each teacher holding an Early Childhood/Early Childhood Special Education Blended Certificate (Birth - Grade 3) who is employed by a school district or charter school; (3-25-16)

ii. Each teacher holding a Standard Elementary Certificate (K-8) who is employed by a school district or charter school; (3-25-16)

iii. Each teacher holding a Standard Secondary Certificate (6-12) teaching in a math content classroom (grade six (6) through grade twelve (12)) including Title I who is employed by a school district or charter school; (3-25-16)

iv. Each teacher holding a Standard Exceptional Child Certificate (K-12) who is employed by a school district or charter school; and (3-25-16)

v. Each school administrator holding an Administrator Certificate (Pre K-12) who is employed by a school district or charter school. (3-25-16)

b. Waiver of Mathematics In-Service Program. When applying for certificate renewal, an automatic waiver of the mathematics in-service program requirement shall be granted for any certificated individual living outside of the state of Idaho who is not currently employed as an educator in the state of Idaho. This waiver applies only as long as the individual remains outside the state of Idaho or as long as the individual is not employed as an educator in the state of Idaho. Upon returning to Idaho or employment in an Idaho public school, the educator will need to complete this requirement prior to the next renewal period. (3-25-16)

c. Idaho Comprehensive Literacy Course. In order to recertify, a state approved Idaho Comprehensive Literacy Course shall be required. Successful completion of a state approved Idaho Comprehensive Literacy course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following individuals must successfully complete an Idaho Comprehensive Literacy course in order to recertify: (3-25-16)

i. Each teacher holding an Early Childhood/Early Childhood Special Education Blended Certificate (Birth - Grade 3) who is employed by a school district or charter school; (3-25-16)

ii. Each teacher holding a Standard Elementary Certificate (K-8) who is employed by a school district or charter school; and (3-25-16)

iii. Each teacher holding a Standard Exceptional Child Certificate (K-12) who is employed by a school district or charter school. (3-25-16)

d. Administrator certificate renewal. In order to recertify, holders of an administrator certificate must complete a course consisting of a minimum of three (3) semester credits in the Idaho framework for teachers' evaluation pursuant to Section 33-1204, Idaho Code. Credits must be earned through an approved teacher preparation program and include a laboratory component. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

022. ENDORSEMENTS A - D.

01. Agriculture Science and Technology (6-12). (3-16-04)

a. Forty-five (45) semester credit hours including course work in each of the following areas: agriculture education; agriculture mechanics; agriculture business management; soil science; animal science; and plant science. (3-16-04)

b. Occupational teacher preparation coursework that relates to the appropriate area(s) as provided in Sections 034 through 038. (4-4-13)

02. American Government /Political Science (6-12). Twenty (20) semester credit hours to include: a minimum of six (6) semester credit hours in American Government, six (6) semester credit hours in U.S. History Survey, and a minimum of three (3) semester credit hours in Comparative Government. Remaining course work must be selected from Political Science. Course work may include three (3) semester credit hours in World History Survey. (4-11-06)

~~**03. Art (K-12 or 6-12).** Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Visual Arts Teachers in the area of Art to include a minimum of nine (9) semester credit hours in: Foundation Art and Design. Additional course work must include at least two (2) Studio Areas and Secondary Arts Methods. To obtain an Art (K-12) endorsement, applicants holding a Secondary Certificate must complete an elementary methods course. (4-7-11)~~

043. Bilingual Education (K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Bilingual Education Teachers to include all of the following: at least nine (9) upper division semester credit hours in one (1) Modern Language other than English, including writing and literature, and

advanced proficiency according to the American Council on the Teaching of Foreign Languages (ACTFL) guidelines; cultural diversity; ENL/Bilingual Methods; second language acquisition theory and practice; Foundations of ENL/Bilingual Education, Federal and State Law, Testing/identification of Limited English Proficient Students; at least two (2) semester credit hours in Bilingual Practicum; and three (3) semester credit hours in a Bilingual Education related elective (ex: linguistics, critical pedagogy, parent involvement). (4-4-13)

~~054.~~ **Biological Science (6-12).** Twenty (20) semester credit hours ~~to include at least six (6) semester credit hours of course work in each of the following areas: Botany and Zoology~~ including coursework in each of the following areas: molecular and organismal biology, heredity, ecology and biological adaptation. ~~(3-16-04)~~()

~~065.~~ **Business Technology Education (6-12).** (3-16-04)

a. Twenty (20) semester credit hours to include course work in each of the following areas: accounting; computer and technical applications in business; economics; methods of teaching business education; Professional-Technical Student Organization (PTSO) leadership; business communication/writing; and office procedures. Additional competencies may be satisfied through the following: entrepreneurship; finance; marketing; business law; and/or career guidance. (4-4-13)

b. Occupational teacher preparation that relates to the appropriate area(s) as provided in Sections 034 through 038. (4-4-13)

~~076.~~ **Chemistry (6-12).** Twenty (20) semester credit hours in the area of ~~Chemistry~~ chemistry, to include coursework in each of the following areas: inorganic and organic chemistry. ~~(3-16-04)~~()

~~087.~~ **Communication (6-12).** Follow one (1) of the following options: (3-16-04)

a. Option I: Twenty (20) semester credit hours to include Methods of Teaching Speech/Communications plus course work in at least four (4) of the following areas: Interpersonal Communication/Human Relations; Argumentation/Personal Persuasion; Group Communications; Nonverbal Communication; Public Speaking; Journalism/Mass Communications; and Drama/Theater Arts. ~~(3-16-04)~~()

b. Option II: Possess an English endorsement plus at least twelve (12) semester credit hours distributed among the following: Interpersonal Communication/Human Relations, Public Speaking, Journalism/Mass Communications, and Methods of Teaching Speech/Communication. ~~(3-16-04)~~()

~~098.~~ **Computer Science (6-12).** Twenty (20) semester credit hours of course work in Computer Science, including course work in the following areas: data representation and abstraction; design, development, and testing algorithms; software development process; digital devices systems network; and the role of computer science and its impact on the modern world. (3-25-16)

~~109.~~ **Consulting Teacher/Teacher Leader Endorsement.** Consulting teachers provide technical assistance to teachers and other staff in the school district with regard to the selection and implementation of appropriate teaching materials, instructional strategies, and procedures to improve the educational outcomes for students. Candidates who hold this endorsement are teacher leaders who will facilitate the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs. This endorsement is valid for five (5) years and is renewable based upon successful completion and verification of an additional four (4) semester credits beyond those required for standard certification renewal. The additional credits shall be taken for university or college credit consistent with the Individual Professional Learning Plan (IPLP). (3-25-16)

a. Special Education Consulting Teacher - Eligibility for Endorsement. To be eligible for a Special Education Consulting Teacher endorsement on the Standard Exceptional Child Certificate, the Early Childhood / Early Childhood Special Education Blended Certificate (Birth-Grade 3), the Standard Elementary Certificate or the Standard Secondary Teaching Certificate, a candidate must have satisfied the following requirements: (3-25-16)

i. Education Requirements. Qualify for or hold a Standard Exceptional Child Certificate and qualify for or hold a Standard Elementary Certificate, Standard Secondary Certificate, or Early Childhood/Early Childhood

Special Education Blended Certificate (Birth-Grade 3), and hold a master's degree or an approved fifth year program as defined by the Idaho State Board of Education, and have demonstrated content competencies in the following areas: (3-25-16)

- (1) Assessment of learning behaviors; (3-25-16)
 - (2) Individualization of instructional programs based on educational diagnosis; (3-25-16)
 - (3) Behavioral and/or classroom management techniques; (3-25-16)
 - (4) Program implementation and supervision; (3-25-16)
 - (5) Knowledge in use of current methods, materials and resources available and management and operation of media centers; (3-25-16)
 - (6) Ability in identifying and utilizing community or agency resources and support services; and (3-25-16)
 - (7) Counseling skills and guidance of professional staff. (3-25-16)
- ii. Experience. Completion of a minimum of three (3) years' teaching experience, at least two (2) years of which must be in a special education classroom setting. (3-25-16)
- iii. Provides verification of completion of a state-approved program of at least twenty (20) semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include: (3-25-16)
- (1) Ninety (90) contact hours to include a combination of face-to-face and field-based professional development activities; and (3-25-16)
 - (2) The development and presentation of a culminating portfolio that provides evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards as follows: (3-25-16)
 - (a) Understanding Adults As Learners to Support Professional Learning Communities; (3-25-16)
 - (b) Accessing and Using Research to Improve Practice and Student Achievement; (3-25-16)
 - (c) Promoting Professional Learning for Continuous Improvement; (3-25-16)
 - (d) Facilitating Improvements in Instruction and Student Learning; (3-25-16)
 - (e) Using Assessments and Data for School and District Improvement; (3-25-16)
 - (f) Improving Outreach and Collaboration with Families and Community; and (3-25-16)
 - (g) Advocating for Student Learning and the Profession. (3-25-16)
- iv. Not less than one (1) semester of successful experience as a special education teacher working with classroom teachers in elementary or secondary schools. (3-25-16)
- b. Mathematics Consulting Teacher - Eligibility for Endorsement.** To be eligible for a Mathematics Consulting Teacher endorsement on the Standard Elementary Certificate, Standard Secondary Certificate, Standard Exceptional Child Certificate, or Early Childhood/Early Childhood Special Education Blended Certificate (Birth-Grade 3), a candidate must have satisfied the following requirements: (3-25-16)
- i. Education Requirements. Qualify for or hold a Standard Elementary Certificate, Standard Secondary Certificate, Standard Exceptional Child Certificate, or Early Childhood/Early Childhood Special

Education Blended Certificate (Birth-Grade 3) and have demonstrated content competencies. Coursework and content domains required include the full series of Mathematics Thinking for Instruction (MTI), Number and Operation, Geometry, Algebraic Reasoning, Measurement and Data Analysis, and Statistics and Probability which are centered on the following emphases: (3-25-16)

- (1) Structural Components of Mathematics; (3-25-16)
- (2) Modeling, Justification, Proof and Generalization; (3-25-16)
- (3) Mathematical Knowledge for Teaching (Ball, Thames, & Phelps, 2008). (3-25-16)
- ii. Experience. Completion of a minimum of three (3) years teaching experience. (3-25-16)
- iii. Provides verification of completion of a state-approved program of at least twenty (20) semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include: (3-25-16)
 - (1) Ninety (90) contact hours to include a combination of face-to-face and field-based professional development activities; and (3-25-16)
 - (2) The development and presentation of a culminating portfolio that provides evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards as follows: (3-25-16)
 - (a) Understanding Adults As Learners to Support Professional Learning Communities; (3-25-16)
 - (b) Accessing and Using Research to Improve Practice and Student Achievement; (3-25-16)
 - (c) Promoting Professional Learning for Continuous Improvement; (3-25-16)
 - (d) Facilitating Improvements in Instruction and Student Learning; (3-25-16)
 - (e) Using Assessments and Data for School and District Improvement; (3-25-16)
 - (f) Improving Outreach and Collaboration with Families and Community; and (3-25-16)
 - (g) Advocating for Student Learning and the Profession. (3-25-16)
- iv. Not less than one (1) semester of successful experience as a mathematics teacher working with classroom teachers in elementary or secondary schools. (3-25-16)

~~**II. Drama (6-12).** Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Drama Teachers, including a minimum of sixteen (16) semester credit hours in Drama or Theater Arts, including course work in each of the following: Acting, Directing, and Technical Stage Production, and four (4) semester credit hours in Communications. To obtain a Drama (6-12) endorsement, applicants must complete a comprehensive methods course including the pedagogy of acting, directing and technical theatre. (4-7-11)~~

023. ENDORSEMENTS E - L.

01. Earth and Space Science (6-12). Twenty (20) semester credit hours including course work in each of the following **areas:** earth science, astronomy, and geology. (4-11-06)()

02. Economics (6-12). Twenty (20) semester credit hours to include a minimum of three (3) semester credit hours of micro-economics, a minimum of three (3) semester credit hours of macro-economics, and a minimum of six (6) semester credit hours of Personal Finance/Consumer Economics/Economics Methods. Remaining course work may be selected from **business**, economics **and, or** finance course work ~~in one (1) or more of the following areas: Agriculture Science and Technology, Business Education, Economics, Family and Consumer Science, or Marketing Education.~~ (4-11-06)()

- 03. Engineering (6-12).** Twenty (20) semester credit hours of engineering course work. (3-25-16)
- 04. English (6-12).** Twenty (20) semester credit hours, including three (3) semester credit hours in Linguistics/Grammar, three (3) semester credit hours in American Literature, three (3) semester credit hours in English Literature, six (6) semester credit hours in Advanced Composition, excluding the introductory sequence designed to meet general education requirements. Remaining credits must be completed in the English Department, and must include some course work in Writing Methods for Teachers of Secondary Students. (3-16-04)
- 05. English as a New Language (ENL) (K-12).** Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for ENL Teachers to include all of the following: at least four (4) semester credit hours in a modern language other than English; Cultural Diversity; ENL Methods; Linguistics; second language acquisition theory and practice; Foundations of ENL/Bilingual Education, Federal and State Law, Testing/ Identification of Limited English Proficient Students; and at least one (1) semester credit in ENL Practicum or Field Experience. (4-4-13)
- 06. Family and Consumer Sciences (6-12).** (4-4-13)
- a.** Thirty (30) semester credit hours to include coursework in each of the following areas: Child/ Human Development; Human/Family Relations; Directed Laboratory Experience in Childcare; Apparel and Textiles, Cultural Dress, Fashion Merchandising, or Design; Nutrition; Food Preparation, Food Production, or Culinary Arts; Housing, Interior Design, Home Management, or Equipment; Consumer Economics or Family Resource Management; Introduction to Family Consumer Sciences; Professional-Technical Student Organization (PTSO) leadership; and Integration of Family Consumer Sciences or Family Consumer Science Methods. (4-4-13)
- b.** Occupational teacher preparation that relates to the appropriate area(s) as provided in Sections 034 through 038. (4-4-13)
- 07. Geography (6-12).** Twenty (20) semester credit hours including course work in Cultural Geography and Physical Geography, and a maximum of six (6) semester credit hours in World History Survey. Remaining semester credit hours must be selected from Geography. (4-11-06)
- 08. Geology (6-12).** Twenty (20) semester credit hours in the area of Geology. (3-16-04)
- 09. Gifted and Talented (K-12).** Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Gifted and Talented Education Teachers, to include semester credit hours in each of the following areas: Foundations of Gifted and Talented Education; Creative/Critical Thinking Skills for Gifted and Talented Students; Social and Emotional Needs of Gifted and Talented Students; Curriculum, Instruction, and Assessment for Gifted and Talented Students; Differentiated Instruction and Programing for Gifted and Talented Students; and Practicum and Program Design for Gifted and Talented Education. Remaining course work must be in the area of gifted education. (3-12-14)
- 10. Health (6-12 or K-12).** Twenty (20) semester credit hours to include course work in each of the following areas: Organization/Administration/Planning of a School Health Program; Health, and Wellness, and Behavior Change; Secondary Methods of Teaching Health, to include field experience in a traditional classroom; Mental/Emotional Health; Nutrition; Human Sexuality; Substance Use and Abuse. Remaining semester credits must be in health-related course work. To obtain a Health K-12 endorsement, applicants must complete an elementary Health methods course. (~~4-4-13~~)()
- 11. History (6-12).** Twenty (20) semester credit hours to include a minimum of six (6) semester credit hours of U.S. History Survey and a minimum of six (6) semester credit hours of World History Survey. Remaining course work must be in History. Course work may include three (3) semester credit hours in American Government. (4-11-06)
- 12. Humanities (6-12).** An endorsement in English, History, Music, Visual Art, Drama, or Foreign Language and twenty (20) semester credit hours in one of the following areas or ten (10) semester credit hours in each of two (2) of the following areas: Literature, Music, Foreign Language, Humanities Survey, History, Visual Art,

Philosophy, Drama, Comparative World Religion, Architecture, and Dance. (4-11-06)

13. Journalism (6-12). Follow one (1) of the following options: (3-16-04)

a. Option I: Twenty (20) semester credit hours to include a minimum of ~~sixteen (16)~~ fourteen (14) semester credit hours in Journalism and ~~four (4)~~ six (6) semester credit hours in English and/or Mass Communication. ~~(3-16-04)~~ ()

b. Option II: Possess an English endorsement with a minimum of six (6) semester credit hours in Journalism. (3-16-04)

14. Literacy (K-12). Twenty-one (21) semester credit hours leading toward competency as defined by Idaho Standards for Literacy Teachers to include the following areas: Foundations of Literacy (including reading, writing, and New Literacies); Development and Diversity of Literacy Learners; Literacy in the Content Area; Literature for Youth; Language Development; Corrective/Diagnostic/Remedial Reading; and Writing Instruction. To obtain a Literacy endorsement, applicants must complete the Idaho Comprehensive Literacy Course or the Idaho Comprehensive Literacy Assessment. (3-12-14)

024. ENDORSEMENTS M - Z.

01. Marketing Technology Education (6-12). (3-16-04)

a. Twenty (20) semester credit hours to include course work in each of the following areas: Marketing; Management; Economics; Coordination of Cooperative Programs; Merchandising/Retailing; Methods of Teaching Marketing Education; and Professional-Technical Student Organization (PTSO) Leadership, with remaining credit hours in Entrepreneurship; Hospitality and Tourism; Finance; or Accounting. (4-4-13)

b. Occupational teacher preparation that relates to the appropriate area(s) as provided in Sections 034 through 038. (4-4-13)

02. Mathematics - Basic (6-12). Twenty (20) semester credit hours in Mathematics ~~including course work content coursework~~ in ~~Algebra, Geometry;~~ algebraic thinking, functional reasoning, Euclidean and transformational geometry and ~~Trigonometry~~ statistical modeling and probabilistic reasoning. A minimum of two (2) of these twenty (20) credits must be focused on secondary mathematics pedagogy. Six (6) semester credit hours of computer programming may be substituted for six (6) semester credits in Mathematics content. ~~(3-16-04)~~ ()

03. Mathematics (6-12). Twenty (20) semester credit hours including course work in each of the following areas: Euclidean and transformational geometry, linear algebra, discrete mathematics, ~~Probability and Statistics~~ statistical modeling and probabilistic reasoning, and a minimum of three (3) semester credit hours of Calculus the first two (2) courses in a standard calculus sequence. A minimum of two (2) of these twenty (20) credits must be focused on secondary mathematics pedagogy. Statistics course work may be taken from a department other than the mathematics department. ~~(4-11-06)~~ ()

04. Music (6-12 or K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Music Teachers to include course work in the following: theory and harmony; aural skills, music history; conducting; applied music; and piano proficiency (class piano or applied piano), and secondary music methods/materials. To obtain a Music K-12 endorsement, applicants must complete an elementary music methods course. (4-7-11)

05. Natural Science (6-12). Follow one (1) of the following options: (4-7-11)

a. Option I: Must hold an existing endorsement in one of the following areas: Biological Science, Chemistry, Earth Science, Geology, or Physics; and complete a total of twenty-four (24) semester credit hours as follows: (4-7-11)

i. Existing Biological Science Endorsement. ~~Minimum of e~~Eight (8) semester credit hours in each of the following areas: Physics, Chemistry, and Earth Science or Geology. ~~(4-7-11)~~ ()

ii. Existing Physics Endorsement. ~~Minimum of e~~Eight (8) semester credit hours in each of the following areas: Biology, Chemistry, and Earth Science or Geology. ~~(4-7-11)~~()

iii. Existing Chemistry Endorsement. ~~Minimum of e~~Eight (8) semester credit hours in each of the following areas: Biology, Physics, and Earth Science or Geology. ~~(4-7-11)~~()

iv. Existing Earth Science or Geology Endorsement. ~~Minimum of e~~Eight (8) semester credit hours in each of the following areas: Biology, Physics, and Chemistry. ~~(4-7-11)~~()

b. Option II: Must hold an existing endorsement in Agriculture Science and Technology; and complete twenty ~~four (2+4)~~ semester credit hours with at least ~~four (4)~~ six (6) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science or Geology, and Physics. ~~(4-7-11)~~()

06. Online-Teacher Endorsement (Pre-K-12). To be eligible for an Online-Teacher Endorsement (Pre-K-12), a candidate must have satisfied the following requirements: (3-25-16)

a. Meets the states' professional teaching and/or licensure standards and is qualified to teach in his/her field of study. (3-25-16)

b. Provides evidence of online experience or course time both as a student and as a learner, and demonstrates online learning and teaching proficiency. (3-25-16)

c. Has completed an eight (8) week online teaching internship in a Pre-K-12 program, or has one (1) year of verifiable and successful experience as a teacher delivering curriculum online in grades Pre-K-12 within the past three (3) years. (3-25-16)

d. Provides verification of completion of a state-approved program of at least twenty (20) semester credit hours of study in online teaching and learning at an accredited college or university or a state-approved equivalent. (3-25-16)

e. Demonstrates proficiency in the Idaho Standards for Online Teachers including the following competencies: (3-25-16)

i. Knowledge of Online Education and Human Development; (3-25-16)

ii. Facilitate and Inspire Student Learning and Creativity; (3-25-16)

iii. Design and Develop Digital-Age Learning Experiences and Assessments Standards; (3-25-16)

iv. Model Digital-Age Work and Learning; Promote and Model Digital Citizenship and Responsibility Standards; and (3-25-16)

v. Engage in Professional Growth and Leadership. (3-25-16)

07. Physics (6-12). Twenty (20) semester credit hours in the area of Physics. (3-16-04)

08. Physical Education (PE) (6-12 or K-12). Twenty (20) semester credit hours to include course work in each of the following areas: Personal and Teaching Competence in Sport, Movement, Physical Activity, and Outdoor Skills; Secondary PE Methods; Administration and Curriculum to include field experiences in physical education; Student Evaluation in PE; ~~Administration of a PE Program~~; Safety and Prevention of Injuries; Fitness and Wellness; PE for Special Populations; Exercise Physiology; Kinesiology/Biomechanics; ~~Sports Psychology or Sociology~~; Motor Behavior; and Current CPR and First Aid Certification. To obtain a PE K-12 endorsement, applicants must complete an elementary PE methods course. ~~(4-4-13)~~()

~~09. Physical Education/Health. Must have an endorsement in both physical education and health. (3-30-07)~~

~~109.~~ **Physical Science (6-12).** Twenty (20) semester credit hours in the area of physical science to include a minimum of eight (8) semester credit hours in each of the following: Chemistry and Physics. (3-16-04)

~~140.~~ **Psychology.** Twenty (20) semester credit hours in the area of Psychology. (3-16-04)

~~121.~~ **Social Studies (6-12).** Must have an endorsement in History, American Government/Political Science, Economics, or Geography plus a minimum of twelve (12) semester credit hours in each of the remaining core endorsements areas: History, Geography, Economics, and American Government/Political Science. (3-29-10)

~~132.~~ **Sociology (6-12).** Twenty (20) semester credit hours in the area of Sociology. (3-16-04)

~~143.~~ **Sociology/Anthropology (6-12).** Twenty (20) semester credit hours including a minimum of six (6) semester credit hours in each of the following: Anthropology and Sociology. (3-16-04)

~~154.~~ **Teacher Librarian (K-12).** Twenty (20) semester credit hours of coursework leading toward competency as defined by Idaho Standards for Teacher Librarians to include the following: Collection Development/Materials Selection, Literature for Children and/or Young Adults; Organization of Information (Cataloging and Classification); School Library Administration/Management; Library Information Technologies; Information Literacy; and Reference and Information Service. (3-12-14)

~~165.~~ **Technology Education (6-12).** (3-16-04)

a. Twenty (20) semester credit hours to include course work in each of the following areas: Communication Technology; Computer Applications; Construction Technology; Electronics Technology; Manufacturing Technology; Power, Energy and Transportation and other relevant emerging technologies; and Principles of Engineering Design. (4-4-13)

b. Occupational teacher preparation that relates to the appropriate area(s) as provided in Subsections 015.07 through 015.09. (3-25-16)

16. Theater Arts (6-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Theater Arts Teachers, including course work in each of the following areas: acting and directing, and a minimum of six (6) semester credits in technical theater/stagecraft. To obtain a Theater Arts (6-12) endorsement, applicants must complete a comprehensive methods course including the pedagogy of acting, directing and technical theater. ()

17. Visual Arts (6-12 or K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Visual Arts Teachers to include a minimum of nine (9) semester credit hours in: foundation art and design. Additional course work must include secondary arts methods, 2-dimensional and 3-dimensional studio areas. To obtain a Visual Arts (K-12) endorsement, applicants holding a Secondary Certificate must complete an elementary art methods course. ()

~~178.~~ **World Language (6-12 or K-12).** Twenty (20) semester credit hours to include a minimum of twelve (12) upper division credits in a specific world language taken within the last ten (10) years leading to a proficiency level as defined by a state-approved exam (for example, a passing grade on the Praxis or an Advanced level as defined by the American Council on the Teaching of Foreign Languages (ACTFL)). Course work must include two (2) or more of the following areas: Grammar, Conversation, Composition, Culture, and Literature; and course work in Foreign Language Methods. To obtain an endorsement in a specific foreign language (K-12), applicants holding a Secondary Certificate must complete an elementary methods course. (4-4-13)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1604

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 33-105 and 33-1702, Idaho Code.

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

Thursday, October 13, 2016 - 6:00 PM	Monday, October 17, 2016 - 6:00 PM
Lewis & Clark State College Williams Conference Center Clearwater Room 500 8th Avenue Lewiston, ID 83501	College of Western Idaho Nampa Campus Aspen Building, Room 108 6002 Birch Lane Nampa, ID 83687
Monday, October 24, 2016 - 6:00 PM	
Marshall Public Library Minnie Howard Community Room 113 S. Garfield Avenue Pocatello, ID 83204	

The hearing sites 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:

Currently, Section 3.5 of the Operating Procedures for the Idaho Public Driver Education Programs states public driver education and training instructors shall have a medical examination that meets the Federal Motor Carriers Safety Regulations (49 CFR 391.41-391.49). In March of 2014, the Federal Motor Carriers Safety Regulations began requiring only specifically trained medical providers to perform these physicals, thereby raising the cost to the individual significantly. Department of Transportation physicals are not covered as part of the medical benefit provided by insurance. This rule is intended to update the Operating Procedures for Idaho Public Driver Education Programs to remove the specific requirement to have a Federal Motor Carrier Department of Transportation physical. It would instead allow medical examinations through a physical provided by a certified medical professional. This would satisfy the need for the protection of the public's safety and would also be covered by medical insurance.

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 as a result of this rulemaking: N/A

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 April 6, 2016, Idaho Administrative Bulletin, [Volume 16-4, page 22](#).

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:

Because of the number of pages within the document, the republication of the text would be unduly cumbersome and expensive. A complete copy of the Operating Procedures for the Idaho Public Driver Education Programs, the incorporated by reference document, can be found on our website at <http://www.boardofed.idaho.gov>. The document is currently incorporated by rule and is being updated from the 2013 edition to the 2016 edition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Matt McCarter, Director of Student Engagement and Career and Technical Readiness, at (208) 332-6961 or mamccarter@sde.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 August 24, 2016. Written comments will also be accepted during the scheduled public hearings.

DATED this 30th Day of June, 2016.

Sherri Ybarra
Superintendent of Public Instruction
650 West State Street, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
Office: (208) 332-6800
Fax: (208) 334-2228

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1604
(Only Those Sections With Amendments Are Shown.)**

004. INCORPORATION BY REFERENCE.

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

01. Idaho Standards for the Initial Certification of Professional School Personnel as approved on August 13, 2015. Copies of this document can be found on the Office of the State Board of Education website at <http://www.boardofed.idaho.gov>. (3-25-16)

02. Standards for Idaho School Buses and Operations as approved on June 23, 2011. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.boardofed.idaho.gov>. (3-29-12)

03. Operating Procedures for Idaho Public Driver Education Programs as approved on ~~August 15, 2013~~ June 16, 2016. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at <http://www.boardofed.idaho.gov>. (~~3-20-14~~) ()

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1605

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 33-1006, and 33-1501 through 33-1512, Idaho Code.

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

Thursday, October 13, 2016 - 6:00 PM	Monday, October 17, 2016 - 6:00 PM
Lewis & Clark State College Williams Conference Center Clearwater Room 500 8th Avenue Lewiston, ID 83501	College of Western Idaho Nampa Campus Aspen Building, Room 108 6002 Birch Lane Nampa, ID 83687
Monday, October 24, 2016 - 6:00 PM	
Marshall Public Library Minnie Howard Community Room 113 S. Garfield Avenue Pocatello, ID 83204	

The hearing sites 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 National School Transportation Specifications and Procedures were changed and approved at the 16th National Congress on School Transportation in May of 2015. The revised edition of the Standards for Idaho School Buses and Operations reflects the changes from the national level. Additional language was added to increase clarification, and to reflect manufacturing or operational procedures. The changes to the Standards for Idaho School Buses and Operations include: the format of school bus specifications as well as the actual specifications, alternative fuels, school bus inspections, general operations, disabilities-special health care, Idaho School Bus Withdrawal from Service Standards, and others. The rule would reflect a new approval date of the Standards for Idaho School Buses and Operations by the State Board of Education.

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 as a result of this rulemaking: N/A

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 May 4, 2016, Idaho Administrative Bulletin, [Volume 16-5, page 42](#).

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:

Because of the number of pages within the document, the republication of the text would be unduly cumbersome and expensive. A complete copy of the Standards for Idaho School Buses and Operations, the incorporated by reference document, can be found on our website at <http://www.boardofed.idaho.gov>. The document is currently incorporated by rule and is being updated from the 2011 edition to the 2016 edition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Doug Scott, Director of Student Transportation, at (208) 332-6856 or ddscott@sde.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 August 24, 2016. Written comments will also be accepted during the scheduled public hearings.

DATED this 30th Day of June, 2016.

Sherri Ybarra
Superintendent of Public Instruction
650 West State Street, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
Office: (208) 332-6800
Fax: (208) 334-2228

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1605
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

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

01. Idaho Standards for the Initial Certification of Professional School Personnel as approved on August 13, 2015. Copies of this document can be found on the Office of the State Board of Education website at <http://www.boardofed.idaho.gov>. (3-25-16)

02. Standards for Idaho School Buses and Operations as approved on ~~June 23, 2011~~ June 16, 2016. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.boardofed.idaho.gov>. (~~3-29-12~~)()

03. Operating Procedures for Idaho Public Driver Education Programs as approved on August 15, 2013. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at <http://www.boardofed.idaho.gov>. (3-20-14)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1604

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 33-105, 33-1612, and 33-2002, Idaho Code.

