

IDAHO ADMINISTRATIVE BULLETIN

October 4, 2017 - Vol. 17-10

Idaho Department of Administration
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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.

1. 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.

2. 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 very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. 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 these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. 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.

4. 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 statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

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.

5. 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.

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.

1. **“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 2017

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
17-1	January 2017	*November 25, 2016	January 4, 2017	January 25, 2017
17-2	February 2017	January 6, 2017	February 1, 2017	February 22, 2017
17-3	March 2017	February 3, 2017	March 1, 2017	March 22, 2017
17-4	April 2017	March 3, 2017	April 5, 2017	April 26, 2017
17-5	May 2017	April 7, 2017	May 3, 2017	May 24, 2017
17-6	June 2017	May 5, 2017	June 7, 2017	June 28, 2017
17-7	July 2017	June 9, 2017	July 5, 2017	July 26, 2017
17-8	August 2017	July 7, 2017	August 2, 2017	August 23, 2017
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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2018

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
18-1	January 2018	*November 24, 2017	January 3, 2018	January 24, 2018
18-2	February 2018	January 5, 2018	February 7, 2018	February 28, 2018
18-3	March 2018	February 2, 2018	March 7, 2018	March 28, 2018
18-4	April 2018	March 2, 2018	April 4, 2018	April 25, 2018
18-5	May 2018	April 6, 2018	May 2, 2018	May 23, 2018
18-6	June 2018	May 4, 2018	June 6, 2018	June 27, 2018
18-7	July 2018	June 8, 2018	July 4, 2018	July 25, 2018
18-8	August 2018	July 6, 2018	August 1, 2018	August 22, 2018
18-9	September 2018	August 3, 2018	September 5, 2018	September 26, 2018
18-10	October 2018	**August 31, 2018	October 3, 2018	October 24, 2018
18-11	November 2018	October 5, 2018	November 7, 2018	November 28, 2018
18-12	December 2018	November 2, 2018	December 5, 2018	December 26, 2018

****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

02.04.14 – RULES GOVERNING DAIRY BYPRODUCT

DOCKET NO. 02-0414-1702

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 37, Chapters 3, 4, and 6, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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

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

This rule change is a result of a petition received from the Idaho Dairyman's Association to adopt a more accurate and reliable standard for measuring soil phosphorus.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: ISDA does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, page 24](#). Negotiated rulemaking meetings were held at the Idaho State Department of Agriculture on July 31, 2017 and August 17, 2017. There were extensive comments received from the meeting attendees, as well as a written comment submitted and entered into the record that were taken into consideration when drafting this proposed rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The documents incorporated detail the new method for which the phosphorus index standard shall be implemental and establish the regulatory standards for which the evaluated components of each field shall be measured and classified.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

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 October 25, 2017. Comments can be delivered via email to scott.leibsle@isda.idaho.gov or via regular mail to Dr. Scott Leibsle's attention at the address listed below.

DATED this 31st day of August, 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0414-1702
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference, and copies of the documents may be obtained from the Idaho State Department of Agriculture central office at 2270 Old Penitentiary Road, Boise, Idaho, 83712 or accessed online. (3-29-10)

01. Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (1997 Edition) (USDA, NRCS). This document is available online at http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nrcs_10d_1997.pdf. (3-29-10)

02. Nutrient Management Standard (NMS). The 1999 publication by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590, available online at http://www.agri.idaho.gov/AGRI/Categories/Animals/Documents/nutrient_Management_code_590.PDF. (3-29-10)

03. Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004. This document is available online at http://www.agri.idaho.gov/AGRI/Categories/Environment/Documents/nrcs_313_Dec_2004.pdf. (3-29-10)

04. American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>. (3-29-10)

05. Natural Resources Conservation Service (NRCS) Web Soil Survey Database. This document is available online at <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. ()

06. Natural Resources Conservation Service (NRCS) Part 630, Hydrology National Engineering Handbook, Chapter 7, (Hydrologic Soil Groups), January 2009. This document is available online at <https://www.wcc.nrcs.usda.gov/ftpref/wntsc/H&H/NEHhydrology/ch7.pdf>. ()

07. The Phosphorus Site Index: A Systematic Approach to Assess the Risk of Nonpoint Source Pollution of Idaho Waters by Agricultural Phosphorus, 2017. This document is available online at http://www.agri.idaho.gov/AGRI/Categories/LawsRules/sub_rules/Documents/2017/020414_Phos_Site_Index_ref_2017.pdf. ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Agricultural Stormwater Discharge. A precipitation-related discharge of dairy byproducts from land areas under the control of a dairy farm where the dairy byproducts have been mechanically land applied in accordance with an approved nutrient management plan. (3-29-17)

02. Best Management Practice. A practice, technique, or measure that is determined to be a reasonable precaution, a cost-effective and practicable means of preventing or reducing the discharge of pollutants from a point source or a nonpoint source to a level compatible with environmental goals, including water quality goals and standards. (4-11-15)

03. Certified Planner. A person who has completed nutrient management certification in accordance

with the Nutrient Management Standard (NMS) and is approved by the Department. (3-29-10)

04. Certified Soil Sampler. An individual qualified and approved by the Department to collect soil samples according to the 1997 University of Idaho Soil Sampling protocols or other method as approved by the Department. (3-29-10)

05. Dairy Animal. Milking cows, sheep or goats. (3-29-17)

06. Dairy Byproduct. Solids and liquids associated with dairy animal rearing and milk production including, but not limited to, manure, manure compost, process water, bedding, spilled feed, and feed leachate. (3-29-17)

07. Dairy Environmental Management Plan. A plan for managing a dairy environmental management system. The dairy environmental management plan shall consist of dairy storage and containment facilities criteria and a dairy nutrient management plan that are approved by the Director. (3-29-17)

08. Dairy Environmental Management System. The areas and structures within a dairy farm where dairy byproducts are collected, stored, treated, or applied to land. These areas and structures may include corrals, feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, and evaporative ponds and land application areas, but do not include pastures as defined in these rules. (3-29-17)

09. Dairy Farm. The land owned or operated by a person as an integral component of a Department-permitted grade A or manufacture grade facility where one (1) or more milking cows, sheep, or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale for human consumption. A dairy farm does not include those lands that contain non-dairy animals provided a physical separation exists from lands owned or operated by the dairy, byproducts remain separate, and dairy animals are not comingled with non-dairy animals. (3-29-17)

10. Dairy Nutrient Management Plan (DNMP). A plan prepared in conformance with the NMS for managing the land application of dairy byproducts that is prepared by a certified planner and approved by the Department. (3-29-17)

11. Dairy Storage and Containment Facilities. The areas and structures within a dairy farm where dairy byproducts are collected, stored, or treated in conformance with engineering standards and specifications published by the USDA Natural Resources Conservation Service or by the ASABE, or other equally protective criteria approved by the Director. These areas may include corrals, feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, evaporative ponds, and compost areas, but do not include pastures as defined in these Rules. (3-29-17)

12. Department. The Idaho State Department of Agriculture. (3-29-10)

13. Director. The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

14. Export. The delivery of dairy byproducts from a dairy farm to a third party for the third party's use. (3-29-17)

15. Fieldman. An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)

16. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-29-17)

17. Inspector. A qualified, trained person employed by the Department to perform dairy farm inspections. (3-20-97)

18. Land Application. Mechanical spreading on, or incorporating into the soil mantle, dairy byproduct

as a soil amendment for agricultural use of nutrients and for other beneficial purposes. Land application does not include pasturing animals as defined in these rules. (3-29-17)

19. Modification or Modified. Structural changes and alterations to the dairy storage and containment facility that would require increased storage or containment capacity or the function of the facility. (3-29-17)

20. Non-Compliance. A practice or condition that does not meet the requirements of a dairy environmental management plan. Noncompliance does not include an upset condition. (3-29-17)

21. Nutrient Management Standard (NMS). Criteria for managing the land application of nutrients and soil amendments published in the USDA NRCS conservation practice standard nutrient management code 590 or other equally protective criteria approved by the Director. (3-29-17)

22. Pasture, Pasturing, and Pastured. For purposes of these rules, a pasture is an irrigated or dryland field with forage plant growth covering a minimum of fifty percent (50%) of the field. Pasturing and pastured is dairy animals and other animals owned, leased, or otherwise under the control of the producer, grazing in the same dairy farm pasture. (3-29-17)

23. Permit. A permit issued by the Department allowing the sale of Grade A milk or manufacture grade milk. (3-29-17)

24. Person. Any individual, partnership, association, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality; or any legal entity that is recognized by law as the subject of rights and duties. (4-11-15)

25. Phosphorus Site Index. A method to evaluate the relative potential for off-site movement of phosphorus from a field or pasture based upon risk factors relating to surface transport, phosphorus loss potential and nutrient management practices. ()

256. Process Water. Water directly or indirectly used or produced in dairy animal rearing, milk production and environmental management processes including, but not limited to: (3-29-17)

- a.** Excess milk: spillage or overflow from watering, washing, spraying or cooling dairy animals; (3-29-17)
- b.** Water containing dairy manure: water used in washing, cleaning, or flushing barns, manure pits and other areas involved in the milk production and environmental management processes; (3-29-17)
- c.** Water used for dust control; and (3-29-17)
- d.** Water that comes into contact with any raw materials, products, or byproducts of the dairy production and environmental management processes. (3-29-17)

267. Producer. The person who owns or operates a permitted dairy farm. (3-29-17)

278. Unauthorized Discharge. A discharge of pollutants from a dairy farm to waters of the United States as defined in the federal clean water act that is required to be but is not authorized by an IPDES permit. Unauthorized discharge does not include an upset condition or agricultural stormwater discharge. (3-29-17)

289. Unauthorized Release. A release of dairy byproducts to ground water or surface waters of the state that are not waters of the United States or beyond land owned or operated by the dairy farm that results from a dairy farm's failure to comply with its environmental management plan. Unauthorized release shall not include an upset condition, an agricultural stormwater discharge or infiltration from storage and containment facilities that is within engineering standards and specifications published by the USDA, NRCS or by the ASABE, or other equally protective criteria approved by the Director. (3-29-17)

2930. Upset Condition. Precipitation, earthquake, vandalism, or other occurrence beyond the control of

the dairy farm owner or operator that exceeds criteria for storage and containments facilities and nutrient management in an approved environmental management plan. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

030. DAIRY ENVIRONMENTAL MANAGEMENT PLAN APPROVAL.

The Department is authorized to approve environmental management plans, as provided in Section 37-606A, Idaho Code. (3-29-17)

01. Dairy Storage and Containment Facility Criteria. (3-29-17)

a. Dairy storage and containment facilities shall be constructed to meet a minimum of one hundred eighty (180) days of holding capacity. Process water containment structures that are utilized as the secondary or final storage for effluent shall have a minimum two (2) vertical feet of freeboard. (3-29-17)

b. Earthen dairy storage and containment facilities less than ten (10) vertical feet high with a maximum high water line of eight (8) vertical feet shall be required to have a top embankment width of at least eight (8) feet and a minimum of one (1) vertical foot of freeboard shall be maintained. The combined inside and outside embankment slopes must be at least five (5) horizontal to one (1) vertical, and neither slope shall be steeper than two (2) horizontal to one (1) vertical. Earthen dairy storage and containment facilities with outside embankments higher than ten (10) vertical feet from the naturally occurring ground level shall meet the NRCS Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004 embankment requirements as incorporated by reference in Subsection 004.03 of these rules. (3-29-17)

c. The inside bottom of the dairy storage and containment facility shall be a minimum of two (2) feet above the high water table, bed rock, gravel, or permeable soils. For an earthen dairy storage and containment facility, a soil liner shall be installed such that the specific discharge rate of the containment structure meet $1 \times 10^{-6} \text{ cm}^3/\text{cm}^2/\text{sec}$ or less as described in Appendix 10D. Concrete or synthetic liners must be constructed to the American Society of Agricultural and Biological Engineers Specification ASABE EP393.3 Manure Storages February 2004 and Appendix 10D as incorporated by reference in Section 004 of these rules. (3-29-17)

d. Storage areas for dairy byproduct, including compost and solid manure storage areas, shall be located on approved soils and appropriately protected to prevent run on and run off. (3-29-17)

e. Dairy environmental management systems shall be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-29-17)

02. Dairy Nutrient Management Plan (DNMP). Except as provided below, each dairy farm shall have a dairy nutrient management plan that is approved by the Department and included in the dairy farm's environmental management plan. The DNMP shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator to which dairy byproducts are land applied. A new dairy farm governed by the IPDES program is not required to submit a DNMP to the Department. An existing dairy farm with an approved DNMP that has a discharge to waters of the U.S. that requires an IPDES permit must comply with the nutrient management plan requirements under the IPDES rules and IPDES permit, notwithstanding the Department approved DNMP. Requirements to comply with the provisions of a DNMP include the following: (3-29-17)

a. Producer annual soil tests shall be conducted as set forth in IDAPA 02.04.30, "Rules Governing Nutrient Management." (3-29-17)

b. Regulatory soil tests will be conducted at frequencies sufficient to provide assurance of compliance with Section 031 and with IDAPA 02.04.30, "Rules Governing Nutrient Management." (3-29-17)()

~~**i.** If the regulatory or producer soil tests reveal that phosphorus thresholds have exceeded the levels established in the NMS, the producer shall only apply nutrients at the appropriate phosphorus crop uptake rate. (3-29-10)~~

~~ii. Subsequent regulatory soil test(s) on fields and pastures that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the phosphorus index continues to trend upward, the producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil. (3-29-17)~~

c. Accurate DNMP records shall be maintained. These records shall include at a minimum: (3-29-17)

i. Regulatory soil samples shall be taken by a Certified Soil Sampler and tested by a laboratory that meets the requirements and performance standards of the North American Proficiency Testing Program under the auspices of the Soil Science Society of America outlined in the NMS, as incorporated by reference in Subsection 004.02, as part of NMS 590 or other methods as approved by the Department; (3-29-10)

ii. Annual soil analysis; (3-29-10)

iii. Date and amount of dairy byproduct and commercial fertilizer applied to individual dairy owned or operated fields; (3-29-17)

iv. Date(s) of exported dairy byproduct, number of acres applied, amount of dairy byproduct exported, and to whom dairy byproduct was exported; and (3-29-17)

v. Actual crop yields on dairy owned or operated fields. (3-29-10)

vi. A nitrogen management plan worksheet (pages 35-36 of the 2017 Idaho Phosphorus Site Index Standards) shall be completed for all fields and pastures receiving land application of nutrients. ()

d. Pasturing. Pastures utilized for grazing of dairy animals, and other animals owned, leased or otherwise under the control of a producer within the same pasture, shall be incorporated in and subject to the DNMP. These pastures are also subject to the following requirements: (3-29-17)

i. Soil testing. Soil tests shall be conducted pursuant to the NMS and Section 031 on all lands utilized as pasture. ~~If pasture soil tests exceed the phosphorus threshold, the producer must take action to demonstrate a downward trend in the phosphorus index in subsequent soil tests. If two (2) out of three (3) subsequent soil tests reveal the phosphorus index continues to trend upward, the producer will be penalized as provided in these rules. (3-29-17)()~~

ii. Surface water access. If pastured animals have access to surface water within a pasture, the producer may be required to implement one (1) or more NRCS conservation practice standards to minimize adverse impact on surface water quality. (3-29-17)

iii. Land application. If land application occurs within a pasture, soil tests shall be conducted annually on that pasture. (3-29-17)

iv. Confinement areas. Confinement areas shall not be considered part of a pasture. (3-29-17)

031. PHOSPHORUS MANAGEMENT.

Dairy farms shall utilize either Phosphorus Indexing (Section 031.01) or the Phosphorus Threshold (Section 031.02) to manage nutrient application. After June 30, 2023, dairy farms will no longer be allowed to use the Phosphorus Threshold (Section 031.02) provision and all facilities will be required to use Phosphorus Indexing (Section 031.01). ()

01. Phosphorus Indexing. The dairy farm shall utilize phosphorus site indexing (PSI) for each field where dairy byproducts and/or commercial fertilizers are land applied and for each pasture utilized for grazing, in accordance with the 2017 Idaho Phosphorus Site Index Standards. The PSI shall be calculated by a Nutrient Management Planner, certified by the Department, and be included as a component of the DNMP in the dairy farm's Environmental Management Plan. It shall be the dairy farm's responsibility to provide updated information, including annual soil test results, to the Nutrient Management Planner for calculation of the PSI on all fields and pastures on an

annual basis. Failure to abide by the nutrient application and management provisions of a field or pasture's PSI risk classification in the DNMP shall constitute a non-compliance and the producer may be penalized as provided in these rules. ()

a. Notwithstanding anything to the contrary in the 2017 Idaho Phosphorus Site Index Standards, no land application of nutrients shall be permitted on any fields or pastures that possess a soil phosphorus level exceeding three hundred (300) parts per million, as determined by the required annual soil test (via Olsen method). Further, the dairy farm shall not receive BMP Coefficient credit for implementing any best management practice designed to reduce phosphorus loss on fields exceeding three hundred (300) parts per million, via Olsen method. ()

b. The Department may award zero or partial BMP Coefficient credit when a dairy farm implements a best management practice designed to reduce phosphorus loss from fields that does not fully conform to NRCS standards or the standards set forth in the 2017 Idaho Phosphorus Site Index Standards BMP definition section. ()

02. Phosphorus Threshold. If the regulatory or producer soil tests reveal that phosphorus thresholds on fields and pastures have exceeded the levels established in the NMS, the producer shall only apply nutrients at the appropriate phosphorus crop uptake rate. Subsequent regulatory soil test(s) on fields and pastures that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the phosphorus index continues to trend upward, the producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil. ()

~~0342.~~ -- 039. (RESERVED)

IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS
05.01.02 – RULES AND STANDARDS FOR SECURE JUVENILE DETENTION CENTERS
DOCKET NO. 05-0102-1701
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 20-504a(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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:

Definitions were clarified, procedures were updated, several sections were combined or reorganized into lists and a few renamed, and law enforcement officers were added to any list of allowed confidential visitors.

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

There are no fees or charges being imposed through this rulemaking.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the detention centers and staff that this rule affects helped develop these changes.

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

No documents are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Skow, (208) 884-7323.

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 October 25, 2017.

DATED this September 1, 2017.

Sharon Harrigfeld, Director
Idaho Department of Juvenile Corrections
954 W. Jefferson, Boise, ID 83702
PO Box 83720, Boise, ID 83720-0285
Phone: (208) 334-5100
FAX: (208) 334-5120

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 05-0102-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

As used in this chapter: (4-5-00)

- 01. Adult.** A person eighteen (18) years of age or older. (4-5-00)
- 02. Body Cavity Search.** The manual internal examination ~~and possible intrusion~~ into the rectal or vaginal cavities to detect contraband. ~~It is performed only by the a~~ medical authority. ~~(4-5-00)~~ ()
- 03. Chemical Agent.** An active substance, such as oleoresin capsicum, used to deter disturbances that might cause personal injury or property damage. (4-5-00)
- 04. Classification.** A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and/or programs according to their needs and existing resources, while addressing the safety and security of all detained juveniles. (3-20-14)
- 05. Commit.** Commit means to transfer legal custody to the Idaho Department of Juvenile Corrections. (3-30-07)
- 06. Community-Based Program.** An in-home detention program or a nonsecure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county. (3-30-07)
- 07. Contact Visiting.** A program that permits juvenile offenders to visit with designated person(s). The area is free of obstacles or barriers that prohibit physical contact. (3-30-07)
- 08. Contraband.** Any item not issued or authorized by the detention center. (3-30-07)
- 09. Corporal Punishment.** Any act of inflicting punishment directly on the body, causing pain or injury. (4-5-00)
- 10. Court.** Idaho district court or magistrate's division thereof. (3-30-07)
- 11. Day Room/Multi-Purpose Room.** That portion of the housing unit used for varied juvenile offender activities which is separate and distinct from the sleeping rooms. (3-30-07)
- 12. Department.** The Idaho Department of Juvenile Corrections. (3-30-07)
- 13. Detention.** Detention means the temporary placement of juvenile offenders who require secure custody for their own or the community's protection in physically restricting facilities. (3-30-07)
- 14. Detention Center.** A facility established pursuant to Title 20, Chapter 5, Sections 20-517 and 20-518, Idaho Code, for the temporary placement of juvenile offenders who require secure confinement. (3-30-07)
- 15. Detention Records.** Information regarding the maintenance and operation of the detention center including but not limited to correspondence, memorandums, complaints regarding the detention center, daily activity logs, security and fire safety checks, head counts, health inspection records, and safety inspection records, use of physical force records and use of restraints records, incident reports, employee training and certification for use of security equipment. (3-30-07)

16. **Direct Care Staff.** Any care staff member charged with day-to-day supervision of juvenile offenders housed in a juvenile detention center. (3-30-07)
17. **Director.** The Director of the Idaho Department of Juvenile Corrections. (3-30-07)
18. **Electroshock ~~Weapons~~ Device.** ~~Weapons used for subduing a person by administering~~ A device which delivers an electric shock ~~which designed to temporarily~~ disrupts muscle function. ~~(3-29-12)~~()
19. **Emergency Care.** Care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call. Emergency care shall be provided to the juvenile offender population by the medical staff, physician, other appropriately trained staff, local ambulance services or outside hospital emergency rooms. (3-30-07)
20. **Emergency Plans.** Written documents that address specific actions to be taken in an institutional emergency or catastrophe such as a medical emergency, fire, flood, riot or other major disruption. (4-5-00)
21. **Health Appraisal.** An evaluation of a patient's current physical and mental condition and medical histories conducted by the health authority or medical employee. (3-30-07)
22. **Health Authority.** The physician, health administrator, or agency responsible for the provision of health care services at the detention center. (3-30-07)
23. **Health-Trained Employee.** A person who operates within the limits of any license or certification to provide assistance to a physician, nurse, physician's assistant, or other professional medical staff. Duties may include preparing and reviewing screening forms for needed follow-up; preparing juvenile offenders and their records for sick call; and assisting in the implementation of medical orders regarding diets, housing, and work assignments. (3-29-12)
24. **Housing Unit.** The total living area available to a group or classification of juvenile offenders in a detention center. This area may consist of a dormitory or a combination of the space in each sleeping room and day room/ multi-purpose room. (3-30-07)
25. **Incident Report.** A written document reporting any occurrence or event, or ~~any other~~ an incident which threatens the safety and security of direct care staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. ~~(3-30-07)~~()
26. **Judge.** A district judge or a magistrate. (4-5-00)
27. **Juvenile.** A person less than eighteen (18) years of age. (3-30-07)
28. **Juvenile Detention Records.** Information maintained in hard copy or electronic format concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in detention. (3-30-07)
29. **Juvenile Offender.** A person who was under the age of eighteen (18) at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. (3-30-07)
30. **Legal Custody.** The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. (3-30-07)
31. **Legal Guardian.** A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. (4-5-00)
32. **Mechanical Restraints.** Devices used to restrict physical activity. (3-30-07)

33. **Medical Employee.** A certified or licensed person such as a physician, nurse, physician's assistant, or emergency medical technician who works under the supervision and authority of the health authority consistent with their respective levels of licensure, certification, training, education and experience. (3-29-12)

34. **Medical Records.** ~~Separate~~ Records of maintained by the health authority, to include medical examinations, ~~and diagnoses, maintained by the health authority and any medical care provided.~~ (4-5-00)()

35. **Intake Medical Screening.** A system of structured observation/initial health assessment of newly arrived juvenile offenders. Medical screenings may be performed by a medical employee or health-trained employee, or by a juvenile detention officer using a checklist approved by the Health Authority. (3-29-12)

36. **Observation and Assessment Program.** A residential or nonresidential program designed to complete assessments of juvenile offenders. (3-30-07)

37. **Pat Search.** ~~The touching or feeling of a subject's clothed body to detect contraband~~ A passing of the hands over the clothed body of a person by direct care staff to determine whether the individual possesses contraband. (4-5-00)()

38. **Perimeter Security.** A system that controls ingress and egress to the interior of a detention center or institution. The system may include electronic devices, walls, fence, patrols or towers. (3-30-07)

39. **Perimeter Security Check.** Physical inspection of the perimeter of the detention center performed for the purpose of discovering or preventing security breach. May include the inspection of the perimeter of the detention center and adjacent containment fence or areas as designated by detention center policy and procedures. (3-30-07)

40. **Petition for Exemption.** A formal written document addressed to the Director of the Idaho Department of Juvenile Corrections requesting exception from a detention center standard. ~~The petition for exemption must contain written justification why the petitioner should be relieved from enforcement of specific detention standard(s).~~ (3-30-07)()

41. **Physical Intervention.** ~~Appropriate physical control used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes~~ Physical contact to guide, restrict, or prevent movement in order to take immediate control of a situation. (3-30-07)()

42. **Policy and Procedures.** Standard operating strategies and processes developed by the administrative authority governing detention center operations. (3-30-07)

a. Policy is a course of action that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the direct care staff must operate. (3-30-07)

b. Procedure is the detailed and sequential action which must be executed to ensure that policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs actions required to perform a specific task within the guidelines of the policy. (4-5-00)

43. **Prison Rape Elimination Act (PREA).** A federal act promulgating standards that promote zero (0) tolerance toward sexual abuse of juvenile offenders by staff or by other juvenile offenders. Also known as Public Law 108-79 or PREA. (3-20-14)

44. **Rated Capacity.** The maximum number of juvenile offenders which may be housed in a particular room, housing unit, or detention center based upon available square footage, sanitation fixtures, and other physical plant features specified in these rules. (3-30-07)

45. **Renovation.** The alteration of the structure of any existing juvenile detention center, or portion thereof, for the purposes of changing or improving its function. This may include, but not be limited to, altering the

physical layout of essential areas within the detention center or reconstruction of the existing structure, areas, or interior features. (3-30-07)

46. Rule Infraction. A violation of detention center rules of conduct or policy and procedures as governed by detention center policy and procedures. (3-30-07)

47. Safety Equipment. Devices primarily used for safety purposes such as but not limited to firefighting equipment, for example, chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms. (4-5-00)

48. Secure Perimeter. The outer portions of a detention center that provide for secure confinement of juvenile offenders. (3-30-07)

49. Security Devices. Equipment used primarily to confine and control detained persons and may include but is not limited to locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies, and other equipment used to maintain detention center security. (3-30-07)

50. Staffing Plan. A documented schedule which includes staffing of direct care staff, staffing ratios, resident activities, and the certification level of staff. (3-30-07)

51. Standards. Rules for Secure Juvenile Detention Centers, IDAPA 05, Title 01, Chapter 02. (3-30-07)

52. Strip Search. A visual examination of a juvenile offender's naked body for weapons, contraband, injuries, ~~or vermin infestations~~ or a medical condition that may require further attention. This also includes a thorough search of the juvenile offender's clothing while such is not being worn. ~~(3-29-12)~~()

53. Volunteer. A person who freely chooses to provide services to juvenile offenders or staff at a juvenile detention center, and is not compensated for the services or time. Volunteers are supervised by direct care staff. Volunteers shall not be unsupervised with juvenile offenders and will be supervised by direct care staff at the detention center. (3-29-12)

011. -- 199. (RESERVED)

200. INSPECTION PROVISIONS.

The Department or its designee shall have the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these rules and any other standards outlined in Title 20, Chapter 5, Section 20-518, Idaho Code. (3-29-12)

01. Annual Visits. Each juvenile detention center shall be subject to announced or unannounced visits by Department representatives on at least an annual basis. (3-30-07)

02. Review of Logs, Records, Policy and Procedure Manuals, Memorandums and Reports. All logs, records, policy and procedures manuals, memorandums, training records, and incident and other reports shall be available for review excluding medical records, personnel records and personnel action reports. Department representatives shall be allowed to observe and privately interview juvenile offenders and staff concerning any matter pertaining to these rules. Department representatives shall further have access to all parts of the detention center for the purpose of inspecting the physical plant. ~~(3-29-12)~~()

(BREAK IN CONTINUITY OF SECTIONS)

204. STANDARDS COMMITTEE.

A standing committee shall be created for the purpose of reviewing the standards, petitions for exemption from standards and requests for modification of standards. The committee will be made up of three committee members:

one (1) representative and one (1) alternate from the detention center administrators, one (1) representative and one (1) alternate county commissioner, and one (1) representative from the Department. Final appointment of all Standards Committee members and alternates are made by the Director. The detention center representative of detention center administrators and county commissioner representative should not be from the same judicial district. Alternates should not be from the same judicial district as their corresponding representative. Committee members' terms will run two (2) years starting on October 1 of the year in which the member is nominated and approved. If the petition for exemption or request for modification is initiated from the same district as a committee representative, that committee representative will abstain and the alternate will serve in place of said representative. (3-30-07)

~~**01. Petition for Exemption.** When an exemption from a standard is desired, the detention center administrator shall submit a request, in writing, to the Director outlining the proposed alternative arrangement together with documentation showing how such arrangement will provide conditions at least equivalent to the corresponding standard. The Director will then make determinations as to the necessity, scheduling and convening of a special meeting of the Standards Committee. The Standards Committee will review the petition, prepare and submit its written recommendations to the Director. The Director retains the authority to make the final decision to approve or deny the petition. The petition for exemption, if granted, shall apply only to the petitioner for the specific detention center cited. An indemnification agreement will be entered into between the detention center and the Department in the event the petition for exemption is granted. (3-30-07)~~

04. Standards Committee Meetings. The Standards Committee will meet at least bi-annually ~~biennially~~ to review the Juvenile Detention Center Standards, requests for modification of standards, or petitions for exemptions. The Standards Committee shall also meet when the Director determines that a special meeting is necessary to review the juvenile detention center standards, requests for modification of standards, or petitions for exemptions. (3-30-07)()

02. Requests for Modification of Standards. In the event a standard becomes obsolete or unworkable, a request for modification may be filed with the Director. The request letter must represent the views of at least three detention center administrators and contain their signatures. The Director will then make determinations as to the necessity, scheduling and convening of a special meeting of the Standards Committee. If convened, the Standards Committee will review the request, prepare and submit its written recommendations to the Director. The Director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. (3-30-07)

03. Modification of Standards by the Standards Committee. In the event that the Standards Committee determines that a standard is obsolete, unworkable, unclear, or otherwise unreasonable, the committee may submit written recommendations to the Director for changes to the standards, along with explanations regarding the reasons for the requested changes. The Director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. Any modification of the standards must be promulgated as rules in accordance with the Idaho Administrative Procedures Act. (3-30-07)

205. -- 209. (RESERVED)

210. DETENTION CENTER ADMINISTRATION.

01. Legal Entity. The public or private agency operating a detention center is a legal entity, part of a legal entity, or a political subdivision. (3-30-07)

02. Governing Body. Governing body shall mean any public or private entity established or delegated as a source of legislative or administrative authority to provide the fiscal needs of the detention center administrator so that he may carry out the provisions of these rules. (3-30-07)

03. Detention Center Administrator. The detention center shall have a designated administrator who shall be responsible for all detention center operations. (3-30-07)

04. Mission Statement. The detention center shall have a written mission statement which describes its philosophy and goals. (3-30-07)

05. Policy and Procedures. The detention center administrator shall develop and maintain written policy and procedures which shall safeguard the basic rights of juvenile offenders and shall safeguard the juvenile offenders' freedom from discrimination based upon sex, race, creed, religion, national origin, disability, or political belief and establish practices that are consistent with fundamental legal principles, sound correctional practices, and humane treatment. These written policy and procedures shall be reviewed on a regular basis, updated as needed and made available to all detention center employees. The policy and procedures manual shall be submitted to the prosecuting attorney or other legal authority for review and approved by county commissioners or other governing authority *on an annual basis*. After such approval, a copy of the policy and procedures manual shall be submitted to the Department. (3-29-12)()

(BREAK IN CONTINUITY OF SECTIONS)

212. STAFF REQUIREMENTS AND STAFF DEVELOPMENT.

01. Twenty-Four Hour Supervision. The detention center shall be staffed by detention center employees on a twenty-four (24) hour basis when juvenile offenders are being housed. (3-30-07)

02. Staffing. The detention center shall have staff to perform all functions relating to security, supervision, services and programs as needed to operate the detention center. The detention center shall have policy and procedures in place governing staffing and shall submit a staffing plan to the Department *prior to licensing and renewal as requested. The following staffing plan is a recommendation only, and is not mandatory.* It is recommended that each secure juvenile facility shall maintain staff ratios of a minimum of one to eight (1:8) plus one (1) during resident waking hours and one to sixteen (1:16) during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. (3-20-14)()

a. If the detention center houses eight (8) or fewer juvenile offenders, there should be at least one (1) direct care staff and one (1) other staff awake at all times. (3-30-07)

b. If the detention center houses more than eight (8) juvenile offenders, there should be one (1) direct care staff for each eight (8) juvenile offenders plus one (1) additional staff awake at all times. Example: if the detention center houses thirty-two (32) juvenile offenders, four (4) direct care staff would be recommended (one (1) staff to eight (8) juvenile offenders), plus one (1) additional staff for a total of five (5) staff. (3-29-12)

03. Gender of Employees. At least one (1) of the detention center employees on duty should be female when females are housed in the detention center and at least one (1) should be male when males are housed in the detention center. *During the admission process, An employee of the same gender as the juvenile offender being detained shall should be on duty at the time of intake present.* (3-30-07)()

04. Minimum Qualifications. (3-30-07)

a. Direct care staff, at the time of employment, shall meet the minimum criminal history background and certification requirements as provided in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers." (3-30-07)

b. Direct care volunteers, before starting volunteer services, shall meet the minimum criminal history background requirements as provided in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers." (3-30-07)

c. The agency shall conduct criminal background records checks at least every five (5) years of current employees, contractors, and volunteers who may have contact with residents as outlined in PREA Standard Section 115.317. (3-20-14)

05. Training and Staff Development Plan. Each juvenile detention center shall develop a staff training and development plan based on the policy and procedures of the detention center. The plan shall also ensure that all juvenile detention officers earn the juvenile detention officer certificate as mandated in IDAPA 11.11.02,

“Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers.” (3-30-07)

a. All new direct care staff shall be provided orientation training- ~~that~~ *The orientation and training plan shall* address ~~es~~ areas including, but not limited to: ~~(3-29-12)~~ ()

- i. First aid/CPR; (3-30-07)
- ii. Security procedures; (3-30-07)
- iii. Supervision of juvenile offenders; (3-30-07)
- iv. Suicide prevention; (3-20-14)
- v. Fire and emergency procedures; (3-30-07)
- vi. Safety procedures; (3-30-07)
- vii. Appropriate use of physical intervention, and demonstrate an adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; (3-25-16)
- viii. Report writing; (3-30-07)
- ix. Juvenile offender rules of conduct; (3-30-07)
- x. Rights and responsibilities of juvenile offenders; (3-30-07)
- ~~xi.~~ *Fire and emergency procedures;* ~~(3-30-07)~~
- ~~xii.~~ *Safety procedures;* ~~(3-30-07)~~
- ~~xiii.~~xi. Key control; (3-30-07)
- ~~xiv.~~xii. Interpersonal relations; (3-30-07)
- ~~xv.~~xiii. Social/cultural life styles of the juvenile population; (3-30-07)
- ~~xvi.~~xiv. Communication skills; (3-29-12)
- ~~xvii.~~xv. Mandatory reporting laws and procedures; (3-20-14)
- ~~xviii.~~xvi. Professional boundaries; and (3-20-14)
- ~~xix.~~xvii. All training as outlined in section 115.331 of the PREA Standards. (3-20-14)

b. All direct care staff who are considered part-time, on-call, or working fewer than forty (40) hours per week and any direct care staff who works in a facility classified as Rural Exception, must obtain a part-time juvenile detention officer certification as mandated by IDAPA 11.11.02, “Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers.” (3-25-16)

c. Ongoing training shall be provided at the minimum rate of twenty-eight (28) hours for each subsequent year of employment, which shall include, but not be limited to: (3-20-14)

i. A total of eight (8) hours of appropriate use of force, and demonstrate an adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; and (3-25-16)

- ii. All ongoing training as outlined in section 115.331 of the PREA Standards; and (3-25-16)
- iii. All other trainings that require recertification. (3-20-14)
- d. Volunteers and contractors shall be trained commensurate to their level of contact with juvenile offenders. (3-29-12)
- e. Each facility shall maintain accurate training documentation. (3-20-14)

213. -- 214. (RESERVED)

215. DETENTION CENTER INFORMATION SYSTEMS.

01. ~~Written Policy and Procedures~~ Records. The detention center shall have written policy and procedures to govern the collection, management, and retention of information pertaining to juvenile offenders and the operation of the detention center. Written policy and procedures shall address, at a minimum, the following: ~~(3-30-07)~~ ()

- a. Accuracy of information, including procedures for verification; (4-5-00)
- b. Security of information, including access and protection from unauthorized disclosure; (4-5-00)
- c. Content of records; (4-5-00)
- d. Maintenance of records; (4-5-00)
- e. Length of retention; and (4-5-00)
- f. Method of storage or disposal of inactive records. (4-5-00)

02. Release of Information. Prior to release of information to agencies other than criminal justice authorities or other agencies with court orders for access, a written release of information shall be obtained from the juvenile offender's parent, legal guardian or through a court order with a copy of that release placed in the juvenile offender's file folder. (3-30-07)

03. Access to Records. Parents, legal guardians, legal representatives, and staff shall be permitted access to information in the juvenile offender's files and records as authorized by law. Absent a court order to the contrary, the detention center administrator may restrict access to certain information, or provide a summary of the information when its disclosure presents a threat to the safety and security of the detention center or may be detrimental to the best interests of the juvenile offender. If access to records is denied or restricted, documentation that states the reason for the denial or restriction shall be maintained by the detention center administrator. (3-29-12)

216. DOCUMENTATION.

01. Shift Log. The detention center shall maintain documentation including time notations on each shift which includes the following information, at a minimum: (3-30-07)

- a. Direct care staff on duty; (3-30-07)
- b. Time and results of security or well-being checks and head counts; (4-5-00)
- c. Names of juvenile offenders received or discharged with times recorded; (3-30-07)
- d. Names of juvenile offenders temporarily released or returned for such purposes as court appearances, work/education releases, furloughs, or other authorized absences from the detention center with times recorded; (3-30-07)

- e. Time of meals served; (4-5-00)
 - f. Times and shift activities, including any action taken on the handling of any routine incidents; (3-29-12)
 - others; g. Notation and times of entry and exit of all visitors, including physicians, attorneys, volunteers, and (4-5-00)
 - h. Notations and times of unusual incidents, problems, disturbances, escapes; (3-29-12)
 - i. Notations and times of any use of emergency or restraint equipment; and (4-5-00)
 - j. Notation and times of perimeter security checks. (4-5-00)
- 02. Housing Assignment Roster.** The detention center shall maintain a master file or roster board indicating the current housing assignment and status of all juvenile offenders detained. (3-30-07)
- 03. Visitor's Register.** The detention center shall maintain a visitor's register in which the following will be recorded: (3-30-07)
- a. Name of each visitor; (4-5-00)
 - b. Time and date of visit; (4-5-00)
 - c. Juvenile offender to be visited; and (3-30-07)
 - d. Relationship of visitor to juvenile offender and other pertinent information. (3-30-07)
- 04. Juvenile Detention Records.** The detention center shall classify, retain and maintain an accurate and current record for each juvenile offender detained in accordance with the provisions of Title 31, Chapter 8, Section 31-871, Idaho Code. The record shall contain, at a minimum, the following: (3-30-07)
- a. Booking and intake records; (4-5-00)
 - b. Record of court appearances; (4-5-00)
 - c. Documentation of authority to hold; (4-5-00)
 - d. Probation officer or caseworker, if assigned; (4-5-00)
 - offender; e. Itemized inventory forms for all clothing, property, money, and valuables taken from the juvenile (3-30-07)
 - f. Classification records and information about a resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident; (3-20-14)
 - g. Documentation of education as outlined in PREA Standard Section 115.333; (3-20-14)
 - h. Rule infraction reports; (4-5-00)
 - i. Records of disciplinary actions; (4-5-00)
 - j. Grievances filed and their dispositions; (4-5-00)
 - k. Release records; (4-5-00)
 - l. Personal information and emergency contact information; (4-5-00)

- m. Documentation of a completed intake medical screening; (3-29-12)
- n. Visitor records; (4-5-00)
- o. Incident reports; (4-5-00)
- p. Photographs. (4-5-00)

05. Incident Reports. Any person involved in or witness to an incident shall write an individual incident report. The incident report shall include, at a minimum, who, what, when, where, why, how, and action taken. Incidents reports shall be written for situations including but not limited to the following: ()

- a. Any criminal act; ()
- b. Use of force; ()
- c. Use of restraints, except for transfer; ()
- d. Suicide or attempted suicide; ()
- e. Escape or attempted escape; ()
- f. Emergencies; ()
- g. Serious rule violations; ()
- h. Cross-gender searches; ()
- i. Body cavity searches; ()
- j. Seizure and disposition of contraband; and ()
- k. Any incident deemed serious enough to disrupt or disturb the security, safety, and orderly operations or well-being of the center, staff, juveniles, or public. ()

06. Incident Report Review. All incident reports shall be reviewed by the detention center administrator, or designee, and shall be maintained as part of the detention center records. ()

(BREAK IN CONTINUITY OF SECTIONS)

223. SAFETY AND EMERGENCY PROCEDURES.

01. ~~Written Policy and Procedures~~ **Emergency Plan.** The detention center shall have written policy and procedures that address ~~fire~~ safety plans for responding to emergency situations. (3-25-16)()

02. **Compliance with Fire Code.** The detention center shall comply with local and state fire codes. A request for an annual inspection shall be made to the local fire marshal or authorized agency. The detention center shall maintain documentation of this inspection. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

225. PHYSICAL INTERVENTION.

01. **Appropriate Use of Physical Intervention.** The detention center shall have written policy and procedures which govern the use of physical intervention. ()

a. The use of physical intervention shall be restricted to the following situations, and then only to the degree necessary to restore order: ()

i. ~~Instances of justifiable self-protection;~~ ()

ii. ~~The protection of others;~~ ()

iii. The protection of property; ()

iv. ~~The prevention of escapes;~~ and ()

v. ~~The suppression of disorder and then only to the degree necessary to restore order.~~ (3-30-07)()

b. Physical intervention shall not be used as punishment. (3-30-07)

~~**b.** A written report shall be made following any use of physical intervention. The report will be reviewed by the detention center administrator and will be maintained as part of the detention center records. (3-30-07)~~

02. **Use of Chemical Agents.** The detention center shall have written policy and procedures which govern the use of chemical agents, if approved for use in the detention center. ()

a. The use of chemical agents shall be restricted to the following situations, and then only to the degree necessary to restore order: ()

i. ~~Instances of justifiable self-protection;~~ ~~or~~ ()

ii. ~~The protection of others and then only to the degree necessary to restore order;~~ (3-29-12)()

iii. The prevention of escapes; and ()

iv. The suppression of disorder. ()

b. Chemical agents shall ~~not only~~ be administered by any individual who has ~~not successfully completed a P.O.S.T. certified training course taught by a P.O.S.T. certified trainer~~ been certified in its use by a qualified instructor. (3-29-12)()

b. Oleoresin Capsicum shall be the only chemical agent approved for use in juvenile detention centers. (3-29-12)

03. **Use of Electroshock ~~Weapons~~ Devices.** The use of electroshock ~~weapons~~ devices is prohibited in juvenile detention centers unless used by law enforcement officers responding to a call for assistance initiated by detention staff. (3-29-12)()

04. **Use of Mechanical Restraints.** The detention center shall have written policy and procedures which govern the use of mechanical restraints, including notification of medical or mental health professionals. ()

a. The use of restraints shall be restricted to justifiable: ()

i. ~~Instances, during of transfer; and for medical reasons under the direction of medical staff. Justifiable instances shall be specifically defined in each detention center's policy and procedures. Written policy and~~

~~procedures shall provide that instruments of restraint are never applied as punishment and are applied only with the approval of the detention center administrator or designee, and that juvenile offenders in mechanical restraints are not left unattended.~~ (3-29-12)()

- ~~ii. Instances of justifiable self-protection; ()~~
- ~~iii. The protection of others; ()~~
- ~~iv. The protection of property; ()~~
- ~~v. Medical reasons under the direction of medical staff; ()~~
- ~~vi. The prevention of escapes; and ()~~
- ~~vii. The suppression of disorder. ()~~

~~b. Restraints shall not be used as punishment or for the convenience of staff. (4-5-00)~~

~~b. A written report shall be made following any use of restraints except for transfer. The report will be reviewed by the detention center administrator and will be maintained as part of the detention records. (3-30-07)~~

~~c. Juvenile offenders in mechanical restraints shall not be left unattended except in documented exigent circumstances. ()~~

(BREAK IN CONTINUITY OF SECTIONS)

227. SEARCH AND SEIZURE.

01. Detention Center Search Plan. The detention center shall have written policy and procedures which outline a detention center search plan for the control of contraband and weapons and provides for unannounced and irregularly timed searches of juvenile offenders' rooms, day rooms, and activity, work or other areas accessible to juvenile offenders and searches of all materials and supplies coming into the detention center. (3-30-07)

02. Personal Searches. The detention center shall have written policy and procedures governing the ~~searching~~ personal searches of juvenile offenders, to include pat, strip, visual body cavity, and body cavity searches for the control of contraband and weapons ~~which~~ and provides for unannounced and irregularly timed searches of juvenile offenders. Said policies and procedures shall include, at a minimum, the following provisions requirements that: (3-30-07)()

- ~~a. Search of juvenile offenders upon entering the security perimeter; (3-30-07)~~
- ~~b. Search of newly admitted juvenile offenders; (3-30-07)~~
- ~~c. Periodic unannounced and irregularly timed searches of juvenile offenders; (3-30-07)~~
- ~~d. Provision for strip searches and body cavity searches at such times when there exists reasonable belief that the juvenile offender is in the possession of contraband or weapons or other prohibited material and shall only be conducted as described in Subsections 227.02.f. and 227.02.g.; (3-30-07)~~
- ~~e. Pat searches. Except in cases of emergency, pat searches shall be conducted by direct care personnel of the same sex; (3-29-12)~~
- ~~f. Strip searches. All strip searches shall be conducted in private and in a manner which preserves the dignity of the juvenile offender to the greatest extent possible and under sanitary conditions. All strip searches shall be conducted by direct care personnel of the same sex as the juvenile offender or by the health authority or medical~~

~~employee. No persons of the opposite sex of the juvenile offender, other than the health authority or medical employee, shall observe the juvenile offender during the strip search; and (3-30-07)~~

~~g. Body cavity searches. All body cavity searches shall be conducted in private and in a manner which preserves the dignity of the juvenile offender to the greatest extent possible and under sanitary conditions. Body cavity searches shall be conducted only by the health authority or by a medical employee. No persons of the opposite sex of the juvenile offender, other than the health authority or medical employee, shall observe the juvenile offender during body cavity searches. (3-30-07)~~

~~h. Prohibition on searches or physical examinations of transgender or intersex residents for the sole purpose of determining genital status; (3-20-14)~~

~~i. Prohibition of cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners; (3-20-14)~~

~~j. Prohibition of cross-gender pat-down searches except in exigent circumstances; (3-20-14)~~

~~k. The documentation and justification for all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches. (3-20-14)~~

a. All searches be performed under sanitary conditions in a manner which protects the dignity of the juvenile to the greatest extent possible; ()

b. All pat searches be performed by direct care personnel of the same sex as the juvenile, except under exigent circumstances; ()

c. All strip or visual body cavity searches be performed by direct care personnel of the same sex as the juvenile with the exception of the health authority or medical personnel; ()

d. No person of the opposite sex of the juvenile shall be allowed to observe any unclothed search of the juvenile, including strip, visual body cavity, or body cavity searches with the exception of the health authority or medical personnel; ()

e. All body cavity searches shall be conducted only by the health authority or by medical personnel; ()

f. An initial pat search must be performed at the intake process prior to the removal of any mechanical restraints; and ()

g. Any search or physical examination of transgender or intersex residents for the sole purpose of determining genital status is prohibited. ()

03. ~~All Body Cavity Searches Shall Be~~ Documentation of Certain Searches. The detention center shall have policies and procedures which govern the documentation of certain searches. Documentation of body cavity searches shall be maintained in detention center records and in the juvenile offender's record, and shall include justification and any exigent circumstances surrounding the search. Searches which must be documented include, but are not limited to; (3-30-07)()

a. Any search performed by direct care personnel of the opposite sex as the juvenile; ()

b. Any strip or visual body cavity search performed or observed by direct care personnel of the opposite sex of the juvenile; ()

c. Any body cavity search observed by direct care personnel of the opposite sex of the juvenile; or ()

d. Any strip, visual body cavity or body cavity search performed. ()