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

Thursday, October 13, 2016 - 6:00 PM	Monday, October 17, 2016 - 6:00 PM
Lewis & Clark State College Williams Conference Center Clearwater Room 500 8th Avenue Lewiston, ID 83501	College of Western Idaho Nampa Campus Aspen Building, Room 108 6002 Birch Lane Nampa, ID 83687
Monday, October 24, 2016 - 6:00 PM	
Marshall Public Library Minnie Howard Community Room 113 S. Garfield Avenue Pocatello, ID 83204	

The hearing sites 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 proposed rule would incorporate the Idaho Special Education Manual into this rule chapter. While the manual is referenced in the rule, it has not been formally incorporated by reference. The manual meets the Individuals with Disabilities Education Act requirement of 20 US Code Section 1412, and is consistent with other state and federal regulations regarding the education of individuals with disabilities.

Amendments to the manual since the December 2014 approval include: changing the manual to reflect federal guidance about confidentiality agreements; removing reference to No Child Left Behind due to the passage of the Every Student Succeeds Act (ESSA); removing outdated reference to psychosocial rehabilitation; changing references to highly qualified teacher to align with ESSA; clarifying language regarding Idaho's 10-day rule for parents objections to a district's proposal for an Individual Educational Program; adding additional resources to the Procedural Safeguards Notice and making introduction more parent friendly; removing references to the Appendices that are no longer attached to the manual; and fixing typos throughout document.

Additionally, several revisions within IDAPA 08.02.03.109 regarding Special Education are needed to comply with federal regulations, as well as to clarify language and update the rule to reflect current practice. Changes would clarify the scope of the 10-day rule for objection to a change in an individualized education program or placement, and would align mediation procedures with federal regulations.

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 as a result of this rulemaking: N/A

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 April 6, 2016, Idaho Administrative Bulletin, **Volume 16-4, page 29-30**.

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:

Because of the number of pages within the document, the republication of the text would be unduly cumbersome and expensive. A complete copy of the Idaho Special Education Manual can be found on our website at <http://sde.idaho.gov/topics/admin-rules/>. Incorporation by reference is necessary to ensure compliance with state and federal regulations regarding the education of individuals with disabilities.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Charlie Silva, Director of Special Education, at (208) 332-6806 or csilva@sde.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 August 24, 2016. Written comments will also be accepted during the scheduled public hearings.

DATED this 30th Day of June, 2016.

Sherri Ybarra
Superintendent of Public Instruction
650 West State Street, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
Office: (208) 332-6800
Fax: (208) 334-2228

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1604
(Only Those Sections With Amendments Are Shown.)**

004. INCORPORATION BY REFERENCE.

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

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at www.boardofed.idaho.gov. (3-29-10)

- a.** Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- b.** Health, as revised and adopted on April 17, 2009. (3-29-10)
- c.** Humanities Categories: (3-29-10)
 - i.** Art, as revised and adopted on April 17, 2009; (3-29-10)

- ii. Dance, as revised and adopted on April 17, 2009; (3-29-10)
- iii. Drama, as revised and adopted on April 17, 2009; (3-29-10)
- iv. Interdisciplinary, as revised and adopted on April 17, 2009; (3-29-10)
- v. Music, as revised and adopted on April 17, 2009; (3-29-10)
- vi. World languages, as revised and adopted on April 17, 2009; (3-29-10)
- d. English Language Arts, as revised and adopted on August 11, 2010. (4-7-11)
- e. Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- f. Mathematics, as revised and adopted on August 11, 2010. (4-7-11)
- g. Physical Education, as revised and adopted on April 17, 2009. (3-29-10)
- h. Science, as revised and adopted on April 17, 2009. (3-29-10)
- i. Social Studies, as revised and adopted on April 17, 2009. (3-29-10)
- j. Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)

02. The English Language Development (ELD) Standards. The World-Class Instructional Design and Assessment (WIDA) 2012 English Language Development (ELD) Standards as adopted by the State Board of Education on August 16, 2012. Copies of the document can be found on the WIDA website at www.wida.us/standards/eld.aspx. (4-4-13)

03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures. The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at www.sde.idaho.gov. (4-7-11)

04. The Idaho English Language Assessment (IELA) Achievement Standards. The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at www.sde.idaho.gov. (4-7-11)

05. The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors. Achievement Level Descriptors as adopted by the State Board of Education on April 14, 2016. Copies of the document can be found on the State Board of Education website at www.boardofed.idaho.gov. (4-14-16)T

06. The Idaho Extended Content Standards. The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education website at www.boardofed.idaho.gov. (5-8-09)

07. The Idaho Alternate Assessment Achievement Standards. Alternate Assessment Achievement Standards as adopted by the State Board of Education on May 18, 2011. Copies of the document can be found on the State Board of Education website at www.boardofed.idaho.gov. (3-29-12)

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

09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually

Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at www.boardofed.idaho.gov. (4-2-08)

10. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on June 16, 2016. Copies of the document can be found on the State Board of Education website at www.boardofed.idaho.gov. ()

(BREAK IN CONTINUITY OF SECTIONS)

109. SPECIAL EDUCATION.

01. Definitions. The following definitions apply only to Section 109 of these rules. (4-5-00)

a. Adult Student. A student who is eligible for special education, is eighteen (18) years of age or older and to whom special education rights have transferred. (4-5-00)

b. Department. State Department of Education. (4-5-00)

c. Due Process Hearing. An administrative hearing that is conducted to resolve disputes. (3-29-10)

i. Regular due process hearing regarding issues on any matter related to identification, evaluation, placement, or the provision of a free appropriate public education. (3-29-10)

ii. For disputes concerning discipline for which shortened time lines are in effect, an expedited due process hearing may be requested in accordance with the Individuals with Disabilities Education Act. (3-29-10)

d. Education Agency. Each school district and other public agency that is responsible for providing special education and related services to students with disabilities, including the Department of Juvenile Corrections and the Idaho School for the Deaf and Blind. (4-5-00)

e. Governing Special Education Requirements. Sections 33-201, 33-2001 through 2002, 33-2004 through 2005, and 33-2010, Idaho Code; Section 109 of these rules; the Individuals with Disabilities Education Act (IDEA), Parts A and B, (20 U.S.C., Sections 1400-1419); IDEA Regulations (34 C.F.R. Part 300); Idaho Special Education Manual; and special education case law that sets precedence in Idaho. (3-29-10)

f. Idaho Special Education Manual. Policies and procedures, as approved by the State Board of Education, that the State Department of Education is required to adopt to meet the eligibility requirements of 20 U.S.C, Section 1412 and are consistent with state and federal laws, rules, regulations, and legal requirements. (3-29-10)

g. Special Education. Specially designed instruction as defined by the Individuals with Disabilities Education Act or speech-language pathology services to meet the unique needs of a special education student. (4-5-00)

02. Legal Compliance. The State Department of Education and education agencies shall comply with all governing special education requirements. (4-5-00)

a. The Board of Trustees or other comparable governing body of each education agency shall adopt policies and procedures for providing special education services and obtain approval from the State Department of Education for the same. Department approval shall be based on current governing special education requirements. Each education agency shall revise its policies and procedures as necessary to conform with changes in governing special education requirements. (4-5-00)

b. The State Department of Education shall provide education agencies with a sample set of policies and procedures that is consistent with governing special education requirements. The Department shall monitor all

education agencies and private agencies who provide special education services to students with disabilities for compliance with governing special education requirements and adopted policies and procedures. (4-5-00)

c. Each education agency shall ensure that charter schools and alternative schools located in its jurisdiction have nondiscriminatory enrollment practices. Each education agency shall ensure the provision of special education and related services to eligible students enrolled in charter and alternative schools in accordance with governing special education requirements. (4-5-00)

d. Each education agency contracting with a private school or facility shall ensure that the private school or facility is approved by the State Department of Education to provide special education services. The Department may approve a private school or facility to provide special education services upon application to the Department if it: (4-5-00)

i. Is an accredited school or a licensed rehabilitation center; and (4-5-00)

ii. Meets minimum health, fire and safety standards; and (4-5-00)

iii. Is nonsectarian; and (4-5-00)

iv. Provides special education services consistent with governing special education requirements. (4-5-00)

v. Any private school or facility aggrieved by the Department's final decision may appeal that decision to the State Board of Education. (4-5-00)

e. Education agencies shall employ special education and related services professional personnel using certification standards approved by the State Board of Education or licensing standards adopted by the Bureau of Occupational Licensing. Education agencies shall employ individuals who meet the highest entry-level standard that applies to a specific discipline unless there is a shortage of fully qualified candidates for a specific position. If there is a shortage of fully qualified candidates, the education agency shall hire the most qualified individual available who is making satisfactory progress toward meeting the highest entry-level standard within three (3) years. (4-5-00)

f. Education agencies may employ paraprofessional personnel to assist in the provision of special education and related services to students with disabilities if they meet standards established by the State Department of Education. (4-5-00)

g. Education agencies shall collect and report data as necessary to meet state and federal requirements concerning special education services, staff or students. Education agencies shall develop, implement and revise district improvement plans as necessary to improve results as measured by data on goals and indicators for the performance of special education students that are established by the State Department of Education in accordance with the Individuals with Disabilities Education Act. (4-5-00)

h. Education agencies shall establish a team process to problem solve and plan general education interventions to ensure that referrals to special education are appropriate. (4-5-00)

03. Eligibility for Special Education. The State Department of Education shall provide state eligibility criteria for special education services for categorical eligibility consistent with the Individuals with Disabilities Education Act. Education agencies shall consider eligibility under all disability categories set forth in the Idaho Special Education Manual with the exception of developmental delay, which is an optional category. If an education agency elects to use the developmental delay category, it shall consider developmental delay for students ages three (3) through nine (9) using the eligibility criteria adopted by the Department and set forth in the Idaho Special Education Manual. The total timeline from the date of receipt of written parental consent for an initial evaluation to the date of determination of eligibility for special education and related services must not exceed sixty (60) calendar days, excluding periods when regular school is not in session for five (5) or more consecutive school days, unless all parties agree to an extension. (4-7-11)

04. Individualized Education Programs. Each education agency shall develop an individualized education program (IEP) for each student who is eligible for special education. The IEP shall be implemented as soon as possible after it is developed. The total timeline from the determination that the student needs special education and related services to the date of implementation of the initial IEP shall not exceed thirty (30) calendar days. A new IEP shall be developed at least annually, on or before the date the previous IEP was developed. (3-25-16)

a. IEP team meetings shall be convened upon reasonable request of any IEP team member at times other than the annual review. If the education agency refuses to convene an IEP team meeting requested by a parent or adult student, the agency shall provide written notice of the refusal. (4-5-00)

b. Education agencies shall document the attendance of all participants at each IEP team meeting. Any participant who does not agree with an IEP team decision regarding a student's educational program may place a minority report in that student's file. A minority report shall not prevent implementation of an IEP team decision. (4-5-00)

c. The IEP team shall determine the student's placement in the least restrictive environment. (5-3-03)

d. At the discretion of the education agency, an individualized family service plan (IFSP) may be used in place of an IEP if: (4-5-00)

i. The child is ages three (3) through five (5), and (4-5-00)

ii. The child's parents are provided with a detailed explanation of the differences between an IFSP and an IEP, and (4-5-00)

iii. The child's parents provide written consent to use the IFSP, and (4-5-00)

iv. The IFSP is developed in accordance with IDEA Part B policies and procedures. (3-29-10)

v. Nothing in this part requires education agencies to develop IFSPs rather than IEPs for three (3) through five (5) year old nor to implement more than the educational components of the IFSP. (4-5-00)

e. When a student who has been determined eligible for special education, as indicated by a current IEP, transfers from one (1) Idaho education agency to another, the student is entitled to continue to receive special education services. The receiving education agency may accept and implement the existing IEP or may convene an IEP team meeting to develop a new IEP. If a new IEP cannot be developed within five (5) school days, or if the education agency wishes to re-evaluate the child, an interim (short-term) IEP shall be implemented pending development of the standard IEP. (4-5-00)

f. If a student who is eligible for special education in another state transfers to an Idaho education agency, the Idaho education agency shall request a copy of the student's most recent eligibility documentation and IEP within two (2) school days. Within five (5) school days of receipt of the eligibility documentation and IEP, the Idaho education agency shall determine if it will adopt the existing eligibility documentation and IEP. If the education agency disagrees with the existing eligibility documentation, or if the documentation is not available within a reasonable time period, consent for an initial assessment shall be sought. While the assessment and evaluation is in process, the education agency may implement an interim IEP if the parent or adult student agrees. If the parent or adult student does not agree to an interim IEP, the student shall be placed in general education. (4-5-00)

05. Procedural Safeguards. Education agencies will use appropriate procedural safeguards consistent with the Individuals with Disabilities Education Act. (8-4-99)

a. If a parent or adult student disagrees with an individualized education program ~~change or placement change proposed by the district~~ (IEP) team's proposed IEP for the student, the parent or adult student may file a written objection to all or parts of the proposed ~~change~~ IEP. If the written objection is emailed, postmarked or hand delivered within ten (10) calendar days of the date the parent or adult student receives written notice of the proposed ~~change~~ IEP, the proposed change cannot be implemented for fifteen (15) calendar days, or as extended through mutual agreement by the district and the parent or adult student while the parties work to resolve the dispute.

~~Informal methods such as additional~~ Parties may choose to hold additional IEP team meetings which may be facilitated by the State Department of Education (SDE) or request voluntary mediation ~~may be used to resolve the disagreement through the SDE.~~ If these methods fail or are refused, ~~the education agency may request the proposed IEP shall be implemented after fifteen (15) calendar days unless~~ a due process hearing is filed by the parents or adult student, during which time the student shall remain in the current educational placement during the pendency of any administrative or judicial proceeding, unless the district/adult student agree otherwise, ~~to obtain a hearing officer's decision regarding the proposed change.~~ The written objection cannot be used to prevent the education agency from placing a student in an interim alternative educational setting in accordance with IDEA discipline procedures, or to challenge an eligibility/identification determination. (4-5-00)()

b. Mediation may be requested by an education agency, parent, or adult student, or offered by the State Department of Education at any time. The Department shall screen all such requests to determine appropriateness. Any time a hearing is requested, the Department shall offer mediation using policies and requirements set forth in the Individuals with Disabilities Education Act regulations. If the Department appoints a mediator, the Department shall be responsible for compensating the mediator. All mediation participants ~~shall be required to sign a e~~ will receive a copy of the Notification of Mediation Confidentiality ~~pledge form.~~ Attorney fees may not be awarded for a mediation that is conducted prior to a request for a due process hearing. (3-29-10)()

c. The State Department of Education shall administer a single-tiered due process hearing system to resolve disputes between education agencies and parents or adult students. When a due process hearing is requested, the superintendent, special education director, or other agency administrator shall inform the agency's board of trustees or other governing body of the request. The education agency shall immediately notify the Department's Director of Special Education of any request for a due process hearing. Within ten (10) calendar days of a written request for a regular hearing, or within five (5) business days of a written request for an expedited hearing, an impartial hearing officer shall be assigned by the Department. The Department shall maintain a list of trained hearing officers and their qualifications. (3-29-10)

d. The education agency that is a party to the hearing shall be responsible for compensating the hearing officer and paying for the cost of a verbatim transcript of the hearing. (4-5-00)

e. Due process hearings shall be conducted pursuant to IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Individuals with Disabilities Education Act (~~IDEA~~) requirements, and the Idaho Special Education Manual, incorporated by reference in Section 004 of this rule. In case of any conflict between the IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" and the IDEA, the IDEA shall supersede the IDAPA 04.11.01, and IDAPA 04.11.01 shall supersede the Idaho Special Education Manual. (3-29-10)()

f. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within forty-five (45) calendar days of the date a regular hearing is requested, unless a specific extension of this time line is requested by one (1) of the parties and granted by the hearing officer. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within twenty (20) calendar days of a written request for an expedited hearing, unless a specific extension of this time line has been granted. An extension of the time line for an expedited hearing shall not exceed an additional twenty-five (25) calendar days, and may be granted only if requested by one (1) of the parties and agreed to by both parties. The decision shall be sent to the parent or adult student, the education agency administrator, their respective representatives, and the State Department of Education. (4-5-00)

g. The hearing officer's decision shall be binding unless either party appeals the decision by initiating a civil action. The hearing officer's decision shall be implemented not later than fourteen (14) calendar days from the date of issuance unless an appeal is filed by a parent or adult student or the decision specifies a different implementation date. An appeal to civil court must be filed within forty-two (42) calendar days from the date of issuance of the hearing officer's decision. (4-5-00)

h. During the hearing the education agency shall provide reasonable accommodations as required by federal and state regulations. Disputes concerning reasonable accommodations shall be referred to the U.S. Department of Education's Americans with Disabilities Act (ADA) Committee for resolution. (4-5-00)()

i. During the pendency of any due process hearing or civil appeal the child's educational placement shall be determined by the Individuals with Disabilities Education Act "stay put" requirements. (4-5-00)

j. A parent or adult student has the right to an independent educational evaluation (IEE) at public expense if the parent or adult student disagrees with an evaluation obtained by the education agency. Whenever an ~~independent educational evaluation~~ IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria the education agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent or adult student's right to an IEE. If an education agency has cost as one (1) of the criteria the education agency uses when it initiates an evaluation, the education agency may apply that criteria to independent educational evaluations. However, the parent or adult student has the right to demonstrate that unique circumstances justify an IEE that falls outside the education agency's cost criteria, and if so demonstrated, that IEE shall be publicly funded. A due process hearing may be initiated by the education agency to determine if the evaluation conducted by the education agency is appropriate. If the final decision of a hearing officer, or civil court, if the hearing officer's decision is appealed, is that the evaluation conducted by the education agency is appropriate, the parent or adult student still has the right to an independent educational evaluation, but not at the education agency's expense. (4-5-00)()

k. Student records shall be managed in accordance with IDEA and Family and Educational Rights and Privacy Act regulations governing security, confidentiality, access, maintenance, destruction, inspection and amendment. (4-5-00)

06. Assistive Technology Devices. Education agencies may hold a parent liable for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the education agency if it is lost, stolen, or damaged due to negligence or misuse at home or in another setting outside of school time. (4-5-00)

07. Diplomas and Graduation. School districts shall use a regular diploma for students who are eligible for special education at the completion of their secondary program. The transcript serves as a record of individual accomplishments, achievements, and courses completed. A modified or differentiated diploma or certificate may not be used for students who are eligible for special education unless the same diploma or certificate is granted to students without disabilities. If a student is not granted a regular high school diploma or if a regular high school diploma is granted for completing requirements that are not comparable to regular graduation requirements, a student who is eligible for special education is entitled to receive a free appropriate public education through the semester in which the student turns twenty-one (21) years of age or until the student completes requirements that are comparable to regular graduation requirements, whichever comes first. (4-5-00)

08. Special Education Advisory Panel. The State Superintendent of Public Instruction shall appoint members to serve on the Special Education Advisory Panel. Panel members shall elect annually an individual to serve a one (1) year term as vice-chair followed by a one (1) year term as chair. (4-5-00)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1605

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 33-1002, and 33-1612, Idaho Code.

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

Thursday, October 13, 2016 - 6:00 PM	Monday, October 17, 2016 - 6:00 PM
Lewis & Clark State College Williams Conference Center Clearwater Room 500 8th Avenue Lewiston, ID 83501	College of Western Idaho Nampa Campus Aspen Building, Room 108 6002 Birch Lane Nampa, ID 83687
Monday, October 24, 2016 - 6:00 PM	
Marshall Public Library Minnie Howard Community Room 113 S. Garfield Avenue Pocatello, ID 83204	

The hearing sites 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 proposed rule change will update the section of this chapter that governs Alternative Secondary Programs which has not been amended since 1997. Additionally, the passage of House Bill 300 in 2015 added sixth grade to the grades eligible for alternative secondary program funding. The changes include: updating terminology; including sixth grade as part of the student qualification; removing limited English proficiency as a qualifier; aligning the instruction section to current practices; and clarifying the obligation to follow the Individuals with Disabilities Education Act (IDEA).

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 as a result of this rulemaking: N/A

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 April 6, 2016, Idaho Administrative Bulletin, [Volume 16-4, page 31](#).

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 Michelle Clement Taylor, Coordinator for School Choice, at (208) 332-6963 or at mtaylor@sde.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 August 24, 2016. Written comments will also be accepted during the scheduled public hearings.

DATED this 30th Day of June, 2016.

Sherri Ybarra
Superintendent of Public Instruction
650 West State Street, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
Office: (208) 332-6800
Fax: (208) 334-2228

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1605
(Only Those Sections With Amendments Are Shown.)**

110. ALTERNATIVE SECONDARY PROGRAMS (SECTION 33-1002; 33-1002C; 33-1002F, IDAHO CODE).

Alternative secondary programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. ~~Some of~~ Designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth as defined in this section. Alternative high school programs conducted during the regular school year will be located on a separate site from the regular high school facility or be scheduled at a time different from the regular school hours. (4-1-97)()

01. Student Qualifications. An at-risk youth is any secondary student grade ~~seven~~ six through twelve (~~7~~-12) who meets any three (3) of the following criteria, Subsections 110.01.a. through 110.01.f.g., or any one (1) of criteria in Subsections 110.01.g.h. through 110.01.m.n. (3-30-07)()

- a. Has repeated at least one (1) grade. (4-1-97)
- b. Has absenteeism that is greater than ten percent (10%) during the preceding semester. (4-1-97)
- c. Has an overall grade point average that is less than 1.5 (4.0 scale) prior to enrolling in an alternative secondary program. (4-1-97)
- d. Has failed one (1) or more academic subjects in the past year. (4-1-97)()
- e. Is below proficient, based on local criteria and/or standardized tests. ()
- ef. Is two (2) or more ~~semester~~ credits per year behind the rate required to graduate or for grade promotion. (4-1-97)()
- fg. Is a limited English proficient student who has not been in a program more than three (3) years. Has attended three (3) or more schools within the previous two (2) years not including dual enrollment. (3-30-07)()

- ~~gh.~~ Has documented or pattern of substance abuse ~~behavior~~. (4-1-97)()
- ~~hi.~~ Is pregnant or a parent. (4-1-97)
- ~~ij.~~ Is an emancipated youth or unaccompanied youth. (4-1-97)()
- ~~jk.~~ Is a previous dropout. (4-1-97)
- ~~kl.~~ Has serious personal, emotional, or medical ~~problems~~ issue(s). (4-1-97)()
- ~~lm.~~ ~~Is~~Has a court or agency referral. (4-1-97)()
- ~~mn.~~ ~~Upon recommendation of the school district as determined by locally developed criteria for disruptive student behavior~~ Demonstrates behavior that is detrimental to their academic progress. (4-1-97)()
- 02. Instruction.** Special instruction courses for at-risk youth enrolled in an alternative secondary program will include: (4-1-97)
- ~~a.~~ ~~Academic skills that include language arts and communication, mathematics, science, and social studies~~ Core academic content that meets or exceeds minimum state standards. (4-1-97)()
- ~~b.~~ ~~A personal and career counseling component~~. (4-1-97)
- ~~eb.~~ A physical fitness ~~and~~ personal health component. (4-1-97)()
- ~~dc.~~ ~~A state division approved vocational~~ Career and technical education component approved by the state division of career technical education. (4-1-97)()
- ~~ed.~~ A personal finance, parenting, and child care component ~~with parenting skills emphasized~~; and (4-1-97)()
- ~~e.~~ A personal and career counseling component. ()
- 03. Graduation Credit.** Graduation credit may be earned in the following areas: academic subjects, electives, and approved work-based learning experiences. Nonacademic courses, i.e., classroom and office aides do not qualify for credit unless they are approved work-based learning experiences. (4-5-00)
- 04. Special Services.** Special services, ~~where appropriate~~ for at-risk youth enrolled in alternative secondary programs, include the following where appropriate: (4-1-97)()
- a.** A day care center when enrollees are also parents. This center should be staffed by a qualified child care provider. (4-1-97)
- b.** Direct social services that may include officers of the court, social workers, counselors/psychologists. (4-1-97)
- c.** All services in accordance with the student's Individualized Education Program. ()

**IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1601

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 54-1208, Idaho Code.

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

Friday, August 5, 2016 - 9:00 AM

**1510 E. Watertower Street
Meridian, ID 83642**

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The amendments will update the education requirements for licensure as a professional land surveyor for applicants with unaccredited surveying or related programs. The update aligns Idaho's education requirements with those used in most states and broadens the course options for those with unaccredited or non-surveying 4-year degrees. It provides more educational choices for those seeking to enter the land surveying profession.

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

There is no fee associated with this rule change.

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

There is no impact to the General Fund or to the dedicated fund of the board by this rule change.

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 May 4, 2016 Idaho Administrative Bulletin, [Volume 16-5, page 43](#).

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 proposed rule, contact Keith Simila, (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 17th Day of June, 2016.

Keith Simila, P.E., Executive Director
1510 Watertower St., Meridian, Idaho 83642
Phone: (208) 373-7210 / Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 10-0101-1601
(Only Those Sections With Amendments Are Shown.)

017. EXAMINATIONS.

01. Special or Oral Examination. Examinations for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern will be held on dates and at times and places to be determined by the Board. Special oral or written examinations may be given by the Board as necessary. (3-29-10)

02. Eligibility for Examinations, Educational Requirements. The application for licensure as a professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire or Idaho specific land surveying examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being assigned to any professional examination. (3-25-16)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited either by the Engineering Accreditation Commission (EAC) of ABET, Inc., or those engineering programs that are accredited by official organizations signatory to the "Washington Accord." Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-25-16)

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer: (3-25-16)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-25-16)

ii. Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as

organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-25-16)

iii. Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-25-16)

iv. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to ensure that the above requirements are met. (3-25-16)

c. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied Science Accreditation Commission (ASAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related ~~science program~~ must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: (3-25-16)

i. ~~Three (3) credits in Surveying Law and Boundary Descriptions~~ Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; (~~3-30-07~~)()

ii. ~~Three (3) credits in Route Surveying~~ Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; (~~3-30-07~~)()

iii. ~~Three (3) credits in Public Land Surveying;~~ Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. (~~3-30-07~~)()

- ~~iv. Three (3) credits in Surveying Software Applications; (3-30-07)()~~
- ~~v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)()~~
- ~~vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)()~~
- ~~vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)()~~
- ~~viii. Three (3) credits in Geodesy; and (3-30-07)()~~
- ~~ix. Three (3) credits in Survey Office Practice and Business Law in Surveying; (3-30-07)()~~

d. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant to ensure that the applicant has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-11-15)

03. Excused Non-Attendance at Exam. In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

04. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination shall be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (3-29-10)

05. Fundamentals of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (5-8-09)

06. Principles and Practice of Engineering -- Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of, or utilize other state examinations in disciplines other than those for which examinations may be available from NCEES. (3-25-16)

07. Two Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying for professional land surveyor licensure. The examination shall be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be

passed. (3-29-10)

08. Oral or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

09. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking licensure through comity or reciprocity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or licensure in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (5-8-09)

10. Grading. Each land surveyor intern, engineer intern and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each module of the examination. (3-29-10)

11. Use of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the Idaho specific professional land surveyor shall be the examination as determined by the Board. (3-25-16)

12. Review of Examination by Examinee. Due to security concerns about the examinations, examinees shall not be allowed to review their examinations. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board. (3-20-04)

13. Proctoring of Examinations. Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-specific examinations, nor will they request another jurisdiction to proctor an examination for an Idaho applicant. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES, BOARDS, AND COUNTRIES.

01. Interstate Licensure Evaluation. Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, possessions or territories or the District of Columbia, shall be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law related to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation with a bachelor of science degree is required for licensure. Individuals who have passed the National Council of Examiners for Engineering and Surveying (NCEES) examinations for professional engineering or professional land surveying shall be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor provided that land surveyor applicants also pass the Idaho specific professional land surveying examination. Prescriptive education requirements are as follows: (4-11-15)

a. Graduates from programs accredited by the Engineering Accreditation Commission of the ABET, Inc., (EAC/ABET), or graduates of university engineering programs accredited by official organizations in countries signatory to the Washington Accord, or graduates of engineering programs with coursework evaluated by the board as being substantially equivalent to EAC/ABET degrees, shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. (4-11-15)

b. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited four (4) year bachelor degree. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant to ensure that they have completed the coursework requirements of Subsection 019.01.c. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-11-15)

c. An applicant who was originally licensed in another jurisdiction after June 30, 1996 and who has completed a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: (4-11-15)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-25-16)

ii. Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-25-16)

iii. Forty-eight (48) college credit hours of engineering science and engineering design courses. Courses in engineering science shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-25-16)

d. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied Science Accreditation Commission (ASAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related [science program](#) must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that

attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ~~(3-25-16)~~

i. ~~Three (3) credits in Surveying Law and Boundary Descriptions~~ Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; ~~(3-30-07)()~~

ii. ~~Three (3) credits in Route Surveying~~ Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; ~~(3-30-07)()~~

iii. ~~Three (3) credits in Public Land Surveying;~~ Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. ~~(3-30-07)()~~

iv. ~~Three (3) credits in Surveying Software Applications;~~ ~~(3-30-07)~~

v. ~~Three (3) credits in Research and Evidence in Surveying;~~ ~~(3-30-07)~~

vi. ~~Three (3) credits in Surveying Adjustments and Coordinate Systems;~~ ~~(3-30-07)~~

vii. ~~Three (3) credits in Subdivision Planning and Platting;~~ ~~(3-30-07)~~

viii. ~~Three (3) credits in Geodesy; and~~ ~~(3-30-07)~~

ix. ~~Three (3) credits in Survey Office Practice and Business Law in Surveying.~~ ~~(3-30-07)~~

02. International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process. The board may determine the professional engineering licensure process in other countries or jurisdictions within other countries is substantially equivalent to that required 54-1219 Idaho Code. As such, the board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer license credential, attains a minimum of eight (8) years of experience after licensure, provided the applicant has no criminal or outstanding disciplinary action in any country or jurisdiction, and is in good standing with the licensing board within that country or jurisdiction. A bona fide licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability take disciplinary action and the willingness, availability, and capacity of a foreign board to release information to the Idaho board in English. (4-11-15)

03. International Engineering Licensure Evaluation - Countries or Jurisdictions without a Board Approved Licensure Process. Each application for an Idaho professional engineer license submitted by an applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions within a country, shall be considered by the board on its merits, and the application evaluated for substantial compliance with the requirements of Idaho law with respect to experience, examination, and education. A minimum of four (4) years of

progressive experience after graduation is required for licensure. The board will require two (2) years of experience working in the United States or two (2) years of experience working on projects requiring the knowledge and use of codes and standards similar to those utilized in the United States where the experience is validated by a professional engineer licensed in the United States. The board may postpone acting on or deny an application for a license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any country or jurisdiction. Applicants must have passed a professional engineering examination administered by NCEES. Applicants who meet the residency requirements of 54-1212, Idaho Code, may be assigned to an examination in Idaho only after four (4) years of experience after graduation from a program that meets the education requirements of the board. Prescriptive education requirements are as follows: (4-11-15)

a. Graduates of engineering university programs accredited by official organizations in countries signatory to the Washington Accord or graduates of engineering university programs accredited by EAC/ABET or evaluated by the board as being substantially equivalent to EAC/ABET programs shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. (4-11-15)

b. The board may require an independent credentials evaluation of the engineering education of an applicant who was educated outside the United States whose university engineering program is not accredited by an official organization in countries signatory to the Washington Accord or has a non-EAC/ABET accredited engineering degree. Such evaluation shall be done through NCEES or another organization approved by the board and shall be done at the expense of the applicant. (4-11-15)

c. The board may require an independent credentials evaluation of the education for an applicant who has completed a four (4) year bachelor degree program outside the United States in engineering technology, or in a related science degree program other than engineering and must demonstrate completion of the requirements of Subsection 019.01.c. before the Board will consider the applicant to possess the knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. Such evaluation shall be done through NCEES or another organization approved by the board and shall be done at the expense of the applicant. (4-11-15)

04. Waiver of Prescriptive Engineering Licensure Evaluation for Unique International Expertise. The board may waive the prescriptive licensure evaluation requirements of 019.03 for international applicants who, in the board's opinion, are qualified by reason of education and experience and offer unique technical expertise, provided the licensee meets the requirements of 54-1219 Idaho Code. (4-11-15)

05. Denials or Special Examinations. An application from a licensee of another state, possession or territory, District of Columbia, or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. (4-11-15)

06. Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying, or both, in one (1) or more states, possessions or territories, District of Columbia, or foreign countries shall be considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. (4-11-15)

**IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1602

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 54-1208, Idaho Code.

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

Friday, August 5, 2016 - 9:00 AM

**1510 E. Watertower Street
Meridian, ID 83642**

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The draft amendments will provide a new section defining the process for applying for a Restricted PE License available to Ph.D. faculty teaching upper division engineering courses at an Idaho University.

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

There is no fee associated with this rule change. There are some fees that are removed and clarified by the rule change.

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

There is no impact to the General Fund or to the dedicated fund of the board by this rule change.

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 May 4, 2016 Idaho Administrative Bulletin, [Volume 16-5, page 44](#).

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There are no materials incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Keith Simila, (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 17th Day of June, 2016.

Keith Simila, P.E., Executive Director
1510 Watertower St., Meridian, Idaho 83642
Phone: (208) 373-7210 / Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 10-0101-1602
(Only Those Sections With Amendments Are Shown.)

023. PROFESSIONAL ENGINEER LICENSURE FOR FACULTY APPLICANTS.

Written examinations related to applicable laws and rules for engineering licensure based upon criteria established by the board shall be offered to Idaho college or university faculty applicants whose credentials have been approved by the board and who possess an earned doctorate degree. The credentials the board considers in this regard should include the applicant's university course work completed, the applicant's thesis and dissertation work, the applicant's peer reviewed publications, and the nature of the applicant's professional experience. A satisfactory application, along with a passing score on the examination exempts the applicant from the written technical examinations, and may qualify the applicant for a restricted license as a professional engineer. The restricted license applies only to college or university related teaching upper division design subjects. All conditions for maintaining licensure, such as compliance with the laws and rules of the Board, fees and continuing professional development are the same as required for all licensees. The restricted license is effective from the date of issuance until such time as the licensee ceases to be a faculty member of an Idaho college or university, unless not renewed, retired, suspended or revoked and is subject to renewal requirements established in 54-1216, Idaho Code. Teaching and teaching work products are exempt from the requirements of sealing and signing engineering work under 54-1215(c), Idaho Code. Restricted licensees are not required to obtain a seal. ()

0234. -- 994. (RESERVED)

**IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-1601

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 54-1208, Idaho Code.

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

Friday, August 5, 2016 - 9:00 AM

**1510 E. Watertower Street
Meridian, ID 83642**

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The amendments will clarify the requirement to base opinions stated in reports, statements or testimony in accordance with the standard of care. The existing rule does not include this requirement for documents and testimony unless serving as an expert witness. The rule change clarifies the intent of the board.

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

There is no fee associated with this rule change.

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

There is no fiscal impact to the state general fund or the agency dedicated 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 May 4, 2016. Idaho Administrative Bulletin, [Volume 16-5, page 45](#).

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 proposed rule, contact Keith Simila, (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 17th Day of June, 2016.

Keith Simila, P.E., Executive Director
1510 Watertower St., Meridian, Idaho 83642
Phone: (208) 373-7210 / Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 10-0102-1601
(Only Those Sections With Amendments Are Shown.)

007. PUBLIC STATEMENTS.

01. Reports, Statements or Testimony. A Licensee ~~shall~~ or certificate holder must not commit fraud, violate the standard of care, or engage in deceit or misconduct in professional reports, statements or testimony. ~~He shall, to the best of his knowledge,~~ Each licensee or certificate holder must include all relevant and pertinent information in such reports, statements or testimony and will express opinions in such reports, statements or testimony in accordance with the standard of care. (3-29-10)()

02. Opinions Based on Adequate Knowledge. A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony. (5-8-09)

03. Statements Regarding Public Policy. On matters connected with establishing public policy a Licensee or Certificate Holder shall issue no statements, criticisms or arguments which are paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party, or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the matters. (5-8-09)

04. Actions in Regard to Other Licensees or Certificate Holders. A Licensee or Certificate Holder shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Licensee or Certificate Holder, nor shall he indiscriminately criticize another Licensee's or Certificate Holder's work in public. If he believes that another Licensee or Certificate Holder is guilty of fraud, deceit, negligence, incompetence, misconduct or violation of these rules he should present such information to the Board for action. (5-8-09)

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.08 - RULES PURSUANT TO THE UNIFORM SECURITIES ACT (2004)

DOCKET NO. 12-0108-1601 (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 30-14-605 and 30-14-608, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than **August 17, 2016**.

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:

I. Amendments Associated with Federal Regulatory Naming Conventions and Related References

The Department's rules reference various rules of federal regulatory bodies with whom the Department shares regulatory authority.

II. Amendments Resulting from Federal Preemption of State Authority

During 2015 and as a result of the federal Dode Frank legislation, the U.S. Securities and Exchange Commission (SEC) passed new rules governing federal Regulation A securities offerings. In part, these new rules preempted state authority to oversee and comment on the disclosures presented in certain securities offerings but partially retained state authority to require filings and collect fees. Rule XX clarifies the effect of this federal preemption and allows the Department to know who will be offering Regulation A securities to Idaho residents and to reduce its fee schedule accordingly.

Recently the former National Association of Securities Dealers (NASD) was renamed as the Financial Industry Regulatory Authority (FINRA). Various rules changes are associated with eliminating and replacing NASD references to FINRA references. Where applicable, some references to CFR¹ citations have been amended to reference the appropriate CFR rules citation.

III. Amendments Associated with Multi-State Uniform Guidelines

The Department collaborates with 50 other state securities regulators, as well as Canadian and Mexican securities regulators through the North American Securities Regulators Association (NASAA) <http://www.nasaa.org/about-us/our-role/>. Many of these efforts are directed at providing a uniform regulatory framework for securities issuers across jurisdictions.

The Department seeks to amend its existing incorporation of NASAA Statements of Policy to reflect changes in these uniform guidelines during the last ten years.

IV. Rules Intended To Streamline Multi-State Securities Issuer Filings

To provide some regulatory relief for certain securities issuers that wish to sell securities in multiple jurisdictions, the Department piloted and allows the use of a national electronic depository (EFD) for the filing of certain documents. Acknowledgment of this optional issuer filing format will be provided for in these rules.

V. Rule Amendment to Clarify State/Federal Investment Adviser Books and Records Requirements

There are two tiers of regulated investment advisers in the United States. Investment advisers with assets under management in excess of \$100 million are required to register only with the U.S. Securities and Exchange Commission, while those managing funds under \$100 million are required to register only with their state of domicile. Since Advisers may, over time, experience variances in their "book of business", they may migrate back and forth between federal and state oversight.

The Department seeks to minimize the changes required of state registered advisers as they move between the two regulatory systems.

VI. Clarification Regarding Investment Adviser and Investment Adviser Representative Registration Platforms
Investment Advisers and their representatives are required to use national registration platforms to license in the jurisdictions where they will conduct business. Presently, advisers use the “IAR”² while their representatives use a corollary system known as the “CRD.”³

The rules pertaining to these adviser and adviser representative registrations are being amended to clarify which registration platform should be used based upon the registrant’s status as either an adviser or an adviser representative.

VII. Update to Better Identify Suitability Standards Where Investment Advisers are Involved
Rule 104.04 proposes to add language that clarifies that investment advisers have a duty to provide suitable recommendations in connection with their advisory activities when advising clients to purchase or sell securities.

VIII. Clarification Regarding Investment Adviser Financial Statement
As a condition of registration and ongoing compliance, investment advisers must demonstrate solvency by providing a balance sheet to the Department. To avoid confusion on the format and content of Adviser balance sheets, it is proposed that Rule 89.01(e) be amended to identify that balance sheets provided to the Department are prepared substantially in accordance with Generally Accepted Accounting Principles (GAAP)

¹ Investment Adviser Registration Depository
² Investment Adviser Registration Depository
³ Central Registration Depository

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

There are no proposed additional fees associated with the proposed rules changes. There is one fee reduction associated with the implementation federal preemption of state authority in association with certain securities registrations. The prospective fee reduction and resulting loss of revenue does not materially affect projected agency revenues.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 4, 2016 Idaho Administrative Bulletin, **Vol. 16-5, pages 46-47.**

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

The regulation of securities issuers, as well as financial professionals, firms and agents is a shared burden between states and federal authorities. Rather than develop separate state standards, the Department seeks to provide a level playing field for all affected financial professionals by incorporating various rules of pertinent Self Regulator Organizations (SROs) such as the Financial Institutions Regulatory Authority (FINRA). The Department has previously adopted various policy statement of the North American Securities Administrators Association (NASAA) in order to promote uniformity among state regulators. This approach provides industry participants with a uniform approach to regulation (more certainty) while reducing compliance costs with the application of broadly accepted standards of conduct.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Burns at (208) 332-8080, jburns@finance.idaho.gov, or securitiesrules@finance.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 August 24, 2016.

DATED this 5th Day of July, 2016.

James A. Burns
Securities Bureau Chief
Department of Finance
800 Park Blvd.
PO Box 83720 Boise, ID 83720-0031
Office: (208) 332-8080
FAX: (208) 332-8099

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0108-1601 (FEE RULE)
(Only Those Sections With Amendments Are Shown.)

005. INCORPORATION BY REFERENCE (RULE 5).

01. Incorporated Documents. IDAPA 12.01.08, “Rules Pursuant to the Uniform Securities Act (2004),” adopts and incorporates by reference the full text of the following Statements of Policy and guidelines adopted by the North American Securities Administrators Association (NASAA): (3-24-05)

- a. “Loans and Other Material Affiliated Transactions,” as adopted with amendments through ~~November 18, 1997~~ March 31, 2008; ~~(3-24-05)~~()
- b. “Options and Warrants,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; ~~(3-24-05)~~()
- c. “Corporate Securities Definitions,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; ~~(3-24-05)~~()
- d. “Impoundment of Proceeds,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; ~~(3-24-05)~~()
- e. “Preferred Stock,” as adopted with amendments through ~~April 27, 1997~~ March 31, 2008; ~~(3-24-05)~~()
- f. “Promotional Shares,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; ~~(3-24-05)~~()
- g. “Promoters’ Equity Investment,” as adopted with amendments through ~~April 27, 1997~~ March 31, 2008; ~~(3-24-05)~~()
- h. “Specificity in Use of Proceeds,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; ~~(3-24-05)~~()
- i. “Underwriting Expenses, Underwriter’s Warrants, Selling Expenses, and Selling Securities Holders,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; ~~(3-24-05)~~()
- j. “Unsound Financial Condition,” as adopted with amendments through ~~September 28, 1999~~ March 31, 2008; ~~and~~ ~~(3-24-05)~~()
- k. “Unequal Voting Rights,” as adopted ~~October 24, 1991~~ March 31, 2008; ~~(3-24-05)~~()

- l.** “Debt Securities,” as adopted April 25, 1993; (3-24-05)
- m.** “NASAA Guidelines Regarding Viatical Investments,” as adopted October 1, 2002; (3-24-05)
- n.** “NASAA Statement of Policy Regarding Small Company Offering Registrations (SCOR),” as adopted April 28, 1996. (3-24-05)

02. Availability of Referenced Documents. Copies of the “NASAA Statements of Policy” are available at the following locations: (3-24-05)

- a.** NASAA, 750 First Street, N.E., Suite 1140, Washington, D.C. 20002. (3-24-05)
- ~~**b.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051. (3-24-05)~~
- ~~**eb.** Department of Finance, 700 W. State Street, P.O. Box 83720, Boise, ID 83720-0031 800 Park Blvd., Suite 200, Boise, ID 83712. (3-24-05)()~~
- ~~**ec.** NASAA Web site at <http://www.nasaa.org/regulatory-activity/statements-of-policy/>. (3-24-05)~~

006. OFFICE MAILING ADDRESS AND STREET ADDRESS (RULE 6).

The mailing address of the department is Idaho Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the department is Idaho Department of Finance, ~~Joe R. Williams Building, 700 West State Street, 2nd floor, Boise, Idaho 83702~~ 800 Park Blvd., Suite 200, Boise, ID 83712. The telephone numbers of the department include (208) 332-8000, Administration; and (208) 332-8004, Securities Bureau. The telephone number of the facsimile machine is (208) 332-8099. All filings with the department in connection with rulemaking or contested cases shall be made with the Administrator of the Idaho Department of Finance, and shall include an original and one (1) copy. (3-24-05)()

007. PUBLIC RECORDS ACT COMPLIANCE (RULE 7).

All rules contained in this chapter are public records. (3-24-05)

008. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

- 01. Act.** The Uniform Securities Act (2004) set forth in Chapter 14, Title 30, Idaho Code. (3-24-05)
- 02. Administrator.** The Director of the Department of Finance. (3-24-05)
- 03. Agent of Issuer.** The term “agent of issuer” is used interchangeably with the term “issuer agent” through these rules. (3-24-05)
- 04. CRD.** Central Registration Depository. (3-24-05)
- 05. Department.** The Idaho Department of Finance. (3-24-05)
- ~~**06. EFD.** Electronic Filing Depository. ()~~
- ~~**07. FINRA.** Financial Industry Regulatory Authority. ()~~
- ~~**068. Form ADV.** The Uniform Application for Investment Adviser Registration. (3-24-05)~~
- ~~**079. Form ADV-H.** The Uniform Application for a Temporary or Continuing Hardship Exemption. (3-24-05)~~
- ~~**0810. Form ADV-W.** The Uniform Request for Withdrawal of Investment Adviser Registration. (3-24-05)~~

- ~~09~~**11.** **Form BD.** The Uniform Application for Broker-Dealer Registration. (3-24-05)
- ~~10~~**2.** **Form BDW.** The Uniform Request for Withdrawal from Registration as a Broker-Dealer. (3-24-05)
- 13.** **Form BR. The Uniform Application for Broker-Dealer Branch Registration.** ()
- ~~14~~**4.** **Form D.** The federal form entitled “Notice of Sale of Securities Pursuant to Regulation D, Section 4(6) and or Uniform Limited Offering Exemption.” (3-24-05)
- ~~12~~**5.** **Form NF.** The Uniform Notice Filing Form. (3-24-05)
- ~~13~~**6.** **Form 1-A.** A federal securities registration form of that number. (3-24-05)
- ~~14~~**7.** **Form S-18.** A federal securities registration form of that number. (3-24-05)
- ~~15~~**8.** **Form U-1.** The Uniform Application to Register Securities. (3-24-05)
- ~~16~~**9.** **Form U-2.** The Uniform Consent to Service of Process. (3-24-05)
- ~~17~~**20.** **Form U-4.** The Uniform Application for Securities Industry Registration or Transfer. (3-24-05)
- ~~18~~**21.** **Form U-5.** The Uniform Request for Withdrawal of Securities Industry Registration or Transfer. (3-24-05)
- ~~19~~**22.** **Form U-7.** The Uniform Small Company Offering Registration Form. (3-24-05)
- ~~20~~**3.** **IARD.** Investment Adviser Registration Depository. (3-24-05)
- ~~21~~**4.** **NASAA.** The North American Securities Administrators Association, Inc. (3-24-05)
- ~~22~~**5.** **NASD.** The National Association of Securities Dealers, Inc. (3-24-05)
- ~~23~~**6.** **NASDAQ.** The National Association of Securities Dealers Automated Quotations. (3-24-05)
- ~~24.~~ ~~*NMS. The National Market System operated by the NASD.*~~ ~~(3-24-05)~~
- ~~25~~**7.** **SEC.** The U.S. Securities and Exchange Commission. (3-24-05)
- 268.** **Transact Business.** For purposes of the Act, to “transact business” shall mean to buy or to sell or contract to buy or to sell or dispose of a security or interest in a security for value. It shall also mean any offer to buy or offer to sell or dispose of, and every solicitation of clients or of any offer to buy or to sell, a security or interest in a security for value. With respect to investment advisers and investment adviser representatives, “transact business” shall include preparation of financial plans involving securities, recommendations to buy or sell securities or interests in a security for value, and solicitation of investment advisory clients. (3-24-05)
- ~~27.~~ ~~*UCSLE. The Uniform Combined State Law Examination.*~~ ~~(3-24-05)~~
- ~~28.~~ ~~*UIALE. The Uniform Investment Adviser Law Examination.*~~ ~~(3-24-05)~~
- ~~29~~**29.** **USA.** The Uniform Securities Act (2004). (3-24-05)
- ~~30.~~ ~~*USASLE. The Uniform Securities Agent State Law Examination.*~~ ~~(3-24-05)~~
- ~~31~~**0.** **Unsolicited Order or Offer.** (3-24-05)

- a. As used in these rules, an order or offer to buy is considered “unsolicited” if: (3-24-05)
- i. The broker-dealer has not made a direct or indirect solicitation or recommendation that the customer purchase the security; and (3-24-05)
- ii. The broker-dealer has not recommended the purchase of the security to the customer, either directly or in a manner that would bring its recommendation to the customer; and (3-24-05)
- iii. The broker-dealer has not volunteered information on the issuer to the customer; and (3-24-05)
- iv. The customer has previously, and independent of any information furnished by the broker-dealer, decided to buy the security. (3-24-05)
- b. Any offer or order to buy from a customer whose first knowledge of the specific security or issuer was volunteered to him by the broker-dealer shall be regarded as a solicited order. (3-24-05)
- c. Any claim of exemption pursuant to Section 30-14-202(6), Idaho Code, shall be supported by the broker-dealer’s certificate that the transaction in question was, in fact, unsolicited. (3-24-05)

(BREAK IN CONTINUITY OF SECTIONS)

047. ADVERTISING (RULE 47).

01. Definitions. The following words and terms, when used in Section 047, of these rules, shall have the following meaning, unless the context clearly indicates otherwise: (3-24-05)

a. “Sales literature” means material published, or designed for use, in a newspaper, magazine or other periodicals, radio, television, telephone solicitation or tape recording, videotaped display, signs, billboards, motion pictures, telephone directories (other than routine listings), other public media and any other written communication distributed or made generally available to customers or the public including, but not limited to, prospectuses, pamphlets, circulars, form letters, seminar texts, research reports, surveys, performance reports or summaries and reprints or excerpts of other sales literature or advertising to include publications in electronic format. (3-24-05)

b. “Sales literature package” means all submissions of sales literature to the Department under one (1) posting or delivery relating to a specific issue of securities. (3-24-05)

02. Filing Requirement. Pursuant to Section 30-14-504, Idaho Code, this rule requires ~~the~~ filing of all sales literature for review and response by the Administrator before use or distribution in Idaho. A complete filing shall consist of the sales literature package and a representation by the applicant, issuer or broker-dealer, that reads substantially as follows: “I ----- hereby attest and affirm that the enclosed sales literature or advertising package contains no false or misleading statements or misrepresentations of material facts, and that all information set forth therein is in conformity with the Company’s most recently amended registration statement as filed with the Department on or about -----.” (3-24-05)()

03. Exemption From Filing. The following types of sales literature are excluded from the filing requirements set forth herein: (3-24-05)

a. Sales literature which does nothing more than identify a broker-dealer or investment adviser, and/or offer a specific security at a stated price; (3-24-05)()

b. Internal communications that are not distributed to the public; (3-24-05)

c. Prospectuses, preliminary prospectuses, prospectus supplements and offering circulars which have been filed with the Department as part of a registration statement, including a final printed copy if clearly identified as such; (3-24-05)

d. Sales literature solely related to changes in a name, personnel, location, ownership, offices, business structure, officers or partners, telephone or teletype numbers; ~~and~~ (3-24-05)()

e. Sales literature filed with and approved by ~~the NASD, FINRA, the SEC, or other regulatory agency with substantially similar requirements;~~ (3-24-05)()

f. Sales literature relating to certain federal covered securities as set forth in Section 30-14-504(~~6~~b), Idaho Code. (3-24-05)()

04. Piecemeal Filings. The Department will not approve any sales literature package until a complete filing is received. Piecemeal filings will not be accepted and will result in the disapproval of any materials submitted therewith. (3-24-05)

05. Application of Antifraud Provisions. Sales literature used in any manner in connection with the offer ~~and~~ or sale of securities is subject to the provisions of Section 30-14-501, Idaho Code, whether or not such sales literature is required to be filed pursuant to Section 30-14-504, Idaho Code, or Section 047 of these rules. Further, sales literature filed with the Department is subject to the provisions of Sections 30-14-501 and 30-14-505, Idaho Code. Sales literature should be prepared accordingly and should not contain any ambiguity, exaggeration or other misstatement or omission of material fact, which might confuse or mislead an investor. (3-24-05)()

06. Prohibited Disclosures. Unless stating that the Administrator or Department has not approved the merits of the securities offering or the sales literature, no sales literature shall contain a reference to the Administrator or Department unless such reference is specifically requested by the Administrator. (3-24-05)

(BREAK IN CONTINUITY OF SECTIONS)

052. INVESTMENT ISSUER AGENT REGISTRATION (RULE 52).

Any individual not exempted pursuant to Sections 30-14-402(b)(3), (4) or (5), Idaho Code, must be registered as an issuer agent or comply with the registration requirement of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. (4-11-06)()

053. FEDERAL COVERED SECURITIES (RULE 53).

01. Investment Company Notices. (3-24-05)

a. Notice Requirement. Pursuant to Section 30-14-302, Idaho Code, prior to the offer in this state of a series or portfolio of securities of an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940, that is not otherwise exempt under Sections 30-14-201 through 30-14-203, Idaho Code, the issuer must file a notice with the Administrator relating to such series or portfolio of securities. (3-24-05)

b. Content of Notice. Each required notice shall include the following: (3-24-05)

i. A properly completed Form NF; (3-24-05)

ii. A consent to service of process (Form U-2); (3-24-05)

iii. A filing fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts; ~~and~~ (3-24-05)()

iv. Notification of SEC effectiveness. (3-24-05)

c. Renewal of Notice. The effectiveness of a notice required pursuant to Subsection 053.01.a. of this

rule may be renewed each year for an additional one (1) year period of effectiveness by filing on or before the expiration of the effectiveness of such notice: (3-24-05)

- i. A properly completed Form NF clearly indicating the state file number of the Notice to be renewed; (3-24-05)
- ii. A consent to service of process (Form U-2) in accordance with Section 30-14-611, Idaho Code; and (3-24-05)
- iii. A renewal fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts. (3-24-05)
- d. Amendments. Amendment filings are required for the following: (3-24-05)
 - i. Issuer name change; (3-24-05)
 - ii. Address change for contact person; and (3-24-05)
 - iii. Notification of termination or completion. (3-24-05)
- e. Other Documents. Documents other than those required in Subsections 053.01.b., 053.01.c., and 053.01.d. of this rule, unless specifically requested by the Department, should not be filed with the Department. Documents that should be filed with the Department only if specifically requested include, but are not limited to, registration statements, prospectuses, amendments, statements of additional information, quarterly reports, annual reports, and sales literature. ~~Documents that should be filed with the Department only if specifically requested include, but are not limited to, registration statements, prospectuses, amendments, statements of additional information, quarterly reports, annual reports, and sales literature.~~ (3-24-05)()

02. Regulation D Rule 506 Notice Filing. (3-24-05)

- a. Notice Requirement. Issuers offering a security in this state in reliance upon Section 30-14-301, Idaho Code, by reason of compliance with Regulation D, Rule 506, adopted by the United States Securities and Exchange Commission, shall be required to file a notice with the Department **or with EFD** pursuant to the authority of Section 30-14-302(c), Idaho Code, if a sale of a security in this state occurs as a result of such offering. (3-24-05)()
- b. Terms of Notice Filing. The issuer shall file with the Department **or with EFD** no later than fifteen (15) days after the first sale of a security in this state for which a notice is required under Subsection 053.02.a. of this rule: (3-24-05)()
 - i. One (1) copy of the **SEC-filed** Form D ~~currently updated, and the Appendix thereto;~~ **and** (3-24-05)()
 - ~~ii. A consent to service of process (Form U-2); and~~ (3-24-05)
 - ~~iii. The notice filing fee of fifty dollars (\$50).~~ (3-24-05)
 - ~~i+ii.~~ A cover letter should be included in the notice filing which states the date in which the first sale of securities occurred in Idaho. (3-24-05)
- c. Terms of Late Notice Filing. An issuer failing to file with the Administrator as required by Subsection 053.02.b. of this rule may submit its notice filing as required in Subsection 053.02.b. of this rule with an additional fifty dollars (\$50) late filing payment within thirty (30) days after the first sale of a security in this state. Failure to file a notice on or before the thirtieth day after the first sale of a securities in Idaho will result in the inability of the issuer to rely on Section 30-14-302(c), Idaho Code, for qualification of the offering in Idaho. (3-24-05)

d. Issuer Agent Registration. Pursuant to Section 30-14-402(b)(5), Idaho Code, an individual who represents an issuer who effects transactions in a federal covered security under Section 18(b)(4)(~~#D~~) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(D)) is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. In addition, if such person is registered as a broker-dealer or agent in another state or with ~~the NASD~~ FINRA, or affiliated with a broker-dealer registered in another state, with the SEC or ~~NASD~~ FINRA, then such person must also be similarly registered in Idaho. ~~(4-11-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

056. MANUAL EXEMPTION (RULE 56).

For the purpose of the manual exemption (Section 30-14-202(2), Idaho Code), the following securities manuals or portions of the manuals are recognized. (3-24-05)

- a. Best's Insurance Reports- Life-Health. (3-24-05)
- b. Mergent's Industrial Manual. (3-24-05)
- c. Mergent's International Manual. (3-24-05)
- ~~d. Standard & Poor's Corporation Records. (3-24-05)~~
- ~~ed. Walkers Manual of Western Corporations. (3-24-05)~~

057. MINING, OIL OR GAS EXPLORATION EXEMPTION REQUIREMENTS (RULE 57).

01. **Legal Opinion for Extractive Industries.** If the Department deems it necessary or advisable in the public interest or for the protection of investors, ~~he~~ it may require an issuer engaged in mining, gas, or oil exploration or extraction to submit an opinion of counsel on the nature of the title held to the property noting any defects or liens or both, and the principal terms of any lease or option with respect to the property. If continued possession of the property by the issuer depends upon the satisfaction of certain working conditions, describe these conditions and state the extent to which they have been met. The Department may require other issuers to submit a status of title to any real estate which is material to the business of the issuer. ~~(3-24-05)~~()

02. **Quarterly Reports.** The issuer shall file quarterly reports, on the "Quarterly Report Form for Small Mining Issues." during the time the securities remain registered. Such reports are due within thirty (30) days following the end of the issuer's quarter. Failure to comply with this rule could be grounds for suspension or revocation of a permit. (3-24-05)

03. **Advertising.** The only advertising of exempt mining securities, whether on radio, television, print media, or other medium, shall be restricted to announcing the securities offering and stating the name and address of the issuer, the type of security, the underwriter, and where additional information may be obtained. (3-24-05)

04. **Offering Circulars.** All offers of the security must be accompanied by a complete, current offering circular previously reviewed by the Administrator adequate to satisfy the antifraud provisions of the Act. (3-24-05)

058. STOCK EXCHANGE LISTED SECURITIES (RULE 58).

Stock exchanges specified by or approved under Section 30-14-201(6), Idaho Code, are as follows: (3-24-05)

- 01. The New York Stock Exchange; (3-24-05)
- 02. The American Stock Exchange; (3-24-05)
- 03. The NASDAQ ~~AMS~~ Global Market and Global Select Market; ~~(3-24-05)~~()

- 04. The Chicago Stock Exchange; (3-24-05)
- 05. The Chicago Board Options Exchange; (3-24-05)
- 06. Tier I of the Pacific Stock Exchange; and (3-24-05)
- 07. Tier I of the Philadelphia Stock Exchange, Inc. (3-24-05)

059. NOTICE FILINGS FOR TRANSACTIONS UNDER REGULATION D, RULE 505 (RULE 59).

01. Exempt Securities. Pursuant to Section 30-14-203(1), Idaho Code, transactions that are exempt securities under 17 CFR 230.505 are exempt from Section 30-14-301, Idaho Code. As a condition of this exemption, the issuer shall comply with the requirements in Subsection 059.02 of this rule. (3-24-05)

02. Disqualification. Unless upon a showing of good cause and without prejudice to any other action by the Administrator, the Administrator determines that it is not necessary under the circumstances that the exemption provided by Subsection 059.01 be denied, the exemption shall not be available for the offer or sale of securities if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter: (4-11-06)

a. Is subject to any of the disqualifications ~~in~~ under 17 ~~C.F.R. Section~~ CFR 230.262, as in effect on August 24, 2005; (4-11-06)()

b. Is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involved ~~in~~ an aspect of a business involving securities, commodities, investments, franchises, insurance, banking or finance; (4-11-06)()

c. Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or (3-24-05)

d. Is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminary or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security. (3-24-05)

03. Exceptions. Subsection 059.02 of this rule shall not apply if: (3-24-05)

a. The party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against such party; (3-24-05)

b. Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or (3-24-05)

c. The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under Subsection 059.02 of this rule. (3-24-05)()

04. Notice Filings for Rule 505. The notice filing required for transactions in Idaho under 17 CFR 230.505, shall consist of the following: (3-24-05)

a. One (1) ~~manually signed~~ copy of the SEC filed electronic Form D ~~(including the Appendix)~~; (3-24-05)()