04. **Seizure and Disposition of Contraband.** The detention center shall have written policy and procedures which explains the chain of custody to govern the handling and/or disposal of contraband. All contraband found during detention center or juvenile offender searches shall be seized and processed according to detention center policy, including involvement of law enforcement, if appropriate. The seizure and disposition of the contraband shall be documented. When a crime is suspected to have been committed within the detention center, all evidence shall be maintained and made available to the proper authorities. (3-29-12)()

(BREAK IN CONTINUITY OF SECTIONS)

235. **FOOD SERVICE SANITATION.**

01. **Written Policy and Procedures.** The detention center shall have written policy and procedures to govern food service sanitation, ~~and shall at a minimum include, but not be limited to, the following items:~~ (3-30-07)

~~a. Food service and related sanitation practices shall comply with the requirements of the state health department or other appropriate regulatory body. The detention center's food service operation shall be inspected in the manner and frequency mandated by local health authorities. The detention center administrator shall solicit at least an annual sanitation inspection by a qualified entity. The results of such inspections shall be documented and the detention center administrator shall take prompt action to correct any identified problems;~~ (3-29-12)()

~~b. All persons assigned to food service work, including juvenile offenders, shall be in good health and free from any communicable or infectious disease, vermin, or open, infected wounds;~~ (3-30-07)

~~c. All persons assigned to food service work shall be familiar with and adhere to appropriate food service sanitation practices and requirements;~~ (3-30-07)

~~d. All dishes, utensils, pots, pans, trays, and food carts used in the preparation, serving, or consumption of food shall be washed and rinsed promptly after every meal. Disposable utensils and dishes shall not be reused; and~~ (3-30-07)

~~e. Food service area ventilation systems shall not be altered from engineering or architectural specifications, except when repair or upgrade is needed.~~ (3-30-07)

~~02. **Food Service Inspections.** A weekly inspection of all food service areas and equipment shall be conducted by the detention center administrator or designee.~~ (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

245. **PERSONAL HYGIENE.**

01. **Personal Hygiene Items.** The detention center shall have written policy and procedures which shall govern the provision of, without charge, the following articles necessary for maintaining proper personal hygiene: (3-30-07)

- a. Soap; (4-5-00)
- b. Toothbrush; (4-5-00)
- c. Toothpaste; (4-5-00)
- d. Comb or brush; (3-30-07)

- e. Shaving equipment ~~upon request~~; (3-30-07)()
- f. Products for female hygiene needs; and (3-30-07)
- g. Toilet paper. (3-30-07)

02. Removal of Personal Hygiene Items. The detention center shall have written policy and procedures that govern the removal of personal hygiene items from juvenile offenders' sleeping areas. Removal must be based upon sufficient reason to believe that the juvenile offender's access to the items poses a risk to the safety of juvenile offenders, staff or others, or poses a security risk to the detention center. (3-30-07)

03. Clothing and Linens. The detention center shall provide for the issue of clean clothing, bedding, linens, and towels to new juvenile offenders held overnight. At a minimum, the following shall be provided: (3-30-07)

- a. A set of standard detention center clothing or uniform; (3-30-07)
- b. A set of standard detention center bedding and linens; (3-25-16)
- c. Fire-retardant mattress; (4-5-00)
- d. Sufficient blankets to provide comfort under existing temperature conditions; and (4-5-00)
- e. One (1) clean towel. (4-5-00)

04. Laundry Services. Laundry services shall be sufficient to allow required clothing, bedding, and towel exchanges for juvenile offenders. (3-30-07)

a. Clothing and towels used by the juvenile offender while in the detention center shall be laundered or exchanged at least twice each week. (3-30-07)

b. Linen shall be changed and laundered or exchanged at least once weekly or more often, as necessary. (4-5-00)

c. Blankets in use shall be laundered or exchanged at least monthly, or before re-issue to another juvenile offender. (3-30-07)

05. Clothing and Linen Supplies. The detention center inventory of clothing, bedding, linen, and towels shall exceed the maximum population to ensure that a reserve is always available. (3-30-07)

246. -- 249. (RESERVED)

250. HEALTH SERVICES.

01. ~~Written Policy and Procedures~~ Health Care. The detention center shall have written policy and procedures to govern the delivery of reasonable medical, dental, and mental health services. These written policy and procedures must at a minimum address, but are not limited to the following: (3-30-07)()

a. Intake medical screening must be documented and performed on all juvenile offenders upon admission to the detention center. (3-29-12)

i. The medical screening should include inquiry of current illness and health problems, dental problems, sexually transmitted and other infectious diseases, medication taken and special health requirements, if any, the use of alcohol or drugs, mental illness and/or suicidal behavior. (3-29-12)

ii. The screening should also include observations of ~~unusual behavior, including state of consciousness, mental status, appearance, conduct, tremor, sweating, body deformities, physical injuries, trauma~~

~~markings, bruises, rashes, evidence of body vermin, and ease of movement;~~ the physical condition, mental condition, and/or behavior. (3-29-12)()

- b. Handling of juvenile offenders' requests for medical treatment; (3-30-07)
- c. Non-emergency medical services; (4-5-00)
- d. Emergency medical and dental services; (4-5-00)
- e. Use of a vehicle for emergency transport; (3-25-16)
- f. Emergency on-call physician and dental services when the emergency health care facility is not located nearby; (4-5-00)
- g. ~~First-aid and CPR instructions and training, including~~ The availability of first-aid supplies; (4-5-00)()
- h. Screening, referral, and care of juvenile offenders who may be suicide-prone, or experience physical, mental or emotional disabilities; (3-30-07)
- i. Arrangements for providing close medical supervision of juvenile offenders with special medical or psychiatric problems; (3-30-07)
- j. Delousing; (3-29-12)
- ~~k. Infectious disease control and medical isolation;~~ (4-5-00)
- ~~k.~~ Temporary, immediate Medical isolation, and proper examination ~~by the medical employee~~ of juvenile offenders suspected of having contagious or infectious diseases; (3-30-07)()
- ~~l.~~ Management of pharmaceuticals, including storage in a secure location; and (3-30-07)
- ~~m.~~ Notification of next of kin or appropriate authorities in case of serious illness, injury or death. (3-30-07)

02. Medical Judgments. Except for regulations necessary to ensure the safety and order of the detention center, all matters of medical, mental health, and dental judgment shall be the sole province of the health authority, who shall have final responsibility for decisions related to medical judgments. (3-30-07)

03. Informed Consent. Permission to perform medical, surgical, dental or other remedial treatment shall be obtained from parents, spouse, guardian, court or other competent person as stated in Title 16, Chapter 16, Section 16-1627, Idaho Code. (3-30-07)

04. Health Appraisal. A health appraisal for each juvenile offender shall be provided by the health authority or medical employee within fourteen (14) days of admission. (3-30-07)

251. -- 254. (RESERVED)

255. RULES AND DISCIPLINE.

01. ~~Written Policy and Procedures~~ Behavioral Management. The detention center shall have written policy and procedures for maintaining discipline and regulating juvenile offenders' conduct. The following general principle shall apply: (3-30-07)()

- a. The conduct of juvenile offenders shall be regulated in a manner which encourages and supports appropriate behavior, with penalties for negative behavior; (3-30-07)
- b. The detention center shall have written rules of conduct which specify prohibited acts, the penalties

that may be imposed for various degrees of violation, and the disciplinary procedures to be followed; (3-30-07)

c. Disciplinary action shall be of a nature to regulate juvenile offenders' behavior within acceptable limits and shall be taken at such times and in such degrees as necessary to accomplish this objective; (3-30-07)

d. The behavior of juvenile offenders shall be controlled in an impartial and consistent manner; (3-30-07)

e. Disciplinary action shall not be arbitrary, capricious, retaliatory, or vengeful; (4-5-00)

f. Corporal or unusual punishment is prohibited, and care shall be taken to insure juvenile offenders' freedom from personal abuse, humiliation, mental abuse, personal injury, disease, property damage, harassment, or punitive interference with daily functions of living, such as eating or sleeping; (3-30-07)

~~g. Use of restraints or use of physical force as punishment is prohibited; (3-30-07)~~

~~h. Withholding of meals or variation of diet as punishment is prohibited; and (3-25-16)~~

~~ig.~~ Juvenile offenders shall not be subject to any situation in which juvenile offenders impose discipline on each other. (3-30-07)

02. Resolution of Rule Infractions. The detention center shall have written policy and procedures to define and govern the resolution of rule infractions. (3-30-07)

03. Grievance Procedures. The detention center shall have written policy and procedures for juvenile offenders which will identify grievable issues and define the grievance process. (3-30-07)

04. Criminal Law Violations. The detention center shall have written policy and procedures to govern the handling of incidents that involve the violation of federal, state, or local criminal law, including prompt referral to the appropriate authority for possible investigation and prosecution. (3-30-07)

256. ~~MAIL, VISITING, TELEPHONE~~ COMMUNICATION AND CORRESPONDENCE.

01. ~~Written Policy and Procedures~~ Mail, Visiting, Telephone. The detention center shall have written policy and procedures which shall govern the practices of handling mail, visitation, use of the telephone, and any limitations or restriction on these privileges. Juvenile offenders shall have the opportunity to receive visits and to communicate and correspond with persons, representatives of the media or organizations, subject to the limitations necessary to maintain detention center security and order. (~~3-30-07~~)()

02. Resident Access to Outside Support Services. The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse as outlined by PREA Standard Section 115.353. (3-20-14)

03. Mail Service. Mail, other than sent to or received from public officials, judges, attorneys, courts, government officials and officials of the confining authority, may be opened and inspected for contraband. (4-5-00)

04. Telephone Service. All juvenile offenders, except those restricted as a result of disciplinary action, shall be provided the opportunity to complete at least two (2) telephone calls weekly to maintain family and community ties. (3-30-07)

a. Telephone calls ~~shall not~~ may be monitored and notification shall be provided to the juvenile, except where legitimate reason exists in order to maintain security and order in the detention center. Notification that the juvenile offender's phone calls may be monitored should be posted in the detention center. (~~3-30-07~~)()

b. The detention center may require that any costs for telephone calls be borne by the juvenile offender or the party called. (3-30-07)

c. Written policy and procedures shall grant all juvenile offenders the right to make at least one (1)

local or collect long distance telephone call to family members, attorneys, or other approved individuals during the admissions process. (3-30-07)

d. Juvenile offenders shall be allowed to make a reasonable number of telephone calls to their attorneys. (3-30-07)

i. Telephone calls to attorneys shall be of reasonable duration. (4-5-00)

ii. Telephone calls to attorneys shall not be monitored. (4-5-00)

iii. Telephone calls to attorneys shall not be revoked as a disciplinary measure. (4-5-00)

05. Visitation Restrictions. The parents or legal guardians, probation officer, parole officer, detention center administrator or the court of jurisdiction may impose restrictions on who may visit a juvenile offender. (3-30-07)

06. Search of Visitors. Written policy and procedures shall specify that visitors register upon entry into the detention center and the circumstances under which visitors are searched and supervised during the visit. (3-30-07)

07. Confidential Visits. The detention center shall provide juvenile offenders adequate opportunities for confidential access to courts, attorneys, and their authorized representatives, probation and parole officers, law enforcement, counselors, caseworkers, and the clergy. ~~(3-30-07)~~()

08. Visitation. Attorneys, probation and parole officers, law enforcement, counselors, caseworkers, and clergy shall be permitted to visit juvenile offenders at reasonable hours other than during regularly scheduled visiting hours. ~~(3-30-07)~~()

a. Visits with attorneys, probation and parole officers, law enforcement, counselors, caseworkers, and clergy shall not be monitored, except that detention center employees may visually observe the visitation as necessary to maintain appropriate levels of security. ~~(3-30-07)~~()

b. Visits with attorneys, probation and parole officers, law enforcement, counselors, caseworkers, or clergy should be of the contact type unless otherwise indicated by the juvenile offender or visitor, or the detention center administrator determines there is a substantial security justification to restrict the visit to a non-contact type. ~~(3-29-12)~~()

257. -- 260. (RESERVED)

261. ADMISSION.

01. Orientation Materials. Written policy and procedures shall provide that new juvenile offenders receive orientation materials, including conduct rules. If, at any time, a literacy or language barrier is recognized, the detention center shall make good faith efforts to assure that the juvenile offender understands the material. (3-30-07)

02. ~~Written~~ Procedures for Admission. The detention center shall have written policy and procedures for admission of juvenile offenders which shall address, but are not limited to, the following: ~~(3-30-07)~~()

a. Determination that the juvenile offender is lawfully detained in the detention center; (3-29-12)

b. The classification of juvenile offenders in regard to sleeping, housing arrangements, and programming; (3-30-07)

c. ~~If the~~ Any juvenile offender shows sing signs of ~~illness, injury, is incoherent, or unconscious, he shall~~ impairment should not be admitted to the detention center ~~until the detaining officer has provided written~~ without documentation from medical personnel or a physician of examination, treatment, and fitness for confinement; ~~(3-29-12)~~()

- d. A complete search of the juvenile offender and possessions; (3-30-07)
- ~~e.~~ Pat searches shall be performed before mechanical restraints are removed at the admissions process; ()
- ~~ef.~~ The care and disposition of personal property; (3-25-16)
- ~~fg.~~ Provision of shower and the issuance of detention clothing and personal hygiene articles; (3-30-07)
- ~~gh.~~ The provision of medical, dental and mental health screening; (3-30-07)
- ~~hi.~~ Male and female juvenile offenders shall not occupy the same sleeping room; (3-30-07)
- ~~ij.~~ The recording of basic personal data and information; (3-30-07)
- ~~jk.~~ Providing assistance to juvenile offenders in notifying their families of their admission and the discussion of procedures for mailing and visiting; (3-29-12)
- ~~kl.~~ The fingerprinting and photographing in accordance with Title 20, Chapter 5, Section 20-516(8), Idaho Code; and (3-29-12)
- ~~lm.~~ The administration of the MAYSI or other approved risk tool. (3-29-12)

03. Court Appearance Within Twenty-Four Hours. According to Title 20, Chapter 5, Section 20-516(4), Idaho Code, written policy and procedures shall ensure that any juvenile offender placed in detention or shelter care be brought to court within twenty-four (24) hours, excluding Saturdays, Sundays and holidays for a detention hearing to determine where the juvenile offender will be placed until the next hearing. ~~Status offenders shall not be placed in any jail or detention center, but instead may be placed in juvenile shelter care facilities.~~ (3-30-07)()

04. Limitations of Detention. Written policy and procedures shall limit the use of detention in accordance with Title 20, Chapter 5, Section 20-516, Idaho Code. (3-30-07)

262. RELEASE.

01. Release of Offender. Written policy and procedures shall govern the release of any juvenile offender and the release process including, but not limited to: (3-20-14)()

- a. Verification of juvenile offender's identity; (3-20-14)
- b. Verification of release papers; (3-20-14)
- c. Completion of release arrangements, including the person or agency to whom the juvenile offender is being released: (3-20-14)
- d. Return of personal effects; and (3-20-14)
- e. Completion of any pending action. (3-20-14)

02. Community Leaves Temporary Release. Written policy and procedures shall govern escorted and unsecured day leaves into the community. (3-30-07)()

03. Personal Property Complaints. Written policy and procedures shall govern a procedure for handling complaints about personal property. (4-5-00)

04. Disposal of Property. Property not claimed within four (4) months of a juvenile offender's

discharge may be disposed of by the detention center in accordance with Title 55, Chapter 14, Section 55-1402, Idaho Code. (3-29-12)

263. -- 264. (RESERVED)

265. PROGRAMS AND SERVICES AVAILABLE.

01. ~~Written Policies and Procedures Governing Available Programs and Services.~~ The detention center shall have written policy and procedures which govern what programs and services will be available to juvenile offenders. These programs and services shall include, at a minimum, the following: ~~(3-29-12)~~ ()

- a. Access or referral to counseling; (3-29-12)
- b. Religious services on a voluntary basis; (3-29-12)
- c. One (1) hour per day, five (5) days per week of large muscle exercise; (3-29-12)
- d. Passive recreational activities: (3-29-12)
- e. Regular and systematic access to reading material: (3-29-12)
- f. Work assignments; and (3-29-12)
- g. Educational programs according to the promulgated rules of the Idaho State Department of Education. (3-29-12)

02. Records of Participation in Programs and Services. Records of participation in programs and services must be recorded in daily shift log or juvenile offender's file or program records. (3-20-14)

03. Limitations and Denial of Services. Access to services and programs will be afforded to all juvenile offenders, subject to the limitations necessary to maintain detention center security and order. Any denial of services must be documented. (3-29-12)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.02.06 – RULES CONCERNING IDAHO STATE PLUMBING CODE

DOCKET NO. 07-0206-1702

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-2606, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking has been scheduled by the Idaho Plumbing Board, and will be held as follows:

PUBLIC MEETING
Thursday, October 19, 2017 — 9:30 a.m. (MDT)
Idaho Division of Building Safety 1090 E. Watertower Street, Suite 150 Meridian, ID 83642

via VIDEO-TELECONFERENCE (Same Date & Time)	
Coeur d’Alene Regional Office 1250 Ironwood Drive, Suite 220 Coeur d’Alene, Idaho 83814	Pocatello Regional Office 2055 Garrett Way, Bldg. 1, Suite 4 Pocatello, Idaho 83201

During the scheduled public meeting, additional negotiated rulemaking meetings may be established by the Board, if necessary. Adequate notice of the dates, locations, and manner of participation of any such additional meetings will be posted on the Division of Building Safety website at <http://dbs.idaho.gov/>.

The meeting sites will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not alter than five (5) days prior to the meeting to the agency address below.

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

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho Plumbing Board on designated forms available on the Division of Building Safety website at <http://dbs.idaho.gov/> and at the DBS offices in Meridian, Coeur d’Alene, and Pocatello, Idaho. Individuals may also attend the public meeting to be conducted on the above date, at the above listed locations, during which the Idaho Plumbing Board will allow oral comments or presentations to be made.

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

Pursuant to Section 54-2606, Idaho Code, the Idaho Plumbing Board has the authority through the promulgation of rules to adopt and amend the Idaho State Plumbing Code. The Plumbing Board desires to amend provision of the code as it determines necessary through the negotiated rulemaking process. The Board seeks the participation of the affected industry, enforcement jurisdictions, and the public at large in this rulemaking process to ensure that due consideration is given to the varying views about the adoption of amendments to this code for application in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact John Nielsen, Plumbing Program Manager, Division of Building Safety at (208) 332-7112. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the DBS website at <http://dbs.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments, questions, recommendations, and ideas must be directed to the undersigned and must be submitted on the appropriate form to the Division of Building Safety or the Idaho Plumbing Board by October 13, 2017. Forms may be submitted via email to neg.rules@dbs.idaho.gov.

DATED this 29th day of August, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 07 – DIVISION OF BUILDING SAFETY

**07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION,
AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY**

DOCKET NO. 07-0701-1703

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-5005, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking have been scheduled by the Idaho HVAC Board, and will be held as follows:

PUBLIC MEETING

Wednesday, November 8, 2017 — 9:30 a.m. (MST)

**Idaho Division of Building Safety
1090 E. Watertower, Suite 150
Meridian, ID 83642**

via VIDEO-TELECONFERENCE (Same Date & Time)

**Coeur d’Alene Regional Office
1250 Ironwood Drive, Suite 220
Coeur d’Alene, Idaho 83814**

**Pocatello Regional Office
2055 Garrett Way, Bldg. 1, Suite 4
Pocatello, Idaho 83201**

During the scheduled public meeting, additional negotiated rulemaking meetings may be established by the Board, if necessary. Adequate notice of the dates, locations, and manner of participation of any such additional meetings will be posted on the Division of Building Safety website at <http://dbs.idaho.gov/>.

The meeting sites will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not alter than five (5) days prior to the meeting to the agency address below.

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

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho HVAC Board on designated forms available on the Division of Building Safety website at <http://dbs.idaho.gov/> and at the DBS offices in Meridian, Coeur d’Alene, and Pocatello, Idaho. Individuals may also attend the public meeting to be conducted on the above date, at the above listed locations, during which the Idaho HVAC Board will allow oral comments or presentations to be made.

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

Pursuant to Section 54-5005, Idaho Code, the Idaho HVAC Board has the authority through the promulgation of rules to ensure that all HVAC licensure and HVAC systems in the state are enforced or installed in accordance with the adopted codes and rules. The HVAC Board desires to propose rules that allow HVAC apprentices to test upon completion of school, add tables for unlisted appliances, and define more clearly licensing.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING

COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact John Nielsen, HVAC Program Manager, Division of Building Safety at (208) 332-7112. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the DBS website at <http://dbs.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments, questions, recommendations, and ideas must be directed to the undersigned and must be submitted on the appropriate form to the Division of Building Safety or the Idaho HVAC Board by November 3, 2017. Forms may be submitted via email to neg.rules@dbs.idaho.gov.

DATED this 29th day of August, 2017.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-1701

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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-2402 and 33-2403, 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 October 18, 2017.

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

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

The proposed amendments provide clarification that the Board does not review courses or courses of study as part of the proprietary school registration process and that those individuals who are providing training for a profession that is regulated by another state agency or Board must attest that the courses meet the licensing or certification requirements of the regulating agency or Board.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No changes are being made to the existing fee schedule.

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 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 40](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582 or tracie.bent@osbe.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 October 25, 2017.

DATED this 29th day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0111-1701
(Only Those Sections With Amendments Are Shown.)

201. THE BOARD MAY NOTIFY THE POSTSECONDARY EDUCATIONAL INSTITUTION OF ADDITIONAL INFORMATION REQUIRED.

If the Board is unable to determine the nature and activities of an institution on the basis of the information provided by the institution under this rule, then the Board may notify the institution of additional information that it will be required to provide in connection with the application for registration. (4-9-09)

01. Verification of Information. The Board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. The applicant institution shall be responsible for any costs the Board incurs, including travel, associated with this review. (4-9-09)

02. Criteria for Approval of Registration. To be approved for registration, the institution must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule. An institution must remain in compliance for the registration year. (4-9-09)

03. Public Information. All information submitted to the Board in connection with the application is subject to disclosure as set forth in the Public Records Act, Title 9, Chapter 3, Idaho Code. (3-29-12)

04. Certificate of Registration or Exemption. (3-29-12)

a. A certificate of registration will be issued to a postsecondary educational institution that has paid its registration fee and has been approved under this rule. A certificate evidencing initial registration will be effective the date it is issued, and continue through June 30 of the next succeeding year. A renewal certificate will be for the period July 1 through June 30 of the next succeeding year. No institution that is registered with the Board shall advertise or represent in any manner that it is accredited by the Board. An institution may only represent that it is "Registered with the Idaho State Board of Education." Registration is not an endorsement of the institution or any of its courses, courses of study, or degrees. (4-7-11)

b. An institution exempt from registration under these rules may request a certificate of exemption. (3-29-12)

c. If a postsecondary educational institution wishes to offer additional courses, courses of study, or degrees during a registration year that were not included in its annual registration application to the Board, then the institution must submit a letter to the Board Office along with documentation of its accrediting agency's approval of those specific curriculum changes. (4-7-11)

05. Disapproval and Appeal. If a postsecondary educational institution's request for initial registration, or renewal of registration, is disapproved by the Board, then the institution may appeal such decision ~~in accordance with Chapter 52, Title 67, Idaho Code~~ by submitting written request. The request must be in writing and made to the Board office within thirty (30) days of the date the institution is notified of the disapproval. ~~(3-29-12)~~ ()

06. Withdrawal of Approval. (4-9-09)

a. The Board may refuse to renew, or may revoke or suspend approval of, an institution's registration by giving written notice and the reasons therefore to the institution. The institution may request a hearing relating to such decision under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-9-09)

b. Withdrawal of approval may be for one (1) or more of the following reasons: (4-9-09)

i. Violation of Chapter 24, Title 33, Idaho Code or this rule; (4-9-09)

- ii. Providing false, misleading, deceptive, or incomplete information to the Board; (4-9-09)
- iii. Presenting to prospective or current students information about the institution which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; (3-29-12)
- iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by the Board Office has been received; or (3-29-12)
- v. Loss of accreditation status. (3-29-12)
- c. If any information contained in the application submitted by the institution becomes incorrect or incomplete, then the registered institution shall notify the Board office of such change within thirty (30) days. An institution that ceases operation during the course of a registration year shall immediately inform the Board Office of this event. (3-29-12)

202. -- 299. (RESERVED)

300. REGISTRATION OF PROPRIETARY SCHOOLS.

01. Delegation. Section 33-2403, Idaho Code, provides that a proprietary school must hold a valid certificate of registration issued by the Board. The Board delegates authority to its Executive Director and the Office of the State Board of Education to administer the registration of proprietary schools, in accordance with Title 33, Chapter 24, Idaho Code, and this rule. (3-29-12)

02. Registration Requirement. (4-9-09)

a. Unless exempted by statute or this rule, as provided herein, a proprietary school which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register annually and hold a valid certificate of registration issued by the Board. A school shall not conduct, provide, offer, or sell a course or courses of study unless registered. A school shall not solicit students for or on behalf of such school, or advertise in this state, unless registered. (3-29-10)

b. Registration shall be for the period beginning July 1 of any year and continue through June 30 of the next succeeding year. For a school that has not previously registered with the Board, registration shall be for the period beginning on the date of issuance of a certificate of registration and continue through June 30 of the next succeeding year. A registered proprietary school must renew its certificate of registration annually and renewal of registration is not automatic. (3-29-12)

c. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. (4-9-09)

03. Idaho Presence. (3-29-12)

a. A school shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, or if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho, for purposes of conducting, providing, offering or selling a course or courses of study or degrees. (3-29-12)

b. Idaho presence shall not include: (3-29-12)

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 300.03.a. of this rule; (3-29-12)

ii. Internship or cooperative training programs occurring in the state of Idaho where students are

employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or (3-29-12)

iii. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. (3-29-12)

04. Exemptions from Registration. The following individuals or entities are specifically exempt from the registration requirements of this rule: (4-9-09)

a. An individual or entity that offers instruction or training solely avocational or recreational in nature, as determined by the Board. (3-29-12)

b. An individual or entity that offers courses recognized by the Board which comply in whole or in part with the compulsory education law. (4-9-09)

c. An individual or entity that offers a course or courses of study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student. (4-9-09)

d. An individual or entity which is otherwise regulated, licensed, or registered with another state agency pursuant to Title 54, Idaho Code. (4-9-09)

e. An individual or entity that offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admissions tests, or similar instruction for test preparation. (4-9-09)

f. An individual or entity offering only workshops or seminars lasting no longer than three (3) calendar days and offered no more than four (4) times per year. (3-29-12)

g. A parochial or denominational institution providing instruction or training relating solely to religion and for which degrees are not granted. (4-9-09)

h. An individual or entity that offers postsecondary credit through a consortium of public and private colleges and universities under the auspices of the Western Governors University. (3-29-12)

i. An individual or entity that offers flight instruction and that accepts payment for services for such training on a per-flight basis after the training occurs, or that accepts advance payment or a deposit for such training in a de minimus amount equal to or less than fifteen (15) percent of the total course or program cost. (3-29-12)

05. Application. A proprietary school that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration, or renewal of registration, as applicable), on a form provided by the Board office. The application must include a list of each course or courses of study the applicant school intends to conduct, provide, offer or sell in Idaho during the registration year. (3-29-10)

06. Registration Fees. The Board shall assess an annual registration fee for initial registration or renewal of registration. The registration fee must accompany the application for registration, and shall be one-half of one percent (.5%) of the gross Idaho tuition revenue of the school during the previous tax reporting year (Jan 1 - Dec 31), but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000). The school shall provide documentation to substantiate the amount of revenue reported. Registration fees are nonrefundable. (4-4-13)

07. Deadline for Registration. An initial application for registration may be submitted to the Board at anytime. A school should expect the Board review process for an initial registration to take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to the Board on or before the first business day of May that precedes the registration year. The renewal will be processed within thirty (30) days. Institutions that do not adhere to this schedule and whose renewals are not processed by July 1st must cease all active operations until approval of registration is received. (3-29-12)

08. Information Required. Such application must include all the information requested on the application form. In addition, a school must attest by signature of the primary official on the application form that it is in compliance with Standards I through V set forth in Section 301 of this rule and must provide verification of compliance with Standards I through V set forth in Section 301 of this rule upon request. The Board may, in connection with a renewal of registration, request that a school only submit information that documents changes from the previous year, provided that the school certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 300.06 of this rule, shall remain applicable. (3-29-12)

301. APPROVAL STANDARDS FOR REGISTRATION OF PROPRIETARY SCHOOLS.

The Board and its designee accepts the responsibility for setting and maintaining approval standards for proprietary schools that plan to offer courses or a set of related courses in or from Idaho in order to protect consumers and to ensure quality educational programs are provided throughout the state. A school must meet all of the standards prior to issuance of a certificate of registration and the school must provide required evidence to document compliance with the standards as identified in the application form. A certificate of registration may be denied if all of the standards are not met. (4-9-09)

01. Standard I - Legal Status and Administrative Structure. The school must be in compliance with all local, state and federal laws, administrative rules, and other regulations applicable to proprietary schools. (4-9-09)

a. The school must have a clearly stated educational purpose that is consistent with the courses or a set of related courses under consideration for approval. (4-7-11)

b. The ownership of the school, its agents, and all school officials must be identified by name and title. (4-9-09)

c. Each owner, agent, instructor and/or school official must be appropriately qualified by the trade board (as applicable) to ensure courses are of high quality and the rights of students are protected. (3-29-12)

d. Written policies must be established to govern admissions and re-admission of dismissed students, hiring procedures, and working conditions; evaluation/assessment of all employees and instructional offerings; student and instructor rights and responsibilities; grievance procedures; approval of the curriculum and other academic procedures to ensure the quality of educational offerings. (4-7-11)

e. Procedures for assessing/evaluating the effectiveness of instruction must be established. Evaluation and assessment results must be used to improve courses or courses of study. (4-9-09)

f. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, anticipated job opportunities, and other relevant information to assist students in making an informed decision to enroll. Schools offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. The school must provide to each prospective student, newly-enrolled student, and returning student complete and clearly presented information indicating the school's current completion and job placement rate. (4-4-13)

02. Standard II - Courses or Courses of Study. Instruction must be the primary focus of the school. All courses or courses of study must prepare students to enter employment upon completion of the program or prepare them for self-employment. (3-29-12)

a. The requirements for each course or courses of study must be defined clearly including applicable completion requirements or other requirements such as practicums and clinicals. Courses or courses of study ~~will~~ **must** follow applicable trade **or occupational** board training curriculum standards or be designed using effective learning strategies for students, identifying and organizing all instructional materials and specialized facilities, identifying instructional assessment methods, and evaluating the effectiveness of the course offerings. **Applicants must include an attestation that courses or courses of study applicable to occupations, which are otherwise regulated, licensed, or registered with another state agency or state board, meet the regulating state agency or state board standards for licensure or certification at the time of application. The office of the state board of education does not**

review course or program curriculum.

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

b. Written course descriptions must be developed for all courses or courses of study. Written course descriptions must be provided to instructors. Instructors are expected to follow course descriptions. A syllabus must be developed for each course and distributed to students at the beginning of the course. (3-29-12)

c. The school must assure that a course or courses of study will be offered with sufficient frequency to enable students to complete courses or courses of study within the minimum time for completion. (4-9-09)

d. The school must clearly state the cost of each course or courses of study and identify the payment schedule. This information, and the refund policy, must be given to students in writing. (3-29-12)

03. Standard III - Student Support Services. The school must have clearly defined written policies that are readily available to students. Policies must address students rights and responsibilities, grievance procedures, and define what services are available to support students. (3-29-12)

a. The admission of students must be determined through an orderly process established in a written policy using published criteria which must be uniformly applied. Admissions decisions must take into account the capacity of the student to grasp and complete the instructional training program and the ability of the school to handle the unique needs of the students it accepts. (3-29-12)

b. There must be a clearly defined policy to re-evaluate students dismissed from the school and, if appropriate, to readmit them. (3-29-12)

c. The school must establish and adhere to a clear and fair policy regarding due process in disciplinary matters for all students, given to each student upon enrollment in the school. The school must provide the name and contact information for the individual who is responsible for dealing with student grievances and other complaints and for handling due process procedures. (3-29-12)

d. Prior to enrollment, all prospective students must receive the following information in writing: (3-29-12)

i. Information describing the purpose, length, and objectives of the courses or courses of study; (4-9-09)

ii. Completion requirements for the courses or courses of study; (4-9-09)

iii. The schedule of tuition, fees, and all other charges and all expenses necessary for completion of the courses or courses of study; (4-9-09)

iv. Cancellation and refund policies; (4-9-09)

v. An explanation of satisfactory progress, including an explanation of the grading/assessment system; (4-9-09)

vi. The calendar of study including registration dates, beginning and ending dates for all courses, and holidays; (4-9-09)

vii. A complete list of instructors and their qualifications; (4-9-09)

viii. A listing of available student services; and (4-9-09)

e. Accurate and secure records must be kept for all aspects of the student record including, at minimum, admissions information, and the courses each student completed. (4-9-09)

04. Standard IV - Faculty/Instructor Qualifications and Compensation. (3-29-12)

- a.** Instructor qualifications (training and experience) must be recorded and available to students. (3-29-12)
- b.** There must be a sufficient number of full-time instructors to maintain the continuity and stability of courses. (4-9-09)
- c.** The ratio of instructors to students in each course must be sufficient to assure effective instruction. (4-9-09)
- d.** Commissions may not be used for any portion of the faculty compensation. (4-9-09)
- e.** Procedures for evaluating instructors must be established. Provisions for student evaluation are recommended. (4-9-09)
- 05. Standard V - Resources, Finance, Facilities, and Instructional Resources.** (4-9-09)

 - a.** Adequate financial resources must be provided to accomplish instructional objectives and to effectively support the instructional program, including classroom and training facilities, instructional materials, supplies and equipment, instructors, staff, library, and the physical and instructional technology infrastructure. (3-29-12)
 - b.** The school must have sufficient instructional resource materials so that, together with tuition and fees, it is able to complete its educational obligations to currently enrolled students. If the school is unable to fulfill its obligations to students, the school must make arrangements for a comparable teach-out opportunity with another proprietary school or refund one hundred (100) percent of prepaid tuition. (3-29-12)
 - c.** School financial/business records and reports must be kept separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a school shall be kept in accordance recognized financial accounting methods. (3-29-12)
 - d.** The school must have adequate instructional resource materials available to students, either on site or through electronic means. These materials must be housed in a designated area and be available for students and instructors with sufficient regularity and at appropriate hours to support achievement of course objectives or to promote effective teaching. (4-9-09)
 - e.** If the school relies on other schools or entities to provide library resources or instructional resources, the school must demonstrate how these arrangements effectively meet the needs of students and faculty. These arrangements must be documented through written agreements. Student and faculty use must be documented and frequently evaluated to ensure quality services are being provided. (4-9-09)

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, and 33-4303, 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 October 18, 2017.

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:

This rule updates the Scholastic Aptitude Test (SAT) score to realign the indicator with the ACT score used for the same purpose and make clarifications that will allow for an equitable distribution of scholarship awards to students. Proposed amendments will make technical corrections, provide clarification regarding the verification of a student's expected family contribution, in addition to updating the college entrance exam requirements scores used for determining academic eligibility for scholarship applicants that have a GED score and not high school grade point average. College entrance exam score amendments are due to the recent changes in the Scholastic Aptitude Test (SAT) scoring.

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:

This rule meets the requirements of conferring a benefit by updating the SAT assessment score to realign the indicator with the score used for the ACT and make additional clarifications, the amendments will allow for an equitable distribution of scholarship awards to students.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 41](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rule contains no documents incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0113-1701
(Only Those Sections With Amendments Are Shown.)**

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, ~~and 33-5605 4303, and 33-5606(2)(c)~~, Idaho Code, the State Board of Education (Board) shall promulgate rules implementing the provisions of Title 33, Chapter 56, Idaho Code. ~~(4-2-08)~~(8-31-17)T

(BREAK IN CONTINUITY OF SECTIONS)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (8-31-17)T

01. Undergraduate Student. An eligible student must be pursuing their first undergraduate certificate or degree. A student may have received multiple certificates or degrees as part of the natural progression towards a recognized baccalaureate degree program. A student who is enrolled in a graduate program, but who has not yet earned a baccalaureate degree, is not eligible for an opportunity scholarship. A student enrolled in an undergraduate program is eligible for consideration for an opportunity scholarship, even if some of the student's courses are at the graduate level. (3-20-14)

02. Academic Eligibility. ~~(4-2-08)~~

~~a. Applicants for the opportunity scholarship are selected as recipients, in part, on the basis of their cumulative GPA. (3-20-14)~~

~~b. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (3-20-14)(8-31-17)T~~

~~a. A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of three point zero (3.0) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or ~~(3-9-16)~~(8-31-17)T~~

~~b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a nine hundred fifty (950) one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or ~~(3-9-16)~~(8-31-17)T~~

~~##c.~~ A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of three point zero (3.0) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. ~~(3-20-14)~~(8-31-17)T

03. Financial Eligibility. Applicants for the opportunity scholarship are selected as recipients, in part, ~~on the basis~~ based on of demonstrated financial need. The tool used to determine financial need ~~will be~~ is the Free Application for Federal Student Aid (FAFSA), used by the United States Department of Education. The financial need of an applicant for an opportunity scholarship will be based upon the ~~validated~~ verified expected family contribution, as identified by the FAFSA Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the March 1 application deadline. ~~(3-20-14)~~(8-31-17)T

04. Additional Eligibility Requirements. (4-2-08)

a. A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (3-20-14)

b. If a student has attempted or completed more than one hundred (100) postsecondary academic credits, then such student must identify his or her major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary academic credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: (3-20-14)

i. The student is not meeting satisfactory academic progress at the eligible Idaho postsecondary educational institution the student is attending at the time he or she applies for an opportunity scholarship; (4-2-08)

ii. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-2-08)

iii. Upon review of the student's academic transcript(s), the student cannot complete their degree/certificate in the major they have identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. ~~(3-9-16)~~(8-31-17)T

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Initial Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than March 1. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than March 1. All applicants must complete and submit the FAFSA on or prior to March 1. ~~An applicant without electronic capabilities may submit an application on the form established by the executive director through the United States Postal Service, which must be postmarked by March 1.~~ ~~(3-9-16)~~(8-31-17)T

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than June 1 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcement may be made after this date based on the availability of funds and the acceptance rate of the initial awards. (3-9-16)

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the state board of education executive director or designee. ~~(3-20-14)~~(8-31-17)T

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. ~~In addition, Opportunity~~ scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: ~~(3-20-14)(8-31-17)T~~

a. Eligible students shall be selected based on ~~rating~~ **ranking** criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. ~~(3-20-14)(8-31-17)T~~

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received ~~an~~ **previous** opportunity scholarship award ~~during the previous fiscal year~~, and have **met all of the** continuing eligibility ~~based upon financial need and other criteria~~ **requirements** provided in these rules. ~~(4-2-08)(8-31-17)T~~

02. Monetary Value of the Opportunity Scholarship. (4-2-08)

a. The Board will ~~by resolution each year~~ establish **annually** the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the opportunity scholarship program. ~~The educational costs will be established as a not to exceed amount for each eligible Idaho postsecondary educational institution.~~ ~~(3-20-14)(8-31-17)T~~

b. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: (4-2-08)

i. The amount of the assigned student responsibility, established by the Board annually; (4-2-08)

ii. The amount of federal grant aid, as identified by the Student Aid Report (SAR) that is known at the time of award determination; (3-20-14)

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. (3-20-14)

c. The amount of an opportunity scholarship award to an individual student shall not exceed the educational cost established by the Board annually, and shall not exceed the actual cost of tuition **and fees** at an Idaho public postsecondary educational institution, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. ~~(3-20-14)(8-31-17)T~~

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-2-08)

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship **may** covers up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. ~~(3-20-14)(8-31-17)T~~

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho

postsecondary educational institution's refund policy.

(4-2-08)

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules, ~~in addition to the following requirements:~~ ~~(4-2-08)~~ ~~(8-31-17)T~~

01. Renewal Application. A scholarship recipient must complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year and update and submit the FAFSA on or prior to March 1. (3-20-14)

02. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. (3-9-16)

03. Satisfactory Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of three point zero (3.0) on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award, and must be maintaining satisfactory academic progress, consistent within federal financial aid regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. ~~(3-20-14)~~ ~~(8-31-17)T~~

04. Maximum Duration of Scholarship Award. The award of an opportunity scholarship shall not exceed the equivalent of eight (8) semesters or the equivalent of four (4) academic years. (3-20-14)

05. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the ~~state board of education's~~ executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. ~~(3-9-16)~~ ~~(8-31-17)T~~

(BREAK IN CONTINUITY OF SECTIONS)

501. APPEALS.

Any opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may file a written appeal ~~such adverse of the~~ decision ~~as follows.~~ ~~The opportunity scholarship applicant or recipient must appeal no later than~~ within thirty (30) days following notice of the decision, and the written statement must include the basis for the appeal. Decisions based on specific requirements established in Idaho Code or these rules may not be appealed. The appeal must be submitted to the executive director of the Board. The office of the board shall acknowledge receipt of the appeal within seven (7) days. The executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho.

~~(3-20-14)~~ ~~(8-31-17)T~~

01. Transmittal to Subcommittee. If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the executive director of the Board within fifteen (15) days from the time the subcommittee receives the appeal document. The opportunity scholarship applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal. (3-20-14)

02. Subcommittee Recommendations. Following the subcommittee's decision, the executive director of the Board will present the subcommittee's recommendation to the full Board at the next regularly scheduled meeting of the Board. The opportunity scholarship applicant or recipient initiating the appeal may, at the discretion of the executive director of the Board, be permitted to make a presentation to the Board. (3-20-14)

03. Board Decision. The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the opportunity scholarship applicant or recipient in writing of the decision of the Board. (4-2-08)

IDAPA 08 – STATE BOARD AND STATE DEPARTMENT OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1701

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, 33-1254 and 33-1258, 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 October 18, 2017.

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

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

The 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. The following certificates and endorsements were reviewed by committees of content experts: Administrator, which includes School Principal, Superintendent, and Director of Special Education; Audiology; Bilingual; Career Technical areas, which include Agriculture Science and Technology, Business Technology, Family and Computer Sciences, Marketing Technology Education, and Technology Education; Computer Science; Engineering; English as a New Language; Speech Language-Pathology; and World Language. Additionally, the Core Teaching Standards, the basic standards which all specific teaching areas are required to meet, were reviewed.

All standards and endorsements were revised to better align with national standards and best practices, including renaming the English as a New Language endorsement to English as a Second Language endorsement to match the language used by the majority of other states.

Three new Pupil Personnel Services Endorsements were added. The School Counselor – Basic (K-12) Endorsement will allow licensed social workers to serve as school counselors pursuant to Section 33-1212, Idaho Code, on a limited basis. Occupational Therapist and Physical Therapist endorsements for these licensed professionals will allow districts additional funding options for students to obtain these types of services.

Renewal requirements were updated to set a date by which current certificate holders must complete a mathematics in-service program, if the requirement applies to their endorsement areas. Language regarding the Idaho Comprehensive Literacy Course was removed as a renewal requirement, as the rule has been in existence a sufficient amount of time that it no longer applies to individuals renewing their existing certificates.

The requirements for reinstatement of an expired certificate were amended to ensure that the requirements to obtain full certification during the term of the interim certificate meet current rules and requirements.

An example was added to the Code of Ethics regarding educator compensation.

Section 075, regarding background information checks, was amended to comply with recent changes to Section 33-130, Idaho Code. Definitions were updated and requirements, fees, and processes were clarified.

Additionally, a number of minor, non-substantive changes were made by Department staff to ensure that language is clear, concise, and meets the intent of law and rule changes.

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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 26 – 27](#).

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:

Idaho Standards for the Initial Certification of Professional School Personnel is currently a document incorporated by reference. The Idaho State Board of Education approved amendments to the document on August 31, 2017. Because of the number of pages within the document, the republication of the text would be unduly cumbersome and expensive. A complete copy of Idaho Standards for the Initial Certification of Professional School Personnel can be found on the State Department of Education's website at sde.idaho.gov/topics/admin-rules/.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, Lisa Colón Durham, Director of Certification and Professional Standards, at (208) 332-6886 or icolondurham@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 October 25, 2017.

DATED this 31st day of August, 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1701
(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 ~~June 16, 2016~~ August 31, 2017. Copies of this document can be found on the Office of the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)()

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 <https://boardofed.idaho.gov>. (3-29-12)

03. Operating Procedures for Idaho Public Driver Education Programs as approved on 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 <https://boardofed.idaho.gov>. (3-29-17)

(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 Instructional Certificate. A Standard Instructional Certificate makes an individual eligible to teach all grades, subject to the grade ranges and subject areas of the valid endorsement(s) attached to the certificate. A standard instructional certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and who meets the following requirements: (3-29-17)

a. Professional education requirements: (3-29-17)

i. Earned a minimum of twenty (20) semester credit hours, or thirty (30) quarter credit hours, in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter, which shall include at least three (3) semester credit hours, or four (4) quarter credit hours, in reading and its application to the content area; (3-29-17)

ii. The required minimum credit hours must include at least six (6) semester credit hours, or nine (9) quarter credit hours, of student teaching in the grade range and subject areas as applicable to the endorsement; and (3-29-17)

b. Completed an approved teacher preparation program and have an institutional recommendation from an accredited college or university specifying the grade ranges and subjects for which they are eligible to receive an endorsement in; (3-29-17)

c. Individuals seeking endorsement in a secondary grade (pursuant to Section 33-1001, Idaho Code) range must complete preparation in at least two (2) fields of teaching. One (1) of the teaching fields must consist of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours and a second field of teaching consisting 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 two (2) teaching field requirements; (3-29-17)

d. 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 the state board approved content area and pedagogy assessments. (3-29-17)

e. The Standard Instructional Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)

02. 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. School Counselor (K-12) Endorsement ~~(K-12)~~. To be eligible for a Pupil Personnel Services Certificate ~~Endorsed~~ School Counselor (K-12), a candidate must have satisfied the following requirements. The Pupil Personnel Services Certificate with a School Counselor (K-12) 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 School Counselor (K-12) ~~Endorsement~~. ~~(3-25-16)~~ ()

b. School Counselor – Basic (K-12) Endorsement. Individuals serving as a school counselor pursuant to Section 33-1212, Idaho Code, shall be granted a Pupil Personnel Services Certificate with a School Counselor – Basic (K-12) endorsement. The endorsement is valid for five (5) years or until such time as the holder no longer meets the eligibility requirements pursuant to Section 33-1212, Idaho Code. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. ()

i. Individuals who received their endorsement pursuant to Section 33-1212, Idaho Code, prior to July 1, 2018, will be transitioned into the School Counselor – Basic (K-12) endorsement. Renewal date will remain the same as the initial credential. ()

bc. 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)

ed. 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 015.02.c.i. or 015.02.c.ii. in addition to the requirement of Subsection 015.02.c.iii. (3-29-17)

i. The candidate must possess a valid nursing (RN) license issued by the Idaho State Board of Nursing, and a baccalaureate degree in nursing, education, or a health-related field from an accredited institution. (3-29-17)

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.e.** Interim Endorsement - School Nurse. This endorsement 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 School Nurse Endorsement will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (3-29-17)
- e.f.** 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.g.** 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.h.** 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 shall be accomplished by meeting the requirements of Subsections 015.02.g.i. through iii., or by meeting the requirement in Subsection 015.02.g.iv.:
- 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 (3-29-17)
- ii. An institution recommendation from an Idaho State Board of Education approved program; and (3-29-17)
- iii. The successful completion of a school social work practicum in a kindergarten through grade twelve 12 (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. (3-29-17)
- iv. A current and valid master's degree or higher social work license pursuant to chapter 32, title 54 and the rules of the State Board of Social Work Examiners. (3-29-17)
- h.i.** Interim Endorsement-Speech Language Pathologist. This certificate will be granted for those who do not meet the educational requirements but who hold a baccalaureate 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. (3-29-17)
- j.** Occupational Therapist Endorsement. A candidate with a current and valid Occupational Therapy license issued by the State of Idaho Bureau of Occupational Licenses shall be granted an Occupational Therapist endorsement. The Pupil Personnel Services Certificate with an Occupational Therapist endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Occupational Therapy Licensure through the State of Idaho Bureau of Occupational Licenses for the endorsement to remain valid. ()
- k.** Physical Therapist Endorsement. A candidate with a current and valid Physical Therapy license issued by the State of Idaho Bureau of Occupational Licenses shall be granted a Physical Therapist endorsement. The Pupil Personnel Services Certificate with a Physical Therapist endorsement is valid for five (5) years. Six (6)

semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Physical Therapy Licensure through the State of Idaho Bureau of Occupational Licenses for the endorsement to remain valid. ()

03. Administrator Certificate. Every person who serves as a superintendent, a director of special education, 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; to conduct the summative evaluation of certified staff~~ 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 School Principal endorsement. ~~Applicants for the Directors of Special Education and Related Services are required to hold the Director of Special Education 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~~ Idaho Standards for School Principals. The Administrator Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)()

a. School Principal (Pre-K-12) 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~~ Principals. (3-25-16)()
- v. An institutional recommendation is required for a School Principal (Pre-K-12) Endorsement. (3-25-16)()

b. Superintendent (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate with a Superintendent (Pre-K-12) 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~~ Standards for School Principals. (3-25-16)()

- v. An institutional recommendation is required for a School Superintendent Endorsement ~~(Pre-K-12)~~. (3-25-16)()
- c. Director of Special Education ~~and Related Services~~ (Pre-K-12) 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 Director of Special Education in Idaho ~~Foundation Standards for School Administrators: School Climate, Collaborative Leadership, and Instructional Leadership~~ Standards for Initial Certification of Professional School Personnel; (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~~ Principals: 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~~ (Pre-K-12) ~~E~~endorsement. (3-25-16)()

04. Certification Standards For Career Technical Educators. Teachers of career technical courses or programs in secondary or postsecondary schools must hold an endorsement in an appropriate occupational discipline. This endorsement may be held on a Standard Instructional Certificate or on an Occupational Specialist Certificate. For postsecondary instructors and administrators, certification fees are set by the State Board for Career Technical Education, and application processes are managed by the Division of Career Technical Education. (3-29-17)

05. Degree Based Career 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 and Natural Resources; Business Technology Education; Family and Consumer Sciences; Marketing Technology Education; Computer Science Technology and Engineering 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 a Division of Career Technical Education approved practicum in their respective field of specialization. (3-29-17)

b. The Career Technical Administrator certificate is required for an individual serving as an administrator, director, manager or coordinator of career technical education at the state, secondary or postsecondary level. Individuals must meet the following prerequisites to qualify for the Career Technical Administrator Certificate. Equivalence in each area will be determined on an individual basis by the Division of Career Technical Education. (3-29-17)

i. Qualify for or hold an Occupational Specialist certificate or hold an occupational endorsement on a standard instructional certificate with an applicable endorsement; (3-29-17)

ii. Provide evidence of a minimum of four (4) years' teaching, three (3) of which must be in a career technical discipline; (3-29-17)

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 career technical education; administration of personnel; and legal aspects of career technical education, and statewide framework for teacher evaluations that includes a laboratory component. 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. (3-29-17)

v. To renew the Career Technical Administrator Certificate, individuals are required to complete six (6) semester hours of related course work or meet renewal requirements for career technical instructional staff. (3-29-17)

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 Instructional Certificate or qualify for an Occupational Specialist Certificate, plus complete course work in coordination of work-based learning programs. (3-29-17)

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

06. Occupational Specialist Certificate. The Occupational Specialist Certificates are industry based career technical certifications issued in lieu of a degree based career technical certificate. Certificate holders must meet the following eligibility requirements: (3-29-17)

a. 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: (3-29-17)

i. Have eight (8) years or sixteen thousand (16,000) hours of recent, gainful employment in the occupation for which certification is requested. Up to forty-eight (48) months credit or up to eight thousand (8,000) hours can be counted toward the eight (8) years on a month-to-month basis for journeyman training or completed postsecondary training in a career technical education program; or (3-29-17)

ii. Have a baccalaureate degree in the specific occupation or related area, plus three (3) years or six thousand (6,000) hours of recent, gainful employment in the occupation; or (3-29-17)

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

(1) Be a journeyman with two (2) years of recent, full-time, gainful, related work experience, or have 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; (3-29-17)

(2) Pass an approved state or national certification examination plus three (3) years of recent, gainful, related work experience (length and type of work experience will be determined on an individual basis); or (3-29-17)

(3) Pass approved industry related certification for skill level requirements (vendor and industry specific) plus three (3) years of recent, gainful, related work experience (length and type of work experience 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. (3-29-17)

b. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching in public schools. The certificate is valid for three (3) years and is non-renewable: (3-29-17)

i. Within the first eighteen (18) months, the holder must complete the pre-service workshop sponsored by the Division of Career Technical Education and an approved course in career technical methods and student assessment; (3-29-17)

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

iii. Within the three-year (3) period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily demonstrate competencies in Principles/Foundations of Occupational Education and Methods of Teaching Occupational Education. Additionally, the instructor must satisfactorily demonstrate competencies in two (2) of the following areas: Career Pathways and Guidance; Analysis, Integration, and Curriculum Development; and Measurement and Evaluation. (3-29-17)

c. Standard Occupational Specialist Certificate. This certificate is issued to individuals who have: (3-29-17)

i. Completed the pre-service workshop sponsored by the Division of Career Technical Education and an approved course in career technical methods and student assessment; and (3-29-17)

ii. Completed a new-teacher induction workshop at the state or district level; and (3-29-17)

iii. Can satisfactorily demonstrate competencies in Principles/Foundations of Occupational Education and Methods of Teaching Occupational Education; and (3-29-17)

iv. Can demonstrate competencies in two (2) of the following areas: Career Pathways and Guidance; Analysis, Integration, and Curriculum Development; and Measurement and Evaluation; and (3-29-17)

v. The Standard Occupational Specialist Certificate is valid for five (5) years and must be renewed pursuant to Section 060 of these rules. Credit equivalencies will be based on verification of one hundred twenty (120) hours of approved related work experience or forty-five (45) hours of participation at approved technical conferences, institutes, or workshops or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. Work experience may be prorated at the rate of forty (40) hours per credit. Technical conference, institutes, or workshop participation may be prorated at the rate of fifteen (15) hours per credit. (3-29-17)

d. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who: (3-29-17)

i. Meet the requirements for the Standard Occupational Specialist Certificate; (3-29-17)

ii. Can provide evidence of completion of a teacher training degree program or eighteen (18) semester

credits of approved education related course work, such as educational methodology in the content area, in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); and (3-29-17)

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

iv. The Advanced Occupational Specialist Certificate is valid for five (5) years and must be renewed pursuant to Section 060. At least three (3) educationally focused semester credits must be taken for university or college credit. Verification will be based on an official transcript. In addition to the minimum of three (3) semester credits, in-service activities or related work experience may be used. Credit equivalencies will be based on verification of one hundred twenty (120) hours of approved related work experience or forty-five (45) hours of participation at approved technical conferences, institutes and workshops or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. Work experience may be prorated at the rate of forty (40) hours per credit. Technical conference, institutes, or workshop participation may be prorated at the rate of fifteen (15) hours per credit. (3-29-17)

07. Postsecondary Specialist. A Postsecondary Specialist certificate will be granted to a current academic 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. (3-29-17)

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)

08. 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 finger fingerprint card or scan and a fee for undergoing a ~~criminal history check~~ background investigation 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)

09. 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 015.09.a. and b., the State Department of Education shall issue a letter authorizing these individuals as Junior ROTC instructors. (3-29-17)

10. 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. Teachers must take one (1) of the three (3) courses developed that is most closely aligned with their current assignment prior to July 1, 2019. Any teacher successfully completing said course shall be deemed to have met the requirement of Subsection 060.02.c. of this rule as long as said course is part of an official transcript or completed before September 1, 2013, and verified by the State Department of Education. 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 or another State Department of Education approved alternative course in order to recertify: ~~(3-29-17)()~~

i. Each teacher holding a ~~an~~ Blended Early Childhood Education/Early Childhood Special Education Blended endorsement (Birth - Grade 3) endorsement who is employed by a school district or charter school as a K-3 multi-subject or special education teacher; ~~(3-29-17)()~~

ii. Each teacher holding an Standard Instructional Certificate All Subjects (K-8) endorsement who is employed by a school district or charter school as a K-6 multi-subject teacher; ~~(3-29-17)()~~

iii. Each teacher holding an Standard Instructional Certificate (6-12) All Subjects (K-8) endorsement, Mathematics – Basic (5-9 or 6-12) endorsement, Mathematics (5-9 or 6-12) endorsement teaching in a mathematics content classroom (grade six (6) through grade twelve (12)) including Title I who is employed by a school district or charter school; and ~~(3-29-17)()~~

iv. Each teacher holding an Standard Exceptional Child Generalist ~~E~~endorsement who is employed by a school district or charter school as a special education teacher. ~~(3-29-17)()~~

~~v. Each school administrator coming from out of state holding an Administrator Certificate who is employed by a school district or charter school. (3-29-17)~~

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)

~~e. 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 Endorsement (Birth-Grade 3) who is employed by a school district or charter school; (3-29-17)~~

~~ii. Each teacher holding a Standard Instructional Certificate (K-8) who is employed by a school district or charter school; and (3-29-17)~~

~~iii. Each teacher holding a Standard Exceptional Child Generalist Endorsement who is employed by a school district or charter school. (3-29-17)~~

d.c. 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. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. (3-29-17)

016. IDAHO INTERIM CERTIFICATE.

The State Department of Education or the Division of Career Technical Education, as applicable to the certificate, is authorized to issue a three-year (3) interim certificate to those applicants who hold a valid certificate/license from another state or other entity that participates in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Agreement pursuant to Section 33-4104, Idaho Code, or engaged in an alternate route to certification as prescribed herein. (3-29-17)

01. Interim Certificate Not Renewable. Interim certification is only available on a one-time basis per individual except under extenuating circumstances approved by the State Department of Education. It will be the responsibility of the individual to meet the requirements of the applicable alternate authorization route and to obtain a full Idaho Educator Credential during the term of the interim certificate. (3-29-17)

02. Idaho Comprehensive Literacy Course. For all Idaho teachers working on interim certificates, (alternate authorizations, nontraditional routes, reinstatements or coming from out of the state), completion of a state approved Idaho Comprehensive Literacy course or assessment, or approved secondary equivalent shall be a one-time requirement for full certification. ~~(3-25-16)()~~

a. Those individuals who qualify for an Idaho certificate through state reciprocity shall be granted a three-year, non-renewable interim certificate to allow time to meet the Idaho Comprehensive Literacy Course requirement. (3-25-16)

03. Mathematical Thinking for Instruction. For all Idaho teachers or administrators working on interim certificates (alternate authorizations, nontraditional routes, reinstatements or coming from out of the state), with an All Subjects (K-8) endorsement, ~~or~~ any mathematics endorsement, Exceptional Child Generalist endorsement, Blended Early Childhood/Early Childhood Special Education endorsement, or Administrator certificate must complete a state approved Mathematical Thinking for Instruction, or another State Department of Education approved alternative course, as a one-time requirement ~~to receive a standard instructional, standard occupational, or advanced occupational certificate~~ for full certification. ~~(3-29-17)()~~

04. Technology. Out-of-state applicants ~~will~~ may be reviewed by the hiring district for technology deficiencies and may be required to take technology courses to improve their technology skills. ~~(4-7-11)()~~

05. Reinstatement of Expired Certificate. An individual holding an expired Idaho certificate may be issued a nonrenewable three-year interim certificate. During the validity period of the interim certificate, the applicant must meet ~~all current requirements listed for the specific certificate and endorsement(s) including the appropriate content, pedagogy, and performance assessments~~ the following requirements to obtain a full certification during the term of the interim certificate: ~~(3-29-12)()~~

a. Two (2) years' successful evaluations as per Section 33-1001(14), Idaho Code. ()

- Plan. **b.** Measured annual progress on specific goals identified on Individualized Professional Learning ()
- c.** Six (6) credit renewal requirement. ()
- d.** Any applicable requirement for Idaho Comprehensive Literacy Course or Mathematical Thinking for Instruction as indicated in Subsections 016.02 and 016.03. ()

06. Foreign Institutions. An educator having graduated from a foreign institution *that is listed in the Accredited Degree Granting Institutions section of the "Accredited Institutions of Postsecondary Education" and having a valid/current teaching certificate/license from the country or province in which the foreign institution is located;* may be issued a non-renewable, three-year interim certificate. The applicant must also complete the requirements listed in Section 013 of these rules. (4-2-08)()

~~**017. INTERSTATE CERTIFICATION COMPACT.**~~

~~Idaho participates in the Interstate Agreement of Qualification of Education Personnel. This agreement applies equally to teachers entering Idaho from another compact member state and to teachers entering another compact member state from Idaho. The compact applies to classroom teachers only. Trades and industries teachers are not covered by the agreement. (Section 33-4104, Idaho Code) (4-1-97)~~

~~**018.**~~ **CONTENT, PEDAGOGY AND PERFORMANCE ASSESSMENT FOR CERTIFICATION.**

01. Assessments. State Board of Education approved content, pedagogy and performance area assessments shall be used in the state of Idaho to ensure qualified teachers are employed in Idaho's classrooms. The Professional Standards Commission shall recommend assessments and qualifying scores to the State Board of Education for approval. (4-2-08)

02. Out-of-State Waivers. An out-of-state applicant for Idaho certification holding a current certificate may request a waiver from the above requirement. The applicant shall provide evidence of passing a state approved content, pedagogy and performance area assessment(s) or hold current National Board for Professional Standards Teaching Certificate. (4-2-08)

03. Idaho Comprehensive Literacy Assessment. All applicants for initial Idaho certification (Kindergarten through grade twelve (12)) from an Idaho approved teacher education program must demonstrate competency in comprehensive literacy. Areas to be included as parts of the assessment are: phonological awareness, phonics, fluency, vocabulary, comprehension, writing, and assessments and intervention strategies. Each Idaho public higher education institution shall be responsible for the assessment of teacher candidates in its teacher preparation program. The assessment must measure teaching skills and knowledge congruent with current research on best literacy practices for elementary students or secondary students (adolescent literacy) dependent upon level of certification and English Language Learners. In addition, the assessment must measure understanding and the ability to apply strategies and beliefs about language, literacy instruction, and assessments based on current research and best practices congruent with International Reading Association/National Council of Teachers of English standards, National English Language Learner's Association professional teaching standards, National Council for Accreditation of Teacher Education standards, and state accreditation standards. (4-7-11)

~~**04. Technology Assessment.** All applicants for initial Idaho certification (Kindergarten through grade twelve (12)) from an Idaho approved teacher education program must demonstrate proficiency in relevant technology skills and practices to enhance classroom management and instruction. Each Idaho public higher education institution shall be responsible for the assessment of teacher candidates in its teacher preparation program. The assessment must measure understanding and the ability to apply strategies and beliefs about the integration of technology based on current research and best practices congruent with the International Society for Technology in Education professional teaching standards, the National Council for Accreditation of Teacher Education standards, and state accreditation standards. (4-7-11)~~

~~**019.**~~ -- 020. (RESERVED)

021. ENDORSEMENTS.

Holders of a Standard Instructional Certificate, Standard Occupational Specialist Certificate, and Advanced Occupational Specialist Certificate may be granted endorsements in subject areas as provided herein. Instructional staff are eligible to teach in the grades and content areas of their endorsements. Idaho preparation programs shall prepare candidates for endorsements in accordance with the Idaho Standards for Initial Certification of Professional School Personnel. An official statement from the college of education of competency in a teaching area or field is acceptable in lieu of required credits if such statements originate are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. Statements must include the number of credits the competency evaluation is equivalent to. To add an endorsement to an existing credential, an individual shall complete the credit hour requirements as provided herein and shall also meet or exceed the state qualifying score on appropriate, state approved content, pedagogy and performance assessments. When converting semester credit hours to quarter credit hours, two (2) semester credit hours is equal to three (3) quarter credit hours. ~~(3-29-17)~~()

01. Clinical Experience Requirement. All endorsements require supervised teaching experience in the relevant content area, or a State Department of Education approved alternative clinical experience. (3-12-14)

02. Alternative Authorization to Endorsement. Candidates shall meet all requirements for the endorsement as provided herein. (3-29-17)

a. Option I -- An official statement from the college of education of competency in a teaching area or field is acceptable in lieu of courses for a teaching field if such statements originate are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. ~~(3-29-17)~~()

b. Option II -- National Board. By earning National Board Certification in content specific areas, teachers may gain endorsement in a corresponding subject area. (3-29-17)

c. Option III -- Master's degree or higher. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid certificate. (3-29-17)

d. Option IV -- Testing and/or Assessment. Two (2) pathways are available to some teachers, depending upon endorsement(s) already held. (3-29-17)

i. Pathway 1 -- Endorsements may be added through state-approved testing and a mentoring component. The appropriate test must be successfully completed within the first year of authorization in an area closely compatible with an endorsement for which the candidate already qualifies and is experienced. Additionally, requires the successful completion of a one (1)-year state-approved mentoring component. (3-25-16)

ii. Pathway 2 -- Endorsements may be added through state-approved testing in an area less closely compatible with an endorsement for which the candidate already qualifies and is experienced. The appropriate test must be successfully completed within the first year of the authorization. Additionally, requires the successful completion of a one (1)-year state-approved mentoring component and passing a final pedagogy assessment. (3-25-16)

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 Career Technical Student Organization Leadership; plant science; and occupational teacher preparation pursuant to Subsection 015.05.a.; or ~~(3-29-17)~~()

b. Occupational teacher preparation pursuant to Section 015.04 through 015.06. (3-29-17)

02. American Government /Political Science (5-9 or 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. All Subjects (K-8). Allows one to teach in any educational setting (K-8). Twenty (20) semester credit hours, or thirty (30) quarter credit hours in the philosophical, psychological, methodological foundations, instructional technology, and professional subject matter must be in elementary education including at least six (6) semester credit hours, or nine (9) quarter credit hours, in developmental reading. This endorsement must be accompanied by at a minimum one (1) additional subject area endorsement allowing teaching of that subject through grade 9 or kindergarten through grade 12. (3-29-17)

04. 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~~ coursework 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; ~~ESL/B~~bilingual ~~M~~methods; linguistics, second language acquisition theory and practice; ~~F~~foundations of ~~ESL/B~~bilingual ~~E~~ducation, ~~Federal and State Law~~ legal foundations of ESL/bilingual education, ~~Testing/~~identification and assessment of ~~Limited English Proficient Students~~ learners, biliteracy; at least ~~two (2)~~ one (1) semester credit hours in ~~B~~bilingual ~~P~~practicum; ~~and three (3) semester credit hours in a Bilingual Education related elective (ex: linguistics, critical pedagogy, parent involvement)~~ or field experience. ~~(4-4-13)~~()

05. Biological Science (5-9 or 6-12). Twenty (20) semester credit hours including coursework in each of the following areas: molecular and organismal biology, heredity, ecology and biological adaptation. (3-29-17)

06. Blended ~~Early Childhood/Early Childhood~~ Elementary Education/Elementary Special Education ~~Pre-K through Grade Six (6) Endorsement (Grade 4 - Grade 6)~~ Blended Elementary Education/Elementary Special Education (Grade 4 - Grade 6) The ~~Pre-K through Grade Six (6) Blended Elementary Education/Elementary Special Education (Grade 4 - Grade 6)~~ endorsement allows one to teach in any ~~Pre-K~~ grade four (4) through grade six (6) education setting, except in a middle school setting. This endorsement may only be ~~added to~~ issued in conjunction with the Blended Early Childhood Education/Early Childhood Special Education (~~Birth - Grade 3~~) endorsement ~~in conjunction with the Birth through Grade Three (3) endorsement~~. To be eligible for a Blended ~~Early Childhood Education/Early Childhood~~ Elementary Education/Elementary Special Education (Grade 4 - Grade 6) endorsement ~~with an Early Pre-K through Grade Six (6) endorsement~~, a candidate must have satisfied the following requirements: ~~(3-29-17)~~()

a. 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~~ to include: 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). ~~(3-29-17)~~()

07. Blended Early Childhood Education/Early Childhood Special Education (~~Birth through - Grade Three (3)~~ Birth through - Grade Three (3)) The ~~Blended Early Childhood Education/Early Childhood Special Education (Birth through - Grade Three (3))~~ endorsement allows one to teach in any educational setting birth through grade three (3). To be eligible, a candidate must have satisfied the following requirements. ~~(3-29-17)~~()

a. 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 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. (3-29-17)

b. The required credit hours here in, 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. (3-29-17)

- c. Proficiency in areas noted above is measured by one (1) of the following options: (3-29-17)
- i. Option I -- Demonstration of competency within the Idaho Standards for Blended Early Childhood Education/Early Childhood Special Education Teachers. Additionally, each candidate shall meet or exceed the state qualifying score on approved early-childhood assessments. (3-29-17)
- 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. (3-29-17)
- 08. 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; career guidance; Career Technical Student Organization leadership; business communication/writing; and office procedures. Additional competencies may be satisfied through the following: entrepreneurship; finance; marketing; business law; and/or career guidance business management; and occupational teacher preparation pursuant to Subsection 015.05.a.; or (3-29-17)()
- b. Occupational teacher preparation pursuant to Section 015.04 through 015.06. (3-29-17)
- 09. Chemistry (5-9 or 6-12).** Twenty (20) semester credit hours in the area of chemistry, to include coursework in each of the following areas: inorganic and organic chemistry. (3-29-17)
- 10. Communication (5-9 or 6-12).** Follow one (1) of the following options: (3-29-17)
- 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. (3-29-17)
- 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. (3-29-17)
- 11. Computer Science (5-9 or 6-12).** (3-29-17)
- a. 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; or (3-29-17)
- b. Occupational teacher preparation pursuant to Section 015.04 through 015.06. (3-29-17)
- 12. 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~~ Standard Instructional 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)~~ Instructional Certificate, 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)~~ **Instructional Certificate**, 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)~~ **Instructional Certificate** 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)

13. Deaf/Hard of Hearing (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 a Deaf/Hard of Hearing endorsement, a candidate must have satisfied the following requirements: (3-29-17)

a. Completion of a baccalaureate degree from an accredited college or university; (3-29-17)

b. 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 (3-29-17)

c. 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 (3-29-17)

d. 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. (3-29-17)

023. ENDORSEMENTS E - L.

01. Early Childhood Special Education (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 Exceptional Child Generalist (K-8 or K-12) endorsement. To be eligible a candidate must have satisfied the following requirements: (3-29-17)()

a. 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 to eight (3-8); methodology: planning, implementing and evaluating environments and materials for young children ages three to eight (3-8); guiding young children's behavior: observing, assessing and individualizing ages three to eight (3-8); identifying and working with atypical young children ages three to eight (3-8) parent-teacher relations; and student teaching at the Pre-K - 3 grades. (3-29-17)

02. Earth and Space Science (5-9 or 6-12). Twenty (20) semester credit hours including course work in each of the following areas: earth science, astronomy, and geology. (3-29-17)

03. Economics (5-9 or 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, or finance course. (3-29-17)()

04. Engineering (5-9 or 6-12). (3-29-17)

a. Twenty (20) semester credit hours of engineering course work; or (3-29-17)

b. Occupational teacher preparation pursuant to Section 015.04 through 015.06. (3-29-17)

05. English (5-9 or 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. (3-29-17)

06. English as a New Second Language (EASL) (K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for EASL Teachers to include all of the following: at least four (4) semester credit hours in a modern language other than English; Cultural Diversity; EASL Methods; Linguistics; second language acquisition theory and practice; Foundations of EASL/Bilingual Education, Federal and State Law legal foundations of ESL/bilingual education, Testing/Identification and assessment of Limited English Proficient Students learners; and at least one (1) semester credit in EASL Practicum or Field Experience. (4-4-13)()

07. Exceptional Child Generalist (K-8, 6-12, or K-12). The Exceptional Child Generalist endorsement is non-categorical and allows one to teach in any special education setting, applicable to the grade range of the endorsement. Regardless of prior special education experience, all initial applicants must provide an institutional recommendation that 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, a candidate must

have satisfied the following requirements: (3-29-17)

a. Completion of thirty (30) semester credit hours in special education, or closely related areas, as part of an approved special education program; and (3-29-17)

b. Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. (3-29-17)

08. Family and Consumer Sciences (5-9 or 6-12). (3-29-17)

a. Thirty (30) semester credit hours to include coursework in each of the following areas: ~~C~~child/~~H~~human ~~D~~development; ~~H~~human/~~F~~family ~~R~~relations; ~~D~~irected ~~L~~aboratory ~~E~~xperience in ~~C~~hildcare; ~~A~~pparel and ~~T~~extiles, ~~C~~cultural ~~D~~ress, ~~F~~fashion ~~design and M~~erchandising ~~or Design~~; ~~N~~utrition; ~~F~~ood ~~P~~reparation, ~~F~~ood ~~P~~roduction, or ~~C~~ulinary ~~A~~rts; ~~H~~ousing, ~~I~~nterior ~~D~~esign, ~~or H~~ome ~~M~~anagement ~~or Equipment~~; ~~C~~onsumer ~~E~~conomics or ~~F~~amily ~~R~~esource ~~M~~anagement; ~~I~~ntroduction to ~~F~~amily ~~C~~onsumer ~~S~~ciences; Career Technical Student Organization leadership; career guidance; and Integration of Family Consumer Sciences or Family Consumer Science Methods; and occupational teacher preparation pursuant to Subsection 015.05.a.; or ~~(3-29-17)()~~

b. Occupational teacher preparation pursuant to Section 015.04 through 015.06. (3-29-17)

09. Geography (5-9 or 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. The remaining semester credit hours must be selected from Geography. (3-29-17)

10. Geology (5-9 or 6-12). Twenty (20) semester credit hours in the area of Geology. (3-29-17)

11. 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)

12. Health (5-9, 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, 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. (3-29-17)

13. History (5-9 or 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. (3-29-17)

14. Humanities (5-9 or 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. (3-29-17)

15. Journalism (5-9 or 6-12). Follow one (1) of the following options: (3-29-17)

a. Option I -- Twenty (20) semester credit hours to include a minimum of fourteen (14) semester credit hours in Journalism and six (6) semester credit hours in English and/or Mass Communication. (3-29-17)

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

16. 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: ~~M~~arketing; ~~M~~anagement; ~~E~~conomics; ~~C~~oordination of ~~C~~ooperative ~~P~~rograms; ~~M~~erchandising/~~R~~etailing; ~~M~~ethods of ~~T~~eaching ~~M~~arketing ~~E~~ducation; and Career Technical Student Organization (~~CTSO~~) ~~L~~eadership, with remaining credit hours in ~~E~~ntrepreneurship; ~~H~~ospitality and ~~T~~ourism; ~~F~~inance; career guidance; or ~~A~~ccounting- and occupational teacher preparation pursuant to Subsection 015.05.a.; or ~~(4-4-13)(____)~~

b. Occupational teacher preparation pursuant to Subsection 015.04 through 015.06. (3-29-17)

02. Mathematics - Basic (5-9 or 6-12). Twenty (20) semester credit hours in Mathematics content course work in algebraic thinking, functional reasoning, Euclidean and transformation geometry and 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. (3-29-17)

03. Mathematics (5-9 or 6-12). Twenty (20) semester credit hours including course work in each of the following areas: Euclidean and transformational geometry, linear algebra, discrete mathematics, statistical modeling and probabilistic reasoning, and 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. (3-29-17)

04. Music (5-9 or 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. (3-29-17)

05. Natural Science (5-9 or 6-12). Follow one (1) of the following options: (3-29-17)

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. Eight (8) semester credit hours in each of the following areas: Physics, Chemistry, and Earth Science or Geology. (3-29-17)

ii. Existing Physics Endorsement. Eight (8) semester credit hours in each of the following areas: Biology, Chemistry, and Earth Science or Geology. (3-29-17)

iii. Existing Chemistry Endorsement. Eight (8) semester credit hours in each of the following areas: Biology, Physics, and Earth Science or Geology. (3-29-17)

iv. Existing Earth Science or Geology Endorsement. Eight (8) semester credit hours in each of the following areas: Biology, Physics, and Chemistry. (3-29-17)

b. Option II -- Must hold an existing endorsement in Agriculture Science and Technology; and complete twenty-four (24) semester credit hours with at least six (6) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science or Geology, and Physics. (3-29-17)

06. Online-Teacher Endorsement (Pre-K-12). To be eligible for an Online-Teacher (K-12) 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 (5-9 or 6-12). Twenty (20) semester credit hours in the area of Physics. (3-16-04) ()

08. Physical Education (PE) (5-9 or 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; Safety and Prevention of Injuries; Fitness and Wellness; PE for Special Populations; Exercise Physiology; Kinesiology/Biomechanics; Motor Behavior; and Current CPR and First Aid Certification. To obtain a PE K-12 endorsement, applicants must complete an elementary PE methods course. (3-29-17)

09. Physical Science (5-9 or 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. (3-29-17)

10. Psychology (5-9 or 6-12). Twenty (20) semester credit hours in the area of Psychology. (3-29-17)

~~**11. Early Childhood Special Education 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: (3-29-17)~~

~~a. 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). (3-29-17)~~

121. Social Studies (5-9 or 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. (3-29-17)

132. Sociology (5-9 or 6-12). Twenty (20) semester credit hours in the area of Sociology. (3-29-17)

143. Sociology/Anthropology (5-9 or 6-12). Twenty (20) semester credit hours including a minimum of six (6) semester credit hours in each of the following: Anthropology and Sociology. (3-29-17)

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 (~~5-9 or~~ 6-12). (~~3-29-17~~)()

a. Twenty (20) semester credit hours to include course work in each of the following areas: ~~C~~ommunication ~~T~~echnology; ~~C~~omputer ~~A~~pplications; ~~C~~onstruction ~~T~~echnology; ~~E~~lectronics ~~T~~echnology; ~~M~~anufacturing ~~T~~echnology; ~~P~~ower, ~~E~~nergy and ~~T~~ransportation and other relevant emerging technologies; ~~Career Technical Student Organization leadership; and P~~principles of ~~E~~ngineering ~~D~~esign; ~~and occupational teacher preparation pursuant to Subsection 015.05.a; or-~~ (~~4-1-13~~)()

b. Occupational teacher preparation pursuant to Subsections 015.04 through 015.06. (3-29-17)

176. Theater Arts (5-9 or 6-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Theater Arts Teacher, including coursework 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. (3-29-17)

187. Visual Arts (5-9, 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 must complete an elementary art methods course. (3-29-17)

198. 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 a Visually Impaired endorsement, a candidate must have satisfied the following requirements: (~~3-29-17~~)()

a. Completion of a baccalaureate degree from an accredited college or university; (3-29-17)

b. 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; (3-29-17)

c. 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 (3-29-17)

d. Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. (3-29-17)

~~2019.~~ **World Language (5-9, 6-12 or K-12).** Twenty (20) semester credit hours to include a minimum of twelve (12) ~~upper division~~ **intermediate or higher** 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: ~~G~~grammar, ~~C~~conversation, ~~C~~composition, ~~C~~culture, ~~and~~ ~~or~~ ~~L~~iterature; and course work in ~~F~~oreign ~~L~~anguage ~~M~~ethods. To obtain an endorsement in a specific foreign language (K-12), applicants must complete an elementary methods course. To obtain an endorsement in a specific foreign language, applicants must complete the following: (3-29-17)()

a. Score an intermediate high (as defined by the American Council on the Teaching of Foreign Languages or equivalent) on an oral proficiency assessment conducted by an objective second party; and ()

b. A qualifying score on a state approved specific foreign language content assessment, or if a specific foreign language content assessment is not available, a qualifying score on a state approved world languages pedagogy assessment) ()

025. -- 041. (RESERVED)

042. ALTERNATE ROUTES TO CERTIFICATION.

The purpose of this program is to provide an alternative for individuals to become certificated teachers in Idaho without following a standard teacher education program. Alternative Routes to Certification shall allow individuals to serve as the teacher of record prior to having earned full certification status. The teacher of record is defined as the person who is primarily responsible for planning instruction, delivering instruction, assessing students formatively and summatively, and designating the final grade. Individuals who are currently employed as Paraprofessionals and, individuals with strong subject matter background but limited experience with educational methodology shall follow the alternate certification requirements provided herein. Individuals who are currently certificated to teach but who are in need of an emergency endorsement in another area may obtain an endorsement through an alternate route as described in Subsection 021.02 of these rules. (3-29-17)

01. Alternative Authorization -- Teacher To New Certification. The purpose of this alternative authorization is to allow Idaho school districts to request additional certification when a professional position cannot be filled with someone who has the correct certification. Alternative authorization in this area is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-29-17)

a. Prior to application, a candidate must hold a baccalaureate degree, and a valid Idaho instructional certificate. The school district must provide supportive information attesting to the ability of the candidate to fill the position. (3-29-17)

b. A candidate must participate in an approved alternative route preparation program. (3-25-16)

i. The candidate will work toward completion of the alternative route preparation program through a participating college/university, and the employing school district. The candidate must complete a minimum of nine (9) semester credits annually to maintain eligibility for renewal; and (3-25-16)

ii. The participating college/university shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-20-04)

02. Alternative Authorization -- Content Specialist. The purpose of this alternative authorization is to offer an expedited route to certification for individuals who are highly and uniquely qualified in a subject area to

teach in a district with an identified need for teachers in that area. Alternative authorization in this area is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-25-16)

a. Initial Qualifications. (3-20-04)

i. A candidate must hold a baccalaureate degree or have completed all of the requirements of a baccalaureate degree except the student teaching or practicum portion; and (3-29-17)

ii. The hiring district shall ensure the candidate is qualified to teach in the area of identified need through demonstrated content knowledge. This may be accomplished through a combination of employment experience and education. (3-25-16)

b. Alternative Route Preparation Program -- College/University Preparation or Other State Board Approved Certification Program. (3-25-16)

i. At the time of authorization a consortium comprised of a designee from the college/university to be attended or other state board approved certification program, and a representative from the school district, and the candidate shall determine the preparation needed to meet the Idaho Standards for Initial Certification of Professional School Personnel. This plan must include mentoring and a minimum of one (1) classroom observation by the mentor per month, which will include feedback and reflection, while teaching under the alternative authorization. The plan must include annual progress goals that must be met for annual renewal; (3-29-17)

ii. The candidate must complete a minimum of nine (9) semester credit hours or its equivalent of accelerated study in education pedagogy prior to the end of the first year of authorization. The number of required credits will be specified in the consortium developed plan; (3-29-17)

iii. At the time of authorization the candidate must enroll in and work toward completion of the alternative route preparation program through a participating college/university or other state board approved certification program, and the employing school district. A teacher must attend, participate in, and successfully complete an individualized alternative route preparation program as one (1) of the conditions for annual renewal and to receive a recommendation for full certification; (3-25-16)

iv. The participating college/university or other state board approved certification program shall provide procedures to assess and credit equivalent knowledge, dispositions and relevant life/work experiences; and (3-25-16)

v. Prior to entering the classroom, the candidate shall meet or exceed the state qualifying score on appropriate state-approved content, pedagogy, or performance assessment. (3-20-04)

03. Non-Traditional Route to Teacher Certification. An individual may acquire interim certification as found in Section 016 of these rules through an approved non-traditional route certification program. (3-25-16)

a. Individuals who possess a baccalaureate degree or higher from an accredited institution of higher education may utilize this non-traditional route to an interim Idaho Teacher Certification. (3-29-17)

b. To complete this non-traditional route, the individual must: (3-25-16)

i. Complete a Board approved program; (4-6-05)

ii. Pass the Board approved pedagogy and content knowledge exams; and (4-6-05)

iii. Complete the Idaho Department of Education [Criminal History Check background investigation](#) ~~(4-6-05)~~ [check](#). ()

c. Interim Certificate. Upon completion of the certification process described herein, the individual

will be awarded an interim certificate from the State Department of Education's Certification and Professional Standards Department. During the term of the interim certificate, teaching by the individual must be done in conjunction with a two (2) year teacher mentoring program approved by the Board. The individual must complete the mentoring program during the term of the interim certificate. In the case where teachers start their mentoring program in the third year of their interim certificate, they must apply to the State Department of Education Teacher Certification Department for a waiver to complete the final year of their mentoring program for full certification. All laws and rules governing the fully certificated teachers with respect to conduct, discipline and professional standards shall apply to individuals teaching under any Idaho certificate including an interim certificate. (3-29-17)

d. Interim Certificate Not Renewable. Interim certification hereunder is only available on a one (1) time basis per individual. It will be the responsibility of the individual to obtain a valid renewable Idaho Educator Credential during the three (3) year interim certification term. (3-25-16)

e. Types of Certificates and Endorsements. The non-traditional route may be used for first-time certification, subsequent certificates, and additional endorsements. (3-20-14)

04. Alternative Authorization - Pupil Personnel Services. The purpose of this alternative authorization is to allow Idaho school districts to request endorsement/certification when a position requiring the Pupil Personnel Services certificate cannot be filled with someone who has the correct endorsement/certification. The exception to this rule is the Interim School Nurse endorsement and the Interim Speech Language Pathologist endorsement. The requirements for these endorsements are defined in Subsection 015.02 of these rules. The alternate authorization is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-29-17)

a. Initial Qualifications. The applicant must complete the following: (4-2-08)

i. Prior to application, a candidate must hold a master's degree and hold a current Idaho license from the Bureau of Occupational Licenses in the area of desired certification; and (3-25-16)

ii. The employing school district must provide supportive information attesting to the ability of the candidate to fill the position. (4-2-08)

b. Alternative Route Preparation Program. (4-2-08)

i. The candidate must work toward completion of the alternative route preparation program through a participating college/university and the employing school district. The alternative route preparation program must include annual progress goals. (3-25-16)

ii. The candidate must complete a minimum of nine (9) semester credits annually to be eligible for extension of up to a total of three (3) years. (4-2-08)

iii. The participating college/university or the State Department of Education will provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (4-2-08)

iv. The candidate must meet all requirements for the endorsement/certificate as provided herein. (4-2-08)

05. Alternate Authorization Renewal. Annual renewal will be based on the school year and satisfactory progress toward completion of the applicable alternate authorization requirements. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

075. FINGERPRINTING AND ~~CRIMINAL HISTORY~~ BACKGROUND INVESTIGATION CHECKS (SECTIONS 33-130 AND 33-512, IDAHO CODE).

All ~~certificated and non-certificated employees and other~~ individuals who are required by the provisions of Section 33-130, Idaho Code, must undergo a ~~criminal history~~ background investigation check. (4-9-09)()

01. Definitions. (4-9-09)

a. Applicant. An individual ~~applying for Idaho Certification or a certificated or non-certificated individual applying for employment~~ completing a background investigation check as identified in Subsection 075.02 of these rules. (4-9-09)()

b. Background Investigation Check. The submission of a completed applicant fingerprint card or scan by an authorized entity submitted under an enacted state statute/local ordinance or federal law, approved by the Attorney General of the United States allowing a search of the state and federal criminal history indices for non-criminal justice purposes including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances. ()

c. Background Investigation Check Result. The response to a state and federal background investigation check initiated by a fingerprint submission from an authorized entity for non-criminal justice purposes. Results are returned to the submitting authorized entity by the state criminal history repository (Idaho State Police Bureau of Criminal Investigation). ()

~~**d.**~~ Break-in-Service. A voluntary or involuntary termination in employment, including retirement. (4-9-09)

~~**ee.**~~ Candidate. An individual attending a postsecondary program. (4-9-09)

~~**d.**~~ *Certificated Employee. An individual who holds an Idaho education certificate and is employed in a certificated position in a LEA.* (4-9-09)

~~**ef.**~~ Contractor. An agency, company/business, or individual that has signed a contract or agreement to provide services to an LEA and private or parochial school. (4-9-09)

~~**f.**~~ *Conviction. The final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere, or the sentence has been suspended, deferred, or withheld on a felony or misdemeanor as defined by Section 18-110 and Section 18-111, Idaho Code.* (4-9-09)

~~**g.**~~ *Criminal History Check (CHC). A ten (10) finger fingerprint process to determine if an applicant has criminal arrests and convictions in Idaho, any other state, or applicable jurisdictions.* (4-9-09)

~~**h.**~~ *Criminal History Check Result. Information resulting from processing fingerprints through the databases maintained by the Bureau of Criminal Identification (BCI), Federal Bureau of Investigation (FBI) and the Idaho Statewide Sex Offender Registry.* (4-9-09)

~~**i.**~~ *Irregular Contact. Contact that is not on a daily or weekly basis, or has a regular scheduled interaction with students.* (4-9-09)

~~**j.**~~ *Multiple Assignments. When an individual works in two or more LEAs or an LEA and private school simultaneously.* (4-9-09)

~~**k.**~~ *Non-Certificated Employee. An individual employed in a non-certificated position.* (4-9-09)

~~**l.**~~ *Open Date. The date a fingerprint card or scan is entered into the database as an electronic file.* (4-9-09)

g. Employee. A person who is hired for a wage, salary, fee, or payment to perform work for an employer. ()

h. Fingerprint Card or Scan. The process for obtaining impressions of an individual's fingerprint

images, both ten (10) individual finger impressions rolled from nail to nail and slap or flat impressions taken simultaneously without rolling. Fingerprints may be recorded utilizing either an inked standard fingerprint card or using a livescan device. Standard fingerprint cards may also be scanned for submission to the state repository for background investigation check purposes. ()

~~mi.~~ Rejected Fingerprint Cards or Scans. A fingerprint card or scan that has been returned by the ~~BCI, FBI or SDE~~ Idaho State Police Bureau of Criminal Identification or Federal Bureau of Investigation for poor quality prints, ~~lack of signature, card being older than six (6) months, or other incomplete information.~~ (4-9-09)()

~~n.~~ Scan. ~~The process of capturing an individual's fingerprints by an electronic process.~~ (4-9-09)

~~o.~~ Unsupervised Contact. Direct contact or interaction with students not under the direct supervision of an LEA school district employee on a continuing basis in a K-12 setting. This includes contact or interaction with students in scheduled school activities that occur outside of the school or outside of normal school hours. ~~This excludes extra-curricular trips of one-day length starting during the school day.~~ (4-9-09)()

02. Individuals Required to Complete a Background Investigation Check. ()

a. All applicants for certificates; ()

b. Certificated and noncertificated employees; ()

c. Substitute teachers; ()

d. Contractors who have unsupervised contact with students in a public K-12 setting, including contractors who are providing student services; ()

e. Student teachers or any postsecondary candidates who have unsupervised contact with students in a public K-12 setting; ()

f. Volunteers who have unsupervised contact with students in a public K-12 setting; ()

g. Any individuals who have unsupervised contact with students in a public K-12 setting. ()

023. Fee. The SDE shall charge a ~~forty dollars (\$40)~~ fee for undergoing a ~~criminal history background investigation~~ check pursuant to Section 33-130, Idaho Code. (4-9-09)()

034. Rejected Fingerprint Cards or Scans. (4-9-09)

a. When a fingerprint card has been rejected a new completed fingerprint card is required. (4-9-09)

b. The rejected fingerprint card will be sent back to the originating LEA, private or parochial school, contractors, postsecondary program, or individual. (4-9-09)()

c. A new fingerprint card must be completed by a law enforcement agency to ensure legible fingerprints. Both the rejected fingerprint card and the new fingerprint card must be returned to the SDE within ~~twenty (20)~~ thirty (30) calendar days. (4-9-09)()

d. If the new fingerprint card and rejected fingerprint card are returned after ~~the twenty (20)~~ thirty (30) calendar days, ~~time period a forty dollar (\$40)~~ a fee pursuant to Subsection 075.03 of these rules is required to be paid. (4-9-09)()

045. Secured ~~CHC~~ Background Investigation Check Website. The SDE will maintain a ~~CHC background investigation check~~ website listing the ~~CHC background investigation check~~ results. ~~The LEA, private or parochial school, contractor or postsecondary program may view the results or status of an applicant, employee or candidate~~ for review by the LEA, private or parochial school, contractor or postsecondary program. Each LEA, private or parochial school, contractor and postsecondary program will have access to the background investigation

~~check secure site listing their employees, statewide substitute teacher list, and student teacher list. (4-9-09)()~~

~~a. Upon a signed agreement the SDE will issue a password to access the CHC website. (4-9-09)~~

~~b. Each LEA, private or parochial school, contractor and postsecondary program will have access to the CHC secure site listing their employees, statewide substitute teacher list, newly certified list and student teacher list. (4-9-09)~~

056. ~~Fingerprinting & Criminal History~~ Background Investigation Checks for Certification. (4-9-09)()

~~a. The SDE will maintain a list of newly certificated educators. Educators stay on this list for one (1) year from their individual open date. Educators on this list may be employed by a LEA without a new CHC. (4-9-09)~~

~~b.a. The SDE will make the final determination if an applicant is eligible for Idaho certification. (4-9-09)~~

~~b.b. If the SDE makes a determination that the applicant is not eligible for Idaho certification, the SDE may deny the applicant Idaho certification. Upon receiving the written denial, the applicant may request a hearing pursuant to Section 33-1209, Idaho Code. (4-9-09)~~

~~06. ~~Non-Certificated Employees.~~ Non-certificated employees are required to complete a CHC pursuant to Section 33-130, Idaho Code. The CHC results will be posted on the CHC website for their employer to review. (4-9-09)~~

07. Substitute Teachers. Substitute teachers as defined in Section 33-512(15), Idaho Code, must undergo a ~~criminal history~~ background investigation check. The SDE shall maintain a statewide substitute teacher list. To remain on the list a substitute teacher shall undergo a ~~criminal history~~ background investigation check every five (5) years in accordance with Section 33-512, Idaho Code. ~~Substitute teachers on the list do not need to complete a multiple assignment form nor are subject to break in service provisions. (4-9-09)()~~

08. Break In Service. (4-9-09)

~~a. When an employee returns to any LEA, private or parochial school, or contractor after a break in service, a new ~~criminal history~~ background investigation check must be completed pursuant to Section 33-130, Idaho Code. (4-9-09)()~~

~~b. When an employee changes employment between LEAs a new CHC background investigation check must be completed regardless of the most recent CHC pursuant to Section 33-130, Idaho Code. (4-9-09)()~~

09. Postsecondary. (4-9-09)

~~a. The postsecondary program will submit a completed fingerprint card or scan for all candidates who are applying for unsupervised contact with students in a public K-12 setting including student teaching, internships, ~~or~~ practicum, or other types of candidate training. (4-9-09)()~~

~~b. The SDE will make a preliminary determination based on the CHC result if the candidate is eligible for certification in Idaho. This decision will be forwarded to the postsecondary program concerning the eligibility of their candidate. (4-9-09)~~

~~c. The SDE will move a candidate from the student teacher list to the newly certified list when an application for certification is approved. (4-9-09)~~

076. CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).

Believing in the worth and dignity of each human being, the professional educator recognizes the supreme importance of pursuing truth, striving toward excellence, nurturing democratic citizenship and safeguarding the

freedom to learn and to teach while guaranteeing equal educational opportunity for all. The professional educator accepts the responsibility to practice the profession according to the highest ethical principles. The Code of Ethics for Idaho Professional Educators symbolizes the commitment of all Idaho educators and provides principles by which to judge conduct. (3-20-04)

01. Aspirations and Commitments. (3-20-04)

a. The professional educator aspires to stimulate the spirit of inquiry in students and to provide opportunities in the school setting that will help them acquire viable knowledge, skills, and understanding that will meet their needs now and in the future. (3-20-04)

b. The professional educator provides an environment that is safe to the cognitive, physical and psychological well-being of students and provides opportunities for each student to move toward the realization of his goals and potential as an effective citizen. (3-20-14)

c. The professional educator, recognizing that students need role models, will act, speak and teach in such a manner as to exemplify nondiscriminatory behavior and encourage respect for other cultures and beliefs. (3-20-14)

d. The professional educator is committed to the public good and will help preserve and promote the principles of democracy. He will provide input to the local school board to assist in the board's mission of developing and implementing sound educational policy, while promoting a climate in which the exercise of professional judgment is encouraged. (4-11-06)

e. The professional educator believes the quality of services rendered by the education profession directly influences the nation and its citizens. He strives, therefore, to establish and maintain the highest set of professional principles of behavior, to improve educational practice, and to achieve conditions that attract highly qualified persons to the profession. (4-11-06)

f. The professional educator regards the employment agreement as a pledge to be executed in a manner consistent with the highest ideals of professional service. He believes that sound professional personal relationships with colleagues, governing boards, and community members are built upon integrity, dignity, and mutual respect. The professional educator encourages the practice of the profession only by qualified persons. (4-11-06)

02. Principle I - Professional Conduct. A professional educator abides by all federal, state, and local education laws and statutes. Unethical conduct shall include the conviction of any felony or misdemeanor offense set forth in Section 33-1208, Idaho Code. (3-20-14)