- ~~b.~~ ~~Consent to service of process (Form U-2);~~ ~~(3-24-05)~~()
- ~~eb.~~ Copy of the private placement memorandum, ~~and~~. ~~(3-24-05)~~()
- ~~c.~~ Each notice shall be filed with the Department no later than ten (10) business days prior to effecting a sale in Idaho. (3-24-05)
- 05. Amendments.** During the period of the offering, the issuer shall take steps necessary to insure that all material information contained in the notice filing remains current and accurate. (3-24-05)
- 06. Nonaccredited Investors.** In all sales to nonaccredited investors in this state, one (1) of the following conditions must be satisfied or the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry, shall believe that one (1) of the following conditions is satisfied: (3-24-05)
- a.** The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to the purchaser's other security holdings, financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent (10%) of the investor's net worth, it is suitable. (3-24-05)
- b.** The purchaser either alone or with her purchaser representative(s) has such knowledge and experience in financial and business matters that she is or they are capable of evaluating the merits and risks of the prospective investment. (3-24-05)
- 07. Due Diligence.** Nothing in this rule is intended to relieve registered securities broker-dealers or agents from the due diligence, suitability, or know your customer standards or any other requirements of law otherwise applicable to such registered person. (3-24-05)
- 08. Disclosure.** Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the Act. (3-24-05)
- 09. Denial, Suspension, Revocation, Condition or Limitation of Exemption.** Any issuer relying on the exemption under Regulation D, Rule 505 may be subject to the enforcement remedies provided in Section 30-14-204, Idaho Code, if it fails to satisfactorily address issues raised by the Department in comment letters or otherwise. (3-24-05)
- 10. Issuer Agent Registration.** Pursuant to Section 30-14-402(b)(9), Idaho Code, an individual who represents an issuer who effects transactions that are exempt securities under 17 CFR 230.505 and exempt from Section 30-14-301, Idaho Code, is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. In addition, if such person is registered as a broker-dealer or agent in another state or with ~~the NASD~~ FINRA, or affiliated with a broker-dealer registered in another state, with the SEC or ~~NASD~~ FINRA, then such person must also be similarly registered in Idaho. ~~(4-11-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

062. DESIGNATED MATCHING SERVICES (RULE 62).

- 01. In General.** Sections 30-14-301 through 30-14-305, Idaho Code, shall not apply to any offer or sale of a security by an issuer in a transaction that meets the requirements of this rule. A designated matching service shall not be deemed a broker-dealer subject to registration within the meaning of the Act or the rules thereunder. (3-24-05)

02. Definitions. The following words and terms, when used in this rule, shall have the following meanings, unless the context clearly indicates otherwise. (3-24-05)

a. Designated Matching Service. Means a matching service designated by the Administrator under Section 062 of these rules. (3-24-05)

b. Designated Matching Service Facility. Means a computer system operated, or a seminar or meeting conducted, by a designated matching service. (3-24-05)

c. Individual Accredited Investor. Means any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his or her purchase, exceeds one million dollars (\$1,000,000) or any natural person who had an individual income in excess of two hundred thousand dollars (\$200,000) in each of the two (2) most recent years or joint income with that person's spouse in excess of three hundred thousand dollars (\$300,000) in each of those years and has a reasonable expectation of reaching the same income level in the current year. In addition each purchaser must evidence such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment. The term "individual accredited investor" shall also include any self-directed employee benefit plan with investment decisions made solely by persons that are "individual accredited investors" as defined in Subsection 062.02.c. of this rule, and the individual retirement account of any such individual accredited investor. (3-24-05)

d. Investor Member. Means an investor who has been properly qualified by and uses a designated matching service. Either of the following investors may be properly qualified: any institutional investor as described in Section 30-14-~~22(13)~~102(11), Idaho Code, or an individual accredited investor as defined in this rule. (3-24-05) ()

e. Issuer Member. Means an issuer who uses a designated matching service facility. (3-24-05)

f. Summary Business Plan. Means a brief statement specifically describing the issuer, its management, its products or services, and the market for those products or services. Other information, including, specifically, financial projections, must not be included in a summary business plan. (3-24-05)

03. Application. A person may apply to the Administrator to be a designated matching service by filing such forms as required by the Administrator. No designation will be made unless the applicant demonstrates that it: (3-24-05)

a. Owns, operates, sponsors, or conducts a matching service facility limited to providing investor members with the summary business plans and identities of issuer members; (3-24-05)

b. Will not be involved in any manner in the sale, offer for sale, solicitation of a sale or offer to buy, a security other than as set forth in Subsection 062.03.a. of this rule; (3-24-05)

c. Will make a reasonable factual inquiry to determine whether an investor member is properly qualified; (3-24-05)

d. Is a governmental entity, quasi-governmental entity, an institution of higher education or an Idaho nonprofit corporation that is associated with a governmental or quasi-governmental entity or an institution of higher education; (3-24-05)

e. Does not employ any person required to be registered under the Act as a broker-dealer, investment adviser, agent, or investment adviser representative; (3-24-05)

f. Does not have, and does not employ any person who has a business relationship with any investor member or issuer member other than to provide such member access to the matching service facility; (3-24-05)

g. Charges fees only in an amount necessary to cover its reasonable operating costs and that are unrelated to the amount of money being raised by any issuer member or the amount of securities sold by any issuer

member; (3-24-05)

h. Agrees to not use any advertisement of its matching service facility that advertises any particular issuer or any particular securities or the quality of any securities or that is false or misleading or otherwise likely to deceive a reader thereof; and (3-24-05)

i. Meets such other conditions as the Administrator considers appropriate for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act, and the rules thereunder. (3-24-05)

04. Designation Consistent with Act. Designation under this rule is not available to any matching service formed in a manner that constitutes part of a scheme to violate or evade the provisions of the Act or rules thereunder. (3-24-05)

05. Withdrawal of Designation. The Administrator, upon ten (10) days notice and hearing before the Administrator or a hearing officer, may withdraw a person's designation as a matching service if the person does not meet the standards for designation provided in this rule. (3-24-05)

06. Disqualifications. (3-24-05)

a. No exemption under this rule shall be available for the securities of any issuer if the issuer: (3-24-05)

i. Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by the United States Securities and Exchange Commission or any state securities administrator; (3-24-05)

ii. Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit or a misdemeanor involving financial fraud; (3-24-05)

iii. Is the subject of any state or federal administrative enforcement order, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or (3-24-05)

iv. Is the subject of any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security. (3-24-05)

b. For purposes of this rule, the term "issuer" includes: (3-24-05)

i. Any of the issuer's predecessors or any affiliated issuer; (3-24-05)

ii. Any of the issuer's directors, officers, general partners, or beneficial owners of ten percent (10%) or more of any class of its equity securities (beneficial ownership meaning the power to vote or direct the vote or the power to dispose or direct the disposition of such securities); (3-24-05)

iii. Any of the issuer's promoters presently connected with the issuer in any capacity, including: (3-24-05)

(1) Any person who, acting alone or in conjunction with one (1) or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or (3-24-05)

(2) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, ten percent (10%) or more of any class of securities of the issuer or ten percent (10%) or more of the proceeds from the sale of any class of such securities; however, a person who receives such securities or proceeds either solely as

underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of Subsection 062.06.b.iii. of this rule, if such person does not otherwise take part in founding and organizing the enterprise. (3-24-05)

iv. Any underwriter of the issuer. (3-24-05)

c. The exemption under this rule is not available to an issuer that is in the development stage that either has no specific business plan or purpose or had indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person. (3-24-05)

07. Notice of Transaction. The issuer shall file with the Administrator a notice of transaction, consent to service of process (Form U-2), and a copy of its summary business plan within fifteen (15) days after the first sale in this state. (3-24-05)

(BREAK IN CONTINUITY OF SECTIONS)

078. IMPLEMENTATION OF CRD (RULE 78).

01. Designation and Use of CRD System. Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Central Registration Depository (CRD) operated by ~~the National Association of Securities Dealers~~ **FINRA** to receive and store filings and collect related fees from broker-dealers, agents and investment adviser representatives on behalf of the Administrator. Forms U-4, U-5, BD, **BR**, and BDW shall be used to register or terminate agents, investment adviser representatives or broker-dealers, respectively, in the state of Idaho through the CRD system. The CRD system will be utilized to effect ~~NASD~~ **FINRA** registration as well as registration, termination, and renewal in the state. (3-24-05)()

02. Registrations Not Automatic. A filing of Form U-4, ~~or~~ BD, ~~or~~ **BR** with the CRD system does not constitute an automatic registration in Idaho. Broker-dealers and investment advisers should not consider agents or investment adviser representatives registered until such approval from the state of Idaho has been received by them through CRD. (3-24-05)()

03. Electronic Signature. When a signature or signatures are required by the particular instructions of any filing to be made through CRD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to CRD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

079. IMPLEMENTATION OF IARD (RULE 79).

01. Designation. Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Investment Adviser Registration Depository (IARD) operated by ~~the National Association of Securities Dealers~~ **FINRA** to receive and store filings and collect related fees from investment advisers on behalf of the Administrator. (3-24-05)()

02. Use of IARD. Unless otherwise provided, all investment adviser applications, amendments, reports, notices, related filings and fees required to be filed with the Administrator pursuant to the rules promulgated under the Act, shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings: (3-24-05)

a. **Electronic Signature.** When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

b. When Filed. Solely for purposes of a filing made through IARD, a document is considered filed with the Administrator when all fees are received and the filing is accepted by IARD on behalf of the state. (3-24-05)

03. Electronic Filing. The electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and thirty (30) days notice is provided by the Administrator. Any documents or fees required to be filed with the Administrator that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the Administrator. (3-24-05)

04. Hardship Exemptions. Subsection 079.04 of this rule provides two (2) "hardship exemptions" from the requirements to make electronic filings as required by the rules. (3-24-05)

a. Temporary Hardship Exemption. (3-24-05)

i. Investment advisers registered or required to be registered under the Act who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically. (3-24-05)

ii. To request a temporary hardship exemption, the investment adviser must file Form ADV-H which can be found at 17 CFR 279.3 in paper format with the Administrator where the investment adviser's principal place of business is located, no later than one (1) business day after the filing (that is the subject of the Form ADV-H) was due; and submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than seven (7) business days after the filing was due. (3-24-05)

iii. Effective Date - Upon Filing. The temporary hardship exemption will be deemed effective upon receipt by the Administrator of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the Administrator. (3-24-05)

b. Continuing Hardship Exemption. (3-24-05)

i. Criteria for Exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome. (3-24-05)

ii. To apply for a continuing hardship exemption, the investment adviser must file Form ADV-H which can be found at 17- CFR 279.3 in paper format with the Administrator at least twenty (20) business days before a filing is due; and, if a filing is due to more than one (1) securities regulator, the Form ADV-H must be filed with the Administrator where the investment adviser's principal place of business is located. The Administrator who receives the application will grant or deny the application within ten (10) business days after the filing of Form ADV-H. (3-24-05)

iii. Effective Date - Upon Approval. The exemption is effective upon approval by the Administrator. The time period of the exemption may be no longer than one (1) year after the date on which the Form ADV-H is filed. If the Administrator approves the application, the investment adviser must, no later than five (5) business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted. (3-24-05)

080. BROKER-DEALER REGISTRATION -- APPLICATION/RENEWAL (RULE 80).

01. Initial Application -- ~~NASD~~ FINRA Member Firms. Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are contemporaneously applying for ~~NASD~~ FINRA membership or who are an ~~NASD~~ FINRA member, shall file: (3-24-05)()

a. With CRD, a completed Form BD, including Schedules A-~~FD~~; (3-24-05)()

b. With CRD, a filing fee as specified in Section 30-14-410, Idaho Code; (3-24-05)

~~c. With CRD, the Form BR. ()~~

02. Initial Application -- Non-NASD FINRA Member Firms. Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are not contemporaneously applying for NASD FINRA membership or are not a NASD FINRA member, shall file with the Department: ~~(3-24-05)()~~

- a. A completed Form BD, including Schedules A-E; (3-24-05)
- b. The filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)
- c. Audited financial statements; (3-24-05)
- d. Documentation of compliance with the minimum capital requirements of Section 087 of these rules; (3-24-05)
- e. Designation and qualification of a principal officer; (3-24-05)
- f. A list of the addresses, telephone numbers and resident agents of all office locations within the state of Idaho, to be provided within sixty (60) days of becoming registered; (3-24-05)
- g. A copy of the written supervisory procedures of the broker-dealer; (3-24-05)
- h. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

03. Incomplete Applications. After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

04. Annual Renewal. (3-24-05)

a. A NASD FINRA member shall renew its registration by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD according to their policies and procedures. A non-NASD FINRA member shall renew its registration by submitting to the Department current information required for initial registration, and the renewal fee specified in Section 30-14-410, Idaho Code. ~~(3-24-05)()~~

b. It is required that an application for the renewal of the registration of a broker-dealer must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the broker-dealer to reapply for registration with the Department in accordance with the requirements of the Act. (3-24-05)

05. Updates and Amendments. (3-24-05)

a. A broker-dealer must file with CRD, in accordance with the instructions in Form BD, any amendments to the broker-dealer's Form BD. All broker-dealers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form BD or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment: ~~and~~. ~~(3-24-05)()~~

c. Litigation Notice. Any broker-dealer shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as a

broker-dealer. (3-24-05)

d. Notice of Address. Every broker-dealer shall provide the Department, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

e. Change of Name. If a registered broker-dealer desires to change its name, notice of such an intent must be submitted to the CRD or this Department for non-~~NASD~~FINRA members, either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (~~3-24-05~~)()

06. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator. (3-24-05)

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

083. BROKER-DEALER AGENT/ISSUER AGENT REGISTRATION (RULE 83).

01. Broker-Dealer Agents. Agents of broker-dealers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following: (3-24-05)

a. With CRD, a completed Form U-4; (3-24-05)

b. With CRD, the filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)

c. With CRD, proof of successful completion of the applicable examinations specified in Section 103 of these rules; (3-24-05)

d. With the Department, any additional documentation, supplemental forms and information as the Administrator may deem necessary; (3-24-05)

e. With the Department, Subsections 083.01.a. through 083.01.d. of this rule, for any agent of a non-~~NASD~~FINRA member. (~~3-24-05~~)()

02. Agents of Issuer. (3-24-05)

a. Agents of issuers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following with the Department: (3-24-05)

i. A completed Form U-4; (3-24-05)

ii. The fee specified in Section 30-14-410, Idaho Code; (3-24-05)

iii. Proof of successful completion of the applicable examination(s) specified in Section 103 of these rules; (3-24-05)

iv. Proof of a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of ten thousand dollars (\$10,000) and conditioned upon faithful compliance with the provisions of the Act by the agent, such that upon failure to so comply by the agent, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Provided, however, that the obligation of the surety bond must be maintained at all times in the amount therein provided; and provided further, that a certificate of deposit issued by any bank in the state of Idaho and assigned to the Administrator in an amount equal to the bond which would otherwise be

required may be accepted by the administrator in lieu of a bond, if the certificate of deposit is maintained at all times in the amount and manner herein provided during the term for which the registration is effective and for three (3) years thereafter; (3-24-05)

v. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

b. An individual who represents an issuer that effects transactions in a federal covered security under Section 18(b)(3) (transactions relating to “qualified purchasers” as that term may be defined by the SEC) or 18(b)(4)(D) (commonly known as Regulation D, Rule 506) of the Securities Act of 1933 is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated, directly or indirectly, for participation in the specified securities transactions. (3-24-05)

c. Exceptions for officers. If there are not more than two (2) officers of an issuer, such officers may be registered as agents for a particular original offering of the issuer’s securities without being required to pass such written examination or file an agent’s bond as required by Subsection 083.02.a.iii. and 083.02.a.iv. of this rule, unless such person has registered under this rule within the prior five (5) years. (3-24-05)

03. Incomplete Applications. After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

04. Annual Renewal. (3-24-05)

a. Broker-Dealer Agent. Agents of ~~NASD~~ **FINRA** members shall renew their registrations by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD. Agents of non-~~NASD~~ **FINRA** members shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. ~~(3-24-05)~~ ()

b. Issuer Agent. Issuer agents shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. (3-24-05)

05. Updates and Amendments. (3-24-05)

a. A broker-dealer agent or agent of issuer must file with CRD, or with this Department, in accordance with the instructions in Form U-4, any amendments to the broker-dealer agent’s or issuer agent’s Form U-4. It is the responsibility of each broker-dealer agent or issuer agent to assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4 or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment: ~~and~~. ~~(3-24-05)~~ ()

c. Litigation Notice. Any broker-dealer agent or issuer agent shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant’s business as a broker-dealer. (3-24-05)

d. Notice of Address. Every broker-dealer agent and issuer agent shall provide the Department with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

e. Change of Name. If a registered broker-dealer agent or issuer agent changes his or her name, notice of such must be submitted to the CRD or this Department within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

06. Completion of Filing. An application for initial or renewal registration is not considered complete for purposes of Section 30-14-406(c), Idaho Code, until the required fee and all required amendments, including submissions requested by the Department, have been received by the Department. (3-24-05)

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

086. AGENT TERMINATION (RULE 86).

Termination notice pursuant to the requirements of Section 30-14-408, Idaho Code, shall be given by filing within thirty (30) calendar days of termination, a completed Form U-5. For agents terminating registration with a ~~NASD~~ FINRA member, such notice shall be filed with the CRD. For agents terminating registration with a non-~~NASD~~ FINRA member, such notice shall be filed with the Department. (3-24-05)()

(BREAK IN CONTINUITY OF SECTIONS)

089. INVESTMENT ADVISER REGISTRATION -- APPLICATION/RENEWAL (RULE 89).

01. Initial Application. The application for initial registration as an investment adviser, pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form ADV which can be found at 17 CFR 279.1 in accordance with the form instructions and by filing the form with IARD. The application for initial registration shall also include the following: (3-24-05)

a. Proof of compliance by the investment adviser with the examination requirements of Section 103 of these rules; (3-24-05)

b. A bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of twenty-five thousand (\$25,000) and conditioned upon faithful compliance with the provisions of the Act by the investment adviser such that upon failure to so comply by the investment adviser, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Except that an investment adviser that has its principal place of business in a state other than this state shall be excluded from these bonding requirements provided that such investment adviser is registered as an investment adviser in the state where it maintains its principal place of business and is in compliance with such state's bonding or minimum net worth requirements; (3-24-05)()

~~**c.** A hard copy of the completed Form ADV Part II, only until such time as this form can be electronically submitted via IARD;~~ (3-24-05)

~~**d.** A copy of the investment advisory contract to be executed by Idaho clients;~~ (3-24-05)

~~**e.** A balance sheet, prepared substantially in accordance with Generally Accepted Accounting Principles, dated as of the investment adviser's prior fiscal year-end; however, if the investment adviser has not been in operation for an entire year, a balance sheet dated within ninety (90) days of filing shall be submitted;~~ (3-24-05)()

~~**f.** The fee required by Section 30-14-410, Idaho Code; and;~~ (3-24-05)

~~**g.** Any other information the Department may reasonably require.~~ (3-24-05)

02. Incomplete Applications. After a period of six (6) months from the date of receipt by the Department, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

03. Annual Renewal. The application for annual renewal registration as an investment adviser shall be filed with IARD according to their policies and procedures. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

04. Applications Prior to Expiration. An application for the renewal of the registration of an investment adviser must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code, unless an order is in effect under Section 30-14-412, Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the investment adviser to reapply for registration with the Department in accordance with the requirements of the Act. ~~(3-24-05)~~()

05. Updates and Amendments. (3-24-05)

a. An investment adviser must file with IARD, in accordance with the instructions in Form ADV, any amendments to the investment adviser's Form ADV. All investment advisers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form ADV or by direct notice to the Department. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

b. Within ninety (90) days of the end of the investment adviser's fiscal year, an investment adviser must file a copy of the investment adviser's balance sheet as of the prior fiscal year-end. (3-24-05)

c. Litigation Notice. Any investment adviser shall notify the Administrator in writing or through the IARD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser. (3-24-05)

d. Notice of Address. Every investment adviser ~~representative~~ shall provide the Department, through IARD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. ~~(3-24-05)~~()

06. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator and until the investment adviser is registered in the jurisdiction where it maintains its principal place of business. ~~(3-24-05)~~()

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

090. INVESTMENT ADVISER REPRESENTATIVE REGISTRATION - APPLICATION/RENEWAL (RULE 90).

01. Initial Application. The application for initial registration as an investment adviser representative pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form U-4 in accordance with the form instructions and by filing Form U-4 with CRD. The application for initial registration also shall include the following: (3-24-05)

a. Proof of compliance by the investment adviser representative with the examination requirements of Section 103 of these rules; and (3-24-05)

b. The fee required by Section 30-14-410, Idaho Code. (3-24-05)

02. Incomplete Applications. After a period of six (6) months from the date of receipt by the Department, an incomplete application will automatically be considered abandoned and withdrawn if the

requirements have not been fulfilled. (3-24-05)

03. Annual Renewal. The application for annual renewal registration as an investment adviser representative shall be filed with CRD. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

04. Updates and Amendments. (3-24-05)

a. The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur. All investment adviser representatives must assure that current and accurate information is on file with the Department, through CRD, at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4. (3-24-05) ()

b. An investment adviser representative and the investment adviser must file promptly with CRD any amendments to the representative's Form U-4. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

c. **Litigation Notice.** Any investment adviser representative shall notify the Administrator in writing, through CRD, of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser representative. (3-24-05)

d. **Change of Name.** If a registered investment adviser representative changes his or her name, notice of such must be submitted to the CRD or this Department either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

e. **Notice of Address.** Every investment adviser representative shall provide the Department, through CRD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05) ()

05. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator. (3-24-05)

06. Dual Registration Exemption. A person may transact business in this state as an investment adviser representative if he is registered as an agent pursuant to Section 30-14-402, Idaho Code, and is employed by a broker-dealer registered pursuant to Section 30-14-401, Idaho Code, and (3-24-05)

a. The person's investment advisory activities are limited to recommending the investment advisory services of an investment adviser registered under Section 30-14-403, Idaho Code, or a federal covered adviser that has made a notice filing pursuant to Section 30-14-405, Idaho Code, and all such recommendations are made on behalf of the employing broker-dealer; (3-24-05)

b. The person is not compensated directly for making such recommendations; and (3-24-05)

c. The person provides written notice to the administrator that he is relying on this exemption from the requirement to be registered as an investment adviser representative. (3-24-05)

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

092. NOTICE FILING REQUIREMENTS FOR FEDERAL COVERED ADVISERS (RULE 92).

01. Notice Filing. The notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD on an executed Form ADV which can be found at 17 CFR 279.1. A notice filing of a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410, Idaho Code, and the Form ADV are filed with and accepted by IARD on behalf of the state. (3-24-05)

02. ~~Portions of Form ADV Not Yet Accepted by IARD~~ When Deemed Filed. ~~Until IARD provides for the filing of Part H of Form ADV, t~~The Administrator will deem filed Part ~~H 2~~ of Form ADV if a federal covered adviser provides, within five (5) days of a request, Part ~~H 2~~ of Form ADV to the Administrator. Because the Administrator deems Part ~~H 2~~ of the Form ADV to be filed, a federal covered adviser is not required to submit Part ~~H 2~~ of Form ADV to the Administrator unless requested. (3-24-05)()

03. Renewal. The annual renewal of the notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410(e), Idaho Code, is filed with and accepted by IARD on behalf of the state. (3-24-05)

04. Updates and Amendments. A federal covered adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the federal covered adviser's Form ADV. (3-24-05)

093. RECORDS REQUIRED OF INVESTMENT ADVISERS (RULE 93).

Pursuant to provisions of the Act, every investment adviser registered or required to be registered under the Act shall make and keep true, accurate and current books and records ~~in compliance with~~ as listed in 17 CFR 275.204-2 under the Investment Advisers Act of 1940, as currently amended. (3-24-05)()

094. CLIENT CONTRACTS - INVESTMENT ADVISERS (RULE 94).

01. Contract. As used in this rule, "investment advisory contract" means any contract or agreement whereby a person agrees to act as investment adviser or to manage any investment or trading account for a person other than an investment company, as defined in the Investment Company Act of 1940, as amended. (3-24-05)

02. Contents of Client Contract. No investment adviser shall enter into, extend, or renew any investment advisory contract, or in any way perform any investment advisory contract entered into, extended, or renewed, after the effective date of this rule, unless such contract is in writing and contains the following: (3-24-05)

a. Provides that an investment adviser shall not receive compensation based on a share of capital gains upon or capital appreciation of funds or any portion of the funds of the client, ~~unless the investment adviser adheres to the provisions set forth~~ except as exempted in 17 CFR 275.205-3 under the Investment Adviser Act of 1940; (3-24-05)()

b. Provides that no assignment of the contract shall be made by the investment adviser without the written consent of the client; (3-24-05)

c. Provides that if the investment adviser is a partnership, the investment adviser shall notify the client of any change in the membership of such partnership within a reasonable time after such change; (3-24-05)

d. Provides the investment adviser's policy regarding termination of the contract, in compliance with 17 CFR 275.204-3(b). (3-24-05)

e. Detailed description of the services to be provided; (3-24-05)

f. Terms of the contract; (3-24-05)

g. Amount of the advisory fee, the formula for computing the fee, and the amount of any prepaid fee to be returned in the event of contract termination or non-performance; (3-24-05)

h. Discloses whether the contract grants discretionary power to the investment adviser; (3-24-05)

i. A contract may not contain any provision that limits or purports to limit the liability of the investment adviser for conduct or omission arising from the advisory relationship that does not conform to the Act, applicable federal statutes, or common law fiduciary standard of care; or the remedies available to the client at law or equity or the jurisdiction where any action shall be filed or heard. (3-24-05)

095. INVESTMENT ADVISER BROCHURE RULE (RULE 95).

An investment adviser registered or required to be registered under the Act shall, in accordance with 17 CFR 275.204-3 under the Investment Advisers Act of 1940, ~~furnish~~ deliver to each advisory client and prospective advisory client with a written disclosure statement that may be either a copy of Part # 2 of its Form ADV which complies with 17 CFR 275.201(b) of the Investment Advisers Act of 1940, or a written document containing at least the information then so required by Part #2 of Form ADV. (3-24-05)()

096. REQUIREMENTS FOR CUSTODY (RULE 96).

If an investment adviser registered or required to be registered under the Act maintains custody of client funds, it shall be done in accordance with ~~the requirements and standards set forth in~~ 17 CFR 275.206(4)-2 of the Investment Advisers Act of 1940. (3-24-05)()

097. INVESTMENT ADVISER AFFILIATION WITH BROKER-DEALERS/ISSUERS/AGENTS (RULE 97).

If an investment adviser becomes affiliated with a broker-dealer or issuer, he will be under a continuing obligation to make full disclosure of the affiliation to all parties to the affiliation, and must provide written notice to the Administrator of any material changes concerning any affiliation. Compliance with Part #2 of Uniform Form ADV and delivery of Part #2 of that form, or of a separate brochure or document containing substantially the same information that meets the requirements of the federal brochure rule, will be deemed to be in compliance with this rule. (3-24-05)()

(BREAK IN CONTINUITY OF SECTIONS)

101. NOTIFICATION OF OPENING, CLOSING OR RELOCATION OF BRANCH OFFICES (RULE 101).

Any broker-dealer or investment adviser, registered as such with the Department, shall notify the Administrator in writing or through CRD, no later than thirty (30) days after the opening, closing or relocation of any branch office. For purposes of this rule, "branch office" is defined ~~to include any location where any of the broker-dealer's or investment adviser's business is conducted on a regular basis outside the broker-dealer's or investment adviser's main office or principal place of business including, but not limited to, any financial institutions, residences, or seasonal offices used by the broker-dealer or investment adviser and its agents~~ by FINRA. (3-24-05)()

(BREAK IN CONTINUITY OF SECTIONS)

103. EXAMINATION REQUIREMENTS (RULE 103).

01. **Examination Required.** The following examinations are required for the following applicants: (3-24-05)

a. Broker-dealer agent application. General agents of securities broker-dealers are required to take and pass: (3-24-05)

i. The applicable ~~NASD~~ FINRA examination; and (3-24-05)()

ii. Either the Series 63 or the Series 66 examination. (3-24-05)

b. Investment adviser representative and investment adviser qualifying officer application. Applicants for registration as investment adviser representatives or as an investment adviser qualifying officer shall take and pass: (3-24-05)

- i. The Series 65; or (3-24-05)
- ii. The Series 66 and Series 7 examinations. (3-24-05)

c. Specialized agent of a broker-dealer, issuer agent and qualifying officer for non-~~NASD~~FINRA broker-dealer application. Specialized agents of broker-dealers, issuer agents and qualifying officers for non-~~NASD~~FINRA broker-dealers application are required to take and pass: ~~(3-24-05)~~()

- i. The applicable ~~NASD~~ FINRA examination; and ~~(3-24-05)~~()
- ii. Either the Series 63 or the Series 66 examination. (3-24-05)

d. Sales of Viaticals. Persons selling viatical investments are required to take and pass the Series 7 examination. (3-24-05)

02. Specialized Examination Authority. Any registration granted pursuant to a specialized examination will be restricted, and the registrant will be authorized to effect securities transactions only in securities of the type specified by the conditions of the license. (3-24-05)

03. Investment Adviser Representatives - Waiver. An applicant for investment adviser representative or investment adviser qualifying officer registration may qualify for a waiver of the examination requirement if the applicant currently holds one (1) of the following designations: (3-24-05)

- a.** Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.; (3-24-05)
- b.** Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania; (3-24-05)
- c.** Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; (3-24-05)
- d.** Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; (3-24-05)
- e.** Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.; or (3-24-05)
- f.** Such other professional designation as the Administrator may by rule or order recognize. (3-24-05)

04. Waiver. The Administrator, in his sole discretion, may waive any examination required by this rule upon a sufficient showing of good cause and upon any conditions he may impose. (3-24-05)

104. FRAUDULENT, DISHONEST AND UNETHICAL PRACTICES - BROKER-DEALER, BROKER-DEALER AGENTS, ISSUER AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES (RULE 104).