03. Principle II - Educator/Student Relationship. A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom. Unethical conduct includes, but is not limited to: (3-20-14)

a. Committing any act of child abuse, including physical or emotional abuse; (3-20-04)

b. Committing any act of cruelty to children or any act of child endangerment; (3-20-04)

c. Committing or soliciting any sexual act from any minor or any student regardless of age; (3-20-04)

d. Committing any act of harassment as defined by district policy; (4-11-06)

e. Soliciting, encouraging, or consummating a romantic or inappropriate relationship (whether written, verbal, virtual, or physical) with a student, regardless of age; (3-20-14)

f. Using inappropriate language including, but not limited to, swearing and improper sexual comments (e.g., sexual innuendos or sexual idiomatic phrases); (3-20-04)

- g.** Taking or possessing images (digital, photographic, or video) of students of a harassing, confidential, or sexual nature; (4-11-15)
- h.** Inappropriate contact with any minor or any student regardless of age using electronic media; (4-11-06)
- i.** Furnishing alcohol or illegal or unauthorized drugs to any student or allowing or encouraging a student to consume alcohol or unauthorized drugs except in a medical emergency; (3-20-14)
- j.** Conduct that is detrimental to the health or welfare of students; and (3-20-14)
- k.** Deliberately falsifying information presented to students. (3-20-14)
- 04. Principle III - Alcohol and Drugs Use or Possession.** A professional educator refrains from the abuse of alcohol or drugs during the course of professional practice. Unethical conduct includes, but is not limited to: (3-20-14)

 - a.** Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming illegal or unauthorized drugs; (3-20-04)
 - b.** Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming alcohol; (3-20-04)
 - c.** Inappropriate or illegal use of prescription medications on school premises or at any school-sponsored events, home or away; (4-11-06)
 - d.** Inappropriate or illegal use of drugs or alcohol that impairs the individual's ability to function; and (4-11-06)
 - e.** Possession of an illegal drug as defined in Chapter 27, Idaho Code, Uniform Controlled Substances. (3-20-04)
- 05. Principle IV - Professional Integrity.** A professional educator exemplifies honesty and integrity in the course of professional practice. Unethical conduct includes, but is not limited to: (3-20-14)

 - a.** Fraudulently altering or preparing materials for licensure or employment; (3-20-04)
 - b.** Falsifying or deliberately misrepresenting professional qualifications, degrees, academic awards, and related employment history when applying for employment or licensure; (3-20-04)
 - c.** Failure to notify the state at the time of application for licensure of past revocations or suspensions of a certificate or license from another state; (3-20-04)
 - d.** Failure to notify the state at the time of application for licensure of past criminal convictions of any crime violating the statutes or rules governing teacher certification; (3-20-14)
 - e.** Falsifying, deliberately misrepresenting, or deliberately omitting information regarding the evaluation of students or personnel, including improper administration of any standardized tests (changing test answers; copying or teaching identified test items; unauthorized reading of the test to students, etc.); (4-11-06)
 - f.** Falsifying, deliberately misrepresenting, or deliberately omitting reasons for absences or leaves; (3-20-04)
 - g.** Falsifying, deliberately misrepresenting, or deliberately omitting information submitted in the course of an official inquiry or investigation; (3-20-14)
 - h.** Falsifying, deliberately misrepresenting, or deliberately omitting material information on an

official evaluation of colleagues; and (3-20-14)

i. Failure to notify the state of any criminal conviction of a crime violating the statutes and/or rules governing teacher certification. (3-20-14)

06. Principle V - Funds and Property. A professional educator entrusted with public funds and property honors that trust with a high level of honesty, accuracy, and responsibility. Unethical conduct includes, but is not limited to: (3-20-14)

a. Misuse, or unauthorized use, of public or school-related funds or property; (3-20-04)

b. Failure to account for school funds collected from students, parents, or patrons; (3-20-14)

c. Submission of fraudulent requests for reimbursement of expenses or for pay; (3-20-04)

d. Co-mingling of public or school-related funds in personal bank account(s); (3-20-04)

e. Use of school property for private financial gain; (3-20-14)

f. Use of school computers to deliberately view or print pornography; and, (3-20-04)

g. Deliberate use of poor budgeting or accounting practices. (3-20-04)

07. Principle VI - Compensation. A professional educator maintains integrity with students, colleagues, parents, patrons, or business personnel when accepting gifts, gratuities, favors, and additional compensation. Unethical conduct includes, but is not limited to: (3-20-14)

a. Unauthorized solicitation of students or parents of students to purchase equipment, supplies, or services from the educator who will directly benefit; (3-20-14)

b. Acceptance of gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest; (3-20-04)

c. Tutoring students assigned to the educator for remuneration unless approved by the local board of education; and, (3-20-04)

d. Soliciting, accepting, or receiving a financial benefit greater than fifty dollars (\$50) as defined in Section 18-1359(b), Idaho Code. (3-20-14)

[e. Keeping for oneself donations, whether money or items, that were solicited or accepted for the benefit of a student, class, classroom, or school.](#) ()

08. Principle VII - Confidentiality. A professional educator complies with state and federal laws and local school board policies relating to the confidentiality of student and employee records, unless disclosure is required or permitted by law. Unethical conduct includes, but is not limited to: (3-20-14)

a. Sharing of confidential information concerning student academic and disciplinary records, personal confidences, health and medical information, family status or income, and assessment or testing results with inappropriate individuals or entities; and (3-20-04)

b. Sharing of confidential information about colleagues obtained through employment practices with inappropriate individuals or entities. (3-20-04)

09. Principle VIII - Breach of Contract or Abandonment of Employment. A professional educator fulfills all terms and obligations detailed in the contract with the local board of education or education agency for the duration of the contract. Unethical conduct includes, but is not limited to: (3-20-14)

a. Abandoning any contract for professional services without the prior written release from the contract by the employing school district or agency; (3-20-04)

b. Willfully refusing to perform the services required by a contract; and, (3-20-04)

c. Abandonment of classroom or failure to provide appropriate supervision of students at school or school-sponsored activities to ensure the safety and well-being of students. (3-20-04)

10. Principle IX - Duty to Report. A professional educator reports breaches of the Code of Ethics for Idaho Professional Educators and submits reports as required by Idaho Code. Unethical conduct includes, but is not limited to: (3-20-14)

a. Failure to comply with Section 33-1208A, Idaho Code, (reporting requirements and immunity); (3-20-04)

b. Failure to comply with Section 16-1605, Idaho Code, (reporting of child abuse, abandonment or neglect); (4-11-06)

c. Failure to comply with Section 33-512B, Idaho Code, (suicidal tendencies and duty to warn); and (4-11-06)

d. Having knowledge of a violation of the Code of Ethics for Idaho Professional Educators and failing to report the violation to an appropriate education official. (3-20-04)

11. Principle X - Professionalism. A professional educator ensures just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights and responsibilities while following generally recognized professional principles. Unethical conduct includes, but is not limited to: (3-20-14)

a. Any conduct that seriously impairs the Certificate holder's ability to teach or perform his professional duties; (3-20-04)

b. Committing any act of harassment toward a colleague; (4-11-06)

c. Failure to cooperate with the Professional Standards Commission in inquiries, investigations, or hearings; (3-20-04)

d. Using institutional privileges for the promotion of political candidates or for political activities, except for local, state or national education association elections; (4-11-06)

e. Willfully interfering with the free participation of colleagues in professional associations; and (4-11-06)

f. Taking or possessing images (digital, photographic or video) of colleagues of a harassing, confidential, or sexual nature. (4-11-15)

IDAPA 08 – STATE BOARD AND STATE DEPARTMENT OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1702

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, 33-1006, 33-1506, 33-1508, and 33-1511, 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 October 18, 2017.

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 proposed rulemaking provides for the amendment of Standards for Idaho School Buses and Operations, incorporated by reference into IDAPA 08.02.03.004. The National School Transportation Specifications and Procedures were changed and approved at the 16th National Congress on School Transportation in May of 2015. The amendments to Standards for Idaho School Buses and Operations reflect the changes at the national level. Additional language has been added for clarification or to reflect manufacturing or operational procedures. Changes to Standards for Idaho School Buses and Operations include: the reformatting of school bus specifications from bus body and bus chassis standards to integrated bus standards 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. Furthermore, changes to the bus bidding process, general language revision, proration of non-conforming vehicles, and the reinstatement of field trip mileage, shuttle, training, and maintenance mileage was included.

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:

According to the statement of purpose of 2017 Senate Bill 1123, the financial impact of the reinstatement of field trip mileage is estimated to be between \$2.25 million and \$2.5 million per year. The financial impact of the reinstatement of shuttle, training, and maintenance mileage is estimated to be approximately \$958,000.

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 5, 2017 Idaho Administrative Bulletin, **Vol. 17-4, pages 28 - 29**.

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:

Standards for Idaho School Buses and Operations is currently a document incorporated by reference. The Idaho State Board of Education approved amendments to the document on August 10, 2017. Because of the number of pages within the document, the republication of the text would be unduly cumbersome and expensive. A complete copy of Standards for Idaho School Buses and Operations can be found on the State Department of Education's website at <https://sde.idaho.gov/topics/admin-rules/>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Doug Scott, Transportation Specialist, at (208) 490-1016 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 October 25, 2017.

DATED this 10th day of August, 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1702
(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 June 16, 2016. Copies of this document can be found on the Office of the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)

02. Standards for Idaho School Buses and Operations as approved on ~~June 23, 2011~~ August 10, 2017. 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 <https://boardofed.idaho.gov>. (~~3-29-12~~)()

03. Operating Procedures for Idaho Public Driver Education Programs as approved on 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 <https://boardofed.idaho.gov>. (3-29-17)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1703

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-119, 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 October 18, 2017.

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:

Proposed amendments update the reference to the Northwest Accreditation Commission to recognize it is now a part of AdvancEd, removes a reference to private and parochial schools that conflicts with language in Section 33-119, Idaho Code, and adds a reference to Residential Schools. Proposed references to residential schools applies to residential schools certified as accredited by the State Board of Education. Without the additional reference to residential schools all residential schools accredited by AdvancEd would be exempt from the health and safety requirement outlined in Section 39-1210, Idaho Code that all other non-accredited residential schools must follow. This reference applies to schools with a residential facility pursuant to Section 39-1207, Idaho code and does not apply to home schooled students.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 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: No materials are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 29th day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1703
(Only Those Sections With Amendments Are Shown.)

140. ACCREDITATION.

All public secondary schools, serving any grade(s) 9-12, will be accredited pursuant to Section 33-119, Idaho Code. Accreditation is voluntary for elementary schools, grades K-8, ~~private and parochial schools,~~ and alternative schools not identified in Subsection 140.01.a. through 140.01.e. of this rule. ~~(Section 33-119, Idaho Code) (3-20-14)()~~

01. Alternative Schools. Beginning with the 2014-15 school year, an alternative school serving any grade(s) 9-12 that meets any three (3) of the criteria in Subsections 140.01.a. through 140.01.e. of this rule, shall be required to be accredited. An alternative school that does not meet three (3) of the following criteria in Subsections 140.01.a. through 140.01.e. shall be considered as an alternative program by the district board of trustees and shall be included in the accreditation process and reporting of another secondary school within the district for the purposes of meeting the intent of this rule. (3-20-14)

a. School has an Average Daily Attendance greater than or equal to 36 students based on previous year's enrollment; (3-20-14)

b. School enrolls any students full-time for the school year once eligibility determination is made as opposed to schools that enroll students for "make-up" or short periods of time; (3-20-14)

c. School offers an instructional model that is different than that provided by the traditional high school within the district for a majority of the coursework, including but not limited to online/virtual curriculum; (3-20-14)

d. School administers diplomas that come from that alternative school as opposed to students receiving a diploma from the traditional high school within the school district; or (3-20-14)

e. School receives its own accountability rating for federal reporting purposes. (3-20-14)

~~**02. Continuous School Improvement Plan.** Schools will develop continuous school improvement plans focused on the improvement of student performance. (4-2-08)~~

~~**03. Standards.** Schools will meet the accreditation standards of the Northwest Accreditation Commission, a division of AdvancED. (3-29-12)()~~

03. Residential Schools. In addition to the academic standards, residential schools must meet the applicable health and safety standards established pursuant to Section 39-1210, Idaho Code, to be considered fully accredited by the State Board of Education. ()

04. Reporting. An annual accreditation report will be submitted to the State Board of Education identifying each accredited school and school district in the state and the status of their accreditation. (4-2-08)()

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1705

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1004B, 33-1201, 33-1201A, 33-1204, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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:

Proposed amendments make technical corrections to the existing definition of an institutional recommendation to differentiate between the institutional recommendation that is required for instructional staff and the one required for administrators and amend existing references to professional development plans and professional learning plans to a single uniform term for consistency. Additional amendments will amend educator evaluation requirements to provide clarification to the existing requirements including, but not limited to, documentation requirements and school district policy requirements. Proposed evaluation amendments were based on areas identified during the annual evaluation review process and additional technical corrections identified during the negotiated rulemaking process.

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:

This rule meets the requirements of conferring a benefit as it will create clarification in the existing evaluation requirements allowing for more uniformity of implementation benefiting administrators and teachers alike and resulting in greater consistency in the application of summative scoring and movement on the Career Ladder.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 49](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rule contains no documents incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0202-1705
(Only Those Sections With Amendments Are Shown.)**

007. DEFINITIONS.

01. Active Teacher. K-12 teacher with a valid Idaho certificate who is currently teaching in an Idaho K-12 classroom or school, either in person or online. (3-29-17)

02. Alternative Routes. Routes to teacher certification designed for candidates who want to enter the teaching profession from non-education professions or the paraprofessional profession, or for teachers lacking certification in a specific area defined as an emergency district need. (3-29-17)

03. Credential. The general term used to denote the document on which all of a person's educational certificates and endorsements are listed. The holder is entitled to provide educational services in any and/or all areas listed on the credential. (3-16-04)

04. Endorsement. Term used to refer to the content area or specific area of expertise in which a holder is granted permission to provide services. (3-16-04)

05. Idaho Student Achievement Standards. Standards of achievement for Idaho's K-12 students. See IDAPA 08.02.03, "Rules Governing Thoroughness." (3-16-04)

06. Individualized Professional Learning Plan. An individualized professional development plan based on the Idaho framework for teacher evaluation as outlined in Section 120 of these rules to include interventions based on the individual's strengths and areas of needed growth. ~~(3-25-16)~~ (8-31-17)T

07. Institutional Recommendation. Signed form or written verification from an accredited institution with a state board approved teacher educator preparation program stating that an individual has completed the program, received a basic or higher rating in all ~~twenty-two (22)~~ components of the approved Idaho framework for teaching evaluation, has an individualized professional learning plan, has demonstrated the ability to produce measurable student achievement or growth and student success, has the ability to create student learning objectives, and is now being recommended for state certification. Institutional recommendations must include statements of identified competency areas and grade ranges. Institutional Recommendation for administrators must additionally include a competency statement indicating proficiency in conducting accurate evaluations of instructional practice based upon the state's framework for evaluation as outlined in Section 120 of these rules. ~~(3-25-16)~~ (8-31-17)T

08. Local Education Agency (LEA). An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. (3-29-17)

09. Orientation. School district/school process used to acquaint teachers new to district/school on its policies, procedures and processes. (3-16-04)

10. Paraprofessional. A noncertificated individual who is employed by a school district or charter school to support educational programming. Paraprofessionals must work under the direct supervision of a properly certificated staff member for the areas they are providing support. Paraprofessionals cannot serve as the teacher of record and may not provide direct instruction to a student unless the paraprofessional is working under the direct supervision of a teacher. (3-29-17)

a. To qualify as a paraprofessional the individual must have a high school diploma or general equivalency diploma (GED) and: (3-29-17)

i. Demonstrate through a state approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed as applicable to the academic areas they are providing support in; or (3-29-17)

ii. Have completed at least two (2) years of study at an accredited postsecondary educational institution; or (3-29-17)

iii. Obtained an associate degree or higher level degree; demonstrate through a state approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed as applicable to the academic areas they are providing support in. (3-29-17)

b. Individuals who do not meet these requirements will be considered school or classroom aides. (3-29-17)

c. Duties of a paraprofessional include, but are not limited to, one-on-one tutoring; assisting in classroom management; assisting in computer instruction; conducting parent involvement activities; providing instructional support in a library or media center; acting as a translator in instructional matters; and providing instructional support services. Non-instructional duties such as providing technical support for computers, personal care services, and clerical duties are generally performed by classroom or school aides, however, this does not preclude paraprofessionals from also assisting in these non-instructional areas. (3-29-17)

11. Pedagogy. Teaching knowledge and skills. (3-16-04)

12. Student Learning Objective (SLO). A measurable, long-term academic growth target that a teacher sets at the beginning of the year for all student or for subgroups of students. SLOs demonstrate a teacher's impact on student learning within a given interval of instruction based upon baseline data gathered at the beginning of the course. (3-25-16)

13. Teacher Leader. A teacher who facilitates the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs. (3-25-16)

(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 Instructional Certificate. A Standard Instructional Certificate makes an individual eligible to teach all grades, subject to the grade ranges and subject areas of the valid endorsement(s) attached to the certificate. A standard instructional certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and who meets the following requirements: (3-29-17)

a. Professional education requirements: (3-29-17)

i. Earned a minimum of twenty (20) semester credit hours, or thirty (30) quarter credit hours, in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter, which shall include at least three (3) semester credit hours, or four (4) quarter credit hours, in reading and its application to the content area; (3-29-17)

ii. The required minimum credit hours must include at least six (6) semester credit hours, or nine (9) quarter credit hours, of student teaching in the grade range and subject areas as applicable to the endorsement; and (3-29-17)

b. Completed an approved teacher preparation program and have an institutional recommendation from an accredited college or university specifying the grade ranges and subjects for which they are eligible to receive an endorsement in; (3-29-17)

c. Individuals seeking endorsement in a secondary grade (pursuant to section 33-1001, Idaho Code) range must complete preparation in at least two (2) fields of teaching. One (1) of the teaching fields must consist of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours and a second field of teaching consisting 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 two (2) teaching field requirements; (3-29-17)

d. 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 the state board approved content area and pedagogy assessments. (3-29-17)

e. The Standard Instructional Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)

02. 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 015.02.c.i. or 015.02.c.ii. in addition to the requirement of Subsection 015.02.c.iii. (3-29-17)

i. The candidate must possess a valid nursing (RN) license issued by the Idaho State Board of Nursing, and a baccalaureate degree in nursing, education, or a health-related field from an accredited institution. (3-29-17)

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 endorsement 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 School Nurse Endorsement will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (3-29-17)

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 shall be accomplished by meeting the requirements of Subsections 015.02.g.i. through iii., or by meeting the requirement in Subsection 015.02.g.iv.: (3-29-17)

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 (3-29-17)

ii. An institution recommendation from an Idaho State Board of Education approved program; and (3-29-17)

iii. The successful completion of a school social work practicum in a kindergarten through grade twelve 12 (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. (3-29-17)

iv. A current and valid master's degree or higher social work license pursuant to chapter 32, title 54 and the rules of the State Board of Social Work Examiners. (3-29-17)

h. Interim Endorsement-Speech Language Pathologist. This certificate will be granted for those who do not meet the educational requirements but who hold a baccalaureate 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. (3-29-17)

03. 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. The Administrator Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)

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)

04. Certification Standards For Career Technical Educators. Teachers of career technical courses

or programs in secondary or postsecondary schools must hold an endorsement in an appropriate occupational discipline. This endorsement may be held on a Standard Instructional Certificate or on an Occupational Specialist Certificate. For postsecondary instructors and administrators, certification fees are set by the State Board for Career Technical Education, and application processes are managed by the Division of Career Technical Education. (3-29-17)

05. Degree Based Career 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 and Natural Resources; Business Technology Education; Family and Consumer Sciences; Marketing Technology Education; Computer Science Technology and Engineering 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 a Division of Career Technical Education approved practicum in their respective field of specialization. (3-29-17)

b. The Career Technical Administrator certificate is required for an individual serving as an administrator, director, manager or coordinator of career technical education at the state, secondary or postsecondary level. Individuals must meet the following prerequisites to qualify for the Career Technical Administrator Certificate. Equivalence in each area will be determined on an individual basis by the Division of Career Technical Education. (3-29-17)

i. Qualify for or hold an Occupational Specialist certificate or hold an occupational endorsement on a standard instructional certificate with an applicable endorsement; (3-29-17)

ii. Provide evidence of a minimum of four (4) years' teaching, three (3) of which must be in a career technical discipline; (3-29-17)

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 career technical education; administration of personnel; and legal aspects of career technical education, and statewide framework for teacher evaluations that includes a laboratory component. 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. (3-29-17)

v. To renew the Career Technical Administrator Certificate, individuals are required to complete six (6) semester hours of related course work or meet renewal requirements for career technical instructional staff. (3-29-17)

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 Instructional Certificate or qualify for an Occupational Specialist Certificate, plus complete course work in coordination of work-based learning programs. (3-29-17)

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 career technical requirement: Career Pathways and Career Technical Guidance; Principles/Foundations of Career Technical Education; and Theories of Occupational Choice. (3-25-16)

06. Occupational Specialist Certificate. The Occupational Specialist Certificates are industry based career technical certifications issued in lieu of a degree based career technical certificate. Certificate holders must meet the following eligibility requirements: (3-29-17)

a. 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: (3-29-17)

i. Have eight (8) years or sixteen thousand (16,000) hours of recent, gainful employment in the occupation for which certification is requested. Up to forty-eight (48) months credit or up to eight thousand (8,000) hours can be counted toward the eight (8) years on a month-to-month basis for journeyman training or completed postsecondary training in a career technical education program; or (3-29-17)

ii. Have a baccalaureate degree in the specific occupation or related area, plus three (3) years or six thousand (6,000) hours of recent, gainful employment in the occupation; or (3-29-17)

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

(1) Be a journeyman with two (2) years of recent, full-time, gainful, related work experience, or have 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; (3-29-17)

(2) Pass an approved state or national certification examination plus three (3) years of recent, gainful, related work experience (length and type of work experience will be determined on an individual basis); or (3-29-17)

(3) Pass approved industry related certification for skill level requirements (vendor and industry specific) plus three (3) years of recent, gainful, related work experience (length and type of work experience 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. (3-29-17)

b. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching in public schools. The certificate is valid for three (3) years and is non-renewable: (3-29-17)

i. Within the first eighteen (18) months, the holder must complete the pre-service workshop sponsored by the Division of Career Technical Education and an approved course in career technical methods and student assessment; (3-29-17)

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

iii. Within the three-year (3) period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily demonstrate competencies in Principles/Foundations of Occupational Education and Methods of Teaching Occupational Education. Additionally, the instructor must satisfactorily demonstrate competencies in two (2) of the following areas: Career Pathways and Guidance; Analysis, Integration, and Curriculum Development; and Measurement and Evaluation. (3-29-17)

c. Standard Occupational Specialist Certificate. This certificate is issued to individuals who have: (3-29-17)

i. Completed the pre-service workshop sponsored by the Division of Career Technical Education and an approved course in career technical methods and student assessment; and (3-29-17)

ii. Completed a new-teacher induction workshop at the state or district level; and (3-29-17)

iii. Can satisfactorily demonstrate competencies in Principles/Foundations of Occupational Education

and Methods of Teaching Occupational Education; and (3-29-17)

iv. Can demonstrate competencies in two (2) of the following areas: Career Pathways and Guidance; Analysis, Integration, and Curriculum Development; and Measurement and Evaluation; and (3-29-17)

v. The Standard Occupational Specialist Certificate is valid for five (5) years and must be renewed pursuant to Section 060 of these rules. Credit equivalencies will be based on verification of one hundred twenty (120) hours of approved related work experience or forty-five (45) hours of participation at approved technical conferences, institutes, or workshops or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. Work experience may be prorated at the rate of forty (40) hours per credit. Technical conference, institutes, or workshop participation may be prorated at the rate of fifteen (15) hours per credit. (3-29-17)

d. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who: (3-29-17)

i. Meet the requirements for the Standard Occupational Specialist Certificate; (3-29-17)

ii. Can provide evidence of completion of a teacher training degree program or eighteen (18) semester credits of approved education related course work, such as educational methodology in the content area, in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); and (3-29-17)

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

iv. The Advanced Occupational Specialist Certificate is valid for five (5) years and must be renewed pursuant to Section 060. At least three (3) educationally focused semester credits must be taken for university or college credit. Verification will be based on an official transcript. In addition to the minimum of three (3) semester credits, in-service activities or related work experience may be used. Credit equivalencies will be based on verification of one hundred twenty (120) hours of approved related work experience or forty-five (45) hours of participation at approved technical conferences, institutes and workshops or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. Work experience may be prorated at the rate of forty (40) hours per credit. Technical conference, institutes, or workshop participation may be prorated at the rate of fifteen (15) hours per credit. (3-29-17)

07. Postsecondary Specialist. A Postsecondary Specialist certificate will be granted to a current academic 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. (3-29-17)

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)

08. 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 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)

09. 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 015.09.a. and b., the State Department of Education shall issue a letter authorizing these individuals as Junior ROTC instructors. (3-29-17)

10. 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. Teachers must take one (1) of the three (3) courses developed that is most closely aligned with their current assignment. Any teacher successfully completing said course shall be deemed to have met the requirement of Subsection 060.02.c. of this rule as long as said course is part of an official transcript or completed before September 1, 2013, and verified by the State Department of Education. 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 or another State Department of Education approved alternative course in order to recertify: (3-29-17)

i. Each teacher holding an Early Childhood/Early Childhood Special Education Blended endorsement (Birth - Grade 3) who is employed by a school district or charter school as a K-3 multi-subject or special education teacher; (3-29-17)

ii. Each teacher holding a Standard Instructional Certificate (K-8) who is employed by a school district or charter school as a K-6 multi-subject teacher; (3-29-17)

iii. Each teacher holding a Standard Instructional Certificate (6-12) teaching in a mathematics content classroom (grade six (6) through grade twelve (12)) including Title I who is employed by a school district or charter school; and (3-29-17)

iv. Each teacher holding a Standard Exceptional Child Generalist Endorsement who is employed by a

school district or charter school as a special education teacher. (3-29-17)

v. Each school administrator coming from out-of-state holding an Administrator Certificate who is employed by a school district or charter school. (3-29-17)

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 Endorsement (Birth - Grade 3) who is employed by a school district or charter school; (3-29-17)

ii. Each teacher holding a Standard Instructional Certificate (K-8) who is employed by a school district or charter school; and (3-29-17)

iii. Each teacher holding a Standard Exceptional Child Generalist Endorsement who is employed by a school district or charter school. (3-29-17)

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. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. The course must include the following competencies: ~~(3-29-17)~~(8-31-17)T

i. Understanding professional practice in Idaho evaluation requirements, including gathering accurate evidence and artifacts, understanding and using the state framework for evaluation rubric with fidelity, proof of calibration and interrater reliability, ability to provide effective feedback for teacher growth, and understanding and advising teachers on individualized learning plan and portfolio development. (8-31-17)T

ii. Understanding student achievement and growth in the Idaho evaluation framework, including understanding how measurable student achievement and growth measures impact summative evaluation ratings and proficiency in assessment literacy. (8-31-17)T

016. IDAHO INTERIM CERTIFICATE.

The State Department of Education or the Division of Career Technical Education, as applicable to the certificate, is authorized to issue a three-year (3) interim certificate to those applicants who hold a valid certificate/license from another state or other entity that participates in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Agreement pursuant to Section 33-4104, Idaho Code, or engaged in an alternate route to certification as prescribed herein. (3-29-17)

01. Interim Certificate Not Renewable. Interim certification is only available on a one-time basis per individual except under extenuating circumstances approved by the State Department of Education. It will be the responsibility of the individual to meet the requirements of the applicable alternate authorization route and to obtain a full Idaho Educator Credential during the term of the interim certificate. (3-29-17)

02. Idaho Comprehensive Literacy Course. For all Idaho teachers working on interim certificates, alternate routes or coming from out of the state, completion of a state approved Idaho Comprehensive Literacy course

shall be a one-time requirement for full certification. (3-25-16)

a. Those individuals who qualify for an Idaho certificate through state reciprocity shall be granted a three-year, non-renewable interim certificate to allow time to meet the Idaho Comprehensive Literacy Course requirement. (3-25-16)

03. Mathematical Thinking for Instruction. For all Idaho teachers working on interim certificates (alternate authorizations, nontraditional routes, or coming from out of the state), with an All Subjects K-8 endorsement or any mathematics endorsement must complete a state approved Mathematical Thinking for Instruction, or another State Department of Education approved alternative course, as a one-time requirement to receive a standard instructional, standard occupational, or advanced occupational certificate. (3-29-17)

04. Technology. Out-of-state applicants will be reviewed by the hiring district for technology deficiencies and may be required to take technology courses to improve their technology skills. (4-7-11)

05. Reinstatement of Expired Certificate. An individual holding an expired Idaho certificate may be issued a nonrenewable three-year interim certificate. During the validity period of the interim certificate, the applicant must meet all current requirements listed for the specific certificate and endorsement(s) including the appropriate content, pedagogy, and performance assessments. (3-29-12)

06. Foreign Institutions. An educator having graduated from a foreign institution that is listed in the Accredited Degree-Granting Institutions section of the “Accredited Institutions of Postsecondary Education” and having a valid/current teaching certificate/license from the country or province in which the foreign institution is located, may be issued a non-renewable, three-year interim certificate. The applicant must also complete the requirements listed in Section 013 of these rules. (4-2-08)

07. Codes of Ethics. All laws and rules governing standard certificated staff with respect to conduct, discipline, and professional standards shall apply to all individuals serving in an Idaho public school, including those employed under an interim certificate. (8-31-17)T

(BREAK IN CONTINUITY OF SECTIONS)

021. ENDORSEMENTS.

Holders of a Standard Instructional Certificate, Standard Occupational Specialist Certificate, and Advanced Occupational Specialist Certificate may be granted endorsements in subject areas as provided herein. Instructional staff are eligible to teach in the grades and content areas of their endorsements. Idaho preparation programs shall prepare candidates for endorsements in accordance with the Idaho Standards for Initial Certification of Professional School Personnel. An official statement of competency in a teaching area or field is acceptable in lieu of required credits if such statements originate in the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. Statements must include the number of credits the competency evaluation is equivalent to. To add an endorsement to an existing credential, an individual shall complete the credit hour requirements as provided herein and shall also meet or exceed the state qualifying score on appropriate, state approved content, pedagogy and performance assessments. When converting semester credit hours to quarter credit hours, two (2) semester credit hours is equal to three (3) quarter credit hours. (3-29-17)

01. Clinical Experience Requirement. All endorsements require supervised teaching experience in the relevant content area, or a State Department of Education or Division of Career Technical Education approved alternative clinical experience as applicable to the area of endorsement. (~~3-12-14~~)(8-31-17)T

02. Alternative Authorization to Endorsement. Candidates shall meet all requirements of the chosen option for the endorsement as provided herein. (~~3-29-17~~)(8-31-17)T

a. Option I -- An official statement of competency in a teaching area or field is acceptable in lieu of courses for a teaching field if such statements originate in the department or division of the accredited college or

university in which the competency is established and are approved by the director of teacher education of the recommending college or university. (3-29-17)

b. Option II -- National Board. By earning National Board Certification in content specific areas, teachers may gain endorsement in a corresponding subject area. (3-29-17)

c. Option III -- Master's degree or higher. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid instructional certificate. ~~(3-29-17)~~(8-31-17)T

d. Option IV -- Testing and/or Assessment. Two (2) pathways are available to some teachers, depending upon endorsement(s) already held. (3-29-17)

i. Pathway 1 -- Endorsements may be added through state-approved testing and a mentoring component. The appropriate test must be successfully completed within the first year of authorization in an area closely compatible with an endorsement for which the candidate already qualifies and is experienced. Additionally, requires the successful completion of a one (1)-year state-approved mentoring component: ~~or (3-25-16)~~(8-31-17)T

ii. Pathway 2 -- Endorsements may be added through state-approved testing in an area less closely compatible with an endorsement for which the candidate already qualifies and is experienced. The appropriate test must be successfully completed within the first year of the authorization. Additionally, requires the successful completion of a one (1)-year state-approved mentoring component and passing a final pedagogy assessment. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

042. ALTERNATE ROUTES TO CERTIFICATION.

The purpose of this program is to provide an alternative for individuals to become certificated teachers in Idaho without following a standard teacher education program. Alternative Routes to Certification shall allow individuals to serve as the teacher of record prior to having earned full certification status. The teacher of record is defined as the person who is primarily responsible for planning instruction, delivering instruction, assessing students formatively and summatively, and designating the final grade. Individuals who are currently employed as Paraprofessionals and, individuals with strong subject matter background but limited experience with educational methodology shall follow the alternate certification requirements provided herein. Individuals who are currently certificated to teach but who are in need of an emergency endorsement in another area may obtain an endorsement through an alternate route as described in Subsection 021.02 of these rules. (3-29-17)

01. Alternative Authorization -- Teacher To New Certification. The purpose of this alternative authorization is to allow Idaho school districts to request additional certification when a professional position cannot be filled with someone who has the correct certification. Alternative authorization in this area is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-29-17)

a. Prior to application, a candidate must hold a baccalaureate degree, and a valid Idaho instructional certificate. The school district must provide supportive information attesting to the ability of the candidate to fill the position. (3-29-17)

b. A candidate must participate in an approved alternative route preparation program. (3-25-16)

i. The candidate will work toward completion of the alternative route preparation program through a participating college/university, and the employing school district. The candidate must complete a minimum of nine (9) semester credits annually to maintain eligibility for renewal; and (3-25-16)

ii. The participating college/university shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-20-04)

02. Alternative Authorization -- Content Specialist. The purpose of this alternative authorization is to offer an expedited route to certification for individuals who are highly and uniquely qualified in a subject area to teach in a district with an identified need for teachers in that area. Alternative authorization in this area is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-25-16)

a. Initial Qualifications. (3-20-04)

i. A candidate must hold a baccalaureate degree or have completed all of the requirements of a baccalaureate degree except the student teaching or practicum portion; and (3-29-17)

ii. The hiring district shall ensure the candidate is qualified to teach in the area of identified need through demonstrated content knowledge. This may be accomplished through a combination of employment experience and education. (3-25-16)

b. Alternative Route Preparation Program -- College/University Preparation or Other State Board Approved Certification Program. (3-25-16)

i. At the time of authorization a consortium comprised of a designee from the college/university to be attended or other state board approved certification program, and a representative from the school district, and the candidate shall determine the preparation needed to meet the Idaho Standards for Initial Certification of Professional School Personnel. This plan must include mentoring and a minimum of one (1) classroom observation by the mentor per month, which will include feedback and reflection, while teaching under the alternative authorization. The plan must include annual progress goals that must be met for annual renewal; (3-29-17)

ii. The candidate must complete a minimum of nine (9) semester credit hours or its equivalent of accelerated study in education pedagogy prior to the end of the first year of authorization. The number of required credits will be specified in the consortium developed plan; (3-29-17)

iii. At the time of authorization the candidate must enroll in and work toward completion of the alternative route preparation program through a participating college/university or other state board approved certification program, and the employing school district. A teacher must attend, participate in, and successfully complete an individualized alternative route preparation program as one (1) of the conditions for annual renewal and to receive a recommendation for full certification; (3-25-16)

iv. The participating college/university or other state board approved certification program shall provide procedures to assess and credit equivalent knowledge, dispositions and relevant life/work experiences; and (3-25-16)

v. Prior to entering the classroom, the candidate shall meet or exceed the state qualifying score on appropriate state-approved content, pedagogy, or performance assessment. (3-20-04)

03. Non-Traditional Route to Teacher Certification. An individual may acquire interim certification as found in Section 016 of these rules through an approved non-traditional route certification program. (3-25-16)

a. Individuals who possess a baccalaureate degree or higher from an accredited institution of higher education may utilize this non-traditional route to an interim Idaho Teacher Certification. (3-29-17)

b. To complete this non-traditional route, the individual must: (3-25-16)

i. Complete a Board approved program; (4-6-05)

ii. Pass the Board approved pedagogy and content knowledge exams; and (4-6-05)

iii. Complete the Idaho Department of Education Criminal History Check. (4-6-05)

c. Interim Certificate. Upon completion of the certification process described herein, the individual will be awarded an interim certificate from the State Department of Education's Certification and Professional Standards Department. During the term of the interim certificate, teaching by the individual must be done in conjunction with a two (2) year teacher mentoring program approved by the Board. The individual must complete the mentoring program during the term of the interim certificate. ~~In the case where teachers start their mentoring program in the third year of their interim certificate, they must apply to the State Department of Education Teacher Certification Department for a waiver to complete the final year of their mentoring program for full certification.~~ All laws and rules governing ~~the fully~~ **standard instructional** certificated teachers **and pupil service staff** with respect to conduct, discipline and professional standards shall apply to individuals teaching under any Idaho certificate including an interim certificate. (3-29-17)(8-31-17)T

d. Interim Certificate Not Renewable. Interim certification hereunder is only available on a one (1) time basis per individual. It will be the responsibility of the individual to obtain a valid renewable Idaho Educator Credential during the three (3) year interim certification term. (3-25-16)

e. Types of Certificates and Endorsements. The non-traditional route may be used for first-time certification, subsequent certificates, and additional endorsements. (3-20-14)

04. Alternative Authorization - Pupil Personnel Services. The purpose of this alternative authorization is to allow Idaho school districts to request endorsement/certification when a position requiring the Pupil Personnel Services certificate cannot be filled with someone who has the correct endorsement/certification. The exception to this rule is the Interim School Nurse endorsement and the Interim Speech Language Pathologist endorsement. The requirements for these endorsements are defined in Subsection 015.02 of these rules. The alternate authorization is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-29-17)

a. Initial Qualifications. The applicant must complete the following: (4-2-08)

i. Prior to application, a candidate must hold a master's degree and hold a current Idaho license from the Bureau of Occupational Licenses in the area of desired certification; and (3-25-16)

ii. The employing school district must provide supportive information attesting to the ability of the candidate to fill the position. (4-2-08)

b. Alternative Route Preparation Program. (4-2-08)

i. The candidate must work toward completion of the alternative route preparation program through a participating college/university and the employing school district. The alternative route preparation program must include annual progress goals. (3-25-16)

ii. The candidate must complete a minimum of nine (9) semester credits annually to be eligible for extension of up to a total of three (3) years. (4-2-08)

iii. The participating college/university or the State Department of Education will provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (4-2-08)

iv. The candidate must meet all requirements for the endorsement/certificate as provided herein. (4-2-08)

05. Alternate Authorization Renewal. Annual renewal will be based on the school year and satisfactory progress toward completion of the applicable alternate authorization requirements. (3-25-16)

043. -- 059. (RESERVED)

060. APPLICATION PROCEDURES / PROFESSIONAL DEVELOPMENT.

To obtain a new, renew, or reinstate an Idaho Educator Credential, the applicant must submit an application on a form

supplied by the State Department of Education or the Division of Career Technical Education as applicable to the type of certificate. All applications for new, renewed, or reinstated occupational specialist certificates must be submitted to the Division of Career Technical Education. The following requirements must be met to renew or reinstate an Idaho Educator Credential. (3-29-17)

01. State Board of Education Requirements for Professional Growth. (4-1-97)

a. Credits taken for recertification must be educationally related to the ~~professional development individualized professional learning plan or related to the professional practice~~ of the applicant. ~~(4-1-97)~~(8-31-17)T

i. Credits must be specifically tied to content areas and/or an area of any other endorsement; or (5-8-09)

ii. Credits must be specific to pedagogical best practices or for administrative/teacher leadership; or (4-2-08)

iii. Credits must be tied to a specific area of need designated by district administration. (4-2-08)

b. Graduate or undergraduate credit will be accepted for recertification. Credit must be ~~college transferable~~ ~~transcribed~~ and completed through an ~~accredited~~ college or university ~~accredited by an entity recognized by the state board of education~~. ~~(4-1-97)~~(8-31-17)T

c. All requests for equivalent in-service training to apply toward recertification, except occupational specialist certificates, must be made through the State Department of Education upon recommendation of the board of trustees consistent with the State Department of Education guidelines. Individuals holding Occupational Specialist Certificates must be made through the Division of Career Technical Education. Applicants must receive prior approval of in-service training and course work prior to applying for renewal. ~~All in-service training must be aligned with the individual's individualized professional learning plan or related to professional practice.~~ ~~(3-29-17)~~(8-31-17)T

d. At least fifteen (15) hours of formal instruction must be given for each hour of in-service credit granted. (4-1-97)

e. Recertification credits may not be carried over from one (1) recertification period to the next. (4-1-97)

~~**f.** Certificated personnel teaching in subjects outside their major area of preparation will be encouraged to complete the courses required for major certification endorsement. (4-1-97)~~

~~**g.** All credits gained through coursework taken during the validity period of the certificate and commencing prior to September 1, 2008 shall be accepted toward recertification. (5-8-09)~~

~~**h.** An appeals process, developed by the State Department of Education in conjunction with the Professional Standards Commission or the Division of Career Technical Education, as applicable to the certificate type, shall be available to applicants whose credits submitted for recertification, in part or as a whole, are rejected for any reason if such denial prevents an applicant from renewing an Idaho certificate. An applicant whose credits submitted for recertification are rejected, in part or as a whole, within six (6) months of the expiration of the applicant's current certification shall be granted an automatic appeal and a temporary certification extension during the appeal or for one (1) year, whichever is greater. (3-29-17)~~

02. State Board of Education Professional Development Requirements. (4-1-97)

a. Districts will have professional development plans. (4-1-97)

b. All certificated personnel will be required to complete at least six (6) semester hours or the equivalent within the five (5) year period of validity of the certificate being renewed. (4-1-97)

c. At least three (3) semester credits will be taken for university or college credit. Verification ~~will~~

may be by official or unofficial transcript. Individuals found to have intentionally altered transcripts used for verification who would have not otherwise met this renewal requirement will be investigated for violations of the Code of Ethics for Idaho Professional Educators, which may result in the revocation of the individual's certification.
(4-1-97)(8-31-17)T

(BREAK IN CONTINUITY OF SECTIONS)

120. LOCAL DISTRICT EVALUATION POLICY -- ~~TEACHER INSTRUCTIONAL STAFF~~ AND PUPIL ~~PERSONNEL SERVICE~~ CERTIFICATE HOLDERS.

Each school district board of trustees will develop and adopt policies for ~~teacher certified staff~~ performance evaluation using multiple measures in which criteria and procedures for the evaluation of certificated personnel are research based. For pupil service staff, those standards shall be aligned with the profession's national standards. For instructional staff, those standards shall be and aligned to Charlotte Danielson Framework for Teaching Second Edition domains and components of instruction. Individual domain and component ratings specified in Subsection 120.01 of this rule must be determined based on a combination of professional practice, and student achievement. For all certification personnel, domain and or component ratings may be weighted based on the individual's individualized professional learning plan. The summative evaluation rating must be based on a combination of professional practice and student achievement as specified in Subsections 120.02 and 120.03. The process of developing criteria and procedures for certificated personnel evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators, teachers, and parents. The evaluation policy will be a matter of public record and communicated to the certificated personnel for whom it is written. (3-29-17)(8-31-17)T

01. Standards. Each district evaluation model shall be aligned to state minimum standards that are based on Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. Those domains and components include: (3-29-10)

- a.** Domain 1 - Planning and Preparation: (3-29-10)
 - i. Demonstrating Knowledge of Content and Pedagogy; (3-29-10)
 - ii. Demonstrating Knowledge of Students; (3-29-10)
 - iii. Setting Instructional Outcomes; (3-20-14)
 - iv. Demonstrating Knowledge of Resources; (3-29-10)
 - v. Designing Coherent Instruction; and (3-29-10)
 - vi. Designing Student Assessments. (3-29-12)
- b.** Domain 2 - The Classroom Environment: (3-29-12)
 - i. Creating an Environment of Respect and Rapport; (3-29-10)
 - ii. Establishing a Culture for Learning; (3-29-10)
 - iii. Managing Classroom Procedures; (3-29-10)
 - iv. Managing Student Behavior; and (3-29-10)
 - v. Organizing Physical Space. (3-29-10)
- c.** Domain 3 - Instruction and Use of Assessment: (3-29-10)
 - i. Communicating with Students; (3-29-12)

- ii. Using Questioning and Discussion Techniques; (3-29-10)
- iii. Engaging Students in Learning; (3-29-10)
- iv. Using Assessment in Instruction; and (3-29-12)
- v. Demonstrating Flexibility and Responsiveness. (3-29-12)
- d.** Domain 4 - Professional Responsibilities: (3-29-10)
 - i. Reflecting on Teaching; (3-29-10)
 - ii. Maintaining Accurate Records; (3-29-10)
 - iii. Communicating with Families; (3-29-10)
 - iv. Participating in a Professional Community; (3-29-12)
 - v. Growing and Developing Professionally; and (3-29-10)
 - vi. Showing Professionalism. (3-29-10)

02. Professional Practice. ~~For evaluations conducted on or after July 1, 2013, a~~All certificated instructional employees must receive an evaluation in which at least a majority of the evaluation ratings must be based on Professional Practice. All measures included within the Professional Practice portion of the evaluation must be aligned to the Charlotte Danielson Framework for Teaching Second Edition domains and components. Professional Practice shall include a minimum of two (2) documented observations annually, with at least one (1) observation being completed by January 1 of each year. In situations where certificated personnel are unavailable for two (2) documented classroom observations, due to situations such as long-term illness, late year hire, etc., one (1) documented classroom observation is acceptable. At least one (1) documented summative evaluation must include a rating for all components of the applicable professional standards used for evaluation of certified personnel. District evaluation models shall also include at least one (1) of the following as a measure to inform the Professional Practice portion of ~~all~~ each certificated instructional employee evaluations: ~~(3-29-17)~~(8-31-17)T

- a. Parent/guardian input; (3-20-14)
- b. Student input; and/or (3-20-14)
- c. Portfolios. (3-20-14)

03. Student Achievement. Instructional staff evaluation ratings must in part be based on measurable student achievement, as defined in Section 33-1001, Idaho Code, as applicable to the subjects and grade ranges taught by the instructional staff. All other certificated staff evaluations must include measurable student achievement or student success indicators, as defined in Section 33-1001, Idaho Code, as applicable to the position. This portion of the evaluation may be calculated using current and/or the immediate past year's data and may use one (1) year or both years' data. Growth in student achievement may be considered as an optional measure for all other school based and district based staff, as determined by the local board of trustees. (3-29-17)

04. Participants. Each district evaluation policy will include provisions for evaluating all certificated employees identified in Section 33-1001, Idaho Code, Subsection 16. Evaluations shall be differentiated for certificated non-instructional employees and pupil personnel certificate holders in a way that aligns with the Charlotte Danielson Framework for Teaching Second Edition to the extent possible and aligned to the pupil service staff's applicable national standards. Policies for evaluating certificated employees should identify the differences, if any, in the conduct of evaluations for nonrenewable contract personnel and renewable contract personnel. ~~(3-20-14)~~(8-31-17)T

05. Evaluation Policy - Content. Local school district policies will include, at a minimum, the following information: (4-1-97)

~~a. Purpose—statements that identify the purpose or purposes for which the evaluation is being conducted; e.g., individual instructional improvement, personnel decisions. (4-1-97)~~

ba. Evaluation criteria -- statements of the *general* criteria upon which certificated personnel will be evaluated and rated. (4-1-97)(8-31-17)T

eb. Evaluator -- identification of the individuals responsible for *appraising* *observing* or evaluating certificated instructional staff and pupil *personnel* *service staff* performance. The individuals assigned this responsibility shall have received training in conducting evaluations based on the statewide framework for evaluations within the immediate previous five (5) years of conducting any evaluations and prior to September 1, 2018, shall demonstrate proof of proficiency in conducting observations and evaluating effective teacher performance by passing a proficiency assessment approved by the State Department of Education as a onetime recertification requirement. (3-20-14)(8-31-17)T

~~d. Sources of data—description of the sources of data used in conducting certificated personnel evaluations. For certificated instructional staff, a minimum of two (2) documented classroom observations shall be included as one (1) source of data. At least one (1) of those observations must be completed prior to January 1 of each year. In situations where certificated personnel are unavailable for two (2) documented classroom observations, due to situations such as long term illness, late year hire, etc., one (1) documented classroom observation is acceptable. Parent/guardian input, student input and/or portfolios shall be considered as sources of data to support professional practice. (4-11-15)~~

~~e. Procedure—description of the procedure used in the conduct of certificated personnel evaluations. (4-1-97)~~

fc. Communication of results -- the method by which certificated personnel are informed of the results of evaluation. (4-1-97)

gd. Personnel actions -- the action available to the school district as a result of the evaluation and the procedures for implementing these actions; e.g., job status change. Note: in the event the action taken as a result of evaluation is to not renew an individual's contract or to renew an individual's contract at a reduced rate, school districts should take proper steps to follow the procedures outlined in Sections 33-513 through 33-515, Idaho Code in order to assure the due process rights of all personnel. (3-20-14)

~~he.~~ Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists regarding the results of certificated personnel evaluations. (4-1-97)

~~i. Remediation—the procedure available to provide remediation in those instances where remediation is determined to be an appropriate course of action. (4-1-97)~~

~~j. Monitoring and evaluation.—A description of the method used to monitor and evaluate the district's personnel evaluation system. (4-1-97)~~

~~k. Professional development and training—a plan for ongoing training for evaluators/administrators and teachers on the districts evaluation standards, tool and process. (3-29-10)~~

~~l. Funding—a plan for funding ongoing training and professional development for administrators in evaluation. (3-29-10)~~

~~m. Collecting and using data—a plan for collecting and using data gathered from the evaluation tool that will be used to inform professional development. Aggregate data shall be considered as part of the district and individual schools Needs Assessment in determining professional development offerings. (3-20-14)~~

nf. Individualizing teacher evaluation rating system -- a plan for how evaluations will be used to identify proficiency and record growth over time and be used to develop individualized professional learning plans. *No later than July 1, 2013, d*Districts shall have *established* an individualized teacher evaluation rating system with a

minimum of three (3) rankings used to differentiate performance of teachers and pupil personnel certificate holders including: ~~(3-20-14)~~(8-31-17)T

- i. Unsatisfactory being equal to “1”; (3-20-14)
- ii. Basic being equal to “2”; and (3-20-14)
- iii. Proficient being equal to “3”. (3-20-14)
- iv. A fourth evaluation rating of Distinguished, being equal to “4,” may be used in addition to the three (3) minimum rankings at the discretion of the school district or charter school. (3-29-17)

~~eg.~~ A plan for including all stakeholders including, but not limited to, teachers, board members, administrators, and parents in the development and ongoing review of their teacher evaluation plan. (3-20-14)

06. Evaluation Policy - Frequency of Evaluation. The evaluation policy shall include a provision for evaluating all certificated personnel on a fair and consistent basis. (3-20-14)

07. Evaluation Policy - Personnel Records. Permanent records of each certificated personnel evaluation will be maintained in the employee’s personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code). Local school districts shall report the rankings of individual certificated personnel evaluations to the State Department of Education annually for State and Federal reporting purposes. The State Department of Education shall ensure that the privacy of all certificated personnel is protected by not releasing statistical data of evaluation rankings in local school districts with fewer than five (5) teachers and by only reporting that information in the aggregate by local school district. (3-20-14)

08. Evaluation System Approval. Each school district board of trustees will develop and adopt policies for teacher and pupil personnel certificated performance evaluation in which criteria and procedures for the evaluation are research based and aligned with the Charlotte Danielson Framework for Teaching Second Edition and national standards for pupil service staff as applicable. By July 1, 2014, an evaluation plan which incorporates all of the above elements shall be submitted to the State Department of Education for approval. Once approved, subsequent changes made in the evaluation system shall be resubmitted for approval. ~~(3-20-14)~~(8-31-17)T

121. LOCAL DISTRICT EVALUATION POLICY – SCHOOL PRINCIPAL ADMINISTRATOR. All school and school district administrators must receive an annual evaluation. Individuals serving in the role of superintendent or its equivalent shall be evaluated by the local board of trustees. Individuals serving in the capacity of a school district superintendent and principal shall be evaluated based on the school district evaluation policy for superintendents. For principal and other school level administrator evaluations conducted on or after July 1, 2014, each school district board of trustees will develop and adopt policies for principal performance evaluation using multiple measures in which criteria and procedures for the evaluation of administratively certificated personnel serving as school principal or other school level administrators are research based and aligned to the standards and requirements outlined in Subsections 121.01 through 121.07 of this rule. Districts must, at a minimum, pilot such an evaluation during the 2013-2014 school year and report the results of that pilot to the State Department of Education no later than July 1, 2014, in a format determined by the Department. For Special Education Directors, standards aligned with the profession’s national standards may replace those outlined in Subsection 121.01. The process of developing criteria and procedures for principal administrator evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators, teachers and parents. The evaluation policy will be a matter of public record and communicated to the principal for whom it is written. ~~(3-20-14)~~(8-31-17)T

01. Standards. Each district principal and school level administrator evaluation model shall be aligned to state minimum standards based on the Interstate School Leaders Licensure Consortium (ISLLC) standards and include proof of proficiency in conducting teacher evaluations using the state’s adopted model framework for evaluations, the Charlotte Danielson Framework for Teaching Second Edition. Proof of proficiency in evaluating teacher performance shall be required of all individuals assigned the responsibility for appraising, observing, or evaluating certificated personnel performance. Those responsible for measuring teacher performance are district leadership such as principals, assistant principals, special education directors, and superintendents. Proof of

~~proficiency in evaluating performance shall be demonstrated by passing a proficiency assessment approved by the State Department of Education as a onetime recertification requirement prior to September 1, 2018.~~ Principal evaluation standards shall additionally address the following domains and components: ~~(4-11-15)~~(8-31-17)T

a. Domain 1: School Climate - An educational leader promotes the success of all students by advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional development. An educational leader articulates and promotes high expectations for teaching and learning while responding to diverse community interest and needs. (3-20-14)

i. School Culture - Principal establishes a safe, collaborative, and supportive culture ensuring all students are successfully prepared to meet the requirements for tomorrow's careers and life endeavors. (3-20-14)

ii. Communication - Principal is proactive in communicating the vision and goals of the school or district, the plans for the future, and the successes and challenges to all stakeholders. (3-20-14)

iii. Advocacy - Principal advocates for education, the district and school, teachers, parents, and students that engenders school support and involvement. (3-20-14)

b. Domain 2: Collaborative Leadership - An educational leader promotes the success of all students by ensuring management of the organization, operations and resources for a safe, efficient and effective learning environment. In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs. The educational leader uses research and/or best practices in improving the education program. (3-20-14)

i. Shared Leadership - Principal fosters shared leadership that takes advantage of individual expertise, strengths, and talents, and cultivates professional growth. (3-20-14)

ii. Priority Management - Principal organizes time and delegates responsibilities to balance administrative/managerial, educational, and community leadership priorities. (3-20-14)

iii. Transparency - Principal seeks input from stakeholders and takes all perspectives into consideration when making decisions. (3-20-14)

iv. Leadership Renewal - Principal strives to continuously improve leadership skills through, professional development, self-reflection, and utilization of input from others. (3-20-14)

v. Accountability - Principal establishes high standards for professional, legal, ethical, and fiscal accountability for self and others. (3-20-14)

c. Domain 3: Instructional Leadership - An educational leader promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community. The educational leader provides leadership for major initiatives and change efforts and uses research and/or best practices in improving the education program. (3-20-14)

i. Innovation - Principal seeks and implements innovative and effective solutions that comply with general and special education law. (3-20-14)

ii. Instructional Vision - Principal insures that instruction is guided by a shared, research-based instructional vision that articulates what students do to effectively learn. (3-20-14)

iii. High Expectations - Principal sets high expectation for all students academically, behaviorally, and in all aspects of student well-being. (3-20-14)

iv. Continuous Improvement of Instruction - Principal has proof of proficiency in assessing teacher performance based upon the Charlotte Danielson Framework for Teaching Second Edition. Aligns resources, policies, and procedures toward continuous improvement of instructional practice guided by the instructional vision. (3-20-14)

v. Evaluation - Principal uses teacher/principal evaluation and other formative feedback mechanisms to continuously improve teacher/principal effectiveness. (3-20-14)

vi. Recruitment and Retention -Principal recruits and maintains a high quality staff. (3-20-14)

02. Professional Practice. ~~For evaluations conducted on or after July 1, 2014, a~~All principals must receive an evaluation in which ~~sixty-seven percent (67%)~~ a majority of the summative evaluation results are based on Professional Practice. All measures included within the Professional Practice portion of the evaluation must be aligned to the Domains and Components listed in Subsection 121.01.a. through 121.01.c. of this rule. As a measure to inform the Professional Practice portion of ~~all principal~~ each evaluations, district evaluation models shall also include at least one (1) of the following: ~~(3-20-14)~~(8-31-17)T

a. Parent/guardian input; (3-20-14)

b. Teacher input; (3-20-14)

c. Student input; and/or (3-20-14)

d. Portfolios. (3-20-14)

03. Student Achievement. ~~For evaluations conducted on or after July 1, 2013, a~~All ~~certificated instructional employees, principals and superintendents~~ administrators must receive an evaluation in which ~~at least thirty-three percent (33%)~~ part of the summative evaluation results are based on multiple objective measures of growth in ~~student achievement as determined by the board of trustees and based upon research. For evaluations conducted on or after July 1, 2014, growth in student achievement as measured by Idaho's statewide assessment for Federal accountability purposes must be included~~ measurable student achievement, as defined in Section 33-1001, Idaho Code. This portion of the evaluation may be calculated using current and/or the immediate past year's data and may use one (1) or ~~multiple~~ both years of data. Growth in student achievement may be considered as an optional measure for all other school based and district based ~~staff~~ administrators, as determined by the local board of trustees. ~~(3-20-14)~~(8-31-17)T

04. Evaluation Policy - Content. For evaluations conducted on or after July 1, 2014, local school district policies will include, at a minimum, the following information: (3-20-14)

~~a. Purpose -- statements that identify the purpose or purposes for which the evaluation is being conducted; e.g., individual instructional leadership, personnel decisions. (3-20-14)~~

~~b.a.~~ Evaluation criteria -- statements of the ~~general~~ criteria upon which ~~principals~~ administrators will be evaluated. ~~(3-20-14)~~(8-31-17)T

~~b.b.~~ Evaluator -- identification of the individuals responsible for ~~appraising~~ observing or evaluating ~~principal~~ school level administrator performance. The individuals assigned this responsibility shall have received training in ~~administrator~~ evaluations based on the statewide framework for evaluations. ~~(3-20-14)~~(8-31-17)T

~~d.~~ Sources of data -- description of the sources of data used in conducting principal evaluations. Proficiency in conducting observations and evaluating effective teacher performance shall be included as one (1) source of data. (3-20-14)

~~e.~~ Procedure -- description of the procedure used in the conduct of principal evaluations. (3-20-14)

~~f.~~ Communication of results -- the method by which principals are informed of the results of evaluation. (3-20-14)

~~g.c.~~ Personnel actions -- the action, available to the school district as a result of the evaluation, and the procedures for implementing these actions; e.g., job status change. (3-20-14)

~~h.d.~~ Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists

regarding the results of an evaluations. (3-20-14)

~~i. Remediation — the procedure available to provide remediation in those instances where remediation is determined to be an appropriate course of action. (3-20-14)~~

~~j. Monitoring and evaluation. — A description of the method used to monitor and evaluate the district's principal evaluation system. (3-20-14)~~

~~k. Professional development and training — a plan for ongoing training and professional learning based upon the district's evaluation standards and process. (3-20-14)~~

~~l. Funding — a plan for funding ongoing training and professional development for evaluators of principals. (3-20-14)~~

~~m. Collecting and using data — a plan for collecting and using data gathered from the evaluation tool that will be used to inform professional development for principals. (3-20-14)~~

~~n.e.~~ Individualizing principal evaluation rating system -- a plan for how evaluations will be used to identify proficiency and record growth over time. ~~No later than July 1, 2014, a~~ Districts shall have ~~established~~ an individualized principal evaluation rating system with a minimum of three rankings used to differentiate performance of principals including: (3-20-14)(8-31-17)T

i. Unsatisfactory being equal to “1”; (3-20-14)

ii. Basic being equal to “2”; and (3-20-14)

iii. Proficient being equal to “3”. (3-20-14)

iv. A fourth evaluation rating of Distinguished, being equal to “4,” may be used in addition to the three (3) minimum rankings at the discretion of the school district or charter school. (3-29-17)

~~o.f.~~ A plan for including stakeholders including, but not limited to, teachers, board members, administrators, and parents in the development and ongoing review of their principal evaluation plan. (3-20-14)

05. Evaluation Policy - Frequency of Evaluation. The evaluation policy should include a provision for evaluating all ~~principals~~ administrators on a fair and consistent basis. All ~~principals~~ administrators shall be evaluated at least once annually no later than June 1 of each year. (3-29-17)(8-31-17)T

06. Evaluation Policy - Personnel Records. Permanent records of each principal evaluation will be maintained in the employee's personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code). Local school districts shall report the rankings of individual certificated personnel evaluations to the State Department of Education annually for State and Federal reporting purposes. The State Department of Education shall ensure that the privacy of all certificated personnel is protected by not releasing statistical data of evaluation rankings in local school districts in accordance with the approved policies of the Idaho State Board of Education Data Management Council. (3-29-17)

07. Evaluation System Approval. Each school district board of trustees will develop and adopt policies for principal performance evaluation in which criteria and procedures for the evaluation are research based and aligned with state standards. By July 1, 2014, an evaluation plan which incorporates all of the above elements shall be submitted to the State Department of Education for approval. Once approved, subsequent changes made in the evaluation system shall be resubmitted for approval. (3-20-14)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1707

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1006, 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 October 18, 2017.

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:

IDAPA 08.02.02, Subsections 150 through 190, outline requirements for school district pupil transportation programs as authorized by Section 33-1006, Idaho Code, Transportation Support Program. Senate Bill 1123 (2017) amended Section 33-1006, Idaho Code, removing the prohibition that only allowed reimbursement for transporting students for the purposes of regular school attendance during regular days and hours and added language allowing for the cost of the program to be based on, in part, transportation to and from approved school activities as may be approved by the rules of the State Board of Education, the proposed rule would authorize reimbursement of allowable transportation costs for the purposes of transporting students as part of structured college or university visits.

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

The proposed amendments will bring this rule into compliance with the amendments to state law through Senate Bill 1123 (2017).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, Page 28](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rule contains no documents incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0202-1707
(Only Those Sections With Amendments Are Shown.)**

190. PROGRAM OPERATIONS.

School district fiscal reporting requirements as well as reimbursable and non-reimbursable costs within the Pupil Transportation Support Program, including but not limited to administration, field and activity trips, safety busing, contracting for transportation services, leasing of district-owned buses, insurance, ineligible and non-public school students, ineligible vehicles, capital investments including the purchasing of school buses and equipment, program support and district waiver procedures shall be delineated in Standards for Idaho School Buses and Operations incorporated in Section 004 of these rules. Approved school activities shall include structured college/university visits when such visits are part of the school district college and career advising and mentoring plan. (Section 33-1006, Idaho Code) ~~(5-8-09)~~ (8-31-17)T

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1708

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. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-118, 33-1201, 33-1201A, 33-1204, 33-1612, and 33-2211, 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 October 18, 2017.

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

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

In addition to the standard instructional certificate, IDAPA 08.02.02.015, Educator Credential, outlines the provisions for career technical education instructors and administrators certification requirements. Three levels of occupational specialist certificates exist, Limited Occupational Specialist, Standard Occupational Specialist, and Advanced Occupational Specialist. Individuals entering the field of career technical teaching for the first time receive a Limited Occupational Specialist Certificate, this is a one-time, three-year certificate. At the conclusion of the term of this certificate individuals may apply for either a Standard Occupational Specialist Certificate or an Advanced Occupational Specialist Certificate. The standard and advanced certificates are renewable five-year certificates.

Occupational certification may be earned either through a degree based program from one of the approved educator preparation programs in Idaho or through an industry experience based route. The proposed amendments provide clarification to the various certification requirements and provides for additional options to receive occupational specialist certification within the existing routes.

Specific amendments include:

- Clarification that all occupational specialist certificates are approved through the Division of Career Technical Education and additional technical changes to allow for ease of understanding;
- Add an additional option for individuals holding an Administrator Certificate with a Superintendent or Principal endorsement to earn a Career Technical Administrator certificate;
- Increase the minimum age requirement to be eligible for a occupational specialist certificate from 18 to 21;
- Reduce the minimum number of years and or hours of experience necessary to receive an occupational specialist certificate from eight years or 16,000 hours to six years or 12,000 hours; and
- Add a second pathway using a cohort training model for completing a limited occupational specialist certificate and earning a standard occupational specialist certificate.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, Page 29](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rulemaking does not incorporate any documents by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1708
(Only Those Sections With Amendments Are Shown.)

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 Instructional Certificate. A Standard Instructional Certificate makes an individual eligible to teach all grades, subject to the grade ranges and subject areas of the valid endorsement(s) attached to the certificate. A standard instructional certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and who meets the following requirements: (3-29-17)

- a.** Professional education requirements: (3-29-17)
 - i.** Earned a minimum of twenty (20) semester credit hours, or thirty (30) quarter credit hours, in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter, which shall include at least three (3) semester credit hours, or four (4) quarter credit hours, in reading and its application to the content area; (3-29-17)
 - ii.** The required minimum credit hours must include at least six (6) semester credit hours, or nine (9) quarter credit hours, of student teaching in the grade range and subject areas as applicable to the endorsement; and (3-29-17)
- b.** Completed an approved teacher preparation program and have an institutional recommendation from an accredited college or university specifying the grade ranges and subjects for which they are eligible to receive an endorsement in; (3-29-17)
- c.** Individuals seeking endorsement in a secondary grade (pursuant to section 33-1001, Idaho Code) range must complete preparation in at least two (2) fields of teaching. One (1) of the teaching fields must consist of at

least thirty (30) semester credit hours, or forty-five (45) quarter credit hours and a second field of teaching consisting 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 two (2) teaching field requirements; (3-29-17)

d. 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 the state board approved content area and pedagogy assessments. (3-29-17)

e. The Standard Instructional Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)

02. 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 015.02.c.i. or 015.02.c.ii. in addition to the requirement of Subsection 015.02.c.iii. (3-29-17)

i. The candidate must possess a valid nursing (RN) license issued by the Idaho State Board of Nursing, and a baccalaureate degree in nursing, education, or a health-related field from an accredited institution. (3-29-17)

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 endorsement 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 School Nurse Endorsement will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (3-29-17)

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 shall be accomplished by meeting the requirements of Subsections 015.02.g.i. through iii., or by meeting the requirement in Subsection 015.02.g.iv.: (3-29-17)

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 (3-29-17)

ii. An institution recommendation from an Idaho State Board of Education approved program; and (3-29-17)

iii. The successful completion of a school social work practicum in a kindergarten through grade

twelve 12 (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. (3-29-17)

iv. A current and valid master's degree or higher social work license pursuant to chapter 32, title 54 and the rules of the State Board of Social Work Examiners. (3-29-17)

h. Interim Endorsement-Speech Language Pathologist. This certificate will be granted for those who do not meet the educational requirements but who hold a baccalaureate 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. (3-29-17)

03. 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. The Administrator Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)

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)

04. Certification Standards For Career Technical Educators. Teachers of career technical courses or programs in secondary ~~or postsecondary~~ schools must hold an occupational specialist certificate and an endorsement in an appropriate occupational discipline. ~~This endorsement may be held on a Standard Instructional Certificate or on an Occupational Specialist Certificate. For postsecondary instructors and administrators, certification fees are set by the State Board for Career Technical Education, and application processes are managed by the Division of Career Technical Education.~~ All occupational certificates must be approved by the division of career technical education regardless of the route an individual is pursuing to receive the certificate. ~~(3-29-17)()~~

05. Degree Based Career 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 ~~Natural Resources~~ technology; ~~Business~~ technology ~~Education~~; computer science technology; engineering; ~~Family and Consumer~~ Sciences; ~~Marketing~~ technology ~~Education~~; ~~Computer Science Technology~~ and ~~Engineering~~ 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~~ one thousand (1,000) clock hours of related work experience or ~~shall have completed a Division of Career Technical Education approved~~ practicum in their respective field of specialization, as approved by the division of career technical education. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules. (3-29-17)()

b. The Career Technical Administrator certificate is required for an individual serving as an administrator, director, ~~or~~ manager ~~or coordinator~~ of career technical education programs at the state, ~~secondary or postsecondary level~~ division of career technical education or in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the Career Technical Administrator Certificate. Equivalence in each area will be determined on an individual basis by the Division of Career Technical Education. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. (3-29-17)()

i. Qualify for or hold an Advanced Occupational Specialist certificate or hold an occupational endorsement on a standard instructional certificate ~~with an applicable endorsement;~~ (3-29-17)

~~ii.~~ Provide evidence of a minimum of four (4) years' teaching, three (3) of which must be in a career technical discipline; (3-29-17)

~~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 credits in: education finance, administration and supervision of personnel, legal aspects of ~~career technical~~ education; ~~administration of personnel; and legal aspects of career technical education;~~ and conducting evaluations using the statewide framework for teacher evaluations ~~that includes a laboratory component~~. Additional course work ~~can~~ may 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. (3-29-17)()

~~v.~~ To renew the Career Technical Administrator Certificate, individuals are required to complete six (6) semester hours of related course work or meet renewal requirements for career technical instructional staff. (3-29-17)

~~ii.~~ Hold a superintendent or principal (pre-K-12) endorsement on a standard administrator certificate and provide evidence of a minimum of four (4) years' teaching, three (3) of which must be in a career technical discipline or successfully complete the division of career technical education twenty-seven (27) month Idaho career technical education leadership institute. ()

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 Instructional Certificate or qualify for an Occupational Specialist Certificate, plus complete course work in coordination of work-based learning programs. (3-29-17)

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

06. Industry Based Occupational Specialist Certificate. The industry based Occupational Specialist Certificates are industry based career technical certifications issued in lieu of a degree based career technical certificate. Certificate holders must meet the following eligibility requirements: (3-29-17)()

a. Be ~~eighteen (18)~~ at least twenty-two (22) 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, industry 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: (3-29-17)()

i. Have ~~eight (8)~~ six (6) years or ~~sixteen~~ twelve thousand (~~162,000~~) hours of recent, gainful employment in the occupation for which certification is requested. Up to forty-eight (48) months credit or up to eight thousand (8,000) hours can be counted toward the ~~eight (8)~~ six (6) years or twelve thousand (12,000) hours on a month-to-month basis for journeyman training or completed postsecondary training in a career technical education program; or (3-29-17)()

ii. Have a baccalaureate degree in the specific occupation or related area, plus ~~three (3)~~ two (2) years or ~~six~~ four thousand (~~64,000~~) hours of recent, gainful employment in the occupation for which certification is required, at least half of which must have been during the immediate previous five (5) years; or (3-29-17)()

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

~~(1)iii. Be a journeyman with~~ Have completed a formal apprenticeship program in the occupation or related area for which certification is requested plus two (2) years or four thousand (4,000) hours of recent, full-time, gainful, related work experience, or have completed a formal apprenticeship program in the occupation or related area for which certification is requested at least half of which must have been completed in the immediate previous five (5) years. The apprenticeship must be under the direction of an employer and the Bureau of Apprenticeship and Training or an approved state apprenticeship agency; (3-29-17)()

~~(2) Pass an approved state or national certification examination plus three (3) years of recent, gainful, related work experience (length and type of work experience will be determined on an individual basis); or~~ (3-29-17)

~~(3) Pass approved industry related certification for skill level requirements (vendor and industry specific) plus three (3) years of recent, gainful, related work experience (length and type of work experience 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.~~ (3-29-17)

b. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching in Idaho public schools or new to teaching in career technical education in Idaho public schools. The certificate is an interim certificate and is valid for three (3) years and is non-renewable. Applicants must meet all of the minimum requirements established in Subsection 015.06.a. of these rules. Individuals on a limited occupational specialist certificate must complete one (1) of the two (2) following pathways during the validity period of the certificate: (3-29-17)()

~~i. Within the first eighteen (18) months, the holder must complete the pre-service workshop sponsored by the Division of Career Technical Education and an approved course in career technical methods and student assessment;~~ (3-29-17)

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

~~iii. Pathway I - Coursework: Within the three-year (3) period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily complete the pre-service training prescribed by the division of career technical education and demonstrate competencies in Principles/Foundations of Occupational Education and Methods of Teaching Occupational Education. Additionally, the instructor must satisfactorily demonstrate competencies in two (2) of the following areas: career pathways and Guidance; analysis, integration, and Curriculum Development; and Measurement and Evaluation.~~ (3-29-17)()

ii. Pathway II – Cohort Training: Within the first twelve (12) months, the holder must enroll in the division of career technical education sponsored two (2) year cohort training and complete the two (2) training within the three (3) year validity period of the interim certificate. ()

c. Standard Occupational Specialist Certificate. This certificate is issued to individuals who have: held a limited occupational specialist certificate and completed one (1) of the pathways for completions. (3-29-17)()

i. ~~Completed the pre-service workshop sponsored by the Division of Career Technical Education and an approved course in career technical methods and student assessment; and~~ (3-29-17)

ii. ~~Completed a new teacher induction workshop at the state or district level; and~~ (3-29-17)

iii. ~~Can satisfactorily demonstrate competencies in Principles/Foundations of Occupational Education and Methods of Teaching Occupational Education; and~~ (3-29-17)

iv. ~~Can demonstrate competencies in two (2) of the following areas: Career Pathways and Guidance; Analysis, Integration, and Curriculum Development; and Measurement and Evaluation; and~~ (3-29-17)

v.i. The Standard Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years and must be renewed pursuant to Section 060 of these rules to renew. Credit equivalencies will be based on verification of ~~one hundred twenty (120) hours of approved related work experience or~~ forty-five (45) hours of participation at approved technical conferences, institutes, or workshops where participation is prorated at the rate of fifteen (15) hours per credit; or one hundred twenty (120) hours of approved related work experience where hours worked may be prorated at the rate of forty (4) hours per credit; or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. ~~Work experience may be prorated at the rate of forty (40) hours per credit. Technical conference, institutes, or workshop participation may be prorated at the rate of fifteen (15) hours per credit.~~ (3-29-17)()

d. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who: (3-29-17)

i. ~~Meet the requirements~~ Are eligible for the Standard Occupational Specialist Certificate; (3-29-17)()

ii. ~~Can provide~~ Provide evidence of completion of a teacher training degree program or eighteen (18) semester credits of division of career technical education approved education or content related course work, ~~such as educational methodology in the content area,~~ in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); and (3-29-17)()

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

iv. The Advanced Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years and must be renewed pursuant to Section 060 of these rules to renew. ~~At least three (3) educationally focused semester credits must be taken for university or college credit. Verification will be based on an official transcript. In addition to the minimum of three (3) semester credits, in service activities or related work experience may be used. Credit equivalencies will be based on verification of one hundred twenty (120) hours of approved related work experience or forty-five (45) hours of participation at approved technical conferences, institutes and workshops or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. Work experience may be prorated at the rate of forty (40) hours per credit. Technical conference, institutes, or workshop participation may be prorated at the rate of fifteen (15) hours per credit.~~ (3-29-17)()

07. Postsecondary Specialist. A Postsecondary Specialist certificate will be granted to a current academic 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. (3-29-17)

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)

08. 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 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)

09. 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 015.09.a. and b., the State Department of Education shall issue a letter authorizing these individuals as Junior ROTC instructors. (3-29-17)

10. 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. Teachers must take one (1) of the three (3) courses developed that is most closely aligned with their current assignment. Any teacher successfully completing said course shall be deemed to have met the requirement of Subsection 060.02.c. of this rule as long as said course is part of an official transcript or completed before September 1, 2013, and verified by

the State Department of Education. 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 or another State Department of Education approved alternative course in order to recertify: (3-29-17)

i. Each teacher holding an Early Childhood/Early Childhood Special Education Blended endorsement (Birth - Grade 3) who is employed by a school district or charter school as a K-3 multi-subject or special education teacher; (3-29-17)

ii. Each teacher holding a Standard Instructional Certificate (K-8) who is employed by a school district or charter school as a K-6 multi-subject teacher; (3-29-17)

iii. Each teacher holding a Standard Instructional Certificate (6-12) teaching in a mathematics content classroom (grade six (6) through grade twelve (12)) including Title I who is employed by a school district or charter school; and (3-29-17)

iv. Each teacher holding a Standard Exceptional Child Generalist Endorsement who is employed by a school district or charter school as a special education teacher. (3-29-17)

v. Each school administrator coming from out-of-state holding an Administrator Certificate who is employed by a school district or charter school. (3-29-17)

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 Endorsement (Birth - Grade 3) who is employed by a school district or charter school; (3-29-17)

ii. Each teacher holding a Standard Instructional Certificate (K-8) who is employed by a school district or charter school; and (3-29-17)

iii. Each teacher holding a Standard Exceptional Child Generalist Endorsement who is employed by a school district or charter school. (3-29-17)

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. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. (3-29-17)

IDAPA 08 – STATE BOARD AND STATE DEPARTMENT OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1703

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 33-2002, 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 October 18, 2017.

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 proposed rulemaking provides for the amendment of the Idaho Extended Content Standards, incorporated by reference into IDAPA 08.02.03, Section 004, and adds a new incorporated document to IDAPA 08.02.03.004, Idaho Content Standards Core Content Connectors. The Idaho Extended Content Standards, which are the standards aligned with the alternate assessment, were adopted in 2008 and are currently not aligned with the Idaho Content standards adopted in 2010 and updated in 2017. This proposed rule will replace the English Language Arts (ELA) and Math extended standards with the Idaho Content Standards Core Content Connectors (Connectors), which identify the most salient core academic content in English Language Arts and Mathematics found in the Idaho Content Standards. The Connectors identify priorities for the instruction of students identified as having significant cognitive disabilities and align with the alternate assessment. They illustrate the necessary knowledge and skills students with significant cognitive disabilities need to reach the learning targets or critical big ideas within the state standard. The Connectors are written to help promote how students with significant cognitive disabilities can engage in the Idaho Content Standards while following the learning progression. They have the following characteristics:

- Sequenced to help guide meaningful instruction for students with significant cognitive disabilities and lead to enduring skills in successive grades;
- Written as outcome based, which provides a description of what students should know and do;
- Written with high level of expectations for students with significant cognitive disabilities; and
- Align to grade-level standards to provide access to the general curriculum.
- Connectors are designed to contribute to a fully aligned system of content, instruction, and assessment.

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

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: 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 4, 2017, Idaho Administrative Bulletin, [Vol. 17-4, pages 32-33](#).

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 Idaho Extended Content Standards is a document incorporated by reference. The Extended Content Standards for ELA and Math are replaced by the Idaho Content Standards Core Content Connectors for ELA and

Math. The Idaho State Board of Education approved amendments the Extended Content Standards and adopted the Idaho Content Standards Core Content Connectors for ELA and Math on August 10, 2017. Because of the number of pages within the documents, the republication of the text would be unduly cumbersome and expensive. Complete copies of Idaho Extended Content Standards and the Idaho Content Standards Core Content Connectors can be found on the State Department of Education’s website at sde.idaho.gov/topics/admin-rules/.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. 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 October 25, 2017.

DATED this 10th Day of August, 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1703
(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 <https://boardofed.idaho.gov>. (3-29-10)

- a. Arts and Humanities Categories: (3-24-17)
 - i. Dance, as revised and adopted on August 11, 2016; (3-24-17)
 - ii. Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii. Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv. Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v. Theater, as revised and adopted on August 11, 2016; (3-24-17)
 - vi. Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
 - vii. World languages, as revised and adopted on August 11, 2016. (3-24-17)

- b. Computer Science, adopted on November 28, 2016. (3-24-17)
- c. Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- d. English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e. Health, as revised and adopted on August 11, 2016. (3-24-17)
- f. Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)
- g. Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h. Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i. Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j. Science, as revised and adopted on April 17, 2009. (3-29-10)
- k. Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l. Career Technical Education Categories: (3-29-17)
 - i. Agricultural and Natural Resources, as adopted on June 16, 2016. (3-29-17)
 - ii. Business and Marketing Education, as adopted on June 16, 2016. (3-29-17)
 - iii. Engineering and Technology Education, as adopted on June 16, 2016. (3-29-17)
 - iv. Family and Consumer Sciences, as adopted on June 16, 2016. (3-29-17)
 - v. Skilled and Technical Sciences, as adopted on June 16, 2016. (3-29-17)
 - vi. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)

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 Proficiency 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 Board of Education website at <https://boardofed.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 <https://boardofed.idaho.gov>. (3-29-17)

06. The Idaho Extended Content Standards. The Idaho Extended Content Standards as adopted by the State Board of Education on ~~April 17, 2008~~ August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (~~5-8-09~~)()

~~07.~~ **The Idaho Content Standards Core Content Connectors.** The Idaho Content Standards Core Content Connectors as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. ()

~~a.~~ **English Language Arts,** as adopted by the State Board of Education on August 10, 2017. ()

~~b.~~ **Mathematics,** as adopted by the State Board of Education on August 10, 2017. ()

~~078.~~ **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 <https://boardofed.idaho.gov>. (3-29-12)

~~089.~~ **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 <https://boardofed.idaho.gov>. (4-2-08)

~~0910.~~ **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 <https://boardofed.idaho.gov>. (4-2-08)

~~101.~~ **The Idaho Special Education Manual.** The Idaho Special Education Manual as adopted by the State Board of Education on November 28, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)

IDAPA 08 – STATE BOARD AND STATE DEPARTMENT OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1704

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 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 October 18, 2017.

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 amends the adoption date of the Idaho Special Education Manual, an incorporated document. The Idaho State Board of Education approved amendments to the Idaho Special Education Manual on August 10, 2017. The updated manual replaces the outdated terms “deafness” and “hearing impairment” with “deaf or hard of hearing.” The definition of “deaf or hard of hearing” now includes language regarding the child’s access, comprehension, and/or use of linguistic information through hearing. In addition, state eligibility criteria for “deafness” and “hearing impairment” have been replaced by criteria for “deaf or hard of hearing.” The modified eligibility criteria, used by evaluation teams when determining the disability category for a student, compliment the updated definition of “deaf or hard of hearing.” Other changes to the manual include minor language corrections or deletions necessary to maintain document consistency and to align with Idaho’s Consolidated State Plan under the Every Student Succeeds Act, Idaho Code, or teacher certification standards.

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 April 5, 2017 Idaho Administrative Bulletin, **Vol. 17-4, pages 34-35.**

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

This document is currently incorporated by reference. Incorporation by reference is necessary to ensure compliance with state and federal regulations regarding the education of individuals with disabilities. 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 proposed changes to the Idaho Special Education Manual can be found on the State Department of Education’s website at <http://sde.idaho.gov/topics/admin-rules/>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. 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 October 25, 2017.

DATED this 10th day of August, 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1704
(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 <https://boardofed.idaho.gov>. (3-29-10)

- a.** Arts and Humanities Categories: (3-24-17)
 - i. Dance, as revised and adopted on August 11, 2016; (3-24-17)
 - ii. Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii. Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv. Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v. Theater, as revised and adopted on August 11, 2016; (3-24-17)
 - vi. Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
 - vii. World languages, as revised and adopted on August 11, 2016. (3-24-17)
- b.** Computer Science, adopted on November 28, 2016. (3-24-17)
- c.** Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- d.** English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e.** Health, as revised and adopted on August 11, 2016. (3-24-17)
- f.** Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)
- g.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h.** Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i.** Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j.** Science, as revised and adopted on April 17, 2009. (3-29-10)

- k. Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l. Career Technical Education Categories: (3-29-17)
- i. Agricultural and Natural Resources, as adopted on June 16, 2016. (3-29-17)
- ii. Business and Marketing Education, as adopted on June 16, 2016. (3-29-17)
- iii. Engineering and Technology Education, as adopted on June 16, 2016. (3-29-17)
- iv. Family and Consumer Sciences, as adopted on June 16, 2016. (3-29-17)
- v. Skilled and Technical Sciences, as adopted on June 16, 2016. (3-29-17)
- vi. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)
- 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 Proficiency 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 Board of Education website at <https://boardofed.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 <https://boardofed.idaho.gov>. (3-29-17)
- 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 <https://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 <https://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 <https://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 <https://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 ~~November 28, 2016~~ August 10, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (~~3-29-17~~)()

IDAPA 08 – STATE BOARD AND STATE DEPARTMENT OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1705

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 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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:

Idaho Content Standards describe what Idaho students should know and be able to do at each grade level in certain content areas. These proposed rule changes reflect the standard practice and expectation that the Idaho State Department of Education (Department) convene a review committee of Idaho educators to review and make revisions when needed to the Idaho Content Standards on a rotating basis every six (6) years. This helps ensure that these standards remain the most effective and up-to-date available because they form common learning expectations. Instruction meeting these expectations as a minimum is the responsibility of each local public school district. The changes proposed in each of the content areas up for review reflect the work of the review committees with input from Idaho stakeholders.

The Idaho Content Standards reviewed include Science, Driver Education, and Information and Communication Technology. The changes in Driver Education Content Standards are few and minor, focusing on moving from a combination of alpha numeric numbering to wholly numeric numbering. Minor additions to the current standards include greater specificity in the mirror adjustment [to reduce blind spots and glare] and distracted driving sections, and new sections on rules for yielding in school zones and procedures for traffic stops by police officers. The changes in Information and Communication Technology encompass significant formatting changes, but little change in actual content.

The Science Content Standards changes are significant as they focus on students demonstrating deep knowledge of scientific principles and processes by engaging directly in ‘doing’ science. This emphasis on performance and learning by doing is a paradigm shift with direct implications for growing a scientifically literate citizenry and workforce. It also reflects the deep interest and profound concern in raising the bar in science education indicated by several years of public and legislative input. The revised standards as a foundation of an integrated educational system are the first step in a necessary and synchronous series of ongoing efforts involving professional learning for educators centered on supporting instructional shifts, curricular material review, and development of high cognitive demand, valid, and reliable assessments deeply aligned to the standards. The Idaho Legislature approved temporary Idaho Content Standards for Science in 2017 that encompassed these significant changes, with the exception of five (5) paragraphs dealing with human impacts on the environment. The Department received overwhelming public comment regarding the five (5) paragraphs, and revisions were made to address discussion of problems of human impacts and potential methods of mitigation.

The Idaho State Board of Education (Board) approved these amended content standards on August 10, 2017. The content standards incorporated by reference will reflect the August 10, 2017 Board approval date.

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 April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, pages 36-37](#).

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 documents, republication of the Idaho Content Standards in Science, Driver Education and Information and Communication Technology would be unduly cumbersome and expensive. Complete copies of the proposed Idaho Content Standards for Science, Driver Education, and Information and Communication Technology can be found on the State Department of Education's website at <https://sde.idaho.gov/topics/admin-rules/>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Scott Cook, Director of Academics, at (208) 332-6927 or scook@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 October 25, 2017.

DATED this 10th day of August, 2017.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1705
(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 <https://boardofed.idaho.gov>. (3-29-10)

- a.** Arts and Humanities Categories: (3-24-17)
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 - ii.** Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii.** Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv.** Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v.** Theater, as revised and adopted on August 11, 2016; (3-24-17)

- vi. Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
- vii. World languages, as revised and adopted on August 11, 2016. (3-24-17)
- b. Computer Science, adopted on November 28, 2016. (3-24-17)
- c. Driver Education, as revised and adopted on August ~~21, 2008~~ 10, 2017. (~~3-29-10~~)()
- d. English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e. Health, as revised and adopted on August 11, 2016. (3-24-17)
- 2017. f. Information and Communication Technology, as revised and adopted on ~~April 22, 2010~~ August 10,
(~~4-7-11~~)()
- g. Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h. Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i. Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j. Science, as revised and adopted on ~~April 17, 2009~~ August 10, 2017. (~~3-29-10~~)()
- k. Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l. Career Technical Education Categories: (3-29-17)
 - i. Agricultural and Natural Resources, as adopted on June 16, 2016. (3-29-17)
 - ii. Business and Marketing Education, as adopted on June 16, 2016. (3-29-17)
 - iii. Engineering and Technology Education, as adopted on June 16, 2016. (3-29-17)
 - iv. Family and Consumer Sciences, as adopted on June 16, 2016. (3-29-17)
 - v. Skilled and Technical Sciences, as adopted on June 16, 2016. (3-29-17)
 - vi. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)
- 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 Proficiency 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 Board of Education website at <https://boardofed.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 <https://boardofed.idaho.gov>. (3-29-17)

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 <https://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 <https://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 <https://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 <https://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 November 28, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1707

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-118 and 33- 1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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

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

IDAPA 08.02.03 includes minimum state graduation requirements and references the term diploma in reference to these graduation requirements. While the term is used, it is not defined. Proposed amendments would clarify that school districts may award diplomas to individuals who may have attended the high school in the distant past and now would like to receive a diploma from the high school they attended in their youth. Additional amendments will provide a definition for the term diploma as it relates to students meeting the state and school district graduation requirements and clarify that school districts may determine the format of the diploma issued by the school district, including the recognition of emphasis areas a student may have excelled in or pathways they may have taken to graduation. The definition will also specify which graduation requirements a diploma would be based on for students that may have attended the school in the past.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No changes are being made to the existing fee schedule.

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 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 56](#).

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 rules governing authority standards are incorporated by reference into administrative rule pursuant to Section 33-1258, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582 or tracie.bent@osbe.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 October 25, 2017.

DATED this 30th day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582 / Fax: (208) 334-2632

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1707
(Only Those Sections With Amendments Are Shown.)**

007. DEFINITIONS A - G.

01. Achievement Standards. Define “below basic,” “basic,” “proficient,” and “advanced” achievement levels on the Idaho Standards Achievement Tests (ISAT) and level one (1) through level six (6) on Idaho’s English language assessment by setting scale score cut points. These cut scores are paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance level descriptors or PLDs, and are provided by performance level, by content area, and by grade. (3-29-17)

02. Advanced Opportunities. Are defined as Advanced Placement courses, Dual Credit courses, Technical Competency Credit, or International Baccalaureate programs. (3-25-16)

03. Advanced Placement® (AP) - College Board. The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (4-11-06)

04. All Students. All students means all public school students, grades K-12. (4-11-06)

05. Alternative Assessment (Other Ways of Testing). Any type of assessment in which students create a response to a question rather than choose a response from a given list, as with multiple-choice or true/false. Alternative assessments can include short-answer questions, essays, oral presentations, exhibitions, and portfolios. (4-5-00)

06. Assessment. The process of quantifying, describing, or gathering information about skills, knowledge or performance. (4-5-00)

07. Assessment Standards. Statements setting forth guidelines for evaluating student work, as in the “Standards for the Assessment of Reading and Writing.” (4-5-00)

08. Asynchronous Course. An online course in which an online platform is used to deliver all curricula. The majority of communication exchanges occur in elapsed time and allow students and teachers to participate according to their schedule. Asynchronous courses do not prohibit the use of a paraprofessional, certificated staff or other staff member being present at the physical location during instructional periods where instruction takes place, such as a school computer lab. (4-4-13)

09. Authentic. Something that is meaningful because it reflects or engages the real world. An “authentic task” asks students to do something they might really have to do in the course of their lives, or to apply certain knowledge or skills to situations they might really encounter. (4-5-00)

10. Basic Educational Skills Training. Instruction in basic skills toward the completion/attainment of a certificate of mastery, high school diploma, or GED. (4-5-00)

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

12. Classic Texts. Literary or other works (e.g., films, speeches) that have been canonized, either continuously or intermittently, over a period of time beyond that of their initial publication and reception. (4-5-00)

13. Content Standards. Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (4-2-08)

14. Context (of a Performance Assessment). The surrounding circumstances within which the performance is embedded. For example, problem solving can be assessed in the context of a specific subject (such as mathematics) or in the context of a real-life laboratory problem requiring the use of mathematics, scientific, and communication skills. (4-5-00)

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

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

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

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

19. Diploma. A document awarded to a student by a secondary school to show the student has successfully completed the state and local education agency graduation requirements. Diplomas may be awarded to individuals who attended a secondary school prior to the year in which the student is requesting issuance of a diploma based on the graduation requirements in existence at the time the student attended. Determination of meeting past graduation requirements may be determined based on proficiency as determined by the local education agency. Each local education agency may determine the format of the diploma, including the recognition of emphasis areas based on a student's completion of courses or courses or studies in an emphasis area or educational pathways, including but not limited to science, technology, engineering and math (STEM), career technical education, or arts and music. ()

~~19~~**20. Decode.** (4-5-00)

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

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

~~20~~**21. Dual Credit.** Dual credit allows high school students to simultaneously earn credit toward a high school diploma and a postsecondary degree or certificate. Postsecondary institutions work closely with high schools to deliver college courses that are identical to those offered on the college campus. Credits earned in a dual credit

class become part of the student's permanent college record. Students may enroll in dual credit programs taught at the high school or on the college campus. (4-11-06)

~~242.~~ **Emergent Literacy.** Development of the association of print with meaning that begins early in a child's life and continues until the child reaches the stage of conventional reading and writing. (4-5-00)

~~223.~~ **Employability Skills.** Work habits and social skills desirable to employers, such as responsibility, communication, cooperation, timeliness, organization, and flexibility. (4-5-00)

~~234.~~ **Entry-Level Skills.** The minimum education and skill qualifications necessary for obtaining and keeping a specific job; the starting point in a particular occupation or with a certain employer. (4-5-00)

~~245.~~ **Evaluation (Student).** Judgment regarding the quality, value, or worth of a response, product, or performance based on established criteria, derived from multiple sources of information. Student evaluation and student assessment are often used interchangeably. (4-5-00)

~~256.~~ **Experiential Education (Application).** Experiential education is a process through which a learner constructs knowledge, skill, and value from direct experiences. (4-5-00)

~~267.~~ **Exploratory Experience (Similar to a Job Shadow).** An opportunity for a student to observe and participate in a variety of worksite activities to assist in defining career goals. An in-school exploratory experience is a school-based activity that simulates the workplace. (4-5-00)

~~278.~~ **Fluency.** The clear, rapid, and easy expression of ideas in writing or speaking; movements that flow smoothly, easily, and readily. (4-5-00)

~~289.~~ **Genre (Types of Literature).** A category used to classify literary and other works, usually by form, technique, or content. Categories of fiction such as mystery, science fiction, romance, or adventure are considered genres. (4-5-00)

~~2930.~~ **Graphophonic/Graphophonemic.** One (1) of three (3) cueing systems readers use to construct texts; the relationships between oral and written language (phonics). (4-5-00)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1709

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-118 and 33- 1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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

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

The proposed changes would incorporate by reference new content standards for secondary students that address college and career readiness. These college and career readiness competencies were developed through a representative group from the Board and Department of Education, higher education, career technical education, labor, and commerce stakeholders. Additional amendments would add flexibility to the senior project graduation requirements allowing specific activities aimed and preparing students to be college and career ready to be used to add more value to the senior year.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No changes are being made to the existing fee schedule.

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 July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, 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: The college and career readiness competencies are being incorporated by reference into this section of rule. The competencies are tied to the Idaho Content Standards, incorporating the competencies into the content standards allows for consistency in how these types of standards are treated and referenced.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.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 October 25, 2017.