01. Fraudulent, Dishonest and Unethical Practices. Any broker-dealer, agent, issuer agent, investment adviser or investment adviser representative who engages in one (1) or more of the following practices identified in Subsections 104.02 through 104.47 of this rule shall be deemed to have engaged in one (1) or both of the following: ~~(3-24-05)~~()

- a.** An “act, practice, or course of business that operates or would operate as a fraud or deceit” as used

in Section 30-14-501 and Section 30-14-502, Idaho Code; ~~(3-24-05)~~()

b. A dishonest and unethical practice as used in Section 30-14-412(d)(13), Idaho Code, and such conduct may constitute grounds for denial, suspension, or revocation of registration or such other action authorized by statute. (3-24-05)

c. This rule is not intended to be all-inclusive, and thus, acts or practices not enumerated herein may also be deemed fraudulent, or dishonest and unethical. (3-24-05)

02. Delivery Delays. Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers. (3-24-05)

03. Churning. Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account. (3-24-05)

04. Unsuitable Recommendations. ()

a. Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer, agent, or issuer agent. ~~Subsection 104.04 of this rule may be referred to hereinafter as the suitability rule.~~ (3-24-05)()

b. Recommending to a customer, to whom investment advice is provided, the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative. ()

05. Unauthorized Transactions. Executing a transaction on behalf of a customer without authorization to do so. (3-24-05)

06. Discretionary Authority. Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the executing of orders. (3-24-05)

07. Margin Accounts. Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement before or promptly after the initial transaction in the account. (3-24-05)

08. Segregation of Client Securities. Failing to segregate customers' free securities or securities held in safekeeping. (3-24-05)

09. Hypothecating Customer Securities. Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent before or promptly after the initial transaction, except as permitted by rules of the Securities and Exchange Commission. (3-24-05)

10. Unreasonable Price, Commission. Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit. (3-24-05)

11. Failure to Supervise. Failure by a broker-dealer or investment adviser to exercise diligent supervision over the securities activities of all its broker-dealer agents, investment adviser representatives and employees as set forth in Section 105 of these rules. (3-24-05)

12. Unreasonable Fees. Charging unreasonable and inequitable fees for services performed, including

miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business. (3-24-05)

13. Sales at the Market. Representing that a security is being offered to a customer “at the market” or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer, or by any such person for whom the broker-dealer is acting or with whom the broker-dealer is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer. (3-24-05)

14. Manipulative, Deceptive or Fraudulent Practices. Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, which may include: (3-24-05)

a. Effecting any transaction in a security which involves no change in the beneficial ownerships thereof; (3-24-05)

b. Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security. However, nothing in Subsection 104.14, of this rule, prohibits a broker-dealer from entering bona fide agency cross transactions for customers; or (3-24-05)

c. Effecting, alone or with one (1) or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others. (3-24-05)

15. Loss Guarantees. Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer. (3-24-05)

16. Bona Fide Price Reports. Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security. (3-24-05)

17. Deceptive or Misleading Advertising. Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. (3-24-05)

18. Disclosure of Control. Failing to disclose that the broker-dealer or investment adviser is controlled by, controlling, affiliated with, or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction. (3-24-05)

19. Bona Fide Distribution. Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member by, among other things, transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or parking or withholding securities. (3-24-05)

20. Customer Communication. Failure or refusal to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint. (3-24-05)

21. Loans from Customers. Borrowing money or securities from a customer, unless the customer is a broker-dealer, an affiliate, or a financial institution engaged in the business of loaning funds or securities, or immediate family. For purposes of this rule, the term "immediate family" means parents, mother-in-law, father-in-law, husband, wife, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and children. (3-24-05)

~~22. Loans to Customers. Loaning money to a customer, unless the broker-dealer or investment adviser is a financial institution engaged in the business of loaning funds or the customer is an affiliate of the broker-dealer or investment adviser. ()~~

~~23. Unrecorded Transactions.~~ Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction. (3-24-05)

~~24. Fictitious Accounts.~~ Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited. (3-24-05)

~~25. Profit/Loss Sharing.~~ Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents. (3-24-05)

~~26. Splitting Commissions.~~ Dividing or otherwise splitting the agent's commissions, profits, or other compensation from the purchase or sale of securities with any person not also registered in Idaho as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control. (3-24-05)

~~27. Unsolicited Transactions.~~ Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited. (3-24-05)

~~28. FINRA and NASD Rules Compliance.~~ Failing to comply with any applicable provision of the NASD Conduct Rules and any other FINRA Rules *of Fair Practice of the National Association of Securities Dealers* or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission or by a self-regulatory organization approved by the Securities and Exchange Commission. (3-24-05)()

~~29. Contradicting Prospectus Information.~~ Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead. (3-24-05)

~~30. Inside Information.~~ In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer, agent, investment adviser or investment adviser representative is in possession of material, non-public information which would impact the value of the security, or communicating to customers or other persons bona fide information not generally available to the public that may be used in the person's decision to buy, sell, or hold a security. (3-24-05)()

~~31. Contradictory Recommendations.~~ In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstance of each investor. (3-24-05)

~~32. Prospectus Delivery.~~ Failure to comply with any prospectus delivery requirement promulgated under federal law. (3-24-05)

~~33. Penny Stock Sales.~~ Effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements as set forth in the 1934 Securities Exchange Act, Section 15(g) and the rules and regulations prescribed thereunder. (3-24-05)()

~~34. Unsuitable Recommendations. Recommending to a client to whom investment management or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other~~

information known by the investment adviser.

(3-24-05)

~~34. **Loans to Clients.** Lending money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.~~ *(3-24-05)*

354. Misrepresentations Concerning Advisory Services. To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative or any employee of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they are made, not misleading. (3-24-05)

365. Unreasonable Advisory Fees. Charging a client an unreasonable advisory fee. (3-24-05)

376. Conflicts of Interest. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including: (3-24-05)

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and (3-24-05)

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees. (3-24-05)

387. Guaranteeing Specific Results. Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered. (3-24-05)

~~398. **Advertising.** Publishing, circulating, or distributing any advertisement that does not comply with Rule 206(4)-1 17 CFR 275.206(4)-1 under the Investment Advisers Act of 1940.~~ *(3-24-05)()*

~~4039. **Disclosure of Private Information.** Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client.~~ (3-24-05)

410. Advisory Contract Disclosures. Entering into, extending, or renewing any investment advisory contract unless such contract is in writing and discloses, in substance the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract. (3-24-05)

421. Protection of Non-Public Information. Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information, or that are contrary to the provisions of Section 204A, and rules associated with it, of the Investment Advisers Act of 1940. *(3-24-05)()*

~~432. **Advisory Contract to Comply with Federal Law.** To indicate, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of the Act or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of Section 215, and rules associated with it, of the Investment Advisers Act of 1940.~~ *(3-24-05)()*

443. Waiver of State or Federal Law Prohibited. Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940. *(3-24-05)()*

454. Fraudulent, Deceptive or Manipulative Acts. Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or

required to be registered under Section 203 of the Investment Advisers Act of 1940.

~~(3-24-05)~~()

465. Outside Business Activities - Selling Away. Any agent or investment adviser representative associated with a broker-dealer or investment adviser registered under the Act shall not engage in business activities, for which he receives compensation either directly or indirectly, outside the scope of his regular employment unless he has provided prior written notice to his employer firm. (3-24-05)

476. Third Party Conduct. Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any rules thereunder, or engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices shall be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein shall apply to investment advisers and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). (3-24-05)

487. Misleading Filings. For purposes of Section 30-14-505, Idaho Code, the term “proceeding” includes, but is not limited to, any investigation, examination or other inquiry initiated by the Department. (3-24-05)

105. SUPERVISION OF AGENTS, INVESTMENT ADVISER REPRESENTATIVES AND EMPLOYEES (RULE 105).

01. Supervision Required. Every broker-dealer, investment adviser, and designated supervisor shall exercise diligent supervision over the securities activities of all of his agents, investment adviser representatives and employees. (3-24-05)

02. Broker-Dealer Procedures. Every agent and employee of the broker-dealer shall be subject to the supervision of a supervisor designated by such broker-dealer. The supervisor may be the broker-dealer in the case of a sole proprietor, or a partner, officer, office manager, or any other qualified person. (3-24-05)

03. Written Compliance Procedure. Every broker-dealer shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, which shall set forth the procedures adopted by the broker-dealer to comply with the following duties imposed by this rule, and shall state at which business office or offices the broker-dealer keeps and maintains the records required by Section 30-14-411, Idaho Code: (3-24-05)

a. The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

b. The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for churning and switching of securities in customers’ accounts, as well as unsuitable recommendations and sales of unregistered securities; (3-24-05)

c. The prompt review and written approval by the designated supervisor of all securities transactions and all correspondence pertaining to the solicitation or execution of all securities transactions; (3-24-05)

d. The review of back office operations, i.e., all systems and procedures, including the currency and accuracy of books and records, the status and causes of “Fails to Receive” and “Fails to Deliver.” net capital, credit extensions and financial reports; (3-24-05)

e. The review of form, content and filing of all correspondence related in any way to the purchase or sale or solicitation for the purchase or sale of securities; (3-24-05)

f. The review and written approval by the designated supervisor of the delegation by any customer of discretionary authority with respect to his account to a stated agent or associate of the broker-dealer and the prompt written approval of each discretionary order entered on behalf of that account; and (3-24-05)

g. The prompt review and written approval of the handling of all customer complaints. As used in these rules, “complaint” is considered to be any written statement by a customer or by any person acting for a customer which complains about the activities of the broker-dealer, agent or associate in connection with the

solicitation or execution of a transaction or the disposition of funds of that customer. (3-24-05)

04. Investment Adviser Procedures. Every investment adviser shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, which shall set forth ~~the~~ procedures ~~adopted~~ ~~to reasonably designed to prevent violation of the Idaho Uniform Securities Act and Rules and~~ comply with the following duties as applicable to the business of the investment adviser: (3-24-05)()

a. The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

b. The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for unsuitable recommendations and recommendations of unregistered securities; (3-24-05)

c. The prompt review and written approval by the designated supervisor of all securities recommendations and all correspondence pertaining to the solicitation or execution of all securities recommendations; (3-24-05)

d. The review of form, content and filing of all correspondence related in any way to the recommendation of the purchase of any securities; (3-24-05)

e. The prompt review and written approval of the handling of all customer complaints. As used in these rules, a “complaint” is considered to be any written statement by a customer, or by any person acting for a customer, questioning the activities of the investment adviser or representative in connection with recommendations concerning, or disposition of, funds in the account. (3-24-05)

IDAPA 13 - IDAHO FISH AND GAME COMISSION

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

DOCKET NO. 13-0108-1602

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation limits on the take of grizzly bear in the Greater Yellowstone Ecosystem in Idaho. The proposed proclamation would not open public take seasons for grizzly bear.

PUBLIC HEARING SCHEDULE: The Commission is expected to consider the proposed proclamation at its August 8, 2016 meeting in Boise, Idaho. The Commission previously considered the components of this proposed proclamation in its action of May 17, 2016 to approve a Memorandum of Agreement. This action followed a public hearing on May 16, 2016.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

REQUEST FOR SPECIAL ACCOMMODATIONS: Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-334-5159 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION**

15.06.01 - RULES GOVERNING THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION

DOCKET NO. 15-0601-1601

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2016.

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 31-4816(9), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2016.

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:

New legislation (2016 Senate Bill No. 1212) has changed the name of the Emergency Communications Commission to the Public Safety Communications Commission. This rulemaking updates the name of the Commission, corrects Idaho Code citations, and clarifies the scope of the rules and office hours.

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:

New legislation (2016 Senate Bill No. 1212) has changed the name of the Emergency Communications Commission to the Public Safety Communications Commission. This rulemaking is necessary to update the name of the Commission and to clarify the scope and intent of the rule.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking to conform the rule to amendments to state law.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Craig Logan at (208) 258-6526.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 14th Day of July, 2016

Craig Logan, Idaho 9-1-1 Program Manager
Idaho Emergency Communications Commission
Idaho Military Division
4040 W. Guard St., Bldg. 616, Rm. 10
Boise, ID 83705-5005
Phone: (208) 258-6526 / Fax: (208) 422-5993

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 15-0601-1601
(Only Those Sections With Amendments Are Shown.)**

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO ~~EMERGENCY~~ PUBLIC SAFETY COMMUNICATIONS COMMISSION**

**15.06.01 - RULES GOVERNING THE IDAHO
~~EMERGENCY~~ PUBLIC SAFETY COMMUNICATIONS COMMISSION**

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Section 31-4816(~~9~~18), Idaho Code, by the Commission.

~~(4-11-06)~~(7-1-16)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 15.06.01, "Rules Governing the Idaho ~~Emergency Public~~ Safety Communications Commission."

~~(4-11-06)~~(7-1-16)T

02. Scope. Pursuant to Section 31-4817, Idaho Code, the Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems and interoperable public safety communications and data systems. Mediation pursuant to Section 31-4817, Idaho Code, is a condition precedent to local government agencies initiating other legal proceedings. These rules will govern the mediation process.

~~(4-11-06)~~(7-1-16)T

002. WRITTEN INTERPRETATIONS.

~~In accordance with Section 67-5201(19)(b)(iv), Idaho Code, t~~The Commission may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this Commission.

~~(4-11-06)~~(7-1-16)T

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.

The mailing and street address for the Idaho ~~Emergency Public Safety~~ Public Safety Communications Commission is 4040 W. Guard, Building 600, Boise, Idaho 83705-5004. The Commission's office hours are 8:00 a.m. to 5:00 p.m., ~~Monday through Friday~~ except Saturday, Sunday and legal holidays.

~~(4-11-06)~~(7-1-16)T

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS.

01. Commission. The Idaho ~~Emergency Public Safety~~ Public Safety Communications Commission as established within the Military Division by Section 31-4815(1), Idaho Code.

~~(4-11-06)~~(7-1-16)T

02. Local Government Agency. Those entities subject to Sections 31-4801 through 31-4818, Idaho Code.

(4-11-06)

03. Mediation. The process required by Section 31-4817, Idaho Code, as a condition precedent to local government agencies initiating any legal action. (4-11-06)

04. Submission. Submission of the issues for mediation has occurred when the documents referred to in Sections 012, 020, and 035, if required, have been received by the Commission. (4-11-06)

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO EMERGENCY COMMUNICATIONS COMMISSION**

**15.06.02 - RULES GOVERNING THE IDAHO EMERGENCY
COMMUNICATIONS COMMISSION GRANTS**

DOCKET NO. 15-0602-1601

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 31-4816(9), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2016.

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:

Under the old rules, a grant applicant cannot amend its application after grant awards have been made, even if the amendment to the application results in a more efficient use of grant funds. This rule change allows for such application amendment. This rulemaking also adds criteria on which the priority of grant applications shall be weighed; updates Idaho Code citations; provides the Commission's website address; and clarifies the Commission's office hours.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, page 31](#).

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 Craig Logan at (208) 258-6526.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED 15th Day of July, 2016.

Craig Logan
E911 Program Manager
Idaho Military Division
4040 W. Guard, Bldg. 600
Boise, ID 83705
Phone: (208) 258-6526
Facsimile: (208) 422-5993

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0602-1601
(Only Those Sections With Amendments Are Shown.)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 15.06.02, “Rules Governing the Idaho Emergency Communications Commission Grants.” (4-11-06)

02. Scope. Pursuant to Section 31-481~~89~~, Idaho Code, the Commission is directed to distribute moneys ~~from~~ **from** the Idaho Emergency Communications Fund **as grants** to eligible entities. These rules will govern the grant process. (~~4-11-06~~)()

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- WEBSITE.

The mailing and street address for the Idaho Emergency Communications Commission is 4040 W. Guard, Building 600, Boise, Idaho 83705-5004. The Commission’s office hours are 8:00 a.m. to 5:00 p.m., ~~Monday through Friday except Saturday, Sunday and legal holidays.~~ **The Commission’s website address is <https://ioem.idaho.gov/Pages/ECC/Ecc.aspx>.** (~~4-11-06~~)()

(BREAK IN CONTINUITY OF SECTIONS)

016. GRANT ADMINISTRATION.

01. Emergency Communications Grant Fund Source. The moneys that may be available through the ECGF are from the emergency communications fees placed in the Fund pursuant to Section 31-481~~89~~, Idaho Code. (~~4-11-06~~)()

02. Alternate Emergency Communications Grant Fund Sources. Grants, donations, gifts, and revenues from other sources may augment the ECGF amount available when any limitations or requirements related to the use of such revenues are consistent with these rules. (4-11-06)

03. Other Emergency Communications Grants. The Commission may secure grants from federal, foundation, or other sources. When these sources place requirements or restrictions that are contrary to these rules, the Commission may establish a separate application, disbursement, or documentation program as appropriate. (4-11-06)

04. Emergency Communications Fund Grant. The amount of funds available through ECGF will be determined annually by the Commission in accordance with Section 31-481~~89~~, Idaho Code. (~~4-11-06~~)()

(BREAK IN CONTINUITY OF SECTIONS)

026. APPLICATION REQUIRED.

A completed application must be submitted by the Applicant on or before the conclusion of the application period specified in Section 021 of these rules in order to be considered during the Grant Cycle. (4-11-06)

01. Application Frequency. Only one (1) application per Consolidated Emergency Communication

Center may be filed in any Grant Cycle. (4-11-06)

- 02. Required Information.** The Applicant must provide the Commission with information, including: (4-11-06)
- a. Description of proposed equipment purchases; (4-11-06)
 - b. Type, quantity, and purpose of similar equipment presently in use by the Applicant; (4-11-06)
 - c. Age and condition of equipment being replaced, if applicable; (4-11-06)
 - d. Documentation of one (1) or more vendor price quotes for all proposed equipment purchases; (4-11-06)
 - e. Prioritization by the Applicant of equipment requested when the application requests funding for two (2) or more items; (4-11-06)
 - f. Operating budget; (4-11-06)
 - g. All funding sources and revenue generated by source; (4-11-06)
 - h. Amount of emergency communications fee charged in accordance with Title 31, Chapter 48, Idaho Code; (4-11-06)
 - i. Resident population within the Applicant response area in Idaho; (4-11-06)
 - j. Migrant and tourist population within the Applicant response area in Idaho; (4-11-06)
 - k. Number and name(s) of law enforcement, fire, and emergency medical service organizations for which the Consolidated Emergency Communications Center serves as the primary 911 agency; (4-11-06)
 - l. County, city, or Taxing District endorsement(s); (4-11-06)
 - m. Federal Tax Identification Number and DUNS Number (Dun & Bradstreet Data Universal Numbering System); (4-11-06)
 - n. Contact person for verification of information; and (4-11-06)
 - o. Narrative description of need. (4-11-06)

03. Incomplete Application. An application missing required information may be excluded from consideration for an award. (4-11-06)

04. Application Purpose. The grant application and any attachments submitted by the Applicant shall be the primary source of information for awarding a grant. (4-11-06)

05. Applicant's Request for Amendment. An Applicant may amend its application after the application period has ended by sending both a written request and the proposed application amendment to the ECC grant subcommittee. The Applicant shall provide detailed reasons for the Applicant's request for amendment. The ECC grant subcommittee shall review the Applicant's request for amendment and make a recommendation to the ECC concerning the request. The ECC shall either approve or deny the Applicant's request for amendment by vote. The ECC's decision is final. If the ECC does not use a grant subcommittee, an Applicant's request for amendment shall be submitted directly to the ECC. ()

a. An amended application can be submitted by any Applicant before award notifications have been issued. After award notifications have been issued, an amended application can only be submitted by an Applicant who has been awarded a grant for the applicable grant cycle. ()

b. If an Applicant's request for amendment is approved before grant award notifications have been issued, the Applicant's amended application and not the Applicant's original application shall be considered for award eligibility. If an application amendment is approved after grant award notifications have been issued, the Applicant's award amount will not increase and may decrease depending on the needs specified in the amended application. ()

(BREAK IN CONTINUITY OF SECTIONS)

041. CRITERIA FOR EQUIPMENT.

The following weighted criteria shall be used to evaluate applications for equipment, with maximum weight available for each criterion as indicated. Greater value will be assigned to conditions indicating greater need for each criterion: (4-11-06)

01. Applicant Equipment Age. The age of similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating older equipment will be assigned greater value. The application demonstrating replacement of older equipment with NG911/I3 compliant equipment will be assigned a greater value. (4-11-06)()

02. Applicant Equipment Availability. Similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating lack of similar equipment will be assigned greater value; the application demonstrating no access to similar equipment will be assigned the maximum value. (4-11-06)

03. Anticipated Use. An estimate of the frequency of use for the equipment; value = fifteen (15). The application demonstrating a higher ratio of dispatch per capita will be assigned greater value. (4-11-06)

04. Duration of Use. An estimate of the length of time the equipment would be used, expressed as a mean time; value = fifteen (15). The application demonstrating a greater duration of use will be assigned greater value. (4-11-06)

05. Fiscal Resource Base. The proportion of operating budget supported by tax revenue; value = ten (10). The application demonstrating less revenue from taxes expressed as a percent of total revenue for the most recent year will be assigned greater value. (4-11-06)

06. City, County and Taxing District Endorsement. The proportion of Idaho cities, counties and Taxing Districts within which the Applicant's primary service area occurs that endorse the application; value = five (5). The application demonstrating a larger percent of endorsements will be assigned greater value. (4-11-06)

07. Population. The number of people residing in the Consolidated Emergency Communications Center's service area; value = five (5). The application demonstrating a greater number of people will be assigned greater value. (4-11-06)

08. Square Mileage. The area served by the Consolidated Emergency Communications Center; value = fifteen (15). The application demonstrating a greater square mileage will be assigned greater value. (4-11-06)

09. Number of Law Enforcement, Fire and Emergency Medical Service Agencies Dispatched. Value = ten (10). The application demonstrating a higher number of law enforcement, fire and emergency medical service agencies will be assigned greater value. (4-11-06)

10. Narrative. The need for and lack of availability of funds from other sources as documented by the Applicant; value = twenty (20). The application demonstrating a greater need for and lack of available funds will be assigned greater value. The application seeking to share resources and equipment with other 911 service areas (e.g., host remote) will be assigned a greater value. (4-11-06)()

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION**

**15.06.02 - RULES GOVERNING THE IDAHO PUBLIC SAFETY
COMMUNICATIONS COMMISSION GRANTS**

DOCKET NO. 15-0602-1602

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2016.

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 31-4816(9), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2016.

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:

New legislation (2016 Senate Bill No. 1212) has changed the name of the Emergency Communications Commission to the Public Safety Communications Commission. This rulemaking updates the name of the Commission, corrects Idaho Code citations, and clarifies the scope of the rules and office hours.

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:

New legislation (2016 Senate Bill No. 1212) has changed the name of the Emergency Communications Commission to the Public Safety Communications Commission. The adoption of the temporary rule is necessary to conform the rule to recent amendments made to state law.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking to conform the rule to amendments to state law

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Craig Logan at (208) 258-6526.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 14th Day of July, 2016

Craig Logan, Idaho 9-1-1 Program Manager
Idaho Public Safety Communications Commission
Idaho Military Division
4040 W. Guard St., Bldg. 616, Rm. 10
Boise, ID 83705-5005
Phone: (208) 258-6526 / Fax: (208) 422-5993

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 15-0602-1602
(Only Those Sections With Amendments Are Shown.)**

**IDAPA 15
TITLE 06
CHAPTER 02**

IDAHO ~~EMERGENCY~~ PUBLIC SAFETY COMMUNICATIONS COMMISSION

**15.06.02 - RULES GOVERNING THE IDAHO
~~EMERGENCY~~ PUBLIC SAFETY COMMUNICATIONS COMMISSION GRANTS**

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Section 31-4816(~~9~~18), Idaho Code, by the Commission.

~~(4-11-06)~~(7-1-16)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 15.06.02, "Rules Governing the Idaho ~~Emergency Public Safety~~ Communications Commission Grants."

~~(4-11-06)~~(7-1-16)T

02. Scope. Pursuant to Section 31-4818, Idaho Code, the Commission is directed to distribute moneys in the Idaho Emergency Communications Fund to eligible entities. These rules will govern the grant process.

(4-11-06)

002. WRITTEN INTERPRETATIONS.

~~In accordance with Section 67-5201(19)(b)(iv), Idaho Code, t~~The Commission may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this Commission.

~~(4-11-06)~~(7-1-16)T

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.

The mailing and street address for the Idaho ~~Emergency Public Safety~~ Communications Commission is 4040 W. Guard, Building 600, Boise, Idaho 83705-5004. The Commission's office hours are 8:00 a.m. to 5:00 p.m., ~~Monday through Friday~~ except Saturday, Sunday, and legal holidays.

~~(4-11-06)~~(7-1-16)T

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS.

01. Applicant. A Consolidated Emergency Communication Center submitting a grant application.

(4-11-06)

02. Commission. The Idaho ~~Emergency Public Safety~~ Communications Commission as established

within the Military Division by Section 31-4815(1), Idaho Code.

~~(4-11-06)~~(7-1-16)T

03. Consolidated Emergency Communication Center. A governmental or multi-governmental organization authorized to collect emergency communication fees in accordance with Title 31, Chapter 48, Idaho Code. (4-11-06)

04. Emergency Communications Grant Fund (ECGF). The portion of the Fund made available annually for grant disbursement. (4-11-06)

05. Fund. The Idaho Emergency Communications Fund established by Section 31-4818, Idaho Code. (4-11-06)

06. Grant Cycle. The period between July 1 through the following June 30 for grant application distribution, submission, award notice and disbursement in accordance with dates established in Section 021 of these rules. (4-11-06)

07. Taxing District. A fire protection district created pursuant to Section 31-1402, Idaho Code, an ambulance service created pursuant to Section 31-3901, Idaho Code, or an ambulance service district created pursuant to Section 31-3908, Idaho Code. (4-11-06)

**IDAPA 15 - OFFICE OF THE GOVERNOR
MILITARY DIVISION - IDAHO OFFICE OF EMERGENCY MANAGEMENT
AND HOMELAND SECURITY**

15.06.06 - RULES GOVERNING USE OF DISASTER EMERGENCY ACCOUNT FUNDS

DOCKET NO. 15-0606-1601 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 46-1027, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by August 17, 2016.

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's website at <https://ioem.idaho.gov/>.

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.

Upon the 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. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

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

The Idaho Office of Emergency Management is responsible for managing the disaster emergency account. In the past, there has been some confusion as to what events and circumstances may qualify for funding from this account. In an effort to curb this confusion, the Office of Emergency Management would like to draft rules to specify what qualifies for fund use.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text (if available), contact Gen. Brad Richy at (208) 422-3035 or at brichy@bhs.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency's website at <http://ioem.idaho.gov>.

DATED this 15th Day of July, 2016.

Gen. Brad Richy
Idaho Military Division
4040 W. Guard, Bldg. 600
Boise, ID 83705
Phone: (208) 422-3035
Fax: (208) 422-5993
Email: brichy@bhs.idaho.gov

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.56 - REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS RULES

DOCKET NO. 18-0156-1601

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 41-211, Idaho Code.

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

Wednesday, August 17, 2016 - 2:00 PM

**Idaho Department of Insurance
700 W. State Street - 3rd Floor
Boise, ID 83720**

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

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing (paper or email) or by calling the phone number listed below, and/or by attending the public meeting.

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

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This existing rule concerns rebates and illegal inducements in title insurance and provides limits on what items of value may be provided to producers of title business. Changes in technology have increased efficiencies of operations for title agents such that items of value can be produced much more quickly, easily, and therefore inexpensively. Additionally, some of the limitations in the rule have not been changed in many years. The negotiated rulemaking anticipates the following changes:

Section 012.02 (Listing Packages) – permit aerial photos and/or property photos to be included in allowed materials if delivered electronically; paper delivery would have commensurate charge.

Section 013.01 (Advertisement) – eliminate the quarterly publication requirement; amend to permit advertising in annual trade association publications.

Section 013.02 (Donations) – eliminate the permission to donate or contribute to, or otherwise sponsor a trade association event.

Section 014.01 (Self-Promotional Items) – increase amount spent on self-promotion items from \$10 to \$15/item and from \$50 to \$75/year in cumulative value.

Section 014.02 (Educational Programs) – increase the expenditure from \$10 to \$20 per person. Also change “solely regarding title and escrow.” The intent is to expand the programs which may be offered while maintaining the integrity of the topics as being “related” to title and escrow.

Social Media – implement new section that clarifies the use of social media.

Section 017 (Escrow Closing Charges and Premium Rates) – remove the reference to § 41-2706, which is improper following a legislative change in 2011.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Jim Scanlon, jim.scanlon@doi.idaho.gov (208) 334-4321. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Insurance website at the following web address: www.doi.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the attention of the undersigned and must be delivered either by hard copy or via email to the same email address for questions set forth on or before Wednesday, August 24, 2016.

DATED this 6th Day of July, 2016.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

IDAPA 20 - IDAHO DEPARTMENT OF LANDS

20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0214-1601

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 58-104(6), 58-105, 67-5201, et seq, Idaho Code.

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

Thursday, August 11, 2016 1:00 - 3:00 PM PDT	Thursday, August 18, 2016 1:00 - 3:00 PM PDT
Best Western Plus University Inn Centennial Room 1516 Pullman Rd. Moscow, ID 83843	Idaho Department of Lands Pend Orielle Area Office - Conf. Rm. 2550 Highway 2 West Sandpoint, ID 83864-7305

The hearing sites 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:

Recent policy changes from the Land Board have resulted in the department no longer presenting individual sales to the board for approval unless they fall outside established land board policies. This has resulted in some of the rules becoming obsolete. Additionally, the department has initiated the negotiated rule making process to address rules related to the sale of cedar poles. The current policy and rules that govern the sale of cedar poles may be legally questionable and do not help the department meet its constitutional mandate to maximize long term returns to the Endowments.

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

There are no proposed fee increases.

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

These rules apply to the sale of forest products on State-Owned Endowment Lands, there will be no direct costs to the General Fund or dedicated funds that may be linked to addressing the rules. The purpose for addressing some of the rules is to improve the efficiency, cost effectiveness and lessen environmental impacts of the current timber sale program resulting in greater returns to the Endowments.

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 1, 2016 Idaho Administrative Bulletin, [Volume 16-6, page 48](#).

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 is one item incorporated by reference: ANSI 05.1, 2002 Edition

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Archie Gray CF, Sale Administration and Scaling Program Manager (208) 666-8618. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the IDL web site at the following web address: <http://www.idl.idaho.gov/rulemaking/index.html>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 7th Day of July, 2016.

Archie Gray, CF
Sale Administration and Scaling Program Manager
Idaho Department of Lands
3284 W. Industrial Loop
Coeur d'Alene, ID 838115
Phone: (208) 666-8619

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0214-1601
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

- 01. Board.** The Idaho State Board of Land Commissioners. (5-8-09)
- 02. Cable Yarding.** Transportation of forest products from stump to road by means of a suspended, powered cable system. (5-8-09)
- ~~**03. Cedar.** *Western Red Cedar (Thuja plicata).* (5-8-09)~~
- 043. Cedar Pole.** A segment or portion of a ~~western red cedar~~ tree that can be manufactured into a utility pole meeting current ANSI Specifications. (5-8-09)()
- ~~**053. Contract.** Timber sale contract in a form prescribed by the Department. (5-8-09)~~
- ~~**064. Department.** The Idaho Department of Lands. (5-8-09)~~
- ~~**075. Development Credits.** A stumpage credit received by the purchaser for the construction or reconstruction of roads, bridges, or other permanent improvements. (5-8-09)~~
- ~~**086. Director.** The director of the Idaho Department of Lands or his authorized representative. (5-8-09)~~
- ~~**097. Extreme Circumstances.** Catastrophic circumstances including, but not limited to, fire, downed timber due to a wind event, flood, earthquake, destruction of a purchaser's milling facilities or equipment by fire, or milling operation shut down due to a court order related to compliance with state or federal environmental laws. (5-8-09)~~
- ~~**108. Forest Products.** Marketable forest materials. (5-8-09)~~
- ~~**109. Ground-Based Yarding.** Transportation of forest products from stump to road using tractors, (5-8-09)~~

forwarders, or rubber-tired skidders. (5-8-09)

~~10.~~ **High-Value Forest Products.** Based on the prior twenty-four (24) months of the department's transactional evidence, species of trees or Forest Products (e.g. Cedar or Cedar Poles) whose value exceeds twice average mixed sawlog stumpage value per unit of measure, excluding the high value species. ()

~~12.~~ **Length.** The length of a pole in five (5) foot increments. (5-8-09)

~~131.~~ **Measurement.** Weight, length, board foot volume, cubic volume, or any other means or procedure for determining quantity of forest products. (5-8-09)

~~142.~~ **Net Appraised Value.** The minimum estimated sale value of the forest products after deducting the development credit. (5-8-09)

~~153.~~ **Net Sale Value.** The final sale bid value of the forest products after deducting the development credit. (5-8-09)

~~14.~~ **Cedar Pole.** A segment or portion of a ~~western red cedar~~ tree that can be manufactured into a utility pole meeting current ANSI Specifications. (5-8-09)()

~~165.~~ **Pulp.** Any portion of a tree that does not meet the sawlog merchantability specifications of thirty-three and one-third percent (33 1/3%) net scale. (5-8-09)

~~176.~~ **Purchaser.** A successful bidder for forest products from a state sale who has executed a timber sale contract. (5-8-09)

~~187.~~ **Roads.** Forest access roads used for the transportation of forest products. (5-8-09)

~~198.~~ **Scaling.** Quantitative measurement of logs or other forest products by a log rule. (5-8-09)

~~2019.~~ **Scribner Decimal "C" Board Foot Measure.** The measurement of forest products in accordance with the log rule described in Title 38, Chapter 12, Idaho Code, and the rules promulgated thereunder. (5-8-09)

~~240.~~ **State.** The State of Idaho. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

020. DIRECT SALES.

The sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. This type of sale is to be used to harvest isolated or by-passed parcels of timber of insufficient value and volume to justify a ~~salvage Timber~~ sale (refer to Rule Section 021). The direct sale shall not be used when two (2) or more potential purchasers may be interested in bidding on the forest products offered for sale. The initial duration of a direct sale shall be six (6) months with a provision for one six (6) month extension. The purchaser shall furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars (\$100). Advance payment will be required and all sales will be on a lump sum basis. (3-4-11)()

~~021. SALVAGE SALES.~~

~~Salvage sales shall not exceed the net appraised value and volume established by the Board and are intended to be used in the harvesting of timber which, in the opinion of the Director, is of insufficient quality and/or quantity to support a timber sale (refer to Rule Section 022). The contract requirements for salvage sales shall be the same as for timber sales. (5-8-09)~~

~~0221. TIMBER SALES.~~

~~Timber sales exceed the net appraised value or volume for ~~salvage Direct~~ sales established by the Board.~~

() (5-8-09)

022. -- 023. (RESERVED)

024. SALE OF CEEDAR POLES HIGH-VALUE FOREST PRODUCTS.

01. Requirements for Cedar Poles High-Value Forest Product Sales. ~~If a proposed sale area contains at least one hundred fifty (150) cedar poles in a density of at least five (5) poles per acre on ground based yarding areas and at least ten (10) poles per acre on cable yarding areas, the pole quality cedar shall be reserved and sold separately as a pole sale or as a separate product sort in a delivered products sale. Pole quality cedar in areas with a lower density of poles may be offered as poles~~ When High-Value Forest Products (such as Cedar or Cedar Poles) represents thirty percent (30%) or more of the sale volume, then the sale shall be sold using at least two (2) biddable items, one (1) biddable item for the High-Value species or product and at least one (1) for any other species or products on the sale. (3-4-11)()

02. Maximum Amount of Sawlogs Identification of High-Value Forest Product Sales. ~~Sawlogs and other forest products shall not exceed fifty percent (50%) of the total sale volume, excluding materials generated through the construction of roads and development sites~~ As part of its Annual Sales Plan (refer to Rule Section 026), the Department shall identify those sales that are expected to contain High-Value Forest Products. (5-8-09)()

03. Poles within Sawlog Sale. ~~If any area within a proposed timber sale contains two hundred fifty (250) cedar poles or more in a density of at least ten (10) poles per acre, the poles shall be reserved for a pole quality cedar sale or sold as a separate product sort in a delivered products sale.~~ (3-4-11)

04. Length Appraisal. ~~Cedar poles shall be appraised by length and bid on a lineal foot basis. The conversion table set out below shall be used to establish the corresponding board foot volume.~~ (5-8-09)

05. Length to Volume Conversion Table for Western Red Cedar Poles:

<u>Pole Length</u>	<u>Board Feet Each*</u>		<u>Pole Length</u>	<u>Board Feet Each*</u>
30'	50		80'	595
35'	70		85'	736
40'	101		90'	792
45'	161		95'	892
50'	239		100'	929
55'	261		105'	1113
60'	304		110'	1132
65'	418		115'	1420
70'	462		120'	1475
75'	512			

* Based on Scribner Decimal "C" board foot measure

(5-8-09)

06. Bidding Limited to Cedar. ~~When cedar represents eighty percent (80%) or more of the total appraised value, bidding shall be limited to cedar poles and cedar sawlogs only.~~ (5-8-09)

07. Purchaser's Option. ~~The purchaser may opt to remove cedar as poles, sawlogs, and products or as sawlogs and products. Such choice shall be made at the completion of the auction. If the purchaser opts to manufacture the cedar as poles, the poles and sawlog material shall be removed at bid prices (lineal foot basis for~~

~~poles and MBF basis for sawlogs). Pole quality cedar trees containing thirty (30) foot cedar poles may be harvested as poles or sawlogs at the purchaser's discretion unless such trees are designated reserve. If the purchaser elects to manufacture cedar poles as sawlogs, the bid values of cedar poles and cedar sawlog material shall be weighted by volume to determine the selling value for all cedar sawlogs.~~ (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

026. ANNUAL SALES PLAN.

The Department will prepare an annual sales plan which will describe the timber sales to be offered for sale during the forthcoming fiscal year. The plan will be based on recommended annual harvest volumes utilizing inventory data, local stand conditions, special management problems, and economic factors. The plan will be presented to the Board for approval annually and upon approval made available to all interested parties. The plan may be altered to respond to changing market conditions or to expedite the sale of damaged or insect-infested forest products. ~~Each individual timber sale will be submitted to the Board for approval prior to advertisement.~~ (5-8-09)()

027. -- 030. (RESERVED)

031. TIMBER SALE AUCTIONS.

01. Requirements. Timber, ~~Salvage~~, High-value Forest and Delivered Products sales shall be sold at public auction. (3-1-11)()

02. Requirements for Bidding. (5-8-09)

a. Bidders shall present a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. (5-8-09)

b. Bidders shall not be delinquent on any payments to the State at the time of sale. (5-8-09)

c. Bidders shall not be a minor as defined in Section 32-101, Idaho Code. (5-8-09)

d. Foreign corporations, as defined in Section 30-1-106, Idaho Code, shall procure a certificate of authority to do business in Idaho to be eligible to bid on and purchase State timber. (5-8-09)

IDAPA 20 - IDAHO DEPARTMENT OF LANDS
20.07.01 - RULES OF PRACTICE AND PROCEDURE BEFORE THE
IDAHO OIL AND GAS CONSERVATION COMMISSION
DOCKET NO. 20-0701-1601 (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 47-317(8), Idaho Code, 47-319(8), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2016.

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 rulemaking will repeal the entire rule. The Rules of Practice and Procedure before the Idaho Oil and Gas Conservation Commission have an effective date of 1992. They have been superseded by the Idaho Administrative Procedures Act, which was passed after 1992. In addition, several changes to administrative proceedings were signed into law with Senate Bill 1339 during the 2016 legislative session. As a result, IDAPA 20.07.01 no longer governs actions by the Idaho Oil and Gas Conservation Commission. IDL may bring forward a new set of rules in the future that would govern proceedings before the Idaho Oil and Gas Conservation Commission.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is being proposed for repeal.

INCORPORATION BY REFERENCE: The rule is proposed to be repealed; therefore no incorporations by reference are present.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Eric Wilson at (208) 334-0261. Materials pertaining to the proposed rulemaking can be found on the Idaho Department of Lands web site at the following web address: <http://www.idl.idaho.gov/rulemaking/index.html>. Please note that this rule is proposed to be repealed, therefore no draft changes are available.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 8th Day of July, 2016

Eric Wilson
Resource Protection and Assistance Bureau Chief
PO Box 83720
Boise, Idaho 83720
(208) 334-0261

IDAPA 20.07.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1604

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2016.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 67-5224 and 67-5291, Idaho Code.

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

Rule 317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY - The rule is changed so that the maximum homeowner's exemption applied to property subject to the occupancy tax after July 1, 2016 be consistent with new law (HB431) (\$100,000).

Rule 609. PROPERTY TAX EXEMPT FROM TAXATION - HOMESTEAD - The rule is changed to delete the instructions to compute the maximum homeowner's exemption based on the house price index and to note that the maximum amount has been set by new law (HB431) to be \$100,000.

Rule 803. BUDGET CERTIFICATION – DOLLAR CERTIFICATION FORM (L-2 Form) - The rule is changed to guide the counties and other taxing districts into compliance with new House Bill 474 pertaining to the use/budgeting of forgone amount. In addition the amount of money transferred from the interest-bearing trust to the county indigent fund under Section 31-808(11), Idaho Code may be redirected to the state treasurer's office by newly enacted Senate Bill No. 1347.

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:

Compliance with deadlines in amendments to governing law or federal programs, and confers a benefit to taxpayers.

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 (208) 334-7742.

DATED this 23th Day of June, 2016.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
PO Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 35-0103-1604
(Only Those Sections With Amendments Are Shown.)

317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (RULE 317).

Section 63-317, Idaho Code

01. Property Subject to Occupancy Tax. Excluding additions to existing improvements, the occupancy tax shall apply to improvements upon real property, whether under the same or different ownership. The occupancy tax shall also apply to new manufactured housing, as defined in Section 63-317, Idaho Code, excluding additions to existing manufactured housing. (4-6-05)

02. Prorated Market Value. The market value for occupancy tax purposes shall be the full market value on January 1 and shall be prorated at least monthly from the occupancy date to the end of the year. (3-29-10)

03. Notice of Appraisal. When notifying each owner of the appraisal, the county assessor shall include at a minimum the full market value before any exemptions and before any prorating of the value, the length of time subject to the occupancy tax, and the prorated value. (5-3-03)

04. Examples for Calculation of Value Less Homestead Exemption (HO). The following examples show the procedure for the calculation of the taxable value subject to the occupancy tax less the homestead exemption (HO): (3-30-07)

a. Example for prorated market value exceeding maximum amount of the homestead exemption for ~~tax year 2009~~ improvements subject to the occupancy tax beginning July 1, 2016. ~~Each year the maximum amount of the homestead exemption is subject to modification by the Housing Price Index~~ If the improvements had been subject to the occupancy tax after January 1, 2016 but before July 1, 2016, the limitation on the homestead exemption would have been ninety-four thousand seven hundred and forty-five dollars (\$94,745). For improvements subject to the occupancy tax on or after July 1, 2016, the limitation on the homestead exemption is one hundred thousand dollars (\$100,000).

Full Market Value of Home	- \$300,000
Prorated Market Value for 11 Month Occupancy	- \$300,000 x 11/12 = \$275,000
Taxable Value	- \$275,000 - \$104,471 100,000 (HO) = \$170,529 175,000

~~(3-29-10)~~(7-1-16)T

b. Example for prorated market value resulting in less than the maximum amount of the homestead exemption.

Full Market Value of Home	- \$120,000
Prorated Market Value for 3 Month Occupancy	- \$120,000 x 3/12 = \$30,000
Taxable Value	- \$30,000 - \$15,000 (HO) = \$15,000

(3-30-07)

05. Market Value. The market value for occupancy tax purposes shall be entered on an occupancy tax valuation roll. Occupancy tax valuation shall not be included in the assessed value of any taxing district, but occupancy tax must be declared in the certified budget. (3-30-07)

06. Allocation to Urban Renewal Agencies. Occupancy tax revenue shall be distributed to urban renewal agencies in the same manner as property taxes. (4-7-11)

a. The portion of the occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules must be distributed to the taxing districts levying property taxes for those funds and, therefore, must not be distributed to the urban renewal agency. (5-8-09)

b. Except for occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules, for parcels within a newly formed revenue allocation area or within an area newly annexed to an existing revenue allocation area, occupancy tax for the tax year during which the formation or annexation took effect must be distributed to the urban renewal agency. (4-7-11)

07. Property Qualifying for the Homestead Exemption on Occupancy Value. When property is subject to occupancy tax, only the improvements shall be eligible for the homestead exemption found in Section 63-602G, Idaho Code. (3-30-07)

08. Effective Date. The effective date of this rule is July 1, 2016. (7-1-16)T

(BREAK IN CONTINUITY OF SECTIONS)

609. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD (RULE 609).
Sections 63-602G, 63-701, 63-703, and 63-3077, Idaho Code

01. Homestead Exemption. The Homestead Exemption granted in 63-602G, Idaho Code shall also be known as the homeowner's exemption. (3-30-07)

02. ~~Idaho Annual House Price Index Change~~ **Maximum Amount of Homestead Exemption. ~~The successor to the United States Office of Federal Housing Enterprise Oversight is the Federal Housing Finance Agency. Annually, the State Tax Commission shall calculate the maximum dollar value limit for the homeowner's exemption based on the annual change in the Idaho House Price Index All Transactions, published by the Federal Housing Finance Agency or its successor. The following procedure shall be used:~~ The homestead exemption is limited to the lesser of fifty percent (50%) of assessed value or one-hundred thousand dollars (\$100,000). (4-7-11)(7-1-16)T**

~~**a.** Step 1. Calculate the average Idaho House Price Index All Transactions of the four (4) most recently available quarters as of September 15. (4-7-11)~~

~~**b.** Step 2. Calculate the average Idaho House Price Index All Transactions of the four (4) quarters immediately preceding the earliest quarter used in Step 1. (4-7-11)~~

~~**c.** Step 3. Divide the Step 1 average by the Step 2 average to determine a factor. (3-30-07)~~

~~**d.** Step 4. Multiply the factor determined in Step 3 by the current maximum dollar value limit on the homeowner's exemption to produce the new dollar value limit. (3-30-07)~~

03. Partial Ownership. Any partial ownership shall be considered ownership for determining qualification for the homeowner's exemption; however, the amount of the exemption shall be decided on the reduced proportion of the value commensurate with the proportion of partial ownership. The proportional reduction shall not apply to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation. For tenants in common with two (2) improvements located on one (1) parcel of land, determine the applicable value for the homeowner's exemption using the procedure shown in Example 1 of Paragraph 609.03.a., of this rule unless the owner-occupant provides documented evidence of a different ownership interest in the improvement. See Examples 2, 3, and 4 in Paragraphs 609.03.b., 609.03.c., and 609.03.d. of this rule for additional

partial ownership guidance. To calculate property tax reduction benefits when partial ownership exists, see Paragraph 700.05.b. of this rule. (4-2-08)

a. Example 1. John Smith and Bob Anderson own a property as tenants in common with two (2) residential improvements located on the property. Each residential improvement is owner occupied by one (1) of the tenants in common. The homeowner's exemption is calculated as follows:

Description	Value	Notes
Land	\$42,000	
Residential Improvement	\$82,000	Occupied by Mr. Smith
Prorated Ownership Interest (land and improvement)	\$62,000	Mr. Smith's interest
Homeowner's Exemption	\$31,000	For Mr. Smith as owner occupant
Residential Improvement	\$67,000	Occupied by Mr. Anderson
Prorated Ownership Interest (land and improvement)	\$54,500	Mr. Anderson's interest
Homeowner's Exemption	\$27,250	For Mr. Anderson as owner occupant

(3-30-07)

b. Example 2. John Smith and Bob Anderson own a parcel of land as tenants in common with two (2) residential improvements located on the parcel. Mr. Smith has documented evidence of one hundred percent (100%) interest in one (1) residential improvement and Mr. Anderson has documented evidence of one hundred percent (100%) interest in the remaining residential improvement. Each residential improvement is owner occupied. The homeowner's exemption is calculated as follows:

Item Description	Value	Notes
Land	\$42,000	
Residential Improvement	\$82,000	Owned and occupied by Mr. Smith
Homeowner's Exemption	\$51,500	For Mr. Smith
Residential Improvement	\$67,000	Owned and occupied by Mr. Anderson
Homeowner's Exemption	\$44,000	For Mr. Anderson

(3-30-07)

c. Example 3. Tom Johnson and Marie Johnson, husband and wife, and June Smith jointly own a property and occupy one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

Description	Value	Notes
Land	\$95,000	
Residential Improvement	\$215,000	
Land and Improvement	\$310,000	
Prorated ownership interest (land and improvement) (\$310,000 X 66.67%)	\$206,677	Mr. & Mrs. Johnson's interest

Description	Value	Notes
Homeowner's Exemption Maximum for 2010 (\$101,153 X 66.67%)	\$67,439	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement) (\$310,000 X 33.33%)	\$103,323	Ms. Smith's interest
Homeowner's Exemption Maximum for 2010 (\$101,153 X 33.33%)	\$33,714	Ms. Smith's Homeowner's Exemption

(4-7-11)

d. Example 4. John and Susan Doe, husband and wife, and Mike Person jointly own a property, and Mr. and Mrs. Doe occupy the one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

Description	Value	Notes
Land	\$65,000	
Residential Improvement	\$195,000	
Land and Improvement	\$260,000	
Prorated ownership interest (land and improvement) (\$260,000 X 66.67%)	\$173,342	Mr. & Mrs. Doe's interest
Homeowner's Exemption (Maximum for 2010 is 50% up to \$101,153)	\$86,671	Mr. & Mrs. Doe's Homeowner's Exemption
Prorated ownership interest (land and improvement) (\$260,000 X 33.33%)	\$86,658	Mr. Person's interest
Homeowner's Exemption	\$0	Mr. Person does not qualify for a homeowner's exemption on this property.

(4-7-11)

04. Part Year Ownership. For qualifying taxpayers who claimed the homeowner's exemption on an eligible property, the homestead that qualified on January 1 of the current tax year shall continue to receive the exemption, provided however, the assessor may remove that property's exemption if, by April 15 of the tax year, the taxpayer owns a different homestead and requests that the exemption be transferred to the second homestead.

(4-11-15)

05. Determination of Residency. The State Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county Board of Equalization for the sole purpose of providing one (1) indicator of eligibility for the homeowner's exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure.

(4-11-06)

06. Notification of Erroneous Claims. When it is determined that an exemption granted under this Section to a taxpayer who has also received property tax relief under Chapter 7, Idaho Code, should not have been granted, the county assessor shall notify the State Tax Commission of the determination.

(3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803).

Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), 63-3638(11), and (13), Idaho Code. (1-1-14)

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; and (4-11-15)~~

~~i+ii.~~ Section 63-602KK(7), Idaho Code, for personal property exempted after 2013 for which no

replacement money was paid.

(3-25-16)

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 and signed L-2 Form prescribed by the State Tax Commission. Unless otherwise provided for in Idaho Code, budget requests for the property tax funded portions of the budget shall not exceed the amount published in the notice of budget hearing if a budget hearing notice is required in Idaho Code for the district. The levy approved by the State Tax Commission shall not exceed the levy computed using the amount shown in the notice of budget hearing. (3-20-14)

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. For any taxing district submitting a budget including previously forgone increases, required documentation includes a copy of a resolution certifying the amount of the forgone increase being included and the specific purpose for which this increase is being budgeted. Each such taxing district must submit the resolution to the board of county commissioners representing each county in which the district is located along with the L-2 Form. The board of county commissioners must attach a copy of the resolution to be submitted to the tax commission along with the L-2 Form. Such submittal will constitute submittal to the tax commission. ~~(4-2-08)~~(7-1-16)T

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 retained, but intended to be spent to fund the approved budget being certified on the L-2 form. (4-11-15)

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(11), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code; (4-11-15)

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”; (4-11-15)

~~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)~~

iv. 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; (3-25-16)

vi. The amount of money received annually under Section 63-3638(13), for the personal property exemption under 63-602KK(2), Idaho Code; and (3-25-16)

vi. The amount of money received annually under Section 63-602KK(7), Idaho Code, for personal property exempted after 2013, for which no replacement money was paid, and listed on the “Recovered/recaptured property tax substitute funds list”. (3-25-16)

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)

v. For any taxing district including previously forgone increases in their budget, an attestation to having held the required public hearing on the resolution to include the forgone amount. (7-1-16)T

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)

viii. For any taxing district including previously forgone increases in their budget, a copy of a resolution describing the amount of the forgone increase being included and specific purpose for which it is being included. (7-1-16)T

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. Property tax replacement monies must be reported on the L-2 Form and separately identified on accompanying worksheets. Except as provided in Paragraph 803.06.f. of this rule, 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. (4-11-15)

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 Sections 63-3638(11) and (13), 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 Sections 63-3638(11) and (13), Idaho Code. (4-11-15)

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, and shall further identify the type of replacement money as described in Paragraph 803.04.e. of this rule. For charter school districts subject to the provisions of Paragraph 803.06.f. of this rule, the amount to be subtracted shall be reported. (4-11-15)

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)

f. For charter school districts with a levy in 2013 for maintenance and operations, as provided in Section 33-802(6), Idaho Code, a portion of the property tax replacement money received for property subject to the exemption in Section 63-602KK, Idaho Code, is not required to be subtracted in determining the "balance to be levied." Said portion shall be the amount calculated by applying the 2013 levy rate for the maintenance and

operations levy amount, as authorized in the district's charter, to the 2013 exempt value of personal property used to compute replacement money provided to the school district. (4-11-15)

g. For recovered personal property exemptions, as provided in Section 63-602KK(7), Idaho Code, for personal property exempted in 2013 for which replacement money was paid, recovered amounts shall be distributed to the State Tax Commission. Once received, the amount of future payments to the affected taxing districts shall be reduced by the amount received. (3-25-16)

07. 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)

08. 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)

09. 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)

10. 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 hypothetical levy, sum the amount of the school district's tort fund levied for the prior year, the agricultural equipment replacement revenue, and the personal property replacement revenue, 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. (3-25-16)

11. 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)

12. 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. (4-4-13)

13. Cross Reference for School Districts with Tuition Funds. School district tuition fund levies are exempt from the limitations of Section 63-802, Idaho Code. See Section 33-1408, Idaho Code. (4-11-15)

IDAPA 57 - SEXUAL OFFENDER MANAGEMENT BOARD

57.01.01 - RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD

DOCKET NO. 57-0101-1601

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 18-8314, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by August 21, 2016.

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.

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.

Upon the 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.

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 Sexual Offender Management Board is responsible for developing, advancing and overseeing sound sexual offender management policies and practices statewide. This rulemaking addresses proposed modifications to the board's standards and procedures related to certification of providers who conduct psychosexual evaluations, sex offender treatment and post-conviction sex offender polygraph examinations on adults and juveniles who have been convicted of or adjudicated for sexual offenses; and technical changes to standards-related forms. Modifications are also being proposed regarding the quality assurance procedures for psychosexual evaluators and sex offender treatment providers. The board's standards and procedures are incorporated by reference into IDAPA 57. Negotiated rulemaking will encompass finalization of the standards modifications.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text and/or draft modifications to standards documents contact Kathy Baird at (208) 658-2002. Materials pertaining to the negotiated rulemaking, including proposed standards modifications can be found on the board's web site at the following web address: <http://somb.idaho.gov>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 21, 2016.

DATED this 3rd Day of August, 2016.

Kathy Baird, Management Assistant
Sexual Offender Management Board
1299 N. Orchard St., Ste 110
Boise, ID 83706
Phone: (208) 658-2002
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Email: somb@idoc.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1602

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

Tuesday, September 6, 2016 - 3:00 PM

**Department of Environmental Quality
Conference Room A
1410 N. Hilton
Boise, ID 83706**

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

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to delete Section 582, Interim Conformity Provisions for Northern Ada County Former Nonattainment Area for PM-10. In reviewing the Rules for Control of Air Pollution in Idaho, DEQ discovered that Section 582 is outdated and no longer applicable. Section 582 was originally promulgated in 2001 to address Clean Air Act transportation conformity requirements for the PM10 Ada County nonattainment area. Transportation conformity requires an area experiencing air quality problems to have a transportation plan consistent with air quality goals. Section 582 was promulgated as a temporary measure that was necessary until a required maintenance plan was developed. The maintenance plan has since been developed and was approved by EPA on October 17, 2003.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2016 for adoption of a pending rule. This pending rule docket is expected to be final and effective upon adjournment of the 2017 legislative session if adopted by the Board and approved by the Legislature. DEQ will submit the final rule docket to EPA for removal of Section 582 from Idaho's State Implementation Plan.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because the provisions are outdated and are no longer applicable.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Carl Brown at carl.brown@deq.idaho.gov or (208) 373-0206.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 6, 2016.

Dated this 3rd Day of August, 2016

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1602
(Only Those Sections With Amendments Are Shown.)

~~582. INTERIM CONFORMITY PROVISIONS FOR NORTHERN ADA COUNTY FORMER NON-ATTAINMENT AREA FOR PM-10.~~

~~The purpose of Section 582 is to implement part of the settlement of "Idaho Clean Air Force, et al. v. EPA, et al." Section 582 requires that the growth in transportation related PM-10 emissions be offset annually in the absence of federal transportation conformity requirements in the former PM-10 nonattainment area in northern Ada County, Idaho. Section 582 will remain in place until a PM-10 maintenance demonstration and maintenance plan containing a motor vehicle emissions budget can be developed, submitted to the U.S. Environmental Protection Agency (EPA) and approved as meeting the requirements of Section 175A of the Clean Air Act, and the transportation plan and TIP for northern ADA County has been found to conform to the applicable implementation plan. The Department will prepare a PM-10 maintenance plan within the agreed upon time frame to be submitted to EPA for approval.~~

~~(3-30-01)~~

~~01. Definitions. Terms not specifically defined in Subsection 582.01 are defined in Sections 565 and 566 of these rules.~~

~~(3-30-01)~~

~~a. Annual Reduction Amount. Represents the estimated, annual average increase in PM-10 emissions in the former nonattainment area expected between the years 1997 and 2005 and is calculated at seven hundred fifty (750) kg/day.~~

~~(3-30-01)~~

~~b. Consent Decree. The consent decree approved by the Ninth Circuit Court of Appeals to resolve "Idaho Clean Air Force, et al. v. EPA, et al.," (Ninth Circuit Docket Nos. 99-70289 & 99-70576).~~

~~(3-30-01)~~

~~c. Emissions Reductions. Reductions in emissions of PM-10 or PM-10 precursors to be achieved by transportation control measures (as defined in 40 CFR 93.101) or other binding emissions control measures. Control measures adopted by the Metropolitan Planning Organization and approved by the Department shall be enforceable obligations of the State Implementation Plan (SIP).~~

~~(3-30-01)~~

~~d. Former Nonattainment Area. That portion of northern Ada County designated as a nonattainment area for PM-10 by 40 CFR 81.87 prior to March 12, 1999.~~

~~(3-30-01)~~

~~e. Interim Period. The period beginning with the fiscal year commencing October 1, 2000, until EPA approves a maintenance plan containing a motor vehicle emission budget for the former nonattainment area and the Metropolitan Planning Organization adopts a transportation plan and TIP that is found to conform in accordance with Section 176(e) of the Clean Air Act and 40 CFR Part 93.~~

~~(3-30-01)~~

~~f. Metropolitan Planning Organization (MPO). For purposes of Section 582, Community Planning Association of Southwest Idaho (COMPASS), or its successor organization, is the MPO for the former nonattainment area.~~

~~(3-30-01)~~

~~g. Regionally Significant Project. A transportation project, other than an exempt project, that is on a facility which serves regional transportation needs (such as access to and from the area outside the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including, at a minimum: (3-30-01)~~

~~i. All principal arterial highways; (3-30-01)~~

~~ii. All fixed guideway transit facilities that offer an alternative to regional highway travel; and (3-30-01)~~

~~iii. Any other facilities determined to be regionally significant through Section 570, interagency consultation. (3-30-01)~~

~~02. Applicability. The provisions of Section 582 shall apply during the interim period. The transportation conformity requirements of 40 CFR Part 93 applicable to nonattainment areas shall apply to the former nonattainment area pursuant to 42 U.S.C. Section 7506(e)(5) if the area is designated nonattainment or attainment with an approved maintenance plan. The provisions of Section 582 shall no longer apply after a maintenance demonstration and maintenance plan containing motor vehicle emissions budget(s) for PM 10 is submitted by the Department as a State Implementation Plan (SIP) revision, has been approved by EPA as meeting the requirements of Section 175A of the Clean Air Act, and a transportation plan and TIP have been found to conform to the applicable implementation plan pursuant to 40 CFR Part 93. (3-30-01)~~

~~03. Adoption of Control Measures and Demonstration of Emissions Reductions. As a precondition to: (3-30-01)~~

~~a. The expenditure of any non-exempt federal transportation funds that would be prohibited under a conformity lapse; (3-30-01)~~

~~b. The construction of any regionally significant projects that would be prohibited under a conformity lapse; (3-30-01)~~

~~c. The execution by the Idaho Transportation Department or the Ada County Highway District of any project agreements required by 23 U.S.C. Section 106(a) that would be prohibited under a conformity lapse; or (3-30-01)~~

~~d. The execution of agreements with contractors to begin construction on a highway project that is not exempt from a conformity determination pursuant to 40 CFR 93.126 and 93.127 during any fiscal year during the interim period, the MPO shall: (3-30-01)~~

~~i. Demonstrate that the control measures adopted to achieve emissions reductions in prior fiscal years have been implemented and will continue to be implemented during the next fiscal year; (3-30-01)~~

~~ii. Demonstrate that the control measures adopted to achieve emissions reductions have achieved the magnitude of emissions reductions expected as a result of the implementation of such measures; (3-30-01)~~

~~iii. Adopt (subject to approval by the Department pursuant to Subsection 852.04) control measures adequate to achieve emissions reductions reasonably calculated to reduce actual emissions during the next fiscal year in the former nonattainment area by the annual reduction amount, at a minimum, in addition to any emissions reductions required to be achieved prior to the beginning of such fiscal year; and (3-30-01)~~

~~iv. With regard to control measures that will not be implemented directly by the MPO, obtain written commitments from the responsible entities that the control measures will be implemented in the manner and within the fiscal year required to meet the emission reductions. (3-30-01)~~

~~04. Department Review. Following adoption by the MPO, the control measures designed to achieve the~~

~~new emissions reductions for the next fiscal year, associated emissions calculations, and the demonstrations required by Subsection 582.03 shall be submitted to the Department no later than April 1 of each year. The Department shall review and approve the submission if the Department determines that the requirements of Subsection 582.03 are met in accordance with the following:~~ (3-30-01)

~~a. The Department will respond to the submittal within thirty (30) days of receipt. The response may include approval of the submission, a request for further information, or conditional approval of the control measures subject to submission of evidence that entities responsible for implementation of the measures have adopted any ordinances, appropriations or other approvals needed to complete the implementation of such measures. If further information is required, such information shall be submitted to the Department within thirty (30) days of request. The Department shall take final action to approve or deny the submission within ninety (90) days of the MPO's submission of the documentation required by Subsection 582.03; and~~ (3-30-01)

~~b. The Department shall by July 1 of each year during the interim period provide to the MPO, the Ada County Highway District Commissioners and the Idaho Department of Transportation a report listing the emissions control measures implemented and the emissions control measures planned but not yet implemented for the then-current fiscal year, together with the Department's written determination as to whether the Emissions Reductions associated with such emissions control measures satisfy the requirements under Section 582.~~ (3-30-01)

~~05. **First Year Emissions Reductions.** For the initial fiscal year to which Section 582 applies, the MPO shall adopt new control measures reasonably calculated to achieve emissions reductions of two thousand (2000) kg/day. The MPO may take credit for any reductions in transportation-related emissions of PM-10 that were actually achieved by the implementation of enforceable control measures or other measures following March 12, 1999, and that continue to be implemented during the interim period.~~ (3-30-01)

~~06. **Restrictions if Emissions Reductions Not Adopted.** If the MPO adopts control measures for the purpose of achieving emissions reductions in a fiscal year, and the relevant local governmental entities do not adopt the necessary implementing ordinances or appropriate necessary funds, if any, by the beginning of the following fiscal year, the MPO shall not expend any non-exempt federal transportation funds or construct any regionally significant projects, that would be prohibited under a conformity lapse, in such following fiscal year until each of the relevant local governmental entities, if any, take such actions as may be necessary to implement the control measures previously approved by the MPO and the Department.~~ (3-30-01)

~~07. **Restrictions on TIP if Emissions Reductions Not Adopted or Achieved.** If:~~ (3-30-01)

~~a. Control measures required to achieve emissions reductions for a prior fiscal year have not been implemented, or~~ (3-30-01)

~~b. The Department does not approve the control measures submitted by the MPO as adequate to achieve the required emissions reductions for any fiscal year; then:~~ (3-30-01)

~~i. The MPO shall not submit any TIP or TIP revision for a project subject to the requirements of Subsection 582.03, that would be prohibited under a conformity lapse, to the Idaho Transportation Department for inclusion into the State Transportation Improvement Program or to FHWA/FTA for approval, and~~ (3-30-01)

~~ii. No new agreement for a project subject to the requirements of Subsection 582.03, that would be prohibited under a conformity lapse, may be executed by the Idaho Transportation Department or the Ada County Highway District until control measures adequate to achieve the total emissions reductions required for any prior fiscal year are implemented and the control measures adequate to achieve the total emissions reductions for the next fiscal year are approved.~~ (3-30-01)

~~583~~2. -- 584. (RESERVED)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1603

NOTICE OF RULEMAKING - PROPOSED RULE

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

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

Tuesday, September 6, 2016 - 3:00 PM

**Department of Environmental Quality
Conference Room A
1410 N. Hilton
Boise, ID 83706**

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

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the Clean Air Act. This proposed rule updates federal regulations incorporated by reference to include those revised as of July 1, 2016.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2016 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2017 legislative session if adopted by the Board and approved by the Legislature. DEQ will submit the final rule to EPA for approval.