DATED this 31th day of August, 2017.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Phone: (208) 332-1582 / Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1709
(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 <https://boardofed.idaho.gov>. (3-29-10)

- a.** Arts and Humanities Categories: (3-24-17)
 - i.** Dance, as revised and adopted on August 11, 2016; (3-24-17)
 - ii.** Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii.** Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv.** Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v.** Theater, as revised and adopted on August 11, 2016; (3-24-17)
 - vi.** Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
 - vii.** World languages, as revised and adopted on August 11, 2016. (3-24-17)
- b.** Computer Science, adopted on November 28, 2016. (3-24-17)
- c.** Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- d.** English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e.** Health, as revised and adopted on August 11, 2016. (3-24-17)
- f.** Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)
- g.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h.** Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i.** Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j.** Science, as revised and adopted on April 17, 2009. (3-29-10)
- k.** Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l.** College and Career Readiness Competencies adopted on June 15, 2017. ()
- m.** Career Technical Education Categories: (3-29-17)
 - i.** Agricultural and Natural Resources, as adopted on June 16, 2016. (3-29-17)

- ii. Business and Marketing Education, as adopted on June 16, 2016. (3-29-17)
 - iii. Engineering and Technology Education, as adopted on June 16, 2016. (3-29-17)
 - iv. Family and Consumer Sciences, as adopted on June 16, 2016. (3-29-17)
 - v. Skilled and Technical Sciences, as adopted on June 16, 2016. (3-29-17)
 - vi. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)
- 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 Proficiency 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 Board of Education website at <https://boardofed.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 <https://boardofed.idaho.gov>. (3-29-17)
- 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 <https://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 <https://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 <https://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 <https://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 November 28, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

007. DEFINITIONS A - G.

- 01. Achievement Standards.** Define “below basic,” “basic,” “proficient,” and “advanced”

achievement levels on the Idaho Standards Achievement Tests (ISAT) and level one (1) through level six (6) on Idaho's English language assessment by setting scale score cut points. These cut scores are paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance level descriptors or PLDs, and are provided by performance level, by content area, and by grade. (3-29-17)

02. Advanced Opportunities. Are defined as Advanced Placement courses, Dual Credit courses, Technical Competency Credit, or International Baccalaureate programs. (3-25-16)

03. Advanced Placement® (AP) - College Board. The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (4-11-06)

04. All Students. All students means all public school students, grades K-12. (4-11-06)

05. Alternative Assessment (Other Ways of Testing). Any type of assessment in which students create a response to a question rather than choose a response from a given list, as with multiple-choice or true/false. Alternative assessments can include short-answer questions, essays, oral presentations, exhibitions, and portfolios. (4-5-00)

06. Assessment. The process of quantifying, describing, or gathering information about skills, knowledge or performance. (4-5-00)

07. Assessment Standards. Statements setting forth guidelines for evaluating student work, as in the "Standards for the Assessment of Reading and Writing." (4-5-00)

08. Asynchronous Course. An online course in which an online platform is used to deliver all curricula. The majority of communication exchanges occur in elapsed time and allow students and teachers to participate according to their schedule. Asynchronous courses do not prohibit the use of a paraprofessional, certificated staff or other staff member being present at the physical location during instructional periods where instruction takes place, such as a school computer lab. (4-4-13)

09. Authentic. Something that is meaningful because it reflects or engages the real world. An "authentic task" asks students to do something they might really have to do in the course of their lives, or to apply certain knowledge or skills to situations they might really encounter. (4-5-00)

10. Basic Educational Skills Training. Instruction in basic skills toward the completion/attainment of a certificate of mastery, high school diploma, or GED. (4-5-00)

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

12. Classic Texts. Literary or other works (e.g., films, speeches) that have been canonized, either continuously or intermittently, over a period of time beyond that of their initial publication and reception. (4-5-00)

13. College and Career Readiness. College and career readiness is the attainment and demonstration of state board adopted competencies that broadly prepare high school graduates for a successful transition into some form of postsecondary education and/or the workplace. ()

14. Content Standards. Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (4-2-08)

15. Context (of a Performance Assessment). The surrounding circumstances within which the performance is embedded. For example, problem solving can be assessed in the context of a specific subject (such as mathematics) or in the context of a real-life laboratory problem requiring the use of mathematics, scientific, and

communication skills. (4-5-00)

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

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

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

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

190. Decode. (4-5-00)

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

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

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

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

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

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

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

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

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

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

~~289~~. **Genre (Types of Literature).** A category used to classify literary and other works, usually by form, technique, or content. Categories of fiction such as mystery, science fiction, romance, or adventure are considered genres. (4-5-00)

~~2930~~. **Graphophonic/Graphophonemic.** One (1) of three (3) cueing systems readers use to construct texts; the relationships between oral and written language (phonics). (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

104. OTHER REQUIRED INSTRUCTION.

Other required instruction for all students and other required offerings of the school are: (4-1-97)

01. Elementary Schools. (4-11-06)

a. The following section outlines other information required for all elementary students, as well as other required offerings of the school:

Fine Arts (art and music)
Health (wellness)
Physical Education (fitness) (4-11-06)

b. Additional instructional options as determined by the local school district. For example:
Languages other than English
Career Awareness (4-1-97)

02. Middle Schools/Junior High Schools. (4-11-06)

a. No later than the end of Grade eight (8) each student shall develop parent-approved student learning plans for their high school and post-high school options. The learning plan shall be developed by students with the assistance of parents or guardians, and with advice and recommendation from school personnel. It shall be reviewed annually and may be revised at any time. The purpose of a parent-approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. A student learning plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the state and school district's or LEA's graduation standards in preparation for postsecondary goals. The school district or LEA will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (~~4-11-06~~)()

b. A student must have taken pre-algebra before the student will be permitted to enter grade nine (9). (3-12-14)

c. Other required instruction for all middle school students:
Health (wellness)
Physical Education (fitness) (4-11-06)

d. Other required offerings of the school:
Family and Consumer Science
Fine & Performing Arts
Career Technical Education
Advisory Period (middle school only, encouraged in junior high school) (4-11-06)

03. High Schools. (4-11-15)

a. High schools must offer a wide variety of courses to satisfy state and local graduation requirements. High schools are required to provide instructional offerings in Physical Education (fitness) and Career Technical Education and the instruction necessary to assure students are college and career ready at the time of graduation.

(4-11-15)()

b. High schools will annually review and update with the student the parent-approved student learning plans outlined in Subsection 104.02.a.. (4-11-15)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

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

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. (3-12-14)

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

b. Mastery. Notwithstanding the credit definition of Subsection 105.01.a., a student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. (3-29-17)

c. Secondary Language Arts and Communication. Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements. (3-29-10)

d. Mathematics. Six (6) credits are required. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering courses may also be counted as a mathematics credit if the student has completed Algebra II standards. Students who choose to take AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may not concurrently count such courses as both a math and science credit. (3-12-14)

i. Students must complete secondary mathematics in the following areas: (3-12-14)

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

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

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

ii. Two (2) credits of the required six (6) credits of mathematics must be taken in the last year of high school in which the student intends to graduate. For the purposes of this subsection, the last year of high school shall include the summer preceding the fall start of classes. Students who return to school during the summer or the following fall of the next year for less than a full schedule of courses due to failing to pass a course other than math

are not required to retake a math course as long as they have earned six (6) credits of high school level mathematics. (3-12-14)

iii. Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school. High School math credits completed in middle school shall count for the purposes of this section. (3-12-14)

e. Science. Six (6) credits are required, four (4) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. Up to two (2) credits in AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may be used as science credits. Students who choose to take AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may not concurrently count such courses as both a math and science credit. (3-12-14)

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

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

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

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Effective for all public school students who enter grade nine (9) in Fall 2015 or later, each student shall receive a minimum of one (1) class period on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (3-12-14)

i. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the ~~content standards for~~ Physical Education Content Standards in a format provided by the school district. ~~(4-1-15)~~()

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

03. College Entrance Examination. (Effective for all public school students who enter grade nine (9) in Fall 2012 or later.) (3-12-14)

a. A student must take one (1) of the following college entrance examinations before the end of the student's eleventh grade year: SAT or ACT. Students graduating prior to 2017 may also use the Compass to meet this requirement. A student who misses the statewide administration of the college exam during the student's grade eleven (11) for one (1) of the following reasons, may take the examination during their grade twelve (12) to meet this requirement: (3-25-16)

i. Transferred to an Idaho school district during grade eleven (11); (3-12-14)

ii. Was homeschooled during grade eleven (11); or (3-12-14)

iii. Missed the spring statewide administration of the college entrance exam dates for documented

medical reasons. (3-12-14)

b. A student may elect an exemption in grade eleven (11) from the college entrance exam requirement if the student is: (3-12-14)

i. Enrolled in a special education program and has an Individual Education Plan (IEP) that specifies accommodations not allowed for a reportable score on the approved tests; (3-12-14)

ii. Enrolled in a Limited English Proficient (LEP) program for three (3) academic years or less; or (3-12-14)

iii. Enrolled for the first time in grade twelve (12) at an Idaho high school after the fall statewide administration of the college entrance exam. (4-1-15)

04. Senior Project. A student must complete a senior project by the end of grade twelve (12). The project must include a written report and an oral presentation. Additional requirements for a senior project are at the discretion of the local school district or LEA. Completion of a postsecondary certificate or degree at the time of high school graduation or an approved pre-internship or internship program may be used to meet this requirement. ~~(3-12-14)~~ ()

05. Civics and Government Proficiency. Pursuant to Section 33-1602, Idaho Code, each LEA may establish an alternate path for determining if a student has met the state civics and government content standards. Alternate paths are open to all students in grades seven (7) through twelve (12.) Any student who has been determined proficient in the state civics and government content standards either through the completion of the civics test or an alternate path shall have it noted on the student's high school transcript. (3-29-17)

06. Middle School. A student will have met the high school content and credit area requirement for any high school course if the requirements outlined in Subsections 105.05.a. through 105.05.c. of this rule are met. (3-25-16)

a. The student completes such course with a grade of C or higher before entering grade nine (9); (3-12-14)

b. The course meets the same content standards that are required in high school for the same course; and (3-25-16)

c. The course is taught by a teacher properly certified to teach high school content and who meets the federal definition of highly qualified for the course being taught. (3-25-16)

d. The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. Notwithstanding this requirement, the student's parent or guardian shall be notified in advance when credits are going to be transcribed and may elect to not have the credits and grade transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. except as provided in 105.01.d.iii. The transcribing high school is required to verify the course meets the requirements specified in Subsections 105.05.a. through 105.05.b. of this rule. (3-25-16)

07. Special Education Students. A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)

08. Foreign Exchange Students. A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1710

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 Article IX, Section 2 of the Idaho Constitution and Sections, 33-101, 33-105, 33-107, 33-116, 33-1612, and 33-2211, 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 October 18, 2017.

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:

Prior to 2016, the career technical education content standards were stand alone documents updated and maintained by the Division of Career Technical Education. During the 2016 rulemaking process the Division of Career Technical Education started the process of bringing the career technical content standards forward for incorporation into administrative code giving them the same weight as academic content standards. The standards being considered this year add the following subcategories into the current content standard areas, create a new area for Health Sciences, and updates the previously approved Early Childhood Education Standards:

- **Agriculture and Natural Resources**
 - Plant and Soil Standards
- **Business and Marketing**
 - Business Management
 - Digital Communications
- **Engineering and Technology**
 - Digital Media Production
 - Medial Technology –
 - Commercial Photography
- **Health Sciences**
 - Dental Assisting
 - Emergency Management Technicians
 - Nursing Assistant
 - Physical Therapy Assistant
- **Skilled and Technical Sciences**
 - Cabinetry and Millwork
 - Industrial Mechanics
 - Law Enforcement
 - Small Engine Repair

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, Page 32](#).

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 career technical education content standards are being incorporated by reference due the length and complexity of content standards. This processes allows these content standards to be treated in the same fashion as academic content standards that are already incorporated by reference into Administrative Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1710
(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 <https://boardofed.idaho.gov>. (3-29-10)

- a.** Arts and Humanities Categories: (3-24-17)
 - i. Dance, as revised and adopted on August 11, 2016; (3-24-17)
 - ii. Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii. Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv. Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v. Theater, as revised and adopted on August 11, 2016; (3-24-17)
 - vi. Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
 - vii. World languages, as revised and adopted on August 11, 2016. (3-24-17)
- b.** Computer Science, adopted on November 28, 2016. (3-24-17)
- c.** Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- d.** English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e.** Health, as revised and adopted on August 11, 2016. (3-24-17)

- f. Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)
- g. Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h. Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i. Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j. Science, as revised and adopted on April 17, 2009. (3-29-10)
- k. Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l. Career Technical Education Categories: (3-29-17)
 - i. Agricultural and Natural Resources, as **revised and** adopted on ~~June 16, 2016~~ **August 31, 2017**. ~~(3-29-17)~~()
 - ii. Business and Marketing Education, as **revised and** adopted on ~~June 16, 2016~~ **August 31, 2017**. ~~(3-29-17)~~()
 - iii. Engineering and Technology Education, as **revised and** adopted on ~~June 16, 2016~~ **August 31, 2017**. ~~(3-29-17)~~()
 - iv. Health Sciences, as adopted on August 31, 2017.** ()
 - v. Family and Consumer Sciences, as revised and** adopted on ~~June 16, 2016~~ **August 31, 2017**. ~~(3-29-17)~~()
 - vi. Skilled and Technical Sciences, as revised and** adopted on ~~June 16, 2016~~ **August 31, 2017**. ~~(3-29-17)~~()
 - vii. Workplace Readiness, as adopted on June 16, 2016.** (3-29-17)

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 Proficiency 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 Board of Education website at <https://boardofed.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 <https://boardofed.idaho.gov>. (3-29-17)

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 <https://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 <https://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 <https://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 <https://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 November 28, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1712

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 33-133 and 33-1626, 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 October 18, 2017.

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

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

The proposed rule will amend the data elements collected as part of the statewide longitudinal data system to include grade point average (GPA) pursuant to Section 33-133, Idaho Code. Allowing this data point to be collected on an ongoing basis will allow for a more consistent application of the Direct Admission requirements and streamline the process for verifying and awarding Idaho Opportunity Scholarships.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the simple nature of this rule and GPA already being a commonly defined term it was determined that negotiated rulemaking was not feasible.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No documents are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.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 October 25, 2017.

DATED this 18th day of August, 2017.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
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Phone: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1712
(Only Those Sections With Amendments Are Shown.)

115. DATA COLLECTION.

The State Department of Education will collect the required information from participating school files for state and federal reporting and decision-making. The enrollment collection will contain information about the enrollment of the student attributes such as unique student identifier, active special education, Limited English Proficient (LEP), migrant, grade level, gender, race, and free/reduced lunch status. The collection will be done in mid-October, early February, and May (end of the testing window). Each participating school is required to verify and assure the accuracy of the data submitted in the files. (5-8-09)

01. State Data System. In accordance with the provisions of Section 33-133, Idaho Code, the following data elements will be added to the state data system: ()

a. Grade Point Average (GPA). ()

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS

DOCKET NO. 08-0204-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1612, and 33-5203, 33-5205 and 33-5210, 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 October 18, 2017.

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:

During the 2017 legislative session, House Bill 279 (2017) amended the provision regarding the petitioning process for charter schools, requiring a single application process regardless of the authorizer the petitioners are seeking approval from and streamlining the timelines for review and approval of applications. These legislative changes require amendments to IDAPA 08.02.04, "Rules Governing Public Charter Schools." The proposed amendments add a single application process that will apply to all charter school petitioners, regardless of the chartering entity, remove sections that are no longer required due to the legislative changes or duplicate provision specified in Idaho Code, and make technical changes.

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:

This temporary and proposed rule brings this section of administrative code into compliance with amendments made by House Bill 279 (2017).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 57](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rulemaking does not incorporate any documents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
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Boise, Idaho 83720-0037
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0204-1701
(Only Those Sections With Amendments Are Shown.)**

100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.

01. Responsibilities of Petitioners on Approval of Charter. Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall provide the Board with written notice of such approval. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. (4-4-13)

02. Authorization to Begin Educational Instruction. The public charter schools authorized to begin educational instruction during a given school year shall be those public charter schools that have received approval from their authorized chartering entities to begin educational instruction during such school year. A public charter school that is approved by an authorized chartering entity, but which does not begin educational instruction must confirm with the Board, on or before March 1 preceding the next succeeding school year, that it is able to begin educational instruction during such school year. (3-20-14)

~~**03. Notification.** The Board shall, as soon as reasonably practicable after determining that a public charter school will be authorized to begin educational instruction during a given school year, provide written notification to the petitioners. The Board shall also send a copy of such notification to the authorized chartering entity that approved the charter. (4-11-06)~~

101. AUTHORIZED CHARTERING ENTITY.

01. Institution. An institution shall receive approval from their governing board prior to authorizing any charter schools. (3-20-14)

a. Petitions shall be submitted to the president of the institution or his designee. (3-20-14)

b. An institution may approve or deny a petition, ~~but cannot refer the petition to another authorized chartering entity.~~ (3-20-14) (8-31-17)T

c. Notwithstanding Sections 400 through 404, of these rules, denial of a new petition by an institution is final. A petitioner may submit a petition that has been denied by an institution to any authorized chartering entity. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURE FOR FORMATION OF A NEW PUBLIC CHARTER SCHOOL.

01. Assistance with Petitions. The Department shall, in accordance with Section 33-5211, Idaho Code, provide technical assistance to public charter school petitioners. The Department shall undertake this statutory responsibility by conducting public charter school workshops, as discussed in Subsection 200.02 of this rule. (4-11-06)

02. Public Charter School Workshops. The purpose of the public charter school workshops shall be to provide public charter school petitioners with a brief overview of a variety of educational and operational issues relating to public charter schools, as well as to answer questions and to provide technical assistance, as may be necessary, to aid petitioners in the preparation of public charter school petitions. (4-11-06)

~~**03. Petition Sufficiency Reviews.** Prior to submitting a petition to an authorized chartering entity, petitioners shall submit one (1) copy of the proposed draft petition to the Department, which will review the proposed draft petition to determine whether it complies with statutory requirements. (4-4-13)~~

03. Petition Submittal. A public charter school petition may be submitted to only one (1) authorized chartering entity at a time. A petitioner may submit a petition that has been denied by an authorized chartering entity to any other authorized chartering entity after an appeal process, if any, is complete and a final decision has been reached. (8-31-17)T

(BREAK IN CONTINUITY OF SECTIONS)

~~**202. PETITION REQUIREMENTS.**~~

~~A petition to form a new or conversion public charter school shall be submitted in accordance with instructions, and in such format, as may be required by the Board. Notwithstanding, the petition must include, at a minimum, the information described in Section 33-5205, Idaho Code. (4-11-06)~~

202. NEW PUBLIC CHARTER SCHOOL APPLICATION REQUIREMENTS.

Pursuant to Section 33-5205, Idaho Code, petitioners seeking to establish a new public charter school must complete an application consisting of all of the following elements: (8-31-17)T

01. Introduction. Briefly introduce the proposed public charter school by providing the following: (8-31-17)T

a. Cover page with the proposed school's name, intended opening year, general location, and the contact information for one (1) petitioner who will serve as liaison with the authorizer during the petition process; (8-31-17)T

b. Table of contents; (8-31-17)T

c. One-page (1) executive summary describing the proposed school's organizational structure, educational program, and student outcome expectations; and (8-31-17)T

d. Mission statement. (8-31-17)T

02. Educational Program. Describe the proposed school's educational program by explaining the following: (8-31-17)T

a. Educational philosophy; (8-31-17)T

b. Student academic achievement standards and any additional goals and methods for measuring achievement; (8-31-17)T

c. Key educational design elements, including curricula, tools and instructional methods identified to

carry out the educational philosophy and meet academic and mission-specific goals, which may include evidence demonstrating efficacy of these elements; and (8-31-17)T

d. Strategies for meeting the needs of specific student populations, including, but not limited to, at-risk students, special education students, English language learners, and gifted students. (8-31-17)T

03. Financial and Facilities Plan. Demonstrate a sound understanding of public charter school finances and facilities needs. (8-31-17)T

a. State whether the school intends to provide transportation or food service, and provide plans for provision of these services if they will be offered; (8-31-17)T

b. Describe how the school's finances will be managed and monitored; (8-31-17)T

c. Provide a working draft of the school's prospective facilities plan, including likely facilities needs and estimated costs; (8-31-17)T

d. Provide a description of any potential facilities that have been identified and a timeline and process for securing appropriate space; and (8-31-17)T

e. Attach the following to Appendix A: Pre-opening budget and three-year operating budget, including detailed assumptions for all revenue and expenditures for each year; year one (1), break-even budget demonstrating the minimum enrollment needed to achieve a zero (0) or marginal net income balance at the end of the year; cash flow projection for the first operational year, demonstrating an understanding of charter school monetary flow; evidence of existing and anticipated funds; and evidence that projected facilities costs are reasonable within the start-up and three-year budgets. (8-31-17)T

04. Board Capacity And Governance Structure. Provide information about the legal entity and the individuals involved in opening the proposed school. (8-31-17)T

a. Attach copies of the nonprofit corporation's Articles of Incorporation and Corporate Bylaws to Appendix B, though note that they will not be incorporated as part of the school's charter; (8-31-17)T

b. Provide a description of the governance structure; (8-31-17)T

c. List any already identified members of the board of directors, attach their professional resumes to Appendix C, and provide any additional information about their qualifications; (8-31-17)T

d. Describe the board's plan for a smooth transition from initial founding members to subsequent members; and (8-31-17)T

e. Describe the plan for board member recruitment and training. (8-31-17)T

05. Student Demand and Primary Attendance Area. Demonstrate the need and community demand for the proposed public charter school in the selected location. (8-31-17)T

a. Describe the primary attendance area and list the public school districts that overlap this area; (8-31-17)T

b. Clearly articulate the need and demand for a school in the selected location, including demographics for the intended neighborhood. Need is the reason(s) existing schools are insufficient or inadequate and includes state performance data. Demand is evidence of desire from prospective families to attend the school; (8-31-17)T

c. Describe the population of students the proposed school intends to serve and how the selected location supports serving such students; (8-31-17)T

- d.** Provide the target enrollment by grade level and projected growth over five (5) years: (8-31-17)T
- e.** Describe any community partnerships or other local support for the proposed school; and (8-31-17)T
- f.** Describe strategies for informing under-served students and their families about the prospective school and the enrollment process. (8-31-17)T
- 06. School Leadership and Management.** Describe the proposed school’s administrative leadership structure, and provide information about any potential education service providers. (8-31-17)T

 - a.** Attach an organizational chart to Appendix D illustrating the proposed school’s leadership structure and indicating the reporting structures of school leaders to the board. If school leaders have already been identified, include their names, contact information, resumes, and any additional information about their qualifications in the appendices. (8-31-17)T
 - b.** Describe the responsibilities of and relationships among school leadership, the governing board, instructional leaders, and staff, and include a plan for evaluating school leaders. (8-31-17)T
 - c.** If the proposed school intends to work with an educational service provider, provide the name of the company, a contact within the company, and specify in detail the extent of the entity’s participation in the management and operation of the school. Attach the following to Appendix E: (8-31-17)T

 - i.** A term sheet indicating the fees to be paid by the proposed school to the management company, the length of the proposed contract, the terms for the contracts renewal, and provisions for termination; (8-31-17)T
 - ii.** Copies of the two (2) most recent contracts that the entity has executed with operating charter schools; and (8-31-17)T
 - iii.** A detailed description of the education service provider’s relationship to the school’s board of directors; (8-31-17)T
 - iv.** A detailed description of how and why the management organization or educational service provider was selected, and evidence that the organization provides high-quality service to similarly situated schools, if applicable. (8-31-17)T
- 07. Supporting Documents.** (8-31-17)T

 - a.** Appendix A – Budgets, cash flow, additional funds. (8-31-17)T
 - b.** Appendix B – Articles of Incorporation and Bylaws. (8-31-17)T
 - c.** Appendix C – Board of Directors. (8-31-17)T
 - d.** Appendix D – School Administration. (8-31-17)T
 - e.** Appendix E – Education Service Provider. (8-31-17)T
 - f.** Appendix F – Optional additional supporting documents. (8-31-17)T

203. ADMISSION PROCEDURES.

01. Model Admission Procedures. *In accordance with Section 33-5205(3)(i), Idaho Code, a petition to establish a new public charter school must describe the admission procedures to be utilized by the public charter school.* All public charter schools must have an admission procedure approved by their authorized chartering entity, which complies with Section 33-5206(11), Idaho Code, and Section 203 of this rule. In order to ensure that public charter schools utilize a fair and equitable selection process for initial admission to and enrollment in a public charter

school, as well as admission to and enrollment in a public charter school during subsequent school years, the Board has approved model admission procedures that may be utilized and adopted by petitioners. The approved model admission procedures are described in Subsections 203.03 through 203.12 of these rules. Petitioners are not required to adopt the Board's model admission procedures, but must demonstrate a reason for varying from the Board's approved procedures. ~~(3-20-14)~~(8-31-17)T

02. Enrollment Opportunities. ~~Section 33-5205(3)(s), Idaho Code, requires petitioners to describe the process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. Petitioners~~ Charter holders shall ensure that ~~citizens in the primary attendance area shall be made aware of the enrollment opportunities of the public charter school.~~ Such process shall include the dissemination of enrollment information, taking into consideration the language demographics of the attendance area, at least three (3) months in advance of the enrollment deadline established by the public charter school each year, to be posted in highly visible and prominent locations within the area of attendance of the public charter school. In addition, petitioners shall ensure that such process includes the dissemination of press release or public service announcements, to media outlets that broadcast within, or disseminate printed publications within, the area of attendance of the public charter school; petitioners must ensure that such announcements are broadcast or published by such media outlets on not less than three (3) occasions, beginning not later than fourteen (14) days prior to the enrollment deadline each year. Finally, such enrollment information shall advise that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national or ethnic origin, religion, gender, social or economic status, or special needs. ~~(4-11-06)~~(8-31-17)T

03. Enrollment Deadline. Each year a public charter school shall establish an enrollment admissions deadline, which shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received. The enrollment deadline cannot be changed once the enrollment information is disseminated as required by Subsection 203.02. (4-11-06)

04. Requests for Admission. A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child in this state, may make a request in writing for such child to attend a public charter school. In the case of a family with more than one (1) child seeking to attend a public charter school, a single written request for admission must be submitted on behalf of all siblings. The written request for admission must be submitted to, and received by, the public charter school at which admission is sought on or before the enrollment deadline established by the public charter school. The written request for admission shall contain the name, grade level, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. Only written requests for admission shall be considered by the public charter school. Written requests for admission received after the established enrollment deadline will be added to the bottom of the waiting list for the appropriate grade. If there is an opening in one grade, a sibling, if any, from a late submitted application must go to the bottom of the sibling list. (4-11-06)

05. Admission Preferences. A public charter school shall establish an admission preference for students residing in the attendance area of the public charter school, as provided in Section 33-5206, Idaho Code. In addition, a public charter school may establish additional admission preferences, as authorized by Section 33-~~5205(3)(i)~~ 5206(11), Idaho Code. ~~(3-20-14)~~(8-31-17)T

06. Proposed Attendance List for Lottery. Each year the public charter school shall create an attendance list containing the names of all prospective students on whose behalf a written request for admission was timely received by the public charter school, separated by grade level. In addition, the proposed attendance list shall contain columns next to the name of each student, in which the public charter school will designate admission preferences applicable to each prospective student. The columns shall be designated "A" for returning student preference; "B" for founders preference; "C" for sibling preference, with a corresponding cross-reference to each of the siblings of the prospective student; and "D" for attendance area preference. (4-11-06)

07. Equitable Selection Process. If the initial capacity of a public charter school is insufficient to enroll all prospective students, or if capacity is insufficient to enroll all prospective students in subsequent school

years, then the public charter school shall determine the students who will be offered admission to the public charter school by conducting a fair and equitable selection process. The selection procedure shall be conducted as follows: (4-11-06)

a. The name of each prospective student on the proposed attendance list shall be individually affixed to or written on a three by five (3 x 5) inch index card. The index cards shall be separated by grade. The selection procedure shall be conducted one (1) grade level at a time, with the order for each grade level selected randomly. The index cards containing the names of the prospective students for the grade level being selected shall be placed into a single container. (4-11-06)

b. A neutral, third party shall draw the grade level to be completed first and then draw each index card from the container for that grade level, and such person shall write the selection number on each index card as drawn, beginning with the numeral "1" and continuing sequentially thereafter. In addition, after selecting each index card, the name of the person selected will be compared to the proposed attendance list to determine whether any preferences are applicable to such person. (4-11-06)

c. If the name of the person selected is a returning student, then the letter "A" shall be written on such index card. If the name of the person selected is the child of a founder, the letter "B" shall be written on such index card. If the name of the person selected is the sibling of another student that has already been selected for admission to the public charter school, then the letter "C" shall be written on such index card. If the name of the person selected resides in the attendance area of the public charter school, then the letter "D" shall be written on such index card. (4-11-06)

d. With regard to the sibling preference, if the name of the person selected has a sibling who has already been selected, but the person previously selected did not have the letter "C" written on his or her index card (because a sibling had not been selected for admission prior to the selection of the index card of that person), then the letter "C" shall now be written on that person's index card at this time. (4-4-13)

e. With regard to the founder's preference, a running tally shall be kept during the course of the selection procedure of the number of index cards, in the aggregate, that have been marked with the letter "B." When the number of index cards marked with the letter "B" equals ten percent (10%) of the proposed capacity of the public charter school for the school year at issue, then no additional index cards shall be marked with the letter "B," even if such person selected would otherwise be eligible for the founders preference. (4-11-06)

f. After all index cards have been selected for each grade, then the index cards shall be sorted for each grade level in accordance with the following procedure. All index cards with the letter "A" shall be sorted first, based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "B," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "C," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "D," based on the chronological order of the selection number written on each index card; followed, finally, by all index cards containing no letters, based on the chronological order of the selection number written on each index card. (4-11-06)

g. After the index cards have been drawn and sorted for all grade levels, the names shall be transferred by grade level, and in such order as preferences apply, to the final selection list. (4-11-06)

08. Final Selection List. The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. (4-11-06)

09. Notification and Acceptance Process. (4-11-06)

a. With respect to students selected for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send an offer letter to the parent, guardian, or other person who submitted a written request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent, or guardian, and returned to the public charter school by the date designated in such offer letter by the public

charter school. (4-11-06)

b. With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send a letter to the parent, guardian, or other person who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. (4-11-06)

c. If a parent, guardian, or other person receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

d. If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

10. **Subsequent School Years.** The final selection list for a given school year shall not roll over to the next subsequent school year. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. (4-11-06)

204. (RESERVED)

205. REVIEW OF PETITIONS.

~~01. **Sufficiency Review of Petition.** Prior to submitting a petition with an authorized chartering entity, petitioners shall submit one (1) copy of the proposed draft petition to the Department, which shall review the proposed draft petition for the purpose of determining whether it was prepared in accordance with the instructions furnished by, and in the format required by, the Board, and contains the information required by Section 33-5205, Idaho Code. (3-20-14)~~

~~02. **Timeframe for Sufficiency Review.** The Department shall complete the sufficiency review of the proposed draft petition as soon as reasonably practicable after the date the proposed draft petition is received by the Department, but not later than thirty (30) days after receipt. (3-20-14)~~

~~03. **Notification of Findings After Sufficiency Review.** The Department shall notify the petitioners promptly in writing describing the results of the sufficiency review of the proposed draft petition, and, if applicable, identify any deficiencies in the proposed draft petition. (3-20-14)~~

~~04. **Correction of Deficiencies in Proposed Draft Petition.** Petitioners shall address any deficiencies in the proposed draft petition and shall resubmit the petition to the Department for additional reviews until the Department determines that the petition is sufficient. (3-20-14)~~

~~05. **Substantive Review of Petition.** The substantive review of the merits of a petition by an authorized chartering entity shall be for the purpose of determining whether petitioners have demonstrated compliance with Title 33, Chapter 52, Idaho Code. (4-11-06)~~

061. If Denied, Petitioners May Appeal. (4-11-06)

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states or explains the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. (4-11-06)

b. Petitions submitted to a local board of trustees of a school district or the public charter school

commission may be appealed. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. (3-20-14)

~~206. WITHDRAWAL OF PETITION; REFERRAL OF PETITION TO THE COMMISSION.~~

~~01. Referral of Petition by Local Board of Trustees. A board of trustees of a local school district may refer the petition for consideration to the Commission, as authorized by Section 33-5205(1)(c)(iii), Idaho Code. If a board of trustees of a local school district determines to refer a petition to the Commission, then it shall provide prompt written notice of such decision to the petitioners. In addition, the board of trustees of a local school district must promptly notify the Commission of the referral decision, including all the reasons for referral. (4-4-13)~~

~~02. Withdrawal by Charter Petitioners. Notwithstanding, if a board of trustees of a local school district does not refer a petition to the Commission, the charter petitioners may withdraw the petition from the local board of trustees and submit the petition to the Commission for consideration if, within seventy five (75) days after the petition is received by the authorized chartering entity, the parties have not reached mutual agreement on the provisions of the petition, after a reasonable and good faith effort. (4-4-13)~~

~~03. Reasonable and Good Faith Effort. For purposes of Subsection 206.02 of these rules, the authorized chartering entity shall be considered to have established a reasonable and good faith effort to reach mutual agreement on the provisions of the petition if representatives of the authorized chartering entity take at least all of the following actions: (4-4-13)~~

~~a. The authorized chartering entity must send written notice to petitioners acknowledging receipt of the charter petition and the date of receipt. (4-11-06)~~

~~b. The authorized chartering entity posts public notice of a public hearing for the purpose of considering the petition, and such meeting is scheduled to occur not later than seventy five (75) days after receipt of the petition and verification that there are thirty (30) signatures from qualified electors of the attendance area. (4-4-13)~~

~~c. Prior to the date the posted public hearing is scheduled, representatives of the authorized chartering entity must conduct a review of the petition and the State Department of Education sufficiency review of the petition, and if immediate concerns with the petition are identified, then written notice must be sent to petitioners identifying the concerns and requesting that said identified concerns be addressed. (4-4-13)~~

~~d. Either prior to or at the posted public hearing, representatives from both the authorized chartering entity and petitioners must meet and engage in face-to-face discussions regarding the charter petition. (4-4-13)~~

~~04. Failure of Authorized Chartering Entity to Make a Good Faith Effort. If the authorized chartering entity fails to make the good faith effort described in Subsection 206.03 of these rules, the petitioners may withdraw the petition from the local board of trustees and submit the petition to the Commission for consideration, provided the petitioner takes at least all of the following actions: (4-4-13)~~

~~a. The petitioners must provide the authorized chartering entity with a petition that is administratively complete and that has been reviewed by the Department in accordance with Section 205 of these rules. (4-4-13)~~

~~b. The petitioners must contact the authorized chartering entity, in writing, to ensure awareness of the timelines for petition review and the petitioners' request for a review of the petition and public hearing to consider the merits of the petition. (4-4-13)~~

~~c. In the event correspondence is sent to the petitioners identifying concerns with the petition, then the petitioners must respond in writing to the authorized chartering entity addressing the identified concerns. (4-4-13)~~

~~d. The petitioners must meet with the authorized chartering entity and engage in face-to-face discussions regarding the petition, if the authorized chartering entity provides an opportunity to do so. (4-4-13)~~

2076. -- 299. (RESERVED)

300. PUBLIC CHARTER SCHOOL RESPONSIBILITIES.

01. General. The governing board of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all public charter school operational and educational activities. In addition, the governing board of a public charter school shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. (3-20-14)

02. Compliance with Terms of Performance Certificate. The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with the terms and conditions of the performance certificate approved executed in accordance with Section 33-5205B(1), Idaho Code. (3-20-14)

03. Annual Reports. The governing board of a public charter school must submit an annual audit of the fiscal operations as required in Section 33-5206(7), Idaho Code, ~~and a copy of the public charter school's accreditation report.~~ An authorized chartering entity may reasonably request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its performance certificate. (3-20-14)(8-31-17)T

04. Operational Issues. The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the public charter school is not operating in compliance with the terms and conditions of its performance certificate. Thereafter, the governing board of the public charter school shall also be responsible for advising its authorized chartering entity with follow-up information as to when, and how, such operational issues are finally resolved and corrected. (3-20-14)

05. Articles of Incorporation and Bylaws. The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity of any revisions or amendments to the articles of incorporation or bylaws. (8-31-17)T

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate. (3-20-14)

302. CHARTER REVISIONS.

The governing board of a public charter school may reasonably request revisions to an approved charter or performance certificate, as authorized by Section 33-5206(8), Idaho Code. (3-20-14)

01. Request for Revision of Charter or Performance Certificate. The governing board of a public charter school that desires to revise its charter or performances certificate must submit a written request describing and the proposed revisions with to the public charter school's authorized chartering entity. ~~In addition, the governing board of the public charter school shall also submit one (1) copy of the proposed revisions to the Department, which shall review the proposed revisions in the same manner that it reviews a proposed draft petition, as described in Section 204 of these rules. The Department shall complete its review of the proposed charter revisions not later than thirty (30) days after receipt, and shall notify the governing board of the public charter school and the authorized chartering entity promptly in writing describing the results of such review.~~ (3-20-14)(8-31-17)T

02. ~~Request for Revision of Performance Certificate.~~ ~~The governing board of a public charter school that desires to revise its performance certificate must submit a written request and the proposed revisions to the public charter school's authorized chartering entity.~~ (3-20-14)

03. Procedure for Reviewing Request for Charter or Performance Certificate Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of the written notice from the Department request and proposed revisions in which to issue its decision on the request for charter or performance certificate revision. The authorized chartering entity shall consider the request for charter or performance certificate revision at its next regular meeting following the date of receipt of the written notice from the Department request and proposed revisions, provided that the request ~~is~~ and proposed revisions are submitted no fewer than thirty (30) days

~~an~~ in advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter or performance certificate revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter or performance certificate revision. (4-1-13)(8-31-17)T

~~04. Procedure for Reviewing Request for Performance Certificate Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of a request for performance certificate revision in which to issue its decision on the request for performance certificate revision. The authorized chartering entity shall consider the request for performance certificate revision at its next regular meeting following the date of receipt of the request for revision, provided that the request is submitted no fewer than thirty (30) days in advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a performance certificate revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for performance certificate revision. (3-20-14)~~

053. Approval of Proposed Charter or Performance Certificate Revision. If the authorized chartering entity approves the proposed charter or performance certificate revision, a copy of such revision shall be executed by each of the parties to the charter or performance certificate and shall be treated as either a supplement to, or amendment of, the final approved petition charter or performance certificate, whatever the case may be. (3-20-14)(8-31-17)T

064. Denial of Proposed Charter or Performance Certificate Revision. If the proposed revision is denied, then the authorized chartering entity must prepare a written notice of its decision denying the request for charter or performance certificate revision. The decision to deny a request for a charter or performance certificate revision shall contain all of the reasons for the decision. The public charter school may appeal the decision denying the request for charter or performance certificate revision to the Board. The provisions of Section 403 of these rules shall govern the appeal. (3-20-14)

303. REVOCATION.

An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section 303 of this rule if a public charter school has failed to meet any of the specific, written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified. (3-20-14)

01. Written Notice of Intention to Revoke Charter. The authorized chartering entity must provide the public charter school with reasonable notice of the authorized chartering entity's intent to revoke the charter, which shall be in writing and must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. (4-11-06)

02. Public Hearing. The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorized chartering entity. (4-11-06)

a. Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. (4-11-06)

b. The public hearing shall be conducted by the authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. (4-11-06)

03. Charter Revocation. If the authorized chartering entity determines that the public charter school has ~~not complied with the corrective action plan and cured the defect at issue~~ failed to meet any of the specific written conditions for necessary improvements established pursuant to the provisions of Section 33-520B(1), Idaho Code, by the dates specified, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. (4-11-06)(8-31-17)T

(BREAK IN CONTINUITY OF SECTIONS)

403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR PERFORMANCE CERTIFICATE OR A CHARTER NON-RENEWAL OR REVOCATION DECISION.

The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter non-renewal or revocation decision. (3-20-14)

01. Submission of Appeal. The public charter school shall submit a notice of appeal in writing to the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to non-renew or revoke a charter or to deny a charter or performance certificate revision. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the appellant charter school shall also submit to the Board one (1) hard copy and one (1) electronic copy of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: (3-20-14)

a. The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. (4-11-06)

b. Copies of all correspondence or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being appealed. (4-11-06)

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the matter on appeal was considered or discussed. (4-11-06)

d. The written decision provided by the authorized chartering entity to the appellant public charter school. (4-11-06)

02. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. (4-11-06)

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-11-06)

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (4-11-06)

05. Prehearing Conference. The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (4-11-06)

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (4-11-06)

07. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, or reversing the action or decision of the authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. (4-11-06)

08. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: (4-11-06)

a. Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the non-renewal or revocation of the charter, or the request to revise the charter or performance certificate, or that the authorized chartering authority acted in an arbitrary manner in determining to non-renew or revoke the charter, or in denying the request to revise the charter or performance certificate. (3-20-14)

~~**b.** *In the case of a denial by the board of a local school district, redirect the matter to the public charter school commission for further review.* (3-20-14)~~

eb. Deny the appeal filed by the appellants. (4-11-06)

IDAPA 08 – STATE BOARD OF EDUCATION

08.03.01 – RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION

DOCKET NO. 08-0301-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1612, and 33-5203, 33-5205 and 33-5210, 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 October 18, 2017.

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:

During the 2017 legislative session, House Bill 279 (2017) amended the provision regarding the petitioning process for charter schools, requiring a single application process regardless of the authorizer the petitioners are seeking approval from. These legislative changes require amendments to IDAPA 08.02.04, "Rules Governing Public Charter Schools," adding the application process that will apply to all charter school petitioners. These amendments are being brought forward under Docket 08-0204-1701, and make many of the provision in IDAPA 08.03.01 redundant or outdated. Proposed amendments will remove the now redundant and outdated petition format requirements and make other technical changes, bring IDAPA 08.03.01 into compliance with the new provisions set out in Chapter 52, Title 33.

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:

This temporary and proposed rule brings this section of administrative code into compliance with amendments made by House Bill 279 (2017).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 58](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rulemaking does not incorporate any documents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0301-1701
(Only Those Sections With Amendments Are Shown.)**

~~300.~~ ~~PETITION—SUBMISSION.~~

~~01. **Number of Copies.** Petitioners shall submit a petition consisting of an electronic copy of the petition in Microsoft® Word format. Appendices to the petition must be submitted as a single document and may be in Adobe® format (PDF). (4-4-13)~~

~~02. **Case Number.** The Commission will assign a case number to a petition. Any future documents or correspondence submitted to the Commission after original filing must reference the assigned case number. (4-11-06)~~

~~03. **Administratively Complete.** If the petition is not administratively complete when received, the Commission shall provide the petitioner notice of the deficiency, which identifies the missing documents and information. Administratively complete means the petition contains all of the information and documents required by Title 33, Chapter 52, Idaho Code, IDAPA 08.02.04, “Rules Governing Public Charter Schools”, and IDAPA 08.03.01, “Rules of the Public Charter School Commission.” (3-20-14)~~

~~04. **Considered Received.** A petition is considered received by the Commission when it is presented to the Commission at the first scheduled meeting after the petition is filed and the petition is administratively complete. (4-11-06)~~

~~05. **Supplemental Information.** Submission of supplemental information to the Commission shall be accomplished by filing a complete, electronic copy of the petition, with the text to be removed striken and the new language underlined, with the date of revision noted on the title page. (4-4-13)~~

~~06. **Sufficiency Review.** Petitioners shall submit a copy of the State Department of Education’s sufficiency review, which is required by IDAPA 08.02.04, “Rules Governing Public Charter Schools,” Subsection 200.03 at the time the petition is filed with the Commission. (3-20-14)~~

~~307.0.~~ COMPLIANCE MONITORING.

The Commission shall be responsible for monitoring the public charter school’s operations in accordance with all of the terms and conditions of the performance certificate, including compliance with all applicable federal and state education standards and all applicable state and federal laws, rules and regulations, and policies. See IDAPA 08.02.04, “Rules Governing Public Charter Schools,” Subsection 301.01. Commission staff will make a site visit and verify the existence of the following documents after the charter is granted: (3-20-14)

01. Certificate of Occupancy. Certificate of Occupancy for the public charter school site; (4-4-13)

02. **Building Inspection Reports.** A copy of the inspection report from the Idaho Division of Building Safety; (4-4-13)
03. **Fire Marshal Report.** A fire marshal report for the public charter school site; (4-11-06)
04. **Insurance Binders.** Copies of insurance binders from a company authorized to do business in Idaho for a liability policy, a property loss policy, worker's compensation insurance, unemployment insurance, and health insurance; (4-4-13)
05. **Health District Inspection Certificate.** A copy of the health certificate issued by the health district for each site at which students will be taught; (4-11-06)
- ~~06. **Criminal History Checks.** A copy of the criminal history checks for all employees as required by Sections 33-130 and 33-5210(4)(d), Idaho Code; (4-4-13)~~

~~07. **Instructional Staff Certification.** Proof of certification for all instructional staff employed by the public charter school; and (4-4-13)~~

~~08. **School Calendar.** The school's calendar for the school year, daily schedule, and documentation of the appropriate number of instructional hours for students at each grade level. (4-4-13)~~

3021. REQUIRED DOCUMENTS PUBLIC CHARTER SCHOOLS AUTHORIZED BY THE COMMISSION MUST SUBMIT TO THE COMMISSION.

01. **Lease Agreement.** If school structures are leased, a copy of the lease agreement for the building(s) at which students will be taught; (4-4-13)

02. **Financial Statements.** Audited financial statements from an independent auditor must be submitted as required by Section 33-701, Idaho Code; (4-4-13)

03. **Accreditation Reports.** A copy of any notice from the public charter school's accreditation report as required by Section 33-5206(7), Idaho code, accrediting body that the public charter school has failed to meet or maintain full accreditation requirements must be submitted within five (5) business days of receipt; ~~(4-4-13)~~ (8-31-17)T

04. **Complaints.** Copies of any complaints filed against the public charter school including, but not limited to, lawsuits and complaints filed with the Idaho Professional Standards Commission relating to school employees, within five (5) business days of receipt; (4-4-13)

05. **Board Members.** A current list of all public charter school board members, including full name, address, telephone number, and resume must be on file with the Commission within five (5) business days of any changes; (4-4-13)

06. **Proof of Compliance.** Additional proof of compliance as reasonably requested by the Commission. (4-4-13)

~~3032.~~ -- 399. **(RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

~~401. **PETITION FORMAT.**~~

~~All petitions submitted to the Commission must be in the following format. Information will only be considered if it is located in the correct Section. (4-11-06)~~

~~01. **Cover Page.** The cover page must include the following information: (4-11-06)~~

- ~~a.~~ *Name of proposed charter school;* (4-11-06)
- ~~b.~~ *School year petitioning to open the school;* (4-11-06)
- ~~c.~~ *Name of the school district affected by the attendance area;* (4-11-06)
- ~~i.~~ *Where the public charter school building will be physically located; or* (4-11-06)
- ~~ii.~~ *If it is a virtual school and the physical location of the main office; and* (4-11-06)
- ~~d.~~ *Name, address, telephone number, and e-mail address of the petitioner's authorized representative.* (4-4-13)
- ~~02.~~ ***Table of Contents.*** *The second page shall be the beginning of the table of contents.* (4-11-06)
- ~~03.~~ ***Tab 1.*** *Mission and vision statements.* (4-4-13)
- ~~04.~~ ***Tab 2.*** *The petitioner's information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided, and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.* (4-4-13)
- ~~05.~~ ***Tab 3.*** (4-11-06)
- ~~a.~~ *A description of what it means to be an "educated person" in the twenty first century, and how learning best occurs.* (4-4-13)
- ~~b.~~ *A description of the public charter school's educational program and goals, including how each of the educational thoroughness standards, as defined in Section 33-1612, Idaho Code, shall be fulfilled.* (4-4-13)
- ~~c.~~ *The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal Individuals with Disabilities Education Act.* (4-4-13)
- ~~d.~~ *The plan for working with parents who have students who are dually enrolled pursuant to Section 33-203(7), Idaho Code.* (4-4-13)
- ~~06.~~ ***Tab 4.*** (4-11-06)
- ~~a.~~ *The measurable student educational standards the public charter school will use.* (4-4-13)
- ~~b.~~ *The method by which student progress in meeting the identified student educational standards is to be measured.* (4-4-13)
- ~~c.~~ *A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.* (4-4-13)
- ~~d.~~ *A provision that ensures that the public charter school shall be state accredited as provided by rule of the Board.* (4-4-13)
- ~~e.~~ *A provision describing the school's plan if it is ever identified as an in need of improvement school as outlined in the No Child Left Behind Act.* (4-11-06)
- ~~07.~~ ***Tab 5.*** (4-11-06)
- ~~a.~~ *A description of the governance structure of the public charter school including, but not limited to, the persons or entity who shall be legally accountable for the operation of the public charter school.* (4-4-13)
- ~~b.~~ *A description of the ethical standards to which the governing board of the public charter school*

- ~~will adhere. (4-4-13)~~
- ~~e. A plan for the initial and ongoing training of the governing board of the public charter school. (4-4-13)~~
- ~~d. The process to be followed by the public charter school to ensure parental involvement. (4-4-13)~~
- ~~e. The manner in which an annual audit of the financial and programmatic operations of the public charter school will be conducted. (4-4-13)~~
- ~~08. **Tab 6.** (4-11-06)~~
- ~~a. The qualifications to be met by individuals employed by the public charter school. This should include a requirement for all staff members to submit to a criminal history check, as required by Section 33-130, Idaho Code, and that all instructional staff shall be certified teachers, as required by the Board. (4-4-13)~~
- ~~b. The procedures that the public charter school will follow to ensure the health and safety of students and staff. (4-4-13)~~
- ~~e. The procedures required by Section 33-210, Idaho Code, for students using or under the influence of alcohol or controlled substances. (4-4-13)~~
- ~~d. The disciplinary procedures that the public charter school will utilize, including the procedure by which students, including special education students, may be suspended, expelled, and re-enrolled. (4-4-13)~~
- ~~e. A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance. (4-4-13)~~
- ~~f. A description of the transfer rights of any employee choosing to work in a public charter school authorized by the Commission and the rights of such employees to return to any public school in the school district after employment at such public charter school. (4-4-13)~~
- ~~g. A provision that ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining. (4-4-13)~~
- ~~h. A statement that all teachers and administrators will be on written contract as required by Section 33-5206(4), Idaho Code. (4-11-06)~~
- ~~09. **Tab 7.** (4-11-06)~~
- ~~a. Admission procedures, including provision for over enrollment. (4-4-13)~~
- ~~b. The public school attendance alternative for students residing within the school district who choose not to attend the public charter school. (4-4-13)~~
- ~~e. The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. (4-4-13)~~
- ~~d. A plan for the requirements of Section 33-205, Idaho Code, for the denial of school attendance. (4-4-13)~~
- ~~e. A plan for the requirements of Section 33-205, Idaho Code, for the denial of school attendance. See Section 33-5205(3)(i), Idaho Code. (4-11-06)~~
- ~~f. The student handbook that describes the school rules and the procedure ensuring a student's parent or guardian has access to this handbook. (4-11-06)~~
- ~~10. **Tab 8.** (4-11-06)~~

- ~~a. A detailed business plan including: (4-11-06)~~
- ~~i. Business description, (4-11-06)~~
- ~~ii. Marketing plan, (4-11-06)~~
- ~~iii. Management plan, (4-11-06)~~
- ~~iv. The school's financial plan, and (4-4-13)~~
- ~~v. A pre-opening plan and timeline. (4-4-13)~~
- ~~b. A proposal for transportation services with an estimated first year cost as required by Section 33-5208(4), Idaho Code. (4-11-06)~~
- ~~e. Plans for a school lunch program, including how a determination of eligibility for free and reduced price meals will be made. (4-11-06)~~
- ~~11. **Tab 9.** If this is a virtual public charter school, a brief description of how the school meets the definition of a public virtual school as defined by Section 33-5202A(9), Idaho Code. (4-11-06)~~
- ~~12. **Tab 10.** (4-11-06)~~
- ~~a. A description of any business arrangements or partnerships with other schools, educational programs, businesses, or nonprofit organizations. (4-4-13)~~
- ~~b. Additional information the petitioners want the authorizing chartering entity to consider as part of the petition. (4-11-06)~~
- ~~e. A plan for termination of the charter by the board of the public charter school. (4-11-06)~~
- ~~13. **Appendices.** (4-4-13)~~
- ~~a. Copies of articles of incorporation, file stamped by the Idaho Secretary of State's Office; and of the signed bylaws adopted by the board of directors of the nonprofit corporation; (4-4-13)~~
- ~~b. Signatures of at least thirty (30) qualified electors of the proposed charter school's service area. Proof of qualification of electors must be attached. (4-4-13)~~
- ~~e. Resumes of the directors of the nonprofit corporation, including references; (4-4-13)~~
- ~~d. Copies of any contracts or lease agreements; (4-4-13)~~
- ~~e. Start-up budget with assumptions form and supporting documentation; (4-4-13)~~
- ~~f. Three-year operating budget form; and (4-4-13)~~
- ~~g. First year month-by-month cash flow form. (4-4-13)~~
- ~~h. The school's budget must be in the Idaho Financial Accounting Reporting Management System (IFARMS) format and any other such format as may be reasonably requested by the Commission. (4-4-13)~~

4021. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION
08.04.01 – RULES OF THE IDAHO DIGITAL LEARNING ACADEMY
DOCKET NO. 08-0401-1701
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 33-5504, 33-5505, and 33-5507, 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 October 18, 2017.

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

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

The proposed amendments will update the Idaho Digital Learning Academy's physical address and additional technical corrections will bring the accreditation requirement language into alignment with terminology used elsewhere in Idaho Code and Administrative Code and update provisions related to student work and ethical conduct.

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

No fees or charges are being imposed through this rulemaking.

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

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

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 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, Page 32](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rulemaking does not incorporate any documents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 31st day of August, 2017

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0401-1701
(Only Those Sections With Amendments Are Shown.)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The Idaho Digital Learning Academy is located in Boise, Idaho. (3-30-07)

01. Office Hours. The Idaho Digital Learning Academy's offices are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (3-30-07)

02. Street Address. The offices of the Idaho Digital Learning Academy are located at ~~1303 E. Central Dr., Meridian, Idaho 83642~~ 300 West Fort Street, Boise, ID 83702. (~~3-30-07~~)()

03. Mailing Address. The mailing address of the Idaho Digital Learning Academy is ~~1303 E. Central Dr., Meridian, Idaho 83642~~ 300 West Fort Street, Boise, ID 83702. (~~3-30-07~~)()

04. Telephone Number. The telephone number of the Idaho Digital Learning Academy is 208-342-0207. (3-30-07)

05. Facsimile. The facsimile number of the Idaho Digital Learning Academy is 208-342-1031. (3-30-07)

06. Website and E-Mail Address. The electronic address of the Idaho Digital Learning Academy is <http://www.idahodigitalllearning.org/> and the e-mail address is idla@IdahoDigitalLearning.org. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Idaho Digital Learning Academy (IDLA). Idaho Digital Learning Academy is defined in Section 33-5505(3) and means an online educational program organized as a fully accredited secondary school with statewide capabilities for delivering accredited courses to Idaho resident students ~~in grades seven (7) through twelve (12)~~ at no cost to the student unless the student enrolls in additional courses beyond full-time enrollment. Participation in the academy by public school students shall be in compliance with academy and local school district policies. Adult learners and out-of-state students shall pay tuition commensurate with rates established by the state board with the advice of the superintendent, and such funds shall be included in the budget and audit of the academy's fiscal records. (~~3-30-07~~)()

02. Acceptable Use Policy (AUP). An Acceptable Use Policy is a policy that governs behavior in a computer or online environment. An Acceptable Use Policy outlines appropriate and inappropriate behavior, including specific examples of inappropriate behavior as well as the consequences of violating the policy. Acceptable use guidelines include, but are not limited to, guidelines pertaining to the use of profanity or threatening language, copyright violations, revealing personal information (either their own or someone else's), disrupting the use of a school network, or importation of sexually explicit, drug-related, and other offensive materials into the course environment. (3-30-07)

03. Designee. In the absence of the IDLA Director, a representative from the IDLA Board of Directors or an administrative staff member may be appointed by the IDLA Board of Directors to serve as designee. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

101. ACCREDITATION.

IDLA must ~~submit proof of~~ **maintain** accreditation ~~that meets accreditation standards of the state of Idaho and the northwest accreditation association to~~ **by an organization recognized by** the State Board of Education ~~annually.~~
(3-30-07)()

102. ACCOUNTABILITY.

01. Exams. Each IDLA ~~semester~~ course will require the student to take a comprehensive final exam at an approved site under proctored conditions. (3-30-07)()

02. Student Work and Ethical Conduct. (3-30-07)

a. IDLA will inform students in writing of the consequences of plagiarism. The consequences for plagiarism are set out in ~~each class syllabus that each student receives~~ **the IDLA student handbook which is made available online at all times and is communicated to each student and parent** prior to the beginning of each class. IDLA will investigate suspected cases of plagiarism and inform parents, students, and the local school district when a suspected case arises. (3-30-07)()

b. Acceptable use and behavior in a distance-learning environment is determined by local school district's policies ~~and is covered by the district's AUP signed by the student and the student's parent.~~ **The IDLA students and parents will agree to abide by an be informed by the** IDLA AUP specifically governing behavior in an online school. IDLA will provide a copy of the IDLA AUP to the Idaho State Board of Education in the IDLA Annual Report. (3-30-07)()

c. In a case of violation of the acceptable use policy or other disciplinary issues, IDLA will notify the local school district. The local school district is responsible for the appropriate disciplinary action. IDLA should be notified by the local school district of any disciplinary action resulting from a student's participation in an IDLA course. (3-30-07)

d. The IDLA Director or designee reserves the right to deny disruptive students access to IDLA courses in the future or remove them from participating in an existing course. Appeals to the denial or removal from a course may be made in writing to the IDLA Board of Directors discussing the circumstances for removal or denial. The IDLA Board of Directors will review the appeal and hold a ~~telephone conference~~ **special board meeting** to allow the student an opportunity to speak to the issue. The IDLA Board of Directors will issue a final decision within ten (10) days of the ~~telephone conference~~ **board meeting.** (3-30-07)()

03. Teacher Interaction. IDLA faculty are required to contact students within the first ~~month~~ **twenty-four (24) hours** of class. Contact includes phone, ~~regular mail,~~ e-mail, **web conferencing,** or other technological means. IDLA ~~faculty are~~ **is** required to submit periodic progress reports and final course percentages for individual students' grades which are then reported to the local school district **for transcription to the student's academic record.** (3-30-07)()

IDAPA 08 – STATE BOARD OF EDUCATION
08.05.01 – RULES GOVERNING SEED AND PLANT CERTIFICATION
DOCKET NO. 08-0501-1701
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 22-1504, 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 October 18, 2017.

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

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

The proposed rule would amend the Idaho Grain Certification Standards “Land Requirements” to allow irrigated fields producing certified class seeds to be used if they have not produced small grain for the previous crop year unless the small grain was of an equal or higher class of the same variety being planted. The current standard restricts the land use to fields that have not produced visually indistinguishable grain for the two prior crop years unless the grain is of an equal or higher class of the same variety or unless a seedling inspection is conducted. Additional changes would amend the Potato Certification Standards, removing “corky ring spot” from the Seed Lot Disqualifying Conditions and specifying that seed lots with a greater than 1.0% of “Well Defined Mosaic” are not eligible for re-certification.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, Page 33](#).

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 seed and crop standards are incorporated by reference due to formatting that is not consistent with the standard administrative rule format, additionally incorporation by reference is consistent with how the University of Idaho Board of Regents treats other types of standards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or tracie.bent@osbe.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 October 25, 2017

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0501-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this rule. The Idaho Seed and Plant Certification Standards are adopted by the Idaho Crop Improvement Association. Copies of the following documents may be obtained from the Idaho Crop Improvement Association, Inc. website at <http://www.idahocrop.com/index.aspx>, or from the Idaho Crop Improvement Association, Inc. office. (4-6-15)

01. Prohibited Noxious Seed in Idaho Certified Seed. The standard Prohibited Noxious Seed in Idaho Certified Seed of the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

02. Seed Certification Fee & Application Schedule. The Seed Certification Fee and Application Schedule of the Idaho Crop Improvement Association, Inc., as last modified and approved on July 11, 2014. (4-6-15)

03. Idaho Alfalfa Certification Standards. The Idaho Alfalfa Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

04. Idaho Bean Certification Standards. The Idaho Bean Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

05. Idaho Red Clover Certification Standards. The Idaho Red Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

06. Idaho Chickpea Certification Standards. The Idaho Chickpea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

07. Idaho Grain Certification Standards. The Idaho Grain Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on ~~March 17, 2015~~ February 28, 2017.
(3-25-16)()

08. Idaho Grass Certification Standards. The Idaho Grass Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

09. Idaho Rapeseed/Canola/Mustard Certification Standards. The Idaho Rapeseed/Canola/Mustard Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 26, 2016. (3-29-17)

10. Idaho Potato Certification Standards. The Idaho Potato Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on ~~March 17, 2015~~ February 28, 2017.
(3-25-16)()

- 11. Pre-Variety Germplasm Certification Regulations in Idaho.** The Pre-variety Germplasm Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 12. Idaho Lentil Certification Standards.** The Idaho Lentil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 13. Idaho Blue Flax Certification Standards.** The Idaho Blue Flax Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 14. Idaho Milkvech Certification Standards.** The Idaho Milkvech Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 15. Idaho Pea Certification Standards.** The Idaho Pea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 16. Idaho Sanfoin Certification Standards.** The Idaho Sanfoin Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 17. Idaho Birdsfoot Trefoil Certification Standards.** The Idaho Birdsfoot Trefoil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 18. Idaho White Clover Certification Standards.** The Idaho White Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)
- 19. Idaho Penstemon Certification Standards.** The Idaho Penstemon Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

IDAPA 12 – DEPARTMENT OF FINANCE

12.01.10 – RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1701

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 26-31-103(2)(b), 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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

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

The proposed rule updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature as it merely updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X).

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:

Section 26-31-102, Idaho Code, defines Regulations X and Z, the Real Estate Settlement Procedures Act, and the Truth in Lending Act for incorporation into the Idaho Residential Mortgage Practices Act and Idaho Mortgage Rules pursuant to that Act. This proposed rule promotes consistency in state and federal mortgage-related laws so that Idaho mortgage licensees are not faced with an untenable requirement of complying with conflicting state and federal laws.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Anthony Polidori at (208) 332-8084.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Anthony Polidori
Supervising Examiner/Investigator
800 Park Blvd.
P.O. Box 83720
Department of Finance
Boise, ID 83720-0031
Office: (208) 332-8084
Fax: (208) 332-8099

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0110-1701
(Only Those Sections With Amendments Are Shown.)

005. INCORPORATION BY REFERENCE (RULE 5).

The “Rules Pursuant to the Idaho Residential Mortgage Practices Act,” incorporate by reference the full text of the following: (4-4-13)

01. The Real Estate Settlement Procedures Act. As set forth in 12 U.S.C. 2601, et seq., as amended to and including January 1, 2017~~8~~. The Real Estate Settlement Procedures Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2015-title12/html/USCODE-2015-title12-chap27.htm>. ~~(3-29-17)~~()

02. Regulation X. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1024, et seq., as amended to and including January 1, 2017~~8~~. Regulation X is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2017-title12-vol8/xml/CFR-2017-title12-vol8-part1024.xml>. ~~(3-29-17)~~()

03. The Truth in Lending Act. As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 2017~~8~~. The Truth in Lending Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2015-title15/html/USCODE-2015-title15-chap41.htm>. ~~(3-29-17)~~()

04. Regulation Z. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1026, et seq., as amended to and including January 1, 2017~~8~~. Regulation Z is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2017-title12-vol9/xml/CFR-2017-title12-vol9-part1026.xml>. ~~(3-29-17)~~()

05. NMLS Policy Guidebook. The Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators NMLS Policy Guidebook for Licensees, published by the Nationwide Mortgage Licensing System and Registry as of July 23, 2012, and available at <http://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>. (4-4-13)

06. Availability of Documents. Unless otherwise available, the documents incorporated by reference may be viewed at the central office of the Idaho Department of Finance, as noted in Section 002 of these rules. (4-4-13)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1701

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 36-408, 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 October 18, 2017.

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:

It is being proposed that Sections 900 and 901 be changed to put certain limitations on use of the special big game hunt tags, create an application and draw process when eligible applications exceed the number of tags, and to designate one (1) disabled veterans special big game tag to the Idaho Division of Veterans Services to sponsor a resident applicant.

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

The proposed rules have no associated fee.

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

The proposed rules will have no impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted for changes proposed in Sections 900 and 901 because the Department of Fish and Game received 477 responses via on-line submissions and one letter in response to the notice of intent for negotiated rulemaking. Many comments were not within the scope of the proposed rules. Comments within the scope of rulemaking did not identify issues for negotiation among commenters. Further negotiation of the proposed rule among all stakeholders was deemed infeasible.

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 proposed rules do not include incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules for Sections 900 and 901, contact Sharon W. Kiefer at (208) 334-3771.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Sharon W. Kiefer
Deputy Director
600 S. Walnut, P.O. Box 25
Idaho Department of Fish and Game
Boise, Idaho, 83707
Tel: (208) 334-3771
Fax: (208) 334-4885

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-1701
(Only Those Sections With Amendments Are Shown.)

900. CHILDREN WITH SPECIAL NEEDS BIG GAME TAG.

01. Availability. The Department shall make up to five (5) big game tags available for children with life threatening medical conditions each year. (3-29-10)

a. Any of the five (5) big game tags described in Section 901 that have not been issued by July 15 each year may also be available for children with life threatening conditions. (3-29-10)

02. Issuance. The Commission delegates ~~discretionary~~ authority to issue ~~a~~ each special needs tag to the Director. ~~(3-29-10)~~()

03. Eligibility. In order to receive a special needs big game tag, a resident or nonresident minor (seventeen (17) years of age or younger) must have a life threatening medical condition as certified by a qualified and licensed physician. (3-29-10)

a. A qualified applicant must be sponsored by a nonprofit organization that is qualified under section 501(c) (3) of the Internal Revenue code. (3-8-07)

b. The primary mission of the sponsoring organization must be to offer opportunities and experiences to minor children with life threatening medical conditions. (3-8-07)

c. Minimum age requirements and hunter education requirements are waived for individuals applying for or receiving a special needs big game tag. (3-29-10)

04. Validity of Tag. ~~The~~ Each special needs tag shall be valid for only one (1) of the following species: deer, ~~one (1)~~ elk, ~~one (1)~~ pronghorn, ~~one (1)~~ moose, ~~one (1)~~ black bear, or ~~one (1)~~ mountain lion as allowed by Commission proclamation. ~~(4-7-11)~~()

a. A license is not required to apply for or receive a special needs big game tag. (3-29-10)

b. The special needs tag is valid in any open hunt, controlled or general, as provided by Commission proclamation, EXCEPT the use of the special needs tag is restricted from use in any Controlled Hunt with less than five (5) controlled hunt tags. ~~(3-29-10)~~()

c. Applicants may only receive one (1) special needs tag in a lifetime. (3-29-10)

d. In exercising hunting privileges, the ~~holder~~ recipient of a special needs tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. ~~(3-29-10)~~()

05. Application. Applications shall be on a form as prescribed by the Director. (3-8-07)

a. Applications shall be submitted on behalf of applicants by an eligible nonprofit organization and must be received by the Department on January 2 through January 31 of the calendar year for the hunt to be considered eligible. (3-8-07)()

b. Applications received by the Department after January 31 may be considered on a first come basis if there are not sufficient eligible applications. ()

~~b.c.~~ A copy of the nonprofit organization's IRS determination letter must accompany the application. (3-8-07)

06. **Fees.** All fees associated with applying for and receiving a special needs tag shall be waived. (3-29-10)

07. **Random Draw.** Eligible applications will be randomly drawn for tag issuance if the number of applications exceed the number of tags available. ()

08. **Nonresident Tag Limitation.** Not more than one (1) special needs tag will be issued to a nonresident unless there are insufficient applications for resident applicants. ()

~~09.~~ **Hunters with Disabilities Permit Fees.** All fees associated with applying for or receiving a Disabled Persons Motor Vehicle Hunting Permit or a Disabled Archery Permit by the recipient of a special needs tag are waived. (3-29-10)

~~10.~~ **Application of Big Game Rules.** All rules governing the taking of Big Game Animals, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply to holders any recipient of a special needs big game tag. (3-8-07)()

901. DISABLED VETERANS SPECIAL BIG GAME TAG.

01. **Availability.** The Department shall make up to five (5) big game tags available for disabled veterans, of which one (1) tag will be designated to the Idaho Division of Veterans Services for a resident applicant. (3-29-10)()

a. Any of the five (5) big game tags described in Section 900 that have not been issued by July 15 each year may also be available for disabled veterans. (3-29-10)

02. **Issuance.** The Commission delegates ~~discretionary~~ authority to issue ~~a~~ each disabled veterans special big game tag to the Director. (3-29-10)()

03. **Eligibility.** In order to receive a disabled veterans special big game tag, a resident or nonresident must be a disabled veteran, as certified by the Department of Veterans Affairs. (3-29-10)

a. A qualified applicant must be sponsored by a nonprofit organization that is qualified under section 501(c) (3), 501 (c) (4), or 501 (c) (19) of the Internal Revenue Code or sponsored by a governmental agency. (4-11-15)

b. A mission of the sponsoring organization or governmental agency must be to afford opportunities, experiences, and assistance to disabled veterans. (3-29-10)

c. Hunter education requirements are waived for individuals applying for or receiving a disabled veterans special big game tag. (3-29-10)

04. **Validity of Tag.** ~~The Each~~ disabled veterans special big game tag shall be valid for only one (1) of the following species: deer, ~~one (1)~~ elk, ~~one (1)~~ pronghorn, ~~one (1)~~ moose, ~~one (1)~~ black bear, or ~~one (1)~~ mountain lion as allowed by Commission proclamation. (3-29-10)()

a. A license is not required to apply for or receive a disabled veterans special big game tag. (3-29-10)

b. The disabled veterans special big game tag is valid in any open hunt, controlled or general, as provided by Commission proclamation, EXCEPT the use of the disabled veterans big game tag is restricted from use in any Controlled Hunt with less than 5 controlled hunt tags. ~~(3-29-10)~~()

c. Applicants may only receive one (1) disabled veterans special big game tag in a lifetime. (3-29-10)

05. **Application.** Applications shall be on a form as prescribed by the Director. (3-29-10)

a. Applications shall be submitted on behalf of applicants by an eligible nonprofit organization or governmental agency and must be received by the Department on January 2 through January 31 of the calendar year for the hunt to be considered eligible. ~~(3-29-10)~~()

b. Applications received by the department after January 31 may be considered on a first come basis if there are not sufficient eligible applications. ()

~~b.c.~~ A copy of the nonprofit organization's IRS determination letter must accompany the application. (3-29-10)

06. **Fees.** All fees associated with applying for and receiving disabled veterans special big game tag shall be waived. (3-29-10)

07. Random Draw. Eligible applications will be randomly drawn for tag issuance if the number of applications exceed the number of tags available. ()

08. Nonresident Tag Limitation. Not more than one (1) disabled veterans special big game tag will be issued to a nonresident unless there are insufficient applications for resident applicants. ()

~~079.~~ **Hunters with Disabilities Permit Fees.** All fees associated with applying for or receiving a Disabled Persons Motor Vehicle Hunting Permit or a Disabled Archery Permit by the recipient of a disabled veterans special big game tag are waived. (3-29-10)

~~0810.~~ **Application of Big Game Rules.** All rules governing the taking of Big Game Animals, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply to holders any recipient of a disabled veterans special big game tag. ~~(3-29-10)~~()

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1702

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 36-408, 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 October 18, 2017.

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:

It is being proposed that Sections 700 and 800 be changed to include all of Controlled Hunt Area 11 for the bighorn sheep auction and lottery tags to be consistent with the general controlled hunt tag for this hunt.

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

The proposed rules have no associated fee.

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

The proposed rules will have no impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted for changes proposed in Sections 700 and 800 because the Department of Fish and Game received 145 responses via on-line comments in response to the notice of intent for negotiated rulemaking. Comments received did not identify issues for negotiation. Further negotiation of the proposed rule among all stakeholders was deemed infeasible.

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 proposed rules do not include incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules for Sections 700 and 800 contact Jon Rachael at (208)334-2920.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Sharon W. Kiefer
Deputy Director
600 S. Walnut, P.O. Box 25
Idaho Department of Fish and Game
Boise, Idaho, 83707
Tel: (208) 334-3771
Fax: (208) 334-4885

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-1702
(Only Those Sections With Amendments Are Shown.)

700. BIGHORN SHEEP AUCTION TAG.

01. Eligibility. In order to be eligible to bid on the bighorn sheep auction tag, a person must be eligible to purchase an Idaho hunting or combination license. (3-29-12)

02. Validity of Tag. The Bighorn Sheep Auction Tag shall be valid in Unit Controlled Hunt Area 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery Tag holder chooses not to hunt in Unit Controlled Hunt Area 11. ~~(3-29-12)~~()

03. License and Controlled Hunt Tag. (3-29-12)

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the auction. (4-7-11)

b. The successful bidder for the Bighorn Sheep Auction Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. (3-29-12)

04. Application of Big Game Rules. All rules governing the Taking of Big Game Animals, IDAPA 13.01.08, shall apply to the eligible and successful bidders other than as specified herein. (7-1-93)

a. No successful bidder shall be eligible to apply for a bighorn sheep controlled hunt tag the same year the bidder is issued a Bighorn Sheep Auction Tag. (3-29-12)

b. A person receiving a Bighorn Sheep Auction Tag, but who is unsuccessful in taking a bighorn sheep, shall be eligible to bid the following year for another Bighorn Sheep Auction Tag. (3-29-12)

c. A person successful in taking a bighorn sheep with a bighorn sheep tag shall be eligible to bid the following year. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

800. BIGHORN SHEEP LOTTERY TAG.

01. Eligibility. (7-1-93)

a. In order to win and be issued the Bighorn Sheep Lottery Tag, a person must be eligible to purchase an Idaho hunting or combination license. (4-7-11)

b. If any person wins the Bighorn Sheep Lottery Tag and has already been drawn for a bighorn sheep controlled hunt tag for the same year, the controlled hunt tag shall be returned to the Department and voided and the tag fees refunded. The lottery tag will be valid to hunt bighorn sheep that year. (4-7-11)

02. Validity of Tag. The Bighorn Sheep Lottery Tag shall be valid in Unit Controlled Hunt Area 11 only during even-numbered years and during odd-numbered years when the Bighorn Sheep Auction Tag holder chooses not to hunt in Unit Controlled Hunt Area 11. ~~(3-29-12)~~()

03. Tag. (3-29-12)

a. A hunting license (if needed) and a controlled hunt tag will be provided to the lottery tag winner from the net proceeds of the lottery. (3-29-12)

b. Lottery tickets are not transferable. The Bighorn Sheep Lottery Tag shall be issued to the person whose name appears on the winning ticket, and may not be transferred to another individual. (3-29-12)

04. Application of Big Game Rules. All Rules Governing the Taking of Big Game Animals shall apply to the eligible ticket purchasers and lottery tag winner, other than as specified herein. (7-1-93)

a. A person receiving a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year for another bighorn sheep lottery tag. (3-30-01)

b. A person successful in taking a bighorn sheep with a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year. (3-20-04)

c. Any person who wins a Bighorn Sheep Lottery Tag, and who is otherwise eligible to apply for a deer, elk or pronghorn controlled hunt tag and who has drawn such a tag, shall be allowed to hunt for those species during the same year the Bighorn Sheep Lottery Tag is valid. (3-29-12)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1703

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 36-408, 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 October 18, 2017.

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:

It is being proposed that Section 505 be changed to allow the Fish and Game Commission the flexibility to create an outfitter allocation of big game tags for an unlimited controlled hunt when a nonresident big game tag limitation is established. The purpose of this change is to maintain nonresident clientele for outfitters participating in unlimited controlled hunts.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The proposed rules have no associated fee.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted for changes proposed in Section 505 because the Department of Fish and Game received 848 responses via on-line submissions and several additional letters and messages via email in response to the notice of intent for negotiated rulemaking. Comments received indicated a polarity of opinion not subject to negotiation. Further negotiation of the proposed rule among all stakeholders was deemed infeasible.

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 proposed rules do not include incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules for Section 505 contact Jon Rachael at (208)334-2920.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Sharon W. Kiefer
Deputy Director
600 S. Walnut, P.O. Box 25
Idaho Department of Fish and Game
Boise, Idaho, 83707
Tel: (208) 334-3771
Fax: (208) 334-4885

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-1703
(Only Those Sections With Amendments Are Shown.)

505. DEER AND ELK TAG ALLOCATION.

01. Allocation of Tags for Capped General Hunt Units of Zones. Pursuant to Section 36-408, Idaho Code, the Fish and Game Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in zones with limited numbers of tags. ~~(3-25-13)~~()

a. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone which exceeds twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year. (3-25-13)

b. The allocation of tags will be calculated on a zone basis. Any reduction or increase in hunting opportunities will be proportionate among non-outfitted hunters and outfitted hunters and will be proportionate among resident and non-resident hunters; EXCEPT where such reduction would result in an allocation of greater than twenty-five percent (25%) for non-resident hunters, the Commission may reduce the allocation for non-resident hunters to a percentage of not less than twenty-five percent (25%). (3-25-13)

02. Allocation of Tags for Controlled Hunt Areas. The commission may set a nonresident tag limit for any controlled hunt area, including an area where tags available to residents are unlimited. The Commission may only those allocate outfitter tags in controlled hunt areas with historic licensed deer and/or elk outfitted area(s) may be considered for a tag allocation. Hunt application and eligibility rules will apply to allocated tags in controlled hunts. ~~The allocation will be calculated on a controlled hunt area basis with reductions or increases in hunting opportunities to be proportionate among resident hunters, non-outfitted nonresident hunters, and outfitted hunters.~~ ~~(3-25-13)~~()

a. The number of outfitter allocated tags will be in addition to the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. ~~(4-7-11)~~()

b. Prior to submitting an application for an outfitter allocated controlled hunt, the applicant must have a written agreement with an outfitter licensed in the hunt area. Successful applicants of an outfitter allocated controlled hunt must hunt with an outfitter licensed for the hunt area. The outfitter must purchase the successful applicant's controlled hunt tag by August 20. (4-7-11)

c. Successful applicants who do not want to participate in the outfitted hunt can decline the hunt upon written notification to the Department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be subject to the appropriate waiting period. (5-3-03)

d. Successful applicants that do not secure the services of an Idaho licensed outfitter and have not purchased the controlled hunt tag by August 20 will forfeit the opportunity to purchase a controlled hunt tag. The forfeited controlled hunt tag will then be listed as a leftover controlled hunt tag. The Department will inform the Idaho Outfitters and Guides Board that a leftover controlled hunt tag is available. After securing a client, the outfitter(s) may then purchase the leftover controlled hunt tag at a Department regional or headquarters office. (4-7-11)

e. The number of outfitter allocated tag(s) will be determined by using one (1) of the following options: ~~(4-7-11)~~()

- i. ~~The number of allocated tags available within the controlled hunt area will be~~ No less than one (1) tag and no more than three percent (3%) ~~of the total tags~~; or ~~(4-7-11)~~()
- ii. ~~The~~ Δ number ~~of tags available within the controlled hunt area will be~~ based on the average historic use during the previous five (5) year period ~~and calculated tag numbers will be~~ to be rounded up when ~~controlled hunt tags~~ a decimal equals or exceeds zero point six (0.6) and rounded down when ~~controlled hunt tags are~~ a decimal is less than zero point six (0.6); or ~~(4-7-11)~~()
- iii. An unlimited number of allocated tags or a number of allocated tags based on historic use as alternatives only for controlled hunt areas with limited nonresident tags and unlimited resident tags; or ()
- iv. No tags will be allocated. (7-1-99)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.06 – RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-1701

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 36-104 and 36-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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 proposed rule reclassifies Red Squirrel from a Protected Nongame Species to an Upland Game Animal which will allow the Fish and Game Commission to set a harvest season.

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

This proposed rule has no associated fee.

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:

This proposed rule change will have no impact to the state general fund. It would have an estimated positive fiscal impact of less than five hundred dollars (\$500) to the fish and game dedicated fund.

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

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

This proposed rule does not include an incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sharon W. Kiefer, (208) 334-3771.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Sharon W. Kiefer
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut, P.O. Box 25
Boise, Idaho, 83707
Tel: (208) 334-3771
Fax: (208) 334-4885

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0106-1701
(Only Those Sections With Amendments Are Shown.)

101. CLASSIFICATION OF WILDLIFE - UPLAND GAME ANIMALS.

01. Upland Game Animals. (7-1-93)
- a. Mountain cottontail - *sylvilagus nuttallii*. (4-6-05)
- b. Pygmy rabbit - *brachylagus idahoensis*. (7-1-93)
- c. Snowshoe hare - *lepus americanus*. (7-1-93)
- ~~d.~~ Red squirrel - *tamiasciurus hudsonicus*. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. PROTECTED NONGAME SPECIES.

01. Mammals. (7-1-93)
- a. American pika - *ochotona princeps*. (4-6-05)
- b. Bats - all species. (4-6-05)
- c. Chipmunks - *neotamias spp.* (4-6-05)
- d. Columbia Plateau (Merriam's) ground squirrel - *spermophilus canus vigilis*. (4-6-05)
- e. Golden-mantled ground squirrel - *spermophilus lateralis*. (7-1-93)
- f. Great Basin (piute) ground squirrel - *spermophilus canus vigilis*. (4-6-05)
- g. Kit fox - *vulpes macrotis*. (7-1-93)
- h. North American wolverine - *gulo gulo luscus*. (4-6-05)
- i. Northern flying squirrel - *glaucomys sabrinus*. (7-1-93)
- ~~j.~~ Red squirrel - *tamiasciurus hudsonicus*. (~~7-1-93~~)
- ~~k.~~ Rock squirrel - *spermophilus variegatus*. (4-6-05)
- ~~l.~~ Southern Idaho ground squirrel - *spermophilus brunneus endemicus*. (4-6-05)
- ~~m.~~ Wyoming ground squirrel - *spermophilus elegans nevadensis*. (4-6-05)
02. Birds. (3-29-10)
- a. Bald eagle - *haliaeetus leucocephalus*. (3-29-10)

- b.** Peregrine falcon - *falco peregrinus*. (3-29-10)
- c.** All native species, except game birds and threatened and endangered wildlife. (3-29-10)
- 03. Amphibians.** All native species (4-6-05)
- 04. Reptiles.** All native species. (4-6-05)
- 05. Fish.** (4-6-05)
- a.** Bear Lake sculpin - *cottus extensus*. (4-6-05)
- b.** Northern leatherside chub - *lepidomeda copei*. (3-29-12)
- c.** Sand roller - *percopsis transmontana*. (4-6-05)
- d.** Shoshone sculpin - *cottus greenei*. (4-6-05)
- e.** Wood River sculpin - *cottus leiopomus*. (4-6-05)
- f.** Bluehead sucker - *catostomus discobolus*. (3-29-12)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0108-1704

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 36-408, 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 October 18, 2017.

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:

It is being proposed that IDAPA 13.01.08, Section 260, be changed to allow the Fish and Game Commission the flexibility to proportionally limit the number of non-outfitted, nonresident big game tags allocated in an unlimited controlled hunt. These restrictions would be established during at the time of the Fish and Game Commission's annual season setting. The purpose is to reduce hunter crowding to support continued resident participation and quality hunt experience.

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

This proposed rule change has no associated fee.

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

The proposed rule change will have no impact on the state general fund. Potential impact to the Department of Fish and Game may occur in the form of a loss of non-resident tag revenue if nonresident tags are limited and the nonresident chooses not to purchase an Idaho tag.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Department of Fish and Game received 848 responses via on-line submissions and several additional letters and messages via mail or email during the notice of intent for negotiated rulemaking comment period. Comments received indicated a polarity of opinion not subject to negotiation. Further negotiation of the proposed rule among all stakeholders was deemed infeasible.

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

This proposed rule does not include an incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jon Rachael at (208) 334-2920.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Jon Rachael, State Game Manager
Idaho Department of Fish and Game
600 S. Walnut, P.O. Box 25
Boise, Idaho, 83707
Tel: (208) 334-2920
Fax: (208) 334-2114

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0108-1704
(Only Those Sections With Amendments Are Shown.)

260. TAGS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Tags. No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession. (4-7-11)

a. A controlled hunt area with an "X" suffix is an extra tag hunt. (10-26-94)

b. In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the hunter of the invalidation of the tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (4-7-11)

c. Any person who draws a controlled hunt tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first deer drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for deer. (4-7-11)

iv. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (4-7-11)

d. Any person who draws a controlled hunt tag for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for elk. (4-7-11)

- iv. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt-archery, muzzleloader, general or controlled hunt. (4-7-11)
- e. Any person who draws a controlled hunt tag for pronghorn is prohibited from hunting in any other pronghorn hunt; EXCEPT: (4-7-11)
- i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)
- ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)
- iii. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. (4-7-11)
- iv. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. (4-7-11)
- f. Any person who draws a spring controlled hunt tag for black bear, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)
- g. Any person who draws a fall controlled hunt tag may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag; EXCEPT; the hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the fall bear drawing. (4-7-11)
- h. Any resident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)
- i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates a control hunt tag to his or her resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild, except that 260.03.d., 03.f., 03.g. and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. (3-25-16)
- ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)
- iii. Any resident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)
- iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)
- i. Any nonresident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)
- i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any nonresident adult person who possesses and designates his or her control hunt tag to his or her nonresident minor child or grandchild. Rules for eligibility in Section 260 apply to any nonresident adult person who possesses and designates a control hunt tag and

to the designated nonresident minor child or grandchild except that 260.03.d., 03.f., 03.g., and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated nonresident minor child or grandchild. (3-25-16)

ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

iii. Any nonresident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)

iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)

02. Nonresident Tag Limitations. (4-7-11)

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-7-11)

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. ()

~~bc.~~ Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

~~ed.~~ For each species, the total number of outfitter allocated controlled hunt tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (4-7-11)

~~de.~~ Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose shall be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (4-4-13)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt.(4-6-05)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. EXCEPT all successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements

will be eligible to be randomly drawn for one (1) of ten (10) “Super” controlled pronghorn/deer/elk tags to hunt in any open general and/or controlled pronghorn, deer or elk hunt in the following hunting season. (4-4-13)

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk and pronghorn controlled hunt permit sales. (4-7-11)

d. Any person who has killed a California bighorn ram or a Rocky Mountain bighorn ram on any controlled hunt may not apply for a tag for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram tag for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram tag for any hunt south of Interstate Highway 84. Bighorn sheep auction tag recipients under IDAPA 13.01.04.700 and lottery tag recipients under IDAPA 13.01.04.800 are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-4-13)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the hunter ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (4-7-11)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat tag. (4-7-11)

h. Any person who has killed an antlered moose in Idaho may not apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a tag for antlerless moose EXCEPT that any person may apply for tags remaining unfilled after the controlled hunt draw. (4-7-11)

i. Any person who has killed a grizzly bear in Idaho may not apply for a grizzly bear tag. (3-29-17)

j. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner’s name and address on it along with the landowner’s signature. (7-1-98)

k. Any person may apply for both a controlled hunt tag and a controlled hunt extra tag. (4-7-11)

l. Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, “Rules Governing the Use of Dogs.” (7-1-99)

m. Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application. (4-11-06)

n. The Commission establishes youth only controlled hunts by proclamation. Only hunters ten (10) to seventeen (17) years of age with a valid license may apply for youth only controlled hunts, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license or a nonresident disabled American Veteran hunting license may apply for first-come, first-served leftover youth only controlled hunt permits. (3-25-16)

04. Applications. Individual applications or group applications for controlled hunts may be submitted

electronically through the automated licensing system at any vendor location, through the Internet, over the telephone, or by mail to the Headquarters Office of the Idaho Department of Fish and Game or any Idaho Fish and Game Regional Office and shall be submitted with a postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; EXCEPT: applicants who would like to change their submitted controlled hunt application may request the original application be canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. (4-7-11)

- a. Spring black bear, spring grizzly bear -- Application period - January 15 - February 15. (3-29-17)
- b. Moose, bighorn sheep, and mountain goat -- Application period for first drawing - April 1 - 30. (4-6-05)
- c. Deer, elk, pronghorn, fall black bear, fall grizzly bear, and gray wolves -- Application period for first drawing -- May 1-June 5. (3-29-17)
- d. Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15-25. (4-6-05)
- e. Deer, elk, pronghorn, fall black bear, fall grizzly bear, and gray wolves -- Application period for second drawing -- August 5-15. (3-29-17)

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

- a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (4-7-11)
- b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. (4-7-11)
- c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. (4-7-11)
- d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail. (4-7-11)
- e. Any controlled hunt tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any Point-of-Sale vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. (4-7-11)
- i. Spring Turkey and Spring Bear - April 1. (4-7-11)

- ii. Moose, Bighorn Sheep and Mountain Goat - July 10. (4-7-11)
- iii. Deer, Elk, Pronghorn and Fall Bear - August 25. (4-7-11)
- f. A “group application” for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (4-7-11)
- g. A “group application” for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (3-29-10)
- h. If a group application exceeds the number of tags available in a hunt that group application will not be selected for that hunt. (4-7-11)
- i. Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game after July 15. (4-7-11)
- j. Deer and elk unlimited controlled hunts as identified by the Fish and Game Commission's Big Game Season Proclamation as “first-choice only” may be applied for only as a first choice controlled hunt during the controlled hunt application process. The Proclamation is published in a brochure available at department offices and license vendors. (4-11-15)
- 06. Refunds of Controlled Hunt Fees.** (7-1-93)
- a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)
- b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)
- c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)
- d. Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)
- e. Application fees are nonrefundable. (4-7-11)
- f. Fees for resident and nonresident adult control hunt tags that are subsequently designated to a minor child or grandchild are not refundable. (4-4-13)
- 07. Controlled Hunt Drawing.** Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)
- 08. Unclaimed Tags.** Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag by August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (4-7-11)
- 09. Second Drawing Exclusion.** The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. (3-29-10)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0108-1705

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 2017.

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 36-104, 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 October 18, 2017.

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:

It is being proposed that IDAPA 13.01.08, Section 260, be changed to rescind the requirement that hunters must pay the tag fee at the time of application for a moose, bighorn sheep, or mountain goat controlled hunt tag and to create a purchase deadline for first draw tags and a second draw process for unclaimed and leftover tags.

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:

This temporary and proposed rule confers a benefit because although hunters will pay a higher controlled hunt application fee beginning in 2018, they would not have to prepay in 2018 for a moose, bighorn sheep, or mountain goat tag that they may not draw, and thus, the Department of Fish and Game would not be holding their funds during the period of application, draw, and completion of refunds. A benefit is also conferred because the Department of Fish and Game will have adequate time to provide notice about this change to hunters prior to the April 1 start of the 2018 application period for moose, bighorn sheep, and mountain goat controlled hunt tags.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This temporary and proposed rule has no associated fee.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: The temporary and proposed rule change will have no impact on the state general fund. There will be a small fiscal benefit to the fish and game dedicated fund because the cost of refunding approximately five million dollars each year (\$5,000,000) will no longer be incurred.

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

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This temporary and proposed rule does not include incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon W. Kiefer, (208) 334-3771.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Sharon W. Kiefer
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut, P.O. Box 25
Boise, Idaho, 83707
Tel: (208) 334-3771
Fax: (208) 334-4885

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 13-0108-1705
(Only Those Sections With Amendments Are Shown.)**

260. TAGS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Tags. No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession. (4-7-11)

a. A controlled hunt area with an “X” suffix is an extra tag hunt. (10-26-94)

b. In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the hunter of the invalidation of the tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (4-7-11)

c. Any person who draws a controlled hunt tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first deer drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for deer. (4-7-11)

iv. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (4-7-11)

d. Any person who draws a controlled hunt tag for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

- iii. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for elk. (4-7-11)
- iv. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt-archery, muzzleloader, general or controlled hunt. (4-7-11)
- e. Any person who draws a controlled hunt tag for pronghorn is prohibited from hunting in any other pronghorn hunt; EXCEPT: (4-7-11)
- i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)
- ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)
- iii. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. (4-7-11)
- iv. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. (4-7-11)
- f. Any person who draws a spring controlled hunt tag for black bear, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)
- g. Any person who draws a fall controlled hunt tag may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag; EXCEPT; the hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the fall bear drawing. (4-7-11)
- h. Any resident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)
- i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates a control hunt tag to his or her resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild, except that 260.03.d., 03.f., 03.g. and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. (3-25-16)
- ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)
- iii. Any resident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)
- iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)
- i. Any nonresident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any nonresident adult person who possesses and designates his or her control hunt tag to his or her nonresident minor child or grandchild. Rules for eligibility in Section 260 apply to any nonresident adult person who possesses and designates a control hunt tag and to the designated nonresident minor child or grandchild except that 260.03.d., 03.f., 03.g., and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated nonresident minor child or grandchild. (3-25-16)

ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

iii. Any nonresident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)

iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)

02. Nonresident Tag Limitations. (4-7-11)

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-7-11)

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (4-7-11)

d. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose shall be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (4-4-13)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt. (4-6-05)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. EXCEPT all successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled pronghorn/deer/elk tags to hunt in any open general and/or controlled pronghorn, deer or elk hunt in the following hunting season. (4-4-13)

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk and pronghorn controlled hunt permit sales. (4-7-11)

d. Any person who has killed a California bighorn ram or a Rocky Mountain bighorn ram on any controlled hunt may not apply for a tag for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram tag for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram tag for any hunt south of Interstate Highway 84. Bighorn sheep auction tag recipients under IDAPA 13.01.04.700 and lottery tag recipients under IDAPA 13.01.04.800 are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-4-13)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the hunter ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (4-7-11)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat tag. (4-7-11)

h. Any person who has killed an antlered moose in Idaho may not apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a tag for antlerless moose EXCEPT that any person may apply for tags remaining unfilled after the controlled hunt draw. (4-7-11)

i. Any person who has killed a grizzly bear in Idaho may not apply for a grizzly bear tag. (3-29-17)

j. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)

k. Any person may apply for both a controlled hunt tag and a controlled hunt extra tag. (4-7-11)

l. Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." (7-1-99)

m. Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application. (4-11-06)

n. The Commission establishes youth only controlled hunts by proclamation. Only hunters ten (10) to seventeen (17) years of age with a valid license may apply for youth only controlled hunts, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license or a nonresident disabled American Veteran hunting license may apply for first-come, first-served leftover youth only controlled hunt permits. (3-25-16)

04. Applications. Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, through the Internet, over the telephone, or by mail to the Headquarters Office of the Idaho Department of Fish and Game or any Idaho Fish and

Game Regional Office and shall be submitted with a postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; EXCEPT: applicants who would like to change their submitted controlled hunt application may request the original application be canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. (4-7-11)

- a. Spring black bear, spring grizzly bear -- Application period - January 15 - February 15. (3-29-17)
- b. Moose, bighorn sheep, and mountain goat -- Application period for first drawing - April 1 - 30. (4-6-05)
- c. Deer, elk, pronghorn, fall black bear, fall grizzly bear, and gray wolves -- Application period for first drawing -- May 1-June 5. (3-29-17)
- d. Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - ~~June 15-25~~ July 5-15. ~~(4-6-05)~~(12-1-17)T
- e. Deer, elk, pronghorn, fall black bear, fall grizzly bear, and gray wolves -- Application period for second drawing -- August 5-15. (3-29-17)

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

- a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (4-7-11)
- b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. (4-7-11)
- c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. (4-7-11)
- d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, grizzly bear, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application ~~for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail.~~ ~~(4-7-11)~~(12-1-17)T
- e. Any controlled hunt tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any Point-of-Sale vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. (4-7-11)
 - i. Spring Turkey and Spring Bear - April 1. (4-7-11)
 - ii. Moose, Bighorn Sheep and Mountain Goat - July ~~10~~ 25. ~~(4-7-11)~~(12-1-17)T

iii. Deer, Elk, Pronghorn and Fall Bear - August 25. (4-7-11)

f. A “group application” for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (4-7-11)

g. A “group application” for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (3-29-10)

h. If a group application exceeds the number of tags available in a hunt that group application will not be selected for that hunt. (4-7-11)

i. Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game after July 15. (4-7-11)

j. Deer and elk unlimited controlled hunts as identified by the Fish and Game Commission's Big Game Season Proclamation as “first-choice only” may be applied for only as a first choice controlled hunt during the controlled hunt application process. The Proclamation is published in a brochure available at department offices and license vendors. (4-11-15)

06. Refunds of Controlled Hunt Fees. (7-1-93)

~~a. *Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise.*~~ (3-20-97)

~~ba.~~ Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

~~eb.~~ Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

~~ec.~~ Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

~~ed.~~ Application fees are nonrefundable. (4-7-11)

~~fe.~~ Fees for resident and nonresident adult control hunt tags that are subsequently designated to a minor child or grandchild are not refundable. (4-4-13)

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

08. Unclaimed Tags. Successful applicants for the first moose, bighorn sheep, or mountain goat controlled hunt drawing must purchase and pick up their controlled hunt tag by July 1. Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag by August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. ~~(4-7-11)~~(12-1-17)T

09. Second Drawing Exclusion. The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. (3-29-10)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0108-1706

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 36-104, 36-408, and 36-1101, 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 October 18, 2017.

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:

It is being proposed that IDAPA 13.01.08, Section 260, be changed to delete reference to the Supertag drawing for hunters that comply with Mandatory Report requirements because the drawing has not been effective in increasing reporting compliance and the Department is utilizing multiple methods to collect harvest information and help hunters comply with mandatory reporting. It is being proposed that Section 270 be changed because the Department of Fish and Game has streamlined the mandatory hunter orientation process for controlled archery-only hunts that require hunter orientation and no longer requires hunters to attend a class. It is being proposed that Section 421 be changed to remove duplicate language regarding Mandatory Reports, update the rule to reflect current reporting procedure, and to delete reference to the Supertag drawing for hunters that comply with Mandatory Report requirements. It is being proposed that Section 422 be revised to delete the mandatory requirement that successful wolf hunters must report wolf harvest with a telephone report because the telephone report no longer has application for in-season management. Mandatory harvest report and animal check for successful wolf hunters are not being modified in this proposed rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The proposed rules have no associated fee.