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

Adoption of federal regulations is necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at www.deq.idaho.gov/58-0101-1603 or by contacting the undersigned.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with

respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Carl Brown at carl.brown@deq.idaho.gov or (208) 373-0206.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 6, 2016.

Dated this 3rd Day of August, 2016.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1603
(Only Those Sections With Amendments Are Shown.)

107. INCORPORATIONS BY REFERENCE.

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

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

- and;
- a.** All federal publications: U.S. Government Printing Office at <http://www.ecfr.gov/cgi-bin/ECFR>; (3-25-16)
 - b.** Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-20-14)
 - c.** All documents herein incorporated by reference: (7-1-97)
 - i.** Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-

0502. (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)
- 03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)
- a.** Requirements for Preparation, Adoption, and Submittal of Implementation Plans, [40 CFR Part 51](#) revised as of July 1, 201~~5~~6. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: ~~(3-25-16)~~()
- i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
- ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
- b.** National Primary and Secondary Ambient Air Quality Standards, [40 CFR Part 50](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- c.** Approval and Promulgation of Implementation Plans, [40 CFR Part 52](#), Subparts A and N and Appendices D and E, revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- d.** Ambient Air Monitoring Reference and Equivalent Methods, [40 CFR Part 53](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- e.** Ambient Air Quality Surveillance, [40 CFR Part 58](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- f.** Standards of Performance for New Stationary Sources, [40 CFR Part 60](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- g.** National Emission Standards for Hazardous Air Pollutants, [40 CFR Part 61](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- h.** Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, [40 CFR Part 62, Subpart HHH](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- i.** National Emission Standards for Hazardous Air Pollutants for Source Categories, [40 CFR Part 63](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- j.** Compliance Assurance Monitoring, [40 CFR Part 64](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- k.** State Operating Permit Programs, [40 CFR Part 70](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- l.** Permits, [40 CFR Part 72](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- m.** Sulfur Dioxide Allowance System, [40 CFR Part 73](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- n.** Protection of Stratospheric Ozone, [40 CFR Part 82](#), revised as of July 1, 201~~5~~6. ~~(3-25-16)~~()
- o.** Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- p.** Medical Waste Combustors, [Section 39-128, Idaho Code \(1992\)](#). (3-20-14)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-1601

NOTICE OF RULEMAKING - PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 17, 2016. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. Idaho's Rules and Standards for Hazardous Waste, IDAPA 58.01.05, are updated annually to maintain consistency with the federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference to include those revised as of July 1, 2016. In addition, this rulemaking also denotes instances where emergency notifications must be made to the Idaho Office of Emergency Management in addition to the National Response Center.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2016 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2017 legislative session if adopted by the Board and approved by the Legislature.

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

Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Section 67-5223(4), Idaho Code, DEQ prepared a brief synopsis detailing the substantive difference between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at www.deq.idaho.gov/58-0105-1601 or by contacting the undersigned.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting EPA's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Matt Alvarado at matt.alvarado@deq.idaho.gov or (208)373-0554.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before August 31, 2016.

DATED this 3rd Day of August, 2016.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0105-1601
(Only Those Sections With Amendments Are Shown.)

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2015⁶, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(3-25-16)~~()

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

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

- a. U.S. Government Printing Office, <http://www.ecfr.gov/cgi-bin/ECFR>; and (3-25-16)
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208) 334-3316; and (7-2-97)
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015⁶. For the purposes of 40 CFR 260.10 in the definition of electronic manifest and electronic manifest system, "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR

260.10, in the definition of hazardous waste constituent, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, “Federal Register” shall be defined as the Idaho Administrative Bulletin. (3-25-16)()

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts (excluding 261.4(b)(17)), except the language “in the Region where the sample is collected” in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015. For purposes of 40 CFR 261.10 and 40 CFR 261.11, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), 40 CFR 261.41, and 40 CFR 261 Appendix IX, “EPA” shall be defined as the U.S. Environmental Protection Agency. Copies of annual reports and advance notifications under these sections shall also be sent to the Director. (3-25-16)()

01. Hazardous Secondary Materials Managers Emergency Notification. In addition to the emergency notification required by 40 CFR 261.411(d)(3) and 261.420(f)(4)(ii), the emergency coordinator must also immediately notify the Idaho Office of Emergency Management by telephone, 1-800-632-8000, to file an identical report. ()

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

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.042.b. and 005.042.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)()

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

i. For purposes of Subsections 005.042.b., “new source” shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.042.d. (3-16-96)()

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

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

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

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.042.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.042.d. (3-16-96)()

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.042.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.042.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)()

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

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.042.d.; and (3-16-96)()

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.0~~4~~².b.iv. (3-16-96)()

vi. For purposes of Subsections 005.0~~4~~².b. and 005.0~~4~~².c., “batch” shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)()

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

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.0~~4~~².a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)()

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.0~~4~~².d. (3-16-96)()

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

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.0~~4~~².d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.0~~4~~².d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)()

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.0~~4~~².d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)()

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.0~~4~~².d.; or (3-16-96)()

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

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.0~~4~~².d. (3-16-96)()

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

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

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

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR

- Part 261.24. (3-16-96)
- e. Modification of Treatment Process. (3-16-96)
- i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)
- ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)
- iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)
- iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Waste Management and Remediation Division, 1410 N. Hilton, Boise, Idaho 83706. (3-29-12)
- f. Records and Data Retention and Submittal. (3-16-96)
- i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)
- ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)
- iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)
- iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)
- g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts (excluding Subparts I and J and 40 CFR 262.10(j), 262.34(j),(k),(l)), except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015. For purposes of 40 CFR 262.53, 262.55, and 262.56, "EPA" shall be defined as the U.S. Environmental Protection Agency. Copies of advance notification, annual reports, and exception reports, required

under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.20, 262.21, 262.24, 262.25, 262.51, 262.54(e), 262.54(g)(1), 262.55, 262.56, 262.60, and 262.85(g), EPA or Environmental Protection Agency shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. (3-25-16)()

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

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States. For the purposes of 40 CFR 263.20(a), "EPA" shall be defined as U.S. Environmental Protection Agency. (3-25-16)()

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

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71 and 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. (3-25-16)()

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

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.1(c)(15), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)), except the language contained in 40 CFR 265.340(b)(2) as replaced with: "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part," are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71 and 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. (3-25-16)()

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

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015. (3-25-16)()

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.). (3-25-16)()

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.1(c)(2)(ix), 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015. For purposes of 40 CFR 270.2, 270.5,

270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. (3-25-16)()

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

40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015⁶, except that the last sentence of 40 CFR 124.10(b)(1), 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (3-25-16)()

014. (RESERVED)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015⁶. For purposes of 40 CFR 279.43(c)(3)(ii) “Director” shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. (3-25-16)()

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

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

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

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015⁶. For purposes of 40 CFR 273.32(a)(3), “EPA” shall be defined as the U.S. Environmental Protection Agency. (3-25-16)()

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

40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015⁶. (3-25-16)()

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

40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2015⁶. (3-25-16)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.07 - RULES REGULATING UNDERGROUND STORAGE TANK SYSTEMS

DOCKET NO. 58-0107-1601 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapters 1 and 88, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 17, 2016. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to adopt into state rules the newly revised federal Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs), 40 CFR Part 280, and to establish a fee structure. The Environmental Protection Agency (EPA) updated 40 CFR Part 280 on October 13, 2015 amending the 1988 federal regulations by increasing emphasis on properly operating and maintaining underground storage tank equipment. In order to retain state program approval/primary enforcement authority that was approved by EPA on February 28, 2012, Idaho is required to adopt the newly revised 40 CFR Part 280 and re-submit a state program approval application package by October 13, 2018. Additionally, these new regulations and successive federal grant reductions have made it impossible to maintain the minimum program effort necessary to retain state program approval. DEQ must negotiate a fee structure to ensure there is sufficient funding to maintain an underground storage tank program and retain state program approval. Fees would not exceed one hundred dollars (\$100) per tank per year. Collection of UST fees is authorized by Section 39-119, Idaho Code. Senate Bill 1244 (2016) revised Section 39-8802(2)(d), Idaho Code, to allow for collection of UST fees under Section 39-119, Idaho Code.

The revised 40 CFR Part 280 includes the secondary containment and operator training provisions found in the Energy Policy Act of 2005. EPA is giving the states the option to adopt the new provisions or retain their existing secondary containment and operator training rules. DEQ proposes to retain its existing, less stringent, secondary containment and operator training rules (IDAPA 58.01.07.100 and 300) and incorporate the remainder of 40 CFR Part 280 by reference.

In addition, DEQ proposes revisions that would simplify inspections, include a fee structure, remove duplicate definitions now found in 40 CFR Part 280, include a training requirement overlooked during the 2007 rulemaking, and provide for alternative periodic testing of containment sumps used for interstitial monitoring of piping.

Owners and operators of underground storage tanks, cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, representatives of the Idaho Petroleum Storage Tank Fund Board of Trustees, and citizens of the state of Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2016 for adoption of a pending rule. The rule is expected to become final and effective upon the conclusion of the 2017 legislative session if adopted by the Board and approved by the Legislature.

FEE SUMMARY: DEQ must negotiate a fee structure to ensure there is sufficient funding to maintain an underground storage tank program and retain state program approval. Fees would not exceed one hundred dollars (\$100) per tank per year. Collection of UST fees is authorized by Section 39-119, Idaho Code. In 2016, the Idaho Legislature revised Section 39-8802(2)(d), Idaho Code, to allow for collection of UST fees under Section 39-119, Idaho Code, (Senate Bill 1244).

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

Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Section 67-5223(4), Idaho Code, DEQ prepared a brief synopsis detailing the substantive difference between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at www.deq.idaho.gov/58-0107-1601 or by contacting the undersigned.

NEGOTIATED RULEMAKING: The text of the proposed rule was drafted based on discussions held and concerns raised during negotiations conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 58.01.23.810-815. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2016 issue of the Idaho Administrative Bulletin, and a preliminary draft rule was made available for public review. Meetings were held on April 28 and May 26, 2016. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at www.deq.idaho.gov/58-0107-1601.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft (Draft No. 4) for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it more stringent than federal regulations. This proposed rule is broader in scope than federal regulations with respect to the collection of fees. In 2016, the Idaho Legislature revised Section 39-8802(2)(d), Idaho Code, to allow for collection of UST fees under Section 39-119, Idaho Code, (Senate Bill 1244).

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Kristi Lowder at kristi.lowder@deq.idaho.gov or (208) 373-0347.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before August 31, 2016.

DATED this 3rd Day of August, 2016.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0107-1601 (FEE RULE)
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

Any reference to any document identified in Subsection 004.01 shall constitute the full adoption by reference into IDAPA 58.01.07. (4-2-08)

01. Documents Incorporated by Reference. Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, 40 CFR Part 280, revised as of July 1, 2017, with the following exceptions: (4-2-08)()

- a. 40 CFR 280.12, the definition of "Replaced" is excluded; ()
- b. 40 CFR 280.12, the definition of "Under-dispenser containment or UDC" is excluded; ()
- c. 40 CFR 280.20, the introductory paragraph sentence, "In addition, except for suction piping that meets the requirements of §280.41(b)(1)(ii)(A) through (E), tanks and piping installed or replaced after April 11, 2016 must be secondarily contained and use interstitial monitoring in accordance with §280.43(g).", is excluded; ()
- d. 40 CFR 280.20(f), is excluded; ()
- e. 40 CFR 280.34(b)(9), the citation to §280.245 is excluded; ()
- f. 40 CFR 280.41(a)(1), "installed on or before April 11, 2016..." is excluded; ()
- g. 40 CFR 280.41(a)(2), is excluded; ()
- h. 40 CFR 280.41(b)(1), "installed on or before April 11, 2016..." is excluded; ()
- i. 40 CFR 280.41(b)(2), is excluded; ()
- j. 40 CFR 280.42, Note to paragraph (a), "for tank installed on or before October 13, 2015." is excluded; ()
- k. 40 CFR 280.42(e), "installed on or before October 13, 2015..." is excluded; and ()
- l. 40 CFR Part 280 Subpart J is excluded. ()

02. Hazardous Substance Underground Storage Tank Systems. (4-2-08)

a. The following items only apply to hazardous substance underground storage tank systems and do not apply to petroleum underground storage tank systems: (4-2-08)

i. The definition of "Hazardous substance UST system" in 40 CFR 280.12 and use of this term or regulations regarding hazardous substance in 40 CFR Part 280; and (4-2-08)

ii. 40 CFR 280.42 and any reference to 40 CFR 280.42 in 40 CFR Part 280. (4-2-08)

b. All other provisions of 40 CFR Part 280 and all provisions of IDAPA 58.01.07 shall apply to hazardous substance underground storage tank systems. (4-2-08)

03. Consistency. In the event of conflict or inconsistency between the language in IDAPA 58.01.07 and that found in [40 CFR Part 280](#), IDAPA 58.01.07 shall prevail. (4-2-08)

04. Stringency. IDAPA 58.01.07 shall be no more stringent than federal law or regulations governing underground storage tank systems. (4-2-08)

05. Availability of Referenced Material. The federal regulations adopted by reference can be obtained at the following locations: (4-2-08)

a. U.S. Government Printing Office, www.ecfr.gov; and (4-2-08)

b. Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.07, “Rules Regulating Underground Storage Tank Systems,” the following definitions apply: (4-2-08)

01. Board. The Idaho Board of Environmental Quality. (4-2-08)

02. Community Water System. A public water system that serves at least fifteen (15) service connections used by year-round residents of the area served by the system or regularly serves at least twenty-five (25) year-round residents. (4-2-08)

03. Department. The Idaho Department of Environmental Quality. (4-2-08)

04. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-2-08)

05. Existing. Solely for purposes of determining when secondary containment is required, existing is when a petroleum underground storage tank, piping, motor fuel dispensing system, facility, public water system or potable drinking water well is in place when a new installation or replacement of a tank, piping, or motor fuel dispensing system begins. (4-2-08)

06. EPA. The United States Environmental Protection Agency. (4-2-08)

07. Installation of a New Motor Fuel Dispenser System. The installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the petroleum underground storage tank system. This equipment may include flexible connectors, risers, or other transitional components that are beneath the dispenser, below the shear valve, and connect the dispenser to the piping. It does not mean the installation of a motor fuel dispenser installed separately from the equipment needed to connect the dispenser to the petroleum underground storage tank system. (4-2-08)

08. Installer. Any person who installs a new or replacement petroleum underground storage tank system. (4-2-08)

~~**09. Motor Fuel.** Petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of petroleum-blended gasohol, and is typically used in the operation of a motor engine. This includes blended petroleum motor fuels such as biodiesel and ethanol petroleum blends. (4-2-08)~~

~~**10. New Underground Storage Tank.** Has the same meaning as “underground storage tank or UST” in 40 CFR 280.12, except that such term includes tanks that have been previously used and meet the requirements of 40 CFR 280.20(a). (4-2-08)~~

~~140.~~ **Non-Community Water System.** A public water system that is not a community water system. A non-community water system is either a transient non-community water system or a non-transient non-community water system. (4-2-08)

~~12.~~ **Person.** ~~An individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States government.~~ (4-2-08)

~~131.~~ **Piping.** A hollow cylinder or a tubular conduit constructed of non-earthen materials that routinely contains and conveys regulated petroleum substances from the petroleum underground storage tank(s) to the dispenser(s) or other end-use equipment. It does not mean vent, vapor recovery, or fill lines that do not routinely contain regulated petroleum substances. (4-2-08)

~~102.~~ **Potable Drinking Water Well.** Any hole (dug, driven, drilled, or bored) that extends into the earth until it meets ground water which supplies water for a non-community public water system or otherwise supplies water for household use (consisting of drinking, bathing, and cooking, or other similar uses). Such wells may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities. (4-2-08)

~~153.~~ **Product Deliverer.** Any person who delivers or deposits product into a petroleum underground storage tank. This term may include major oil companies, jobbers, petroleum transportation companies, or other product delivery entities. (4-2-08)

~~164.~~ **Public Water System.** A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "non-community water system." (4-2-08)

~~175.~~ **Red Tag.** A tamper-resistant tag, device, or mechanism attached to the tank's fill pipes that clearly identifies a petroleum underground storage tank as ineligible for product delivery. The tag or device shall be visible to the product deliverer and shall clearly state that it is unlawful to deliver to, deposit into, or accept product into the ineligible petroleum underground storage tank. (4-2-08)

~~18.~~ **Repair.** ~~Solely for purposes of determining when secondary containment is required, as it applies to petroleum underground storage tanks, piping, and motor fuel dispensers systems, repair means any activity that does not meet the definition of replace.~~ (4-2-08)

~~196.~~ **Replace.** As it applies to petroleum underground storage tanks and piping, replace is defined as follows: (4-2-08)

a. Petroleum Underground Storage Tank. Replace means to remove an existing tank and install a new tank. (4-2-08)

b. Piping. Replace means to remove and put back in one hundred (100) percent of the piping, excluding connectors, connected to a single petroleum underground storage tank system. This definition does not alter the requirement in 40 CFR 280.33(c) to replace metal pipe sections and fittings that have released product as a result of corrosion or other damage. A replacement of metal pipe section and fittings pursuant to 40 CFR 280.33(c) shall be considered a replacement under this definition only if one hundred (100) percent of the metal piping, excluding connectors, is replaced. (4-2-08)

~~20.~~ **Secondary Containment.** ~~A release detection and prevention system that meets the requirements of 40 CFR 280.43(g). The piping shall have an inner and outer barrier and a method of monitoring the space between~~

~~the inner and outer barriers for a leak or release.~~

~~(4-2-08)~~

217. Under-Dispenser Spill Containment. Containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or ground water. Such containment must: (4-2-08)

- a. At installation or modification, be liquid-tight on its sides, bottom, and at any penetrations; and (4-2-08)
- b. Be compatible with the substance conveyed by the piping; and either (4-2-08)
- c. Allow for visual inspection and access to the components in the containment system; or (4-2-08)
- d. Be monitored for releases using a release detection method that meets the requirements of 40 CFR 280.43(g). (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

100. ADDITIONAL MEASURES TO PROTECT GROUND WATER FROM CONTAMINATION.

01. Notification. An owner, operator or designee must: (4-2-08)

a. Provide written notice to the Department thirty (30) days prior to the installation of a new piping system or a new or replacement petroleum underground storage tank. (4-2-08)

b. Provide notice to the Department twenty-four (24) hours prior to the installation of a replacement piping system. (4-2-08)

02. Notification Forms. The written notice required in Subsection 100.01.a. shall be made upon forms provided by the Department. (4-2-08)

03. Requirements for Petroleum UST Systems. Owners, operators, and installers of a new or replacement petroleum underground storage tank or piping system shall comply with the following requirements. (4-2-08)

a. Each new petroleum underground storage tank, or piping connected to any such new tank, installed after February 23, 2007, or any existing petroleum underground storage tank, or existing piping connected to such existing tank, that is replaced after February 23, 2007, shall have secondary containment and be monitored for leaks if the new or replaced petroleum underground storage tank or piping is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. At a minimum, secondary containment systems must be designed, constructed, and installed to contain regulated substances released from the tank system until they are detected and removed, prevent the release of regulated substances to the environment at any time during the operational life of the petroleum underground storage tank system, and be checked for evidence of a release at least every thirty (30) days. The following conditions are excluded: (4-2-08)

- i. Suction piping that meets the requirements of 40 CFR 280.41(b)(~~2~~1)(i)(A) through (~~E~~); (4-2-08)()
- ii. Piping that manifolds two (2) or more petroleum underground storage tanks together; (4-2-08)
- iii. Existing piping to which new piping is connected to install a dispenser; and (4-2-08)
- iv. Tanks identified in 40 CFR 280.10(b). (4-2-08)

b. If the owner installs, within one (1) year, a potable drinking water well at the new facility that is within one thousand (1,000) feet of the petroleum underground tanks, piping, or motor fuel dispenser system as part

of the new underground storage tank facility installation, secondary containment and under-dispenser containment are required, regardless of whether the well is installed before or after the petroleum underground tanks, piping, and motor fuel dispenser system are installed. (4-2-08)

c. The notice required in Subsection 100.01 shall indicate whether the new or replacement installation is within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well. If the owner and installer certify that the installation is not within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well, the owner, operator or designee shall provide and maintain documentation showing that a reasonable investigation of water systems and drinking water wells was undertaken. A reasonable investigation includes, but is not limited to, a search of the records of: (4-2-08)

i. The public or private water service provider in the area which the new or replacement installation is located (if any); (4-2-08)

ii. The city or county in which the new or replacement installation is located; (4-2-08)

iii. The Idaho Department of Water Resources; and (4-2-08)

iv. The Idaho Department of Environmental Quality. (4-2-08)

d. In the case of a replacement of an existing petroleum underground storage tank or existing piping connected to the petroleum underground storage tank, Section 100 shall apply only to the specific petroleum underground storage tank or piping being replaced, not to other petroleum underground storage tanks and connected pipes comprising such system. (4-2-08)

e. Each installation of a new motor fuel dispenser system shall include under-dispenser spill containment if the new dispenser is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. (4-2-08)

04. Requirements for Hazardous Substance UST Systems. Owners, operators, and installers of a new or replacement hazardous substance underground storage tank or piping system shall have secondary containment as required in 40 CFR 280.42. (4-2-08)

05. Certification. Owners and operators shall also comply with the certification requirements of 40 CFR 280.22(f) as incorporated by reference into these rules. (4-2-08)

101. ALTERNATIVE PERIODIC TESTING OF CONTAINMENT SUMPS USED FOR INTERSTITIAL MONITORING OF PIPING.

01. Applicability. ()

a. The alternative test method in Subsection 101.02 shall only be used for containment sumps that are performing continuous interstitial monitoring as a piping release detection method where an electronic sump sensor is installed and connected to an electronic monitoring device, such as an automatic tank gauge, or where the piping within a containment sump is continuous to a containment sump which has an electronic sump sensor installed and connected to an electronic monitoring device, such as an automatic tank gauge. ()

i. The sump sensor in Subsection 101.01.a. must be positioned in the containment sump according to manufacturer instructions and at the lowest possible point in the containment sump. ()

ii. The sump sensor in Subsection 101.01.a. must be wired and programmed appropriately to shut down power to the submersible turbine pump (positive shutdown) when the sensor is in contact with liquid in any containment sump. ()

iii. If new dispensers are added and Subsection 101.01.a.ii. cannot be achieved (no electrical conduit, not enough sensor ports, etc.), an electronic stand-alone dispenser containment sump sensor may be used if it is wired appropriately to shut down power to the dispenser when the sensor is in contact with liquid in the dispenser

containment sump. ()

b. The Department may not allow the alternative test method in Subsection 101.02 if it determines the containment sump, penetration fittings, or containment sump sensors are not constructed or positioned in a manner that will accommodate the alternative testing or prevent releases to the environment (i.e., penetration fittings are too close to the containment sump bottom). ()

02. Alternative Test Method Allowed. ()

a. As an alternative to the allowable test method in 40 CFR 280.35(a)(1)(ii)(A)-(C), containment sumps used for interstitial monitoring of piping may be tested as follows: ()

i. Temporarily remove any interstitial monitoring containment sump sensors before conducting the test; ()

ii. Add water to the containment sump up to a point directly beneath the first containment sump penetration fitting from the bottom of the containment sump. The water must be allowed to settle for at least fifteen (15) minutes; ()

iii. Place a measuring stick that has one sixteenth (1/16th) inch increments into the lowest point in the containment sump and extending above the water level in the sump; and ()

iv. Document the initial water level measurement as measured from the bottom of the containment sump. After one (1) hour, document the ending water level measurement. If the water level changes less than one eighth (1/8th) inch, the containment sump passes the integrity test. If the water level changes one eighth (1/8th) inch or greater, the containment sump fails the integrity test. ()

b. Upon completion of the test, remove all water and properly dispose of it. Reinstall any interstitial monitoring sensors. Reinstall all containment sump lids, gaskets, and covers. ()

10~~1~~2. -- 199. (RESERVED)

200. RELEASE REPORTING REQUIREMENTS.

01. Information to be Reported. (4-2-08)

a. In addition to the requirements in IDAPA 58.01.02, "Water Quality Standards," Subsection 851.01, owners or operators shall report the following information regarding confirmed petroleum underground storage tank releases to the Department on forms provided by the Department: (4-2-08)

i. The release source; and (4-2-08)

ii. The release cause. (4-2-08)

b. Releases less than twenty-five (25) gallons that are cleaned up within twenty-four (24) hours, and which do not cause a sheen on nearby surface water, do not need to be reported. (4-2-08)

02. Release Sources. Release sources may include, but are not limited to the following: (4-2-08)

a. Petroleum Underground Storage Tanks; (4-2-08)

b. Piping; (4-2-08)

c. Dispensers, which include the dispenser and equipment used to connect the dispenser to the piping. A release from a suction pump or components located above the shear valve would be an example of a release from the dispenser; (4-2-08)

d. Submersible turbine pump area, which includes the submersible turbine pump head (typically located in the tank sump), the line leak detector, and the piping that connects the submersible turbine pump to the petroleum underground storage tank; and (4-2-08)

e. Delivery problem, which identifies releases that occurred during product delivery to the petroleum underground storage tank. Typical causes associated with this source are spills and overfills. (4-2-08)

03. Release Causes. Release causes may include, but are not limited to the following: (4-2-08)

a. Spills which may occur when the delivery hose is disconnected from the fill pipe of the petroleum underground storage tank or when the nozzle is removed from the vehicle at the dispenser; (4-2-08)

b. Overfills which may occur from the fill pipe at the petroleum underground storage tank or when the nozzle fails to shut off at the dispenser; (4-2-08)

c. Physical or mechanical damage of all types except corrosion. Examples include a puncture of the petroleum underground storage tank or piping, loose fittings, broken components, and components that have changed dimension like elongation or swelling; (4-2-08)

d. Corrosion of a metal tank, piping, flex connector, or other component; and (4-2-08)

e. Installation problem that occurs specifically because the underground storage tank system was not installed properly. (4-2-08)

04. Requirements. The reporting required in Section 200 shall be reported to the Department within ninety (90) days of a confirmed release. The reporting requirement in Section 200 shall not relieve owners or operators from the obligation to comply with [40 CFR Part 280 Subpart E "Release Reporting, Investigation, and Confirmation."](#) IDAPA 58.01.02, "Water Quality Standards," Section 851, "Petroleum Release Reporting, Investigation, and Confirmation," and IDAPA 58.01.02, "Water Quality Standards," Section 852, "Petroleum Release Response and Corrective Action." (4-2-08)()

201. -- 299. (RESERVED)

300. TRAINING REQUIREMENTS.

01. Requirements. The Department shall adopt a training program to help owners and operators comply with the requirements of these rules. The training program requirements shall: (4-2-08)

a. Be consistent with 42 U.S.C. 6991i(a), as amended by the Underground Storage Tank Compliance Act, (Pub.L. 109-58, title XV, sec. 1524(a), Aug. 8, 2005); (4-2-08)

b. Be developed in cooperation with petroleum underground storage tank owners and tank operators; (4-2-08)

c. Take into consideration training programs implemented by petroleum underground storage tank owners and operators as of August 8, 2005; (4-2-08)

d. Provide for training to be conducted on site or at another mutually convenient location; and (4-2-08)

e. Be appropriately communicated to petroleum underground storage tank owners and operators. (4-2-08)

02. Operator Designation. For each petroleum underground storage tank system regulated under these rules, the owner or operator shall: (4-2-08)

a. Designate: (4-2-08)

i. The class A operator, who is the individual(s) having primary responsibility for on-site operation and maintenance of the petroleum underground storage tank system. This does not require that the class A operator be on site; (4-2-08)

ii. The class B operator, who is the individual(s) having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank system. This does not require that the class B operator be on site at all times; and (4-2-08)

iii. The class C operator, who is the daily, on-site individual(s) having primary responsibility for addressing emergencies presented by a spill or release from the petroleum underground storage tank system. The class C operator can be designated by the class A or B operator. (4-2-08)

b. Maintain a record at the facility where the petroleum underground storage tank is located listing each person designated in Subsections 300.02.a.i., 300.02.a.ii., and 300.02.a.iii. (4-2-08)

c. Notify the Department in writing of the individual(s) designated in Subsections 300.02.a.i. and 300.02.a.ii. within thirty (30) days of the designation. (4-2-08)

03. Training. The owner or operator of each petroleum underground storage tank system regulated under these rules shall ensure that the individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. participate in the training conducted by the Department or a state of Idaho approved third party. (4-2-08)

a. The individual(s) identified in Subsections 300.02.a.i. or 300.02.a.ii. shall provide training to the persons identified in Subsection 300.02.a.iii. (4-2-08)

b. The individual(s) identified in Subsection 300.02.a.iii. must be trained before assuming responsibility for responding to emergencies. (4-2-08)

c. The individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. shall repeat the training within thirty (30) days if the petroleum underground storage tank system for which they have responsibility is determined to be out of compliance with these rules. (4-2-08)

d. The individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. shall be trained within thirty (30) days of assuming operation and maintenance duties. ()

04. Unattended Sites. In the case of unattended sites, a sign must be posted in a location visible from the dispensers indicating emergency shut-off procedures and emergency contact phone numbers. (4-2-08)

301. -- 399. (RESERVED)

400. INSPECTIONS.

01. Department Authority. In order to fulfill the statutory requirements of Chapter 88, Title 39, Idaho Code, officers, employees or representatives of the Department, or third-party inspectors as described in Subsection 400.02, are authorized to inspect petroleum underground storage tanks, contents of the tanks, and associated equipment and records relating to such tanks, contents, and associated equipment. (4-2-08)

02. Third-Party Inspections. (4-2-08)

a. Third-party inspectors must be certified, licensed, or registered by an approved state program to perform on-site inspections. At a minimum, third-party inspectors must meet the requirements listed in Subsections 400.02.a.i. through 400.02.a.v.: (4-2-08)

i. Be trained in the state-specific inspection protocols and procedures, and perform inspections pursuant to such protocols and procedures; (4-2-08)

- ii. Successfully complete the state's required training program. The training program for third-party inspectors must be comparable to the training program for Department inspectors; (4-2-08)
 - iii. Not be the owner or operator of the petroleum underground storage tank, an employee of the owner or operator of the petroleum underground storage tank, or a person having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank; (4-2-08)
 - iv. Use an inspection report form developed by the Department. Review of applicable records and other activities that can be accomplished off-site may be combined with activities conducted at the site to fulfill the on-site inspection requirement; and (4-2-08)
 - v. Complete and submit the inspection report to the Department in the manner and time frame established by the Department. All third-party inspection reports must be submitted electronically to the Department for review and for the Department to make a compliance determination for each site. If requested by the Department, third-party inspectors shall provide all supporting documentation for its inspection reports. (4-2-08)
- b.** Third-party inspection procedures must contain an audit program, developed by the Department, to monitor third-party inspectors on a routine basis. The audit program must include a sufficient number of on-site inspections to effectively assess inspector performance. (4-2-08)
- c.** If a third-party inspector fails to demonstrate to the approved state program adequate competence and proficiency to perform petroleum underground storage tank inspections, or the approved state program otherwise determines it is not appropriate for the third-party inspector to conduct on-site inspections as part of a third-party inspection program, the approved state program must take appropriate action against the third-party inspector as provided by law. (4-2-08)

03. Inspections. All inspections shall be done in accordance with the provisions of Section 39-108, Idaho Code. At a minimum, an on-site inspection must assess compliance with the provisions of these rules and 40 CFR Part 280, following: (4-2-08)()

- ~~a. Notification;~~ (4-2-08)
- ~~b. Corrosion protection;~~ (4-2-08)
- ~~c. Overfill prevention in place and operational;~~ (4-2-08)
- ~~d. Spill prevention in place and operational;~~ (4-2-08)
- ~~e. Tank and piping release detection;~~ (4-2-08)
- ~~f. Reporting suspected releases;~~ (4-2-08)
- ~~g. Records of tank and piping repairs;~~ (4-2-08)
- ~~h. Secondary containment where required;~~ (4-2-08)
- ~~i. Financial responsibility; and~~ (4-2-08)
- ~~j. Temporary closure.~~ (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

601. FEE SCHEDULE FOR UNDERGROUND STORAGE TANKS.

All regulated underground storage tanks shall pay an annual underground storage tank fee provided in Section 39-119, Idaho Code. The fee shall be assessed to regulated underground storage tanks as provided in Section 601.

- ()
- 01. Fee Criteria.** ()
- a.** Compartment and siphon-manifolded underground storage tanks shall be treated as separate underground storage tanks. ()
- b.** Temporarily out of use tanks are included in Section 601. ()
- 02. Fee Amount and Schedule.** ()
- a.** Annual fees shall be paid for each fee year beginning January 2, 2018, and continuing for each succeeding year. ()
- b.** The annual fee per underground storage tank is one hundred dollars (\$100). The annual fee shall not exceed one hundred dollars (\$100) and will be re-calculated each year if the fee balance exceeds thirty-five thousand dollars (\$35,000). Any fee balance above thirty-five thousand dollars (\$35,000) will be used to reduce the following year's fee. ()
- c.** New underground storage tanks installed after January 2 will not pay a fee until the following January. ()
- 03. Billing.** ()
- a.** An annual fee invoice will be generated and mailed in November for each owner listed in the Department's Underground Storage Tank Database. ()
- b.** Owners will have one (1) month to notify the Department in writing if the number of underground storage tanks is incorrect. ()
- 04. Payment.** Payment of the annual fee shall be due on January 2, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. ()
- 05. Delinquent Unpaid Fees.** An owner will be delinquent in payment if the annual fee has not been received by the Department by March 1. ()
- 06. Enforcement.** Failure to comply with Section 601 shall be subject to enforcement and penalties pursuant to the enforcement provisions of Section 39-108, Idaho Code, (Idaho Environmental Protection and Health Act), and Section 39-8811(2), Idaho Code, (Idaho Underground Storage Tank Act). ()
- 07. Nonrefundable.** The annual fee required by these rules shall be nonrefundable. ()
- 08. Fee Report.** Prior to February 1 of each year, the Director shall report to the Governor and the Idaho Legislature on the use of fees collected the previous year. At a minimum, the report shall include: ()
- a.** A list of all tanks subject to inspection; ()
- b.** The type of inspection and regulatory authority or guidance used; and ()
- c.** A detailed accounting of how fee funds were spent. ()
- ~~6042~~. -- 999. (RESERVED)

IDAPA 61 - STATE PUBLIC DEFENSE COMMISSION

61.01.01 - RULES GOVERNING THE ADMINISTRATION OF TRAINING FUNDS ALLOCATION FOR DEFENDING ATTORNEYS

DOCKET NO. 61-0101-1601 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2016.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 19-850(a)(i), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2016.

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 State Public Defense Commission has been granted the authority and obligation to provide training to defending attorneys throughout the State. The legislature has appropriated training funds so the Commission may accomplish this task. It is necessary for the Commission to operate under temporary rules at this time to begin immediately providing the requisite training to ensure that defending attorneys are providing constitutional representation.

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:

Promulgation of this rule will have no negative ongoing fiscal impact, but will allow the Commission to disburse appropriated funds immediately, conferring a benefit.

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

This rule will not require any additional expense beyond the already appropriated training funds.

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 will be no negative fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the PDC needs the ability to use the funds appropriated by the legislature immediately. The PDC believes it is prudent to move forward without negotiated rulemaking to provide the requisite training rather than to continue to operate in the absence of any rules at all. The training is required under the statute and to ensure that the defending attorneys across the state are providing constitutional representation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kimberly Simmons at (208) 332-1735.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2016.

DATED this 20th Day of July, 2016.

Kimberly J. Simmons
Executive Director
State Public Defense Commission
816 W. Bannock St. Suite 201
Boise, ID 83702
Tel: (208) 332-1735
Fax: (208) 364-6147

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 61-0101-1601 (NEW CHAPTER)
(Only Those Sections With Amendments Are Shown.)**

**IDAPA 61
TITLE 01
CHAPTER 01**

IDAPA 61 - STATE PUBLIC DEFENSE COMMISSION

**61.01.01 - RULES GOVERNING THE ADMINISTRATION OF TRAINING FUNDS ALLOCATION
FOR DEFENDING ATTORNEYS**

000. LEGAL AUTHORITY.

Section 19-850 (1)(a)(i), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules regarding the training and continuing legal education requirements for defending attorneys. (7-1-16)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 61, Title 01, Chapter 01, "Rules Governing the Administration of Training Funds Allocation for Defending Attorneys." (7-1-16)T

02. Scope. These rules contain the provision for the allocation of funding designated for training of defending attorneys and staff. (7-1-16)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the PDC's office. (7-1-16)T

003. ADMINISTRATIVE APPEALS.

The PDC's determination to confer training funds is a discretionary exercise of its fiduciary duty to responsibly and prudently manage the funds on behalf of its intended recipients. Nevertheless, unless otherwise stated, determinations made by the PDC are subject to administrative appeal under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-16)T

004. INCORPORATION BY REFERENCE.

Documents that are referred to by these rules are incorporated by reference into these rules, and may be modified or amended as the Commissions deems necessary. (7-1-16)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The location and mailing address of the PDC is 816 West Bannock Street, Suite 201, Boise, Idaho 83702. The offices are open daily from 9 a.m. to 5 p.m., except Saturday, Sunday, legal holidays, and when closed because staffing levels do not permit. The PDC's telephone number is (208) 332-1735 and the facsimile number is (208) 364-6147.

(7-1-16)T

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code.

(7-1-16)T

007. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

01. Defending Attorney. Defined in Section 19-851, Idaho Code, as "any attorney employed by an indigent defense provider or otherwise assigned to represent adults or juveniles at public expense" in state courts.

(7-1-16)T

02. Indigent Defense Provider. Any agency, entity, organization or person selected by a board of county commissioners in accordance with section 19-859, Idaho Code, or designee of the commission if the commission's action to remedy specific deficiencies pursuant to section 19-861A (11) (b), Idaho Code, involve the direct provision of indigent defense services, as a means to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense.

(7-1-16)T

03. MCLE. Mandatory Continuing Legal Education credit as determined by the Idaho State Bar.

(7-1-16)T

04. PDC. The State Public Defense Commission.

(7-1-16)T

05. Scholarship. Any amount of training funds granted by the PDC to a defending attorney or staff member to be used toward the costs of attending a training program not hosted by the PDC.

(7-1-16)T

06. Training Program. Any program, class, conference, seminar, or educational opportunity whose purpose includes the training of those engaged in the representation of individuals at public expense.

(7-1-16)T

07. Training Funds. An amount designated in the annual budget of the PDC designated for the benefit of defending attorneys and those under their employ or supervision. Those funds are dedicated to providing training and education for those servicing indigent clients as designated by law, statute, court rule, or appointment.

(7-1-16)T

011. -- 019. (RESERVED)

020. RECIPIENTS OF TRAINING FUNDS.

01. Intended Recipients. Training money allocated in any given fiscal year through the PDC Budget is designated to train defending attorneys, and those under their regular employ or supervision. With the approval of the PDC, non-attorney staff of Defending Attorneys may qualify for training programs or scholarships.

(7-1-16)T

02. Presumptive Qualification. It is presumed that any attorney who is included on the Public Defense Roster maintained by the PDC qualifies as an intended recipient of training funds for the purposes of these rules.

(7-1-16)T

021. PUBLIC DEFENSE ROSTER.

01. Roster Membership. The PDC will create and maintain a roster of all institutional defender attorneys, and defending attorneys included in primary or conflict contracts with the counties in the State.

(7-1-16)T

a. Maintenance of Roster. The roster will be updated whenever there is a change, in May and may be

updated more frequently in order to accurately reflect anytime there are staff changes at the county level. (7-1-16)T

b. Roster Contents. The roster will include the name of each individual attorney along with their professional contact information, including email address, physical address, and telephone number. (7-1-16)T

02. Application for Roster Inclusion. Any attorney who is not employed by an indigent defense provider, or who does not work under an existing indigent defense services contract may apply to the PDC for inclusion on the Public Defense Roster. (7-1-16)T

a. Approval. Inclusion on the Public Defense Roster must be approved by the Executive Director. (7-1-16)T

021. -- 029. (RESERVED)

030. PDC TRAINING PROGRAMS.

01. Use of Training Funds. The PDC may choose to spend training funds to host its own training programs for the benefit of defending attorneys and their staff. (7-1-16)T

a. Equal Access to Training Funds. Where the PDC chooses to host a training program, when determining the allocation of training funds no distinction will be made as to whether the attorney is an employee of an institutional defender, a contract attorney, or an attorney who has qualified for training funds by application. (7-1-16)T

i. Registration Fees and Tuition. Where the PDC provides training programs without a registration fee or tuition, the PDC will provide the same discount to all qualifying attendees. (7-1-16)T

ii. Travel, Lodging, and Per Diem. Where the PDC agrees to provide travel subsidies to attendees, the PDC will establish a minimum travel distance. All those attendees whose residential or office address is located at a distance over the minimum travel distance from the location of the conference will qualify for the same travel subsidies as set forth in the training program announcement. (7-1-16)T

iii. Reimbursement of Expenses. The PDC may determine to provide services, lodging or food in lieu of reimbursement of the same. In the event the PDC determines that any expenses will be provided directly by the PDC, and notifies all registrants at the time of registration, subsequent application of expense reimbursements for the same may be denied. Reimbursement guidelines established by the State of Idaho will apply to all in-state travel. (7-1-16)T

02. Types of Training Programs. PDC Training Programs may be designated as (a) open enrollment, (b) restricted enrollment, (c) targeted enrollment, or (d) application enrollment. Notification will be by email for all training programs. (7-1-16)T

a. Open Enrollment Training Programs. The PDC may host a training program with an open enrollment. All those who qualify and register in advance will be allowed to attend. (7-1-16)T

i. Announcement. The PDC will post available open enrollment training programs on its website, and will notify members of the Public Defense Roster of the training location, dates, and any details regarding the applicability of training funds. (7-1-16)T

ii. Registration. The PDC will honor the registration of any qualifying recipient who registers prior to the deadline. The PDC will impose a registration deadline and may require advance registration. Any registration received by the PDC after the deadline may be rejected by the PDC. (7-1-16)T

b. Restricted Enrollment. The PDC may host a training program open to all qualifying defending attorney or staff, but impose a registration limit. Targeted invitations may be extended prior to the notification of members of the Public Defense Roster. (7-1-16)T

i. **Announcement.** The PDC will post available restricted enrollment training programs on its website, and will notify members of the Public Defense Roster of the training location, dates, and any details regarding the applicability of training funds. (7-1-16)T

ii. **Registration.** The PDC will impose a registration deadline and may require advance registration. The PDC will honor the registration of any qualifying recipient in the order it receives the registration materials until the enrollment limit is reached. Any registration received by the PDC either after the deadline or after the enrollment limit is reached may be notified by the PDC that they cannot be accommodated. (7-1-16)T

c. **Targeted Enrollment.** The PDC may host a training program that is open to qualifying recipients by email invitation only. The PDC may identify specific individuals for targeted invitations where the PDC believes that such a training program would be of particular benefit to the individual or where there is a specific desire to obtain broad geographic representation at the training program. (7-1-16)T

i. **Invitation.** The PDC may identify specific individuals for invitation to attend the training program due to the person's length or time of service, experience, the particular area of law or representation to be covered, the geographic location of the qualifying recipient, or because the individual has been designated as a representative of an institutional defender office. The PDC will inform the invited individual of the time and location of the training program, along with the availability of any training funds. Invitees will be notified of a registration deadline. (7-1-16)T

ii. **Registration.** Where an individual accepts an invitation to attend and registration materials are received by the registration deadline, that individual will be guaranteed a place in the training program. (7-1-16)T

iii. **Announcement.** If the registration deadline passes and the PDC determines that there is additional space, the PDC will treat the training program as a restricted enrollment program under Subsection 030.02.b. (7-1-16)T

d. **Application Enrollment.** The PDC may host a training program that is open only to those selected by the PDC after application materials are submitted. (7-1-16)T

i. **Announcement.** Where applications are sought for qualifying recipients, the PDC will post the training program on its website and will notify members of the Public Defense Roster of the training subject, location and dates, and the availability of any training funds. The PDC will also make available the application materials, establish an application deadline, decision deadline and notify applicants of how many places are available and whether non-attorney staff will be considered. (7-1-16)T

ii. **Decisions.** The PDC will evaluate all completed applications that are received by the deadline. The PDC will notify all applicants within fourteen (14) days of the application deadline as to its decision. The PDC will fill all available training program places as long as a sufficient number of completed applications are received. (7-1-16)T

iii. **Registration.** Where an individual accepts an invitation to attend and registration materials are received by the registration deadline, that individual will be guaranteed a place in the training program. (7-1-16)T

iv. **Delegation of Review and Approval.** The PDC may delegate review and approval of applications to PDC staff. (7-1-16)T

03. Non-Attorney Staff. Staff and others employed or supervised by a Defending Attorney may qualify as a recipient of training funds. Where a person is not on the Public Defense Roster, that person may still either be identified as a targeted recipient of training funds or apply to attend a PDC training program. (7-1-16)T

a. **Application Necessary.** The non-attorney individual must make an application to the PDC for qualification of training funds. (7-1-16)T

b. **Application criteria.** The PDC will consider (1) whether the individual is full-time staff, (2) the position they hold and the type of assistance they provide in the representation of indigent clients, and (3) the

relevance of the materials presented at the training program to their ability to fulfill their duties. (7-1-16)T

i. Open Enrollment. Where a non-attorney's application for qualification of benefits is approved by the PDC in advance of the registration deadline, a completed registration will be treated if the registration was for an attorney. (7-1-16)T

ii. Restricted Enrollment. Where a non-attorney's application for qualification of benefits is approved by the PDC in advance of the registration deadline, a completed registration of an attorney will be given priority over a non-attorney. (7-1-16)T

iii. Targeted Enrollment. Where a non-attorney has been identified by the PDC as an individual to be invited to a specific training, their acceptance of the invitation will be honored. (7-1-16)T

iv. Application Enrollment. Where applications from non-attorneys is permitted by the PDC, and an application is received by the deadline, the PDC will consider the individual's position in determining whether to accept the application. (7-1-16)T

c. Delegation of Review and Approval. The PDC may delegate review and approval of applications to PDC staff. (7-1-16)T

031. JOINT TRAINING PROGRAMS.

01. Joint Training Programs Permitted. The PDC may choose to partner with other organizations or agencies in hosting and providing training programs to qualifying individuals. The nature of these designated training programs may allow for non-qualifying individuals to also register and attend. (7-1-16)T

a. Qualifying Individuals. In determining whether Training funds can be used, the qualification for receipt of benefits will be the same as established in Sections 020 and 021. (7-1-16)T

b. Application of training funds. Qualified recipients will be treated in accordance with Subsection 030.01. (7-1-16)T

02. Exclusive Use of Training Funds. Where non-qualifying individuals register to attend a Joint Training Program, the PDC shall not use training funds to subsidize the cost of registration or travel, other than unavoidable costs of operation. (7-1-16)T

a. Training Program Fees and Costs. The PDC will determine the approximate cost per individual of the training program. Each non-qualifying individual will be assessed the pre-determined cost of attendance at the time of registration. (7-1-16)T

03. Registration. No priority will be given to defending attorneys over non-qualifying individuals in determining which registrants fill the spaces available. (7-1-16)T

032. SCHOLARSHIPS.

01. Availability. The PDC may expend training funds on qualifying individuals to pay the cost to attend non-PDC training programs, in whole or in part. (7-1-16)T

a. Contingent on Funds. Scholarships in any given fiscal year will depend on the availability of training funds allocated outside of existing training programs. (7-1-16)T

b. Effect of scholarship. Any individual who receives a scholarship will not be eligible to receive a PDC scholarship in the same fiscal year. Preference given to applicants not receiving PDC scholarship in previous fiscal year. (7-1-16)T

02. Application. The PDC will post on its website an application for scholarship funding. (7-1-16)T

a. Deadline. All applications must be received by the PDC thirty (30) days before the end of the fiscal year in which funding is sought. All other scholarships will be considered in the following fiscal year. (7-1-16)T

b. Notification. All applications for scholarships will be reviewed by the PDC according to available funding. The PDC will notify applicants of any scholarship reward at least sixty (60) days before the date of the training program. In the event an application is submitted less than sixty (60) days prior to the training program, the PDC will notify the applicant within ten (10) days of the final application submission. (7-1-16)T

c. Non-Attorney Staff. Applications for scholarship will be accepted for non-attorneys in accordance with Subsections 030.03.a. and b. (7-1-16)T

d. Delegation of Review and Approval. The PDC may delegate review and approval of applications to PDC staff. (7-1-16)T

033. – 999. (RESERVED)

IDAPA 61 - STATE PUBLIC DEFENSE COMMISSION

61.01.07 - RULES GOVERNING THE STANDARDS FOR DEFENDING ATTORNEYS THAT UTILIZE IDAHO'S PRINCIPLES OF AN INDIGENT DEFENSE DELIVERY SYSTEM

DOCKET NO. 61-0107-1601 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 19-850(a)(vii), Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by August 19, 2016.

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.

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.

Upon the 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. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

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

The rule will create standards for attorneys who provide representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense that take into account Idaho's Principles of an Indigent Defense Delivery System, Idaho Code 19-850(a)(vii), including but not limited to, requiring such attorneys to conform to performance standards.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text (if available), contact Kimberly Simmons at (208) 332-1735. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the State Public Defense Commission's web site at the following web address: <http://pdc.idaho.gov>.

DATED this 8th Day of July, 2016.

Kimberly J. Simmons, Executive Director
State Public Defense Commission
816 West Bannock St., Suite 201
Boise, ID 83702
Phone: (208) 332-1735
Fax: (208) 364-6147
Kimberly.simmons@pdc.idaho.gov

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

*The written comment submission deadline is August 17, 2016 unless otherwise noted.
Public hearing request deadline is August 24, 2016 unless otherwise noted.
(Temp & Prop) indicates the rule is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 08 - STATE BOARD OF EDUCATION / DEPARTMENT OF EDUCATION PO Box 83720, Boise, ID 83720-0036

08.02.02 - Rules Governing Uniformity

***08-0202-1602, (*PH)** Establishes requirements for school districts and charter schools to implement measures intended to prevent, identify, and respond to bullying, harassment, and intimidation.

***08-0202-1603, (*PH)** Revises a number of standards and endorsements in the Idaho Standards for Initial Certification of Professional School Personnel that are incorporated by reference to better align with national standards and best practices.

***08-0202-1604, (*PH)** Updates the Operating Procedures for Idaho Public Driver Education Program manual that is incorporated by reference to remove the requirement that public driver education and training instructors have a Federal Motor Carriers physical medical examination performed by a specifically trained medical provider and would instead allow a physical exam to be provided by a certified medical professional that would be covered by the individual's medical insurance.

***08-0202-1605, (*PH)** Revises the Standards for Idaho School Buses and Operations that is incorporated by reference. These include changes to bus specifications, alternative fuels, school bus inspections, general operations, disabilities-special health care, Idaho School Bus Withdrawal from Service Standards, and others.

08.02.03 – Rules Governing Thoroughness

***08-0203-1604, (*PH)** Updates and incorporates by reference the Idaho Special Education Manual Amendments. Changes include: updates guidance on confidentiality agreements; removes references to No Child Left Behind; removes outdated reference to psychosocial rehabilitation; changes references to “highly qualified teacher” to align with ESSA; clarifies language regarding Idaho’s 10-day rule for parents objections to a district’s proposal for an Individual Educational Program; adds additional resources to the Procedural Safeguards Notice; and removes obsolete references.

***08-0203-1605, (*PH)** Amends the Alternative Secondary Programs rules to add 6th grade to the grades eligible for alternative secondary program funding; updates terminology; removes limited English proficiency as a qualifier; aligns the instruction section to current practices; and clarifies compliance with the Individuals with Disabilities Education Act (IDEA).

IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS 1510 Watertower St., Meridian, ID 83642

10.01.01 - Rules of Procedure

***10-0101-1601, (*PH)** Updates the education requirements for licensure as a professional land surveyor for applicants with unaccredited surveying or related programs and broadens the course options for those with unaccredited or non-surveying 4-year degrees.

***10-0101-1602, (*PH)** Adds a new section defining the process for applying for a Restricted PE License available to

Ph.D. faculty teaching upper division engineering courses at an Idaho University.

***10-0102-1601, Rules of Professional Responsibility (*PH)** Clarifies the requirement to base opinions stated in reports, statements or testimony in accordance with the standard of care.

IDAPA 12 - DEPARTMENT OF FINANCE

PO Box 83720 Boise, ID 83720-0031

12-0108-1601, Rules Pursuant to the Uniform Securities Act (2004). Fee rule changes references to NSASD to FINRA and applicable references to the Code of Federal Regulations; clarifies the effect of federal regulatory preemption of state authority regarding Regulation A securities offerings; updates incorporation by reference of the NASSA Statements of Policy; allows for the use of a national electronic depository (EFD) for the filing of certain documents for multi-state securities issuers; minimizes the changes required of state registered investment advisers who move between federal and state regulatory oversight; clarifies which registration platform should be used by a registrant based on his status; clarifies that investment advisers duties when advising clients to purchase or sell securities; requires investment advisers to provide balance sheets to the Department that are prepared substantially in accordance with Generally Accepted Accounting Principles.

IDAPA 15 – OFFICE OF THE GOVERNOR – MILITARY DIVISION

IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION

4040 W. Guard St., Bldg. 616, Rm. 10, Boise, ID 83705-5005

15-0601-1601, Rules Governing the Idaho Public Safety Communications Commission. (Temp & Prop) Updates rule to reflect statutory changes including Commission name change, clarifies the scope of the rules, and corrects statutory citations.

15.06.02 - Rules Governing the Idaho Public Safety Communications Commission Grants

15-0602-1601, Allows for the amendment of a grant application; adds criteria on which the priority of grant applications shall be weighed; updates Idaho Code citations; provides and clarifies the Commission's website address and office hours.

15-0602-1602, (Temp & Prop) Updates rule to reflect statutory changes including Commission name change; clarifies the scope of the rules, and corrects statutory citations.

IDAPA 20 – DEPARTMENT OF LANDS

3284 W. Industrial Loop, Coeur d'Alene, ID 838115

***20-0214-1601, Rules for Selling Forest Products on State-Owned Endowment Lands.** (*PH) Removes obsolete rules regarding Land Board approval of individual sales unless outside Board policy; addresses the sale of cedar poles and maximization of Endowment returns.

20-0701-1601, Rules of Practice and Procedure Before the Idaho Oil and Gas Conservation Commission. Repeal of chapter; practice and procedure proceedings are governed by IDAPA 04.11.01.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

1410 N. Hilton, Boise, ID 83706-1255

58.01.01 - Rules for the Control of Air Pollution in Idaho

58-0101-1602, Removes an outdated section of rule that addressed Clean Air Act transportation conformity requirements for the PM10 nonattainment area.

58-0101-1603, Updates the incorporation by reference of federal regulations to the most recent versions.

58-0105-1601, Rules and Standards for Hazardous Waste. Updates the incorporation by reference of the July 1, 2016 federal regulations implementing the Resource Conservation and Recovery Act (RCRA) and denotes instances where emergency notifications must be made to the Idaho Office of Emergency Management in addition to the National Response Center.

58-0107-1601, Rules Regulating Underground Storage Tank Systems. Incorporates by reference the newly revised federal Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs), 40 CFR Part 280, and to negotiate a fee structure to ensure there is sufficient funding to maintain an underground storage tank program and retain state program approval and primary enforcement authority.

IDAPA 61 - STATE PUBLIC DEFENSE COMMISSION**816 W. Bannock St., Suite 201, Boise, ID 83702**

61-0101-1601, Rules Governing the Administration of Training Funds Allocation for Defending Attorneys. New chapter establishes the procedures for the administration of funds allocated for the training of defending attorneys and staff.

NOTICE OF ADOPTION OF TEMPORARY RULE**IDAPA 02 – DEPARTMENT OF AGRICULTURE**

02-0421-1602, Rules Governing the Importation of Animals. (Eff. 7-1-16)T

IDAPA 35 – STATE TAX COMMISSION

35-0103-1604, Property Tax Administrative Rules (Eff. 7-1-16)T

NOTICE OF PROCLAMATION**IDAPA 13 – IDAHO FISH AND GAME COMMISSION**

13-0108-1602, Rules Governing the Taking of Big Game Animals in the State of Idaho

NOTICES OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKINGS**IDAPA 15 – OFFICE OF THE GOVERNOR – IDAHO OFFICE OF EMERGENCY MANAGEMENT**

15-0606-1601, Rules Governing Use of Disaster Emergency Account Funds. (To Participate Respond by 8/17/16)

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Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

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CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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

July 1, 1993 -- Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This online index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

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

March 25, 2016 -- August 3, 2016

(eff. PLR) - Final Effective Date Is 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)

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58-0102-1502 Notice of Rescheduling - Negotiated Rulemaking Meeting, Bulletin Vol. 15-11

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58.01.05, Rules and Standards for Hazardous Waste

- 58-0105-1601** Proposed Rulemaking, Bulletin Vol. 16-8

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