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

The proposed rules will have no impact on the state general fund. There is no measurable impact to the fish and game dedicated fund because the proposed rules do not prescribe new actions or substantively affect license sales or fees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these rules were simple in nature.

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 proposed rules do not include incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sharon W. Kiefer at (208) 334-3771.

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 October 25, 2017.

DATED this 1st Day of September, 2017.

Sharon W. Kiefer
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut, P.O. Box 25
Boise, Idaho, 83707
Tel: (208) 334-3771
Fax: (208) 334-4885

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0108-1706
(Only Those Sections With Amendments Are Shown.)

260. TAGS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Tags. No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession. (4-7-11)

a. A controlled hunt area with an “X” suffix is an extra tag hunt. (10-26-94)

b. In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the hunter of the invalidation of the tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (4-7-11)

c. Any person who draws a controlled hunt tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first deer drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag and may purchase a controlled hunt extra tag for deer. (4-7-11)

iv. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (4-7-11)

d. Any person who draws a controlled hunt tag for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second

tag and may purchase a controlled hunt extra tag for elk. (4-7-11)

iv. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt-archery, muzzleloader, general or controlled hunt. (4-7-11)

e. Any person who draws a controlled hunt tag for pronghorn is prohibited from hunting in any other pronghorn hunt; EXCEPT: (4-7-11)

i. The hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

ii. If the hunter draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the hunter to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (4-7-11)

iii. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. (4-7-11)

iv. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. (4-7-11)

f. Any person who draws a spring controlled hunt tag for black bear, may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag. (4-7-11)

g. Any person who draws a fall controlled hunt tag may choose to purchase the controlled hunt bear tag or exchange a general season bear tag for the controlled hunt bear tag. If the hunter chooses to exchange a general season bear tag for the controlled hunt bear tag the hunter must return the unused tag to a Department office to exchange the tag for the appropriate controlled hunt tag; EXCEPT; the hunter may choose not to purchase the controlled hunt tag by the date set by Commission rule for the fall bear drawing. (4-7-11)

h. Any resident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any resident adult person who possesses and designates a control hunt tag to his or her resident minor child or grandchild. Rules for eligibility in Section 260 apply to any resident adult person who possesses and designates a control hunt tag and to the designated resident minor child or grandchild, except that 260.03.d., 03.f., 03.g. and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated resident minor child or grandchild. (3-25-16)

ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

iii. Any resident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)

iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)

i. Any nonresident adult person who possesses any controlled hunt tag may designate the controlled hunt tag to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. (3-20-14)

i. Rules for use of controlled hunt tags in Sections 260 and 261 apply to any nonresident adult person

who possesses and designates his or her control hunt tag to his or her nonresident minor child or grandchild. Rules for eligibility in Section 260 apply to any nonresident adult person who possesses and designates a control hunt tag and to the designated nonresident minor child or grandchild except that 260.03.d., 03.f., 03.g., and 03.h. apply to the designated child or grandchild. Mandatory school as provided in Section 270 shall apply to the designated nonresident minor child or grandchild. (3-25-16)

ii. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Idaho Department of Fish and Game Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (4-4-13)

iii. Any nonresident child or grandchild cannot be designated more than one control hunt tag per species per calendar year. (4-4-13)

iv. Designation of a controlled hunt tag shall be completed before the first opening hunt date for the tag. (4-4-13)

02. Nonresident Tag Limitations. (4-7-11)

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-7-11)

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (4-7-11)

d. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose shall be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (4-4-13)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt. (4-6-05)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. *EXCEPT all successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled pronghorn/deer/elk tags to hunt in any open general and/or controlled pronghorn, deer or elk hunt in the following hunting season.* (4-4-13)()

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk and pronghorn controlled hunt permit sales. (4-7-11)

d. Any person who has killed a California bighorn ram or a Rocky Mountain bighorn ram on any controlled hunt may not apply for a tag for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram tag for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram tag for any hunt south of Interstate Highway 84. Bighorn sheep auction tag recipients under IDAPA 13.01.04.700 and lottery tag recipients under IDAPA 13.01.04.800 are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-4-13)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the hunter ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (4-7-11)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat tag. (4-7-11)

h. Any person who has killed an antlered moose in Idaho may not apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a tag for antlerless moose EXCEPT that any person may apply for tags remaining unfilled after the controlled hunt draw. (4-7-11)

i. Any person who has killed a grizzly bear in Idaho may not apply for a grizzly bear tag. (3-29-17)

j. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)

k. Any person may apply for both a controlled hunt tag and a controlled hunt extra tag. (4-7-11)

l. Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." (7-1-99)

m. Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application. (4-11-06)

n. The Commission establishes youth only controlled hunts by proclamation. Only hunters ten (10) to seventeen (17) years of age with a valid license may apply for youth only controlled hunts, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license or a nonresident disabled American Veteran hunting license may apply for first-come, first-served leftover youth only controlled hunt permits. (3-25-16)

04. Applications. Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, through the Internet, over the telephone, or by mail to the Headquarters Office of the Idaho Department of Fish and Game or any Idaho Fish and

Game Regional Office and shall be submitted with a postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; EXCEPT: applicants who would like to change their submitted controlled hunt application may request the original application be canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. (4-7-11)

- a. Spring black bear, spring grizzly bear -- Application period - January 15 - February 15. (3-29-17)
- b. Moose, bighorn sheep, and mountain goat -- Application period for first drawing - April 1 - 30. (4-6-05)
- c. Deer, elk, pronghorn, fall black bear, fall grizzly bear, and gray wolves -- Application period for first drawing -- May 1-June 5. (3-29-17)
- d. Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15-25. (4-6-05)
- e. Deer, elk, pronghorn, fall black bear, fall grizzly bear, and gray wolves -- Application period for second drawing -- August 5-15. (3-29-17)

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

- a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (4-7-11)
- b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. (4-7-11)
- c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. (4-7-11)
- d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail. (4-7-11)
- e. Any controlled hunt tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any Point-of-Sale vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. (4-7-11)
 - i. Spring Turkey and Spring Bear - April 1. (4-7-11)
 - ii. Moose, Bighorn Sheep and Mountain Goat - July 10. (4-7-11)

- iii. Deer, Elk, Pronghorn and Fall Bear - August 25. (4-7-11)
- f. A “group application” for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (4-7-11)
- g. A “group application” for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (3-29-10)
- h. If a group application exceeds the number of tags available in a hunt that group application will not be selected for that hunt. (4-7-11)
- i. Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game after July 15. (4-7-11)
- j. Deer and elk unlimited controlled hunts as identified by the Fish and Game Commission's Big Game Season Proclamation as “first-choice only” may be applied for only as a first choice controlled hunt during the controlled hunt application process. The Proclamation is published in a brochure available at department offices and license vendors. (4-11-15)
- 06. Refunds of Controlled Hunt Fees.** (7-1-93)
- a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)
- b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)
- c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)
- d. Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)
- e. Application fees are nonrefundable. (4-7-11)
- f. Fees for resident and nonresident adult control hunt tags that are subsequently designated to a minor child or grandchild are not refundable. (4-4-13)
- 07. Controlled Hunt Drawing.** Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)
- 08. Unclaimed Tags.** Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag by August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (4-7-11)
- 09. Second Drawing Exclusion.** The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

270. MANDATORY SCHOOL HUNTER ORIENTATION.

Anyone drawing a controlled archery-only hunt tag that requires a mandatory hunter orientation ~~class~~ as denoted in the season proclamations ~~must attend the mandatory hunter orientation class. The class is three (3) hours long and will be offered at times specified by the Department. The orientation classes will be offered on ten (10) dates between October 15 and November 15. Since classroom size is limited, each hunter must schedule a time to attend a class prior to October 15. Attendees will be issued a~~ will receive orientation information that includes hunt boundaries, legal restrictions, and hunter ethics. Tag holders must sign and return an affidavit that they have reviewed and understand the orientation to receive a eCertificate of eCompletion, which must be carried by the hunter during the hunt. Holders of "Certificates of Completion" from previous hunts are not required to ~~attend~~ repeat this orientation ~~class~~ and will be provided with updated Certificates of Completion to participate in the hunt. (4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

421. MANDATORY PRONGHORN, DEER, AND ELK REPORT REQUIREMENTS.

~~01. Mandatory Report Form. After a pronghorn, deer and/or elk is killed, the hunter must accurately complete a Mandatory Report as provided by the Director.~~ (4-7-11)

021. Mandatory Report. Any hunter that obtains a pronghorn, deer and/or elk tag and kills a pronghorn, deer and/or elk, must submit an accurately completed Mandatory Report as provided by the Director to the Department or authorized agent, WITHIN TEN (10) DAYS OF KILL. Any hunter that obtains a pronghorn, deer and/or elk tag and does not successfully kill a pronghorn, deer and/or elk must submit a completed Mandatory Report Form to the Department or authorized agent WITHIN TEN (10) DAYS OF THE CLOSING DATE OF THE APPROPRIATE SEASON. (4-7-11)()

032. Failure to Report. ~~Failure~~ Any hunter who fails to submit the required pronghorn, deer and/or elk Mandatory Report ~~by January 31 of the following year~~ as required in Subsection 421.021 ~~will render the hunter ineligible to obtain any subsequent year's license until~~ or by January 31 of the following year can be required to file a late Mandatory Report ~~permit is filed~~ with the Department or authorized agent prior to obtaining any subsequent year's license. (4-7-11)()

~~04. Drawing for "Super" Tag. All successful and unsuccessful pronghorn, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled pronghorn/deer/elk tags. Each hunter drawn for a "Super" controlled pronghorn/deer/elk hunt must notify the Department by May 1 of which species they have selected to hunt. The "Super" controlled hunt tag is valid for the selected species and allows the hunter to hunt in any open general and/or controlled hunt for the selected species in the following season.~~ (4-7-11)

422. MANDATORY TELEPHONE REPORT.

~~01. Gray Wolf. In addition to other check and reporting requirements, any hunter killing a gray wolf must report the harvest within seventy-two (72) hours by calling the Wolf Reporting Number, a toll-free telephone number published in the big game seasons and rules brochure available at Department offices and license vendors.~~ (3-29-17)

~~02. Grizzly Bear. In addition to other check and reporting requirements, any hunter killing a grizzly bear must report the harvest within twenty-four (24) hours by calling the Grizzly Bear Reporting Number, a toll-free telephone number published in the grizzly bear season and rules brochure available at Department offices and on the Department website.~~ (3-29-17)()

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0109-1704P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2017 Sage Grouse Season establishing season and limits for hunting in Idaho.

PUBLIC HEARING SCHEDULE: The next public hearing before the Fish and Game Commission will be:

**Thursday, November 16, 2017
Approximately 7:00 p.m. (MST)**

**324 S. 417 East, Suite 1
Jerome, ID 83338**

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact James Stoll at (208) 334-3715.

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 16 – DEPARTMENT OF HEALTH AND WELFARE
16.02.02 – RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES
(EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1013A and 56-1023, 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 October 18, 2017.

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:

To best protect the public's health and safety, the EMS Physician Commission is revising its Standards Manual that is incorporated by reference in this chapter of rules. The revision to these rules will ensure that the most recent edition of the manual has the force and effect of law.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted and deemed not feasible because the content of the proposed updates to the EMS Physician Commission Standards Manual already represents extensive input from stakeholders gathered on an ongoing basis throughout the year and at the quarterly meetings of the EMS Physician Commission.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2018-1, is being incorporated by reference into these rules to give it the force and effect of law. The document is not being published in this chapter of rules due to its length and format, but it is available upon request from Idaho EMS. Once the docket has been finalized and adopted, the manual will be available online at: www.emspc.dhw.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Wayne Denny at (208) 334-4000.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0202-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2017~~8~~-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained on the Internet at www.emspc.dhw.idaho.gov or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID, 83712-8249, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. ~~(7-1-17)~~()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.01 – ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, Idaho Code; and House Bill 43 (2017).

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

PUBLIC HEARING
Wednesday, October 18, 2017 — 9:00 a.m. (Local)

Central Idaho - DHW Office
3232 Elder Street
Conference Room D - East
Boise, ID 83705

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:

As part of the Jeff D settlement agreement and the adoption of HB 43 (2017) that is directly related to it, the Department has created the Youth Empowerment Services (YES) Medicaid program that will provide medical assistance, respite care, and transportation services to youth diagnosed with Severe Emotional Disturbance (SED). The Division of Welfare will be determining the non-financial and financial eligibility components of the program. Specifically, this rule change adds guidance around the eligibility criteria that a participant must meet to be eligible for services under the YES program. This is a companion rule to Docket No. 16-0310-1706 and Docket No. 16-0318-1701 publishing in this Bulletin.

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

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

There is no anticipated fiscal impact for this rulemaking to the State General Fund, or any other funds as eligibility will be determined for this program in conjunction with already existing Medicaid programs through the automated eligibility system.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking was not feasible since these rule changes are not negotiable as the benefits included herein are court-ordered through the Jeff D settlement agreement.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Camille Schiller at (208) 334-5969.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
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P.O. Box 83720
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Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0301-1701
(Only Those Sections With Amendments Are Shown.)

540. YOUTH EMPOWERMENT SERVICES (YES) PROGRAM CHILDREN.

01. Payments for Children Under Eighteen (18) Years of Age with SED. In accordance with Section 56-254(2), Idaho Code, the Department will make payments for medical assistance for a child under eighteen (18) years of age with serious emotional disturbance (SED), as defined in Section 16-2403, Idaho Code, and verified by an independent assessment: ()

a. Whose family income does not exceed three hundred percent (300%) of the federal poverty guideline (FPG) as determined using MAGI-based eligibility standards; and ()

b. Who meets other eligibility standards in accordance with the rules of the Department. ()

02. Youth Empowerment Services (YES) Benefits. Applicants whose family income is equal to or less three hundred percent (300%) of the Federal Poverty Guidelines (FPG) for children zero (0) to eighteen (18) years of age and who meet the non-financial eligibility criteria in Sections 200 through 299 of these rules may receive the following benefits: ()

a. Youth Empowerment Services (YES) State Plan option services and supports described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 641; and ()

b. Additional covered services set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 075 through 799. ()

03. Additional Eligibility Criteria and Program Requirements for YES. Additional eligibility criteria and program requirements applicable to the Youth Empowerment Services (YES) State Plan option are described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 641. ()

540~~1~~. -- 544. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.01 – ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1702

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236 through 56-240, 56-242, 56-250 through 56-257, 56-260 through 56-266, 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 October 18, 2017.

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:

These rule changes clarify certain areas of eligibility for specialized populations. While the proposed changes are minor, they will greatly add to the understanding of the intent of the program administration for children under a certain adoptive category for citizenship purposes, foster children who are seeking benefits, and pregnant women needing postpartum services.

The following rule changes are being made:

1. An exception is being added to restrict certain foreign-born children's eligibility due to a particular adoption code;
2. A provision is being removed that would inadvertently prevent pregnant women to receive postpartum services regardless of when they apply for benefits during or after their pregnancy ends; and
3. A clarification is being added to rules regarding Title XIX foster care Medicaid to explain when certain eligibility criteria should be used.

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

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

The fiscal impact associated with this rule change is minimal to none. An analysis conducted by the Division of Medicaid concluded any potential impact is so minimal that requesting additional funds is not warranted at this time.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule changes simply clarify current Department practices and do not change eligibility determinations for customers. Stakeholders will not be affected by these changes.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Camille Schiller at (208) 334-5969.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0301-1702
(Only Those Sections With Amendments Are Shown.)

221. U.S. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.

To be eligible, an individual must be a lawfully present member of one (1) of the following groups: (3-20-14)

01. U.S. Citizen. A U.S. Citizen or a “national of the United States.” (3-20-14)

02. Child Born Outside the U.S. A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-20-14)

a. At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-20-14)

b. The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen, and the child does not have IR-4 status; ~~(3-20-14)~~ ()

c. The child is under eighteen (18) years of age; (3-20-14)

d. The child is a lawful permanent resident; and (3-20-14)

e. If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-20-14)

03. Full-Time Active Duty U.S. Armed Forces Member. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who is currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-20-14)

04. Veteran of the U.S. Armed Forces. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who was honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard for a reason other than their citizenship status, or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-20-14)

05. Non-Citizen Entering the U.S. Before August 22, 1996. A non-citizen who entered the U.S. before August 22, 1996, who is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c), who remained continuously present in the U.S. until he became a qualified non-citizen. (3-20-14)

06. Non-Citizen Entering On or After August 22, 1996. A non-citizen who entered the U.S. on or after August 22, 1996, and who is: (3-20-14)

a. A refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from the date of entry; (3-20-14)

b. An asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date asylee status is assigned; (3-20-14)

c. An individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date deportation or removal was withheld; (3-20-14)

d. An Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-20-14)

e. A Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act under Section 501(e) of P.L. 96-422 (1980), and can be eligible for seven (7) years from the date of entry. (3-20-14)

07. Qualified Non-Citizen Entering On or After August 22, 1996. A qualified non-citizen under 8 U.S.C. 1641(b) or (c), who entered the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-20-14)

08. American Indian Born in Canada. An American Indian born in Canada, under 8 U.S.C. 1359. (3-20-14)

09. American Indian Born Outside the U.S. An American Indian born outside of the U.S., who is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-20-14)

10. Qualified Non-Citizen Child Receiving Federal Foster Care. A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-20-14)

11. Victim of Severe Form of Trafficking. A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-14)

a. Is under the age of eighteen (18) years; or (3-20-14)

b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-14)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-14)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-20-14)

12. Afghan Special Immigrant. An Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007. (3-20-14)

13. Iraqi Special Immigrant. An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. (3-20-14)

14. Individuals not Meeting the Citizenship or Qualified Non-Citizen Requirements. An individual who does not meet the citizenship or qualified non-citizen requirements in Subsections 221.01 through 221.13 of this rule, may be eligible for emergency medical services if he meets all other conditions of eligibility. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

500. PREGNANT WOMAN COVERAGE.

A pregnant woman of any age is eligible for the Pregnant Woman coverage if she meets all of the non-financial and financial criteria of the coverage group. Health care assistance for Pregnant Woman coverage is limited to pregnancy-

related and postpartum services. The Pregnant Woman medical assistance coverage extends through the sixty (60) day postpartum period if she ~~applied for medical assistance while pregnant and~~ was eligible to receive receiving medical assistance when the child was born. ~~An individual who applies for Pregnant Woman medical assistance after the child is born is not eligible for the sixty day (60) postpartum period.~~ (3-20-14)()

01. Income Limit. The individual's calculated income must not exceed one hundred thirty-three percent (133%) of the Federal Poverty Guidelines (FPG) for her family size in the application month. (3-20-14)

02. Household Size. The household budget unit consists of the pregnant woman, the unborn child or children if expecting more than one (1) child, and any individual determined to be part of the household budget unit based on MAGI methodologies as identified in Sections 300 through 303, and 411 of these rules. (3-20-14)

03. Income Disregards. A standard disregard in the amount of five percent (5%) of Federal Poverty Guidelines (FPG) for family size is applied to the MAGI income of the pregnant woman if the disregard is necessary to establish income eligibility. (3-20-14)

04. Continuing Eligibility. The pregnant woman remains eligible during the pregnancy regardless of changes in income. The woman must report the end of pregnancy to the Department within ten (10) days. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

535. TITLE IV-E FOSTER CARE CHILD.

A child may be eligible for ~~Health Care Assistance as a~~ Medicaid under the Title IV-E foster care child program if they ~~following conditions are~~ meet the eligibility requirements in IDAPA 16.06.01, "Child and Family Services," Section 425. (3-20-14)()

~~**01. Court Order or Voluntary Placement.** The child must have been living in a parent's or relative's home during the month a court order removes the child or during the month a parent or relative voluntarily signs a written agreement with the Department for foster care.~~ (3-20-14)

~~**02. Custody and Placement.** The child's placement and care are the Department's responsibility and the child is living in a licensed foster home, licensed institution, licensed group home, detention center, or in a relative's home approved for the child by the Department.~~ (3-20-14)

~~**03. IV-E Foster Care and SSI Eligibility.** When a child is eligible for both IV-E Foster Care and SSI, the caretaker relative or social worker must choose the Medicaid coverage group for the child.~~ (3-20-14)

536. TITLE XIX FOSTER CHILD.

A child ~~living in a foster home, children's agency, or children's institution~~ who does not meet the conditions of Title IV-E Foster Care may be Medicaid eligible if the ~~following conditions are met:~~ child meets the non-financial and financial requirements to be eligible for Title XIX Medicaid as a categorically eligible child under regular MAGI-based methodology. (3-20-14)()

~~**01. Age.** The foster child is under age twenty-one (21).~~ (3-20-14)

~~**02. Department Responsibility.** The Department assumes full or partial financial responsibility for the child.~~ (3-20-14)

~~**03. Calculated Income.** The child's calculated income is:~~ (3-20-14)

~~**a.** Two hundred thirty three dollars (\$233) or less; and~~ (3-20-14)

~~**b.** If necessary, a standard disregard of five percent (5%) of Federal Poverty Guidelines (FPG) by family size is applied to the child's calculated income in order for the child to be eligible for coverage.~~ (3-20-14)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.05 – RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,
BLIND AND DISABLED (AABD)

DOCKET NO. 16-0305-1701

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 56-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2017.

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

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

The Department is amending this chapter of rules for the following updates:

1. The Cash Assistance program is being clarified for the AABD population who receive Social Security Income (SSI) as the only eligible participants.
2. The asset transfers and annuities are being aligned with federal regulations and guidance.
3. Personal Needs Allowance and Personal Needs Supplement amount is being increased for individuals living in a nursing home facilities.
4. The Basic Needs Allowance calculation explanation for RALFs and CFHs is being amended.

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

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

The fiscal impact for SFY 2019 increase for the Personal Needs Allowance (PNA) for Medicaid participants is estimated to be a total impact of \$486,600 of which \$347,600 is federal funds (71.433%), and \$139,000 is state general funds (28.567%). Additionally, the Personal Needs Supplement for individuals receiving SSI income below \$55 PNA is estimated to be \$35,800 that is from state general funds. Other changes being made to these rules are cost-neutral and will have no fiscal impact to state or federal funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted for the Personal Needs Allowance (PNA) for Medicaid participants living in nursing homes. The Notice of Negotiated Rulemaking published in the July 5, 2017, Idaho Administrative Bulletin, [Vol. 17-7, page 54](#). The Department determined it was not feasible to negotiate rule changes that align with federal regulations and are not negotiable.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Camille Schiller at (208) 334-5969.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0305-1701
(Only Those Sections With Amendments Are Shown.)

051. EFFECTIVE DATE.

The effective date for aid is the first day of the month of application. Medicaid eligibility begins as described in Subsections 051.01 through 051.04. (7-1-99)

01. AABD Cash ~~and Participant Required to Apply for SSI.~~ *When the participant is required to apply for SSI as a condition of AABD cash, the effective date of the AABD cash is the first month the participant gets an SSI payment. If the participant is not eligible for SSI but is eligible for AABD cash,* aid is effective on the application date. (7-1-99)()

02. Normal Medicaid Eligibility. Medicaid coverage begins on the first day of the application month. (7-1-99)

03. Retroactive (Backdated) Medicaid Eligibility. Medicaid benefits must be backdated to the first day of the calendar month, for each of the three (3) months before the month of application, if the participant was Medicaid eligible during that month. If the participant is not eligible for Medicaid when he applies, retroactive eligibility is evaluated. (7-1-99)

04. Ineligible Non-Citizen Medicaid. Ineligible legal or illegal non-citizen coverage is restricted to emergency services. Coverage begins when the emergency treatment is required. Coverage ends with the last day emergency treatment is required. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

279. RETIREMENT FUNDS.

Retirement funds are ~~annuities or~~ work-related plans for providing income or pensions when employment ends. A retirement fund, owned by a participant, is a resource if he has the option of withdrawing a lump sum, even though he is not yet eligible for periodic retirement payments. If the participant is eligible for periodic retirement payments, the fund is not a countable resource. The value of a retirement fund is the amount of money a participant can currently withdraw from the fund. (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

513. RESIDENTIAL CARE OR ASSISTED LIVING FACILITY AND CERTIFIED FAMILY HOME ALLOWANCES.

A participant living in a Residential Care or Assisted Living Facility (RALF), in accordance with IDAPA 16.03.22,

“Residential Care or Assisted Living Facilities in Idaho,” or a Certified Family Home (CFH), in accordance with IDAPA 16.03.19, “Rules Governing Certified Family Homes,” is budgeted a basic allowance of ~~seventy-seven~~ ~~ninety-six~~ dollars (\$~~7796~~) monthly. Beginning July 1, 2013, this basic allowance will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The basic allowance increase will be rounded to the nearest dollar.

(7-1-13)()

01. Budgeted Monthly Allowance Based On Level of Care. A participant is budgeted a monthly allowance for care based on the level of care received as described in Section 515 of these rules. If the participant does not require State Plan Personal Care Services (PCS), his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. (4-7-11)

02. Care Levels and Monthly Allowances. Beginning January 1, 2006, care levels and monthly allowances are those listed in Table 513.02 of these rules. Beginning July 1, 2013, the RALF and CFH allowances for participants living in a RALF or CFH on State Plan PCS will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. This increase will be rounded to the next dollar.

TABLE 513.02 - STATE PLAN PCS CARE LEVELS AND ALLOWANCES AS OF 1-1-06		
	Level of Care	Monthly Allowance
a.	Level I	Eight hundred and thirty-five dollars (\$835)
b.	Level II	Nine hundred and two dollars (\$902)
c.	Level III	Nine hundred and sixty-nine dollars (\$969)

(7-1-13)

03. CFH Operated by Relative. A participant living in a Certified Family Home (CFH) operated by his parent, child or sibling is not entitled to the CFH State Plan PCS allowances. He may receive the allowance for a person living with a relative as described in Section 501 of these rules. A relative for this purpose is the participant’s parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent or grandchild by birth, marriage, or adoption.

(BREAK IN CONTINUITY OF SECTIONS)

723. PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE.

For a participant with no community spouse, patient liability is computed as described in Subsections 723.01 through 723.03 of this rule. (5-3-03)

01. Income of Participants in Long-Term Care. For a single participant, or participant whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsection 723.03 of this rule. (5-3-03)

02. Community Property Income of Long-Term Care Participant with Long-Term Care Spouse. Patient liability income for a participant, whose spouse is also in long-term care, choosing the community property method, is one-half (1/2) his share of the couple’s community income, plus his own separate income. The deductions in Table 723.03 are subtracted from his income. (7-1-99)

03. Income of Participant in Facility. A participant residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsection 723.03 subtracted from his income, after the AABD exclusions are subtracted from the income. Total monthly income includes income paid into an income (Miller) trust that month. The income deductions must be subtracted in the order listed. Remaining income is patient liability. (3-15-02)

- a. AABD Income Exclusions. Subtract income excluded in determining eligibility for AABD cash. (7-1-99)
- b. Aid and Attendance and UME Allowances. Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home. (3-30-01)
- c. SSI Payment Two (2) Months. Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility. (7-1-99)
- d. AABD Payment. Subtract the AABD payment, and income used to compute the AABD payment, for a participant paid continued AABD payments up to three (3) months in long-term care. (7-1-99)
- e. First Ninety (\$90) Dollars of VA Pension. Subtract the first ninety (\$90) dollars of a VA pension for a veteran in a private long-term care facility or a State Veterans Nursing Home. (5-3-03)
- f. Personal Needs. Subtract ~~forty~~ fifty-five dollars (\$~~40~~55) for the participant's personal needs. For a veteran or surviving spouse in a private long-term care facility or a State Veterans Nursing Home the first ninety (\$90) dollars of VA pension substitutes for the ~~forty~~ fifty-five dollar (\$~~40~~55) personal needs deduction. (~~5-3-03~~)()
- g. Employed and Sheltered Workshop Activity Personal Needs. For an employed participant or participant engaged in sheltered workshop or work activity center activities, subtract the lower of the personal needs deduction of two hundred dollars (\$200) or his gross earned income. The participant's total personal needs allowance must not exceed two hundred and thirty dollars (\$230). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed two hundred dollars (\$200). This is a deduction only. No actual payment can be made to provide for personal needs. (3-30-01)
- h. Home Maintenance. Subtract two hundred and twelve dollars (\$212) for home maintenance cost if the participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the participant is likely to return home within six (6) months, after the month of admission to a long-term care facility. This is a deduction only. No actual payment can be made to maintain the participant's home. (7-1-99)
- i. Maintenance Need. Subtract a maintenance need deduction for a family member, living in the long-term care participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the AFDC payment standard for the dependents, computed according to the AFDC State Plan in effect before July 16, 1996. (7-1-99)
- j. Medicare and Health Insurance Premiums. Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be subtracted, if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed. (7-1-99)
- k. Mandatory Income Taxes. Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income. (7-1-99)
- l. Guardian Fees. Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars (\$25). Where the guardian and trustee is the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars (\$25) monthly. (3-20-14)
- m. Trust Fees. Subtract up to twenty-five dollars (\$25) monthly paid to the trustee for administering

the participant's trust. (7-1-99)

n. Impairment Related Work Expenses. Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services that are purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged. (3-20-14)

o. Income Garnished for Child Support. Subtract income garnished for child support to the extent the expense is not already accounted for in computing the maintenance need standard. (3-30-01)

p. Incurred Medical Expenses. Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount. (4-11-15)

q. Pre-existing Medical Expenses. Subtract amounts for medical and remedial care expenses incurred within the three (3) months prior to the month of application. The deductions for medical and remedial care expenses are limited to those medically necessary expenses incurred by the participant for the participant's care. The deduction for medical and remedial care expenses is limited to the amount of liability owed by the participant, and if applicable, after any third-party insurance has been applied. The deduction for medical and remedial care expenses that were incurred as the result of imposition of a transfer of assets penalty period is limited to zero. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

725. PATIENT LIABILITY FOR PARTICIPANT WITH COMMUNITY SPOUSE.
 After income ownership is decided, patient liability is determined using steps in Table 725.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step	Procedure	
01.	AABD Income Exclusions	Subtract income excluded in determining eligibility for AABD cash.
02.	Aid and Attendance and UME Allowances	Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home.
03.	SSI Payment Two (2) Months	Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility.
04.	AABD Cash	Subtract the AABD cash payment and income used to compute AABD cash, for a participant eligible to have his AABD cash continued up to three (3) months, while he is in long-term care.
05.	VA Pension	Subtract the first ninety (90\$) of the VA pension for a veteran.
06.	Personal Needs	Subtract forty fifty-five dollars (\$40 55) for the participant's personal needs. Do not allow this deduction for a veteran.
07.	Employed and Sheltered Workshop Activity Needs	For an employed participant or participant engaged in sheltered workshop or work activity center activities subtract the lower of two hundred dollars (\$200) or his earned income.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY	
Step	Procedure
<p>08. Community Spouse Allowance: Step a.</p>	<p>Compute the Community Spouse Allowance (CSA) using Step a. through Step c.</p> <p>Compute the Shelter Adjustment. Add the current Food Stamp Program Standard Utility Allowance to the community spouse's shelter costs.</p> <p>Shelter costs include rent, mortgage principal and interest, homeowner's taxes, insurance, and condominium or cooperative maintenance charges. The Standard Utility Allowance must be reduced by the value of any utilities included in maintenance charges for a condominium or cooperative.</p> <p>Subtract the Shelter Standard from the shelter and utilities. The Shelter Standard is thirty percent (30%) of one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the Federal Office of Management and Budget (OMB) for a family of two (2) persons.</p> <p>The Shelter Adjustment is the positive balance remaining.</p>
<p>09. Community Spouse Allowance: Step b.</p>	<p>Compute the Community Spouse Need Standard (CSNS). Add the Shelter Adjustment to the minimum CSNS. The minimum CSNS equals one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the OMB for a family unit of two (2) members. The minimum CSNS is revised annually in July. The total CSNS may not exceed the maximum CSNS. The maximum CSNS is computed by multiplying one thousand five hundred dollars (\$1,500) by the percentage increase in the consumer price index for all urban Consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The maximum CSNS is revised annually in January.</p>
<p>10. Community Spouse Allowance: Step c.</p>	<p>Compute the Community Spouse Allowance. Subtract the community spouse's gross income from the CSNS. The community spouse's income includes income produced by his resources. Round any remaining cents to the next higher dollar. Any positive balance remaining is the CSA. The CSA is subtracted as actually paid to the community spouse, up to the computed maximum.</p> <p>A larger spouse support amount must be used as the CSA, if court-ordered. The CSA ordered by a court is not subject to the CSA limit.</p>

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY	
Step	Procedure
11. Family Member Allowance (FMA)	<p>Compute the family member's gross income. Subtract the family member's gross income from the minimum CSNS. Divide the difference by three (3). Round cents to the next higher dollar.</p> <p>Any remainder is the FMA for that family member. The FMA is allowed, whether or not it is actually paid by the participant.</p> <p>A family member is, or could be claimed, as a dependent on the Federal income tax return of either spouse. The family member must be a minor or dependent child, dependent parent or dependent sibling of either spouse. The family member must live in the community spouse's home.</p>
12. Medicare and Health Insurance Premiums	<p>Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Do not subtract the Medicare Part B premiums if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed.</p>
13. Mandatory Income Taxes	<p>Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income.</p>
14. Guardian Fees	<p>Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars (\$25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars (\$25) monthly.</p>
15. Trust Fees	<p>Subtract up to twenty-five dollars (\$25) monthly paid to the trustee for administering the participant's trust.</p>
16. Impairment Related Work Expenses	<p>Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged.</p>
17. Income Garnisheed for Child Support	<p>Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the Family Member Allowance.</p>
18. Incurred Medical Expenses	<p>Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount.</p>

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY	
Step	Procedure
19. Pre-existing Medical Expenses	Subtract amounts for medical and remedial care expenses incurred within the three (3) months prior to the month of application. The deductions for medical and remedial care expenses are limited to those medically necessary expenses incurred by the participant for the participant's care. The deduction for medical and remedial care expenses is limited to the amount of liability owed by the participant, and if applicable, after any third-party insurance has been applied. The deduction for medical and remedial care expenses that were incurred as the result of imposition of a transfer of assets penalty period is limited to zero.

(3-25-16)()

726. PERSONAL NEEDS SUPPLEMENT (PNS).

A nursing home participant may receive a PNS to bring his gross income up to ~~forty~~ **fifty-five** dollars (\$~~40~~**55**). Gross income is income after exclusions and before disregards. Gross income includes money withheld to recover an AABD overpayment. The PNS is the difference between the participant's gross income and ~~forty~~ **fifty-five** dollars (\$~~40~~**55**). If not in an even dollar amount, the PNS is rounded up to the next dollar. The participant's income including the PNS must not exceed ~~forty~~ **fifty-five** dollars (\$~~40~~**55**).

(3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

781. RSDI RECIPIENT ENTITLED TO COLA DISREGARD.

A participant receiving RSDI is eligible for Medicaid if he became and remains ineligible **for SSI payments as of April 2011, or** for AABD cash or SSI payments ~~after April, from May~~ **1977 through March 2011**. The participant must still be entitled to AABD cash or SSI, except for a cost-of-living adjustment (COLA) in RSDI benefits. All RSDI COLAs received by the participant, and any person whose income and resources are counted in determining the participant's eligibility, are disregarded for Medicaid.

(7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

841. PENALTY EXCEPTIONS FOR ASSET TRANSFERS.

A participant is not subject to the asset transfer penalty for taking any action described in Subsections 841.01 through 841.14 of this rule. (4-2-08)

01. Home to Spouse. The asset transferred was a home. Title to the home was transferred to the spouse. (7-1-99)

02. Home to Minor Child or Disabled Adult Child. The asset transferred was a home. Title to the home was transferred to the child of the participant or spouse. The child must be under age twenty-one (21) or blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (7-1-99)

03. Home to Brother or Sister. The asset transferred was a home. Title to the home was transferred to a brother or sister of the participant or spouse. The brother or sister must have an equity interest in the transferred home. The brother or sister must reside in that home for at least one (1) year immediately before the month the participant starts long-term care. (7-1-99)

04. Home to Adult Child. The asset transferred was a home. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must reside in that home for at least two (2) years immediately before the month the participant started long-term care. The

adult child must prove he provided nursing facility level medical care to the participant which permitted him to live at home rather than enter long-term care. The son or daughter must not have received payment from Medicaid for home and community based services provided to the participant. (4-2-08)

05. Benefit of Spouse. The assets were transferred to the participant's spouse or to another person for the sole benefit of the spouse. (7-1-99)

06. Transfer From Spouse. The assets were transferred from the participant's spouse to another person for the sole benefit of the participant's spouse. (7-1-99)

07. Transfer to Child. The assets were transferred to the participant's child, or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (7-1-99)

08. Intent to Get Fair Market Value. The participant or spouse proves he intended to dispose of the assets at fair market value or for other adequate consideration. (7-1-99)

09. Assets Returned. All assets transferred for less than fair market value have been returned to the participant. (7-1-99)

10. Medicaid Qualification Not the Intent. The participant or spouse proves the assets were transferred exclusively for a purpose other than to qualify for Medicaid or to avoid recovery. (3-20-04)

11. Undue Hardship. The participant, his representative, or the facility in which he resides may request the hardship waiver. The hardship waiver must be requested in writing within ten (10) days of the date of the asset transfer penalty notice. Undue hardship exists if any of the conditions in Subsections 841.11.a. through 841.11.d. of this rule apply. (4-2-08)

a. The participant proves he is not able to pay for his nursing facility services or his wavier services by any means. (3-30-07)

b. The participant proves that he has made reasonable efforts, consistent with his physical and financial ability, to recover the transferred asset. The participant must fully cooperate with the state of Idaho in efforts to recover the transferred asset and, upon request, must assign his rights to recover the asset to the State of Idaho. (3-30-07)

c. The participant proves he did not knowingly transfer the asset. (3-30-07)

d. The participant proves he would be deprived of food, clothing, shelter or other necessities of life if the asset transfer penalty is imposed and he assigns his rights to recover the asset to the State of Idaho. (3-30-07)

12. Exception to Fair Market Value. The amount received is adequate, even if not fair market value. This exception must meet one (1) of the conditions in Subsections 841.12.a. through 841.12.c. of this rule. (4-2-08)

a. A forced sale was done under reasonable circumstances. (7-1-99)

b. Little or no market demand exists for the type of asset transferred and the lack of market demand was not created by a voluntary act of the participant to qualify for assistance or to avoid recovery. (4-2-08)

c. The asset was transferred to settle a legal debt approximately equal to the fair market value of the transferred asset. (7-1-99)

13. No Benefit to Participant. The participant received no benefit from the asset. This exception must meet one (1) of the conditions in Subsections 841.13.a. and 841.13.b. of this rule. (4-2-08)

a. The participant or spouse held title to the property only as a trustee for another person. The participant or spouse had no beneficial interest in the property. (7-1-99)

b. The transfer was done to clear title to property. The participant or spouse had no beneficial interest in the property. The defect in the title was not created in an attempt to transfer assets to qualify for assistance or avoid recovery. (3-30-07)

14. Fraud Victim. The asset was transferred because the participant or spouse was the victim of fraud, misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the assets or property, or its equivalent in damages and must assign recovery rights to the state of Idaho. (3-20-04)

15. Transfer to Trust of Disabled Person. The assets were transferred to a trust established solely for the benefit of an individual under sixty-five (65) years of age who is disabled. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.08 – RULES GOVERNING THE TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI) PROGRAM

DOCKET NO. 16-0308-1701

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 56-202, Idaho Code, and 45 CFR Parts 260-265.

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 October 18, 2017.

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

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

The Department is amending these rules relating to:

1. Children receiving Supplemental Security Income (SSI) income when their families apply for and receive TAFI benefits; and
2. A child's eligibility when the child turns eighteen (18) years old.

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

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

1. The fiscal impact for a child who receives Supplemental Security Income (SSI), is anticipated to be cost-neutral.
2. The fiscal impact related to the change being made in regards to the eligibility of a TAFI household with a child turning eighteen (18) is estimated to be between \$2,000 and \$6,000 in cost savings. The state general fund portion would be \$650 and \$1,950, and the federal funds portion would be \$1,350 and \$4,050.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking published in the July 5, 2017, Idaho Administrative Bulletin, [Vol. 17-7, page 55](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ericka Rupp at (208) 334-5641.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
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Phone: (208) 334-5500
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0308-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

- 01. Agency Error.** A benefit error caused by the Department's action or failure to act. (7-1-12)
- 02. Applicant.** An individual who applies for Temporary Assistance for Families in Idaho. (7-1-98)
- 03. Assistance.** Cash payments, vouchers, and other benefits designed to meet a family's ongoing basic needs. Assistance includes recurring benefits, such as transportation and child care, conditioned on participation in work activities. (3-30-01)
- 04. Caretaker Relative.** An adult who is a specified relative, other than parents, who has an eligible related child residing with them and who is responsible for the child's care. Only one (1) child in the family must be related to one (1) of the following specified relatives: brother, sister, aunt/great aunt, uncle/great uncle, grandparent/great grandparent, nephew, niece, cousin, any one (1) of these relationships by half-blood, a step-sibling, or a spouse of a relative by marriage, even if the marriage has ended. (3-29-17)
- 05. Claim Determination.** The action taken by the Department establishing the household's liability for repayment when a TAFI overpayment occurs. (7-1-12)
- 06. Department.** The Idaho Department of Health and Welfare. (7-1-98)
- 07. Dependent Child.** A child under the age of eighteen (18), ~~or under the age of nineteen (19) and attending, full time, a secondary school or the equivalent level of vocational or technical training.~~ (3-30-01) ()
- 08. Earned Income.** Cash or in-kind payment derived from employment or self-employment. Receipt of a service, benefit or durable goods instead of wages is in-kind income. Earned income is gross earnings before deductions for taxes or any other purposes. (7-1-98)
- 09. Family.** A family is an eligible individual or group of eligible individuals living in a common residence, whose income and resources are considered in determining eligibility. Spouses living together in a common residence are considered a family. Unrelated adults who are the parents of a common child are considered a family. Adult relatives who reside together are considered separate families. Unrelated families living in a common residence are considered separate families. (3-30-01)
- 10. Good Cause.** The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (7-1-98)
- 11. Household.** A unit of eligible individuals that includes parents, or may include caretaker relatives who have an eligible child residing with them. (3-29-17)

12. **Inadvertent Household Error (IHE).** A benefit error caused unintentionally by the household. (7-1-12)
13. **Noncustodial Parent.** A parent legally responsible for the support of a dependent minor child, who does not live in the same household as the child. (3-30-01)
14. **Parent.** The mother/step-mother or father/step-father of the dependent child. In Idaho, a man is presumed to be the child's father if he is married to the child's mother at the time of conception or at the time of the child's birth. (3-29-17)
15. **Participant.** An individual who has signed a Personal Responsibility Contract. (7-1-98)
16. **Personal Responsibility Contract (PRC).** An agreement negotiated between a family and the Department that is intended to result in self-reliance. (7-1-98)
17. **Temporary Assistance for Families in Idaho (TAFI).** Idaho's family assistance program. TAFI replaced the Aid to Families With Dependent Children (AFDC) program. (3-30-01)
18. **Temporary Assistance for Needy Families (TANF).** The Federal block grant provided to Idaho and used to fund TAFI. TANF funds other programs and services, including career enhancement and emergency assistance. (3-30-01)
19. **Unearned Income.** Income received from sources other than employment or self-employment, such as Social Security, unemployment insurance, and workers' compensation. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

125. MANDATORY TAFI HOUSEHOLD MEMBERS.

Individuals who must be included in the family are listed in Subsections 125.01 through 125.04 of this rule. (7-1-12)

01. **Children.** Children under the age of eighteen (18) ~~or, under the age of nineteen (19) if they are attending a secondary school full time.~~ Children must reside with a parent or caretaker relative who exercises care and control of them. A dependent child's brother or sister, including half (1/2) siblings, living in the same home as the dependent child must be included in the family. Children receiving Supplemental Security Income (SSI) are excluded from the household ~~(3-29-17)()~~
02. **Parents.** Parents, as defined in Section 010 of these rules, who have an eligible child residing with them. (3-29-17)
03. **Pregnant Woman.** A pregnant woman with no other children who is in at least the third calendar month before the baby is due and is unable to work due to medical reasons. (4-5-00)
04. **Spouses.** Anyone related by marriage to another mandatory household member. (7-1-12)

(BREAK IN CONTINUITY OF SECTIONS)

215. EXCLUDED INCOME.

The types of income listed in Subsections 215.01 through 215.3840 of this rule, are excluded. ~~(4-7-11)()~~

01. **Supportive Services.** Supportive services payments. (7-1-98)
02. **Work Reimbursements.** Work-related reimbursements. (7-1-98)

- 03.** **Child's Earned Income.** Earned income of a dependent child, who is attending school. (7-1-98)
- 04.** **Child Support.** Child support payments assigned to the State and non-recurring child support payments received in excess of that amount. (7-1-98)
- 05.** **Child's Supplemental Security Income. A child's Supplemental Security Income (SSI).** ()
- 056.** **Loans.** Loans with a signed, written repayment agreement. (7-1-98)
- 067.** **Third Party Payments.** Payments made by a person directly to a third party on behalf of the family. (7-1-98)
- 078.** **Money Gifts.** Money gifts, up to one hundred dollars (\$100), per person per event, for celebrations typically recognized with an exchange of gifts. (7-1-98)
- 089.** **TAFI.** Retroactive TAFI grant corrections. (7-1-98)
- 0910.** **Social Security Overpayment.** The amount withheld for a Social Security overpayment. Money withheld voluntarily or involuntarily to repay an overpayment from any other source is counted as income. (7-1-99)
- 101.** **Interest Income.** Interest posted to a bank account. (7-1-98)
- 172.** **Tax Refunds.** State and federal income tax refunds. (7-1-98)
- 123.** **EITC Payments.** EITC payments. (7-1-98)
- 134.** **Disability Insurance Payments.** Taxes withheld and attorney's fees paid to secure disability insurance payments. (7-1-98)
- 145.** **Sales Contract Income.** Taxes and insurance costs related to sales contracts. (7-1-98)
- 156.** **Foster Care.** Foster care payments. (7-1-98)
- 167.** **Adoption Assistance.** Adoption assistance payments. (7-1-98)
- 178.** **Food Programs.** Commodities and food stamps. (7-1-98)
- 189.** **Child Nutrition.** Child nutrition benefits. (7-1-98)
- 1920.** **Elderly Nutrition.** Elderly nutrition benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965. (7-1-98)
1981. **201.** **Low Income Energy Assistance.** Benefits paid under the Low Income Energy Assistance Act of 1981. (7-1-98)
9101. **242.** **Home Energy Assistance.** Home energy assistance payments under Public Law 100-203, Section 9101. (7-1-98)
- 223.** **Utility Reimbursement Payment.** Utility reimbursement payments. (7-1-98)
- 234.** **Housing Subsidies.** An agency or housing authority pays a portion of or all of the housing costs for a participant. (5-8-09)
- 245.** **Housing and Urban Development (HUD) Interest.** Interest earned on HUD family self-sufficiency escrow accounts established by Section 544 of the National Affordable Housing Act. (7-1-98)
- 256.** **Native American Payments.** Payments authorized by law made to people of Native American

ancestry. (7-1-98)

267. Educational Income. Educational income includes deferred repayment education loans, grants, scholarships, fellowships, and veterans' educational benefits. The school attended must be a recognized institution of post secondary education, a school for the handicapped, a vocational education program, or a program providing completion of a secondary school diploma, or equivalent. (7-1-12)

278. Work Study Income of Student. College work study income. (7-1-98)

289. VA Educational Assistance. VA Educational Assistance. (7-1-98)

2930. Senior Volunteers. Senior volunteer program payments to individual volunteers under the Domestic Volunteer Services Act of 1979, 42 U.S.C. Sections 4950 through 5085. (7-1-98)

301. Relocation Assistance. Relocation assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (7-1-98)

342. Disaster Relief. Disaster relief assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster. Comparable disaster assistance provided by states, local governments, and disaster assistance organizations. (7-1-98)

323. Radiation Exposure Payments. Payments made to persons under the Radiation Exposure Compensation Act. (7-1-98)

334. Agent Orange. Agent Orange settlement payments. (7-1-98)

345. Spina Bifida. Spina bifida allowances paid to children of Vietnam veterans. (7-1-99)

356. Japanese-American Restitution Payments. Payments by the U.S. Government to Japanese-Americans, their spouses, or parents (or if deceased to their survivors) interned or relocated during World War II. (3-30-01)

367. Vista Payments. Volunteers in Service to America (VISTA) payments. (3-30-01)

378. Subsidized Employment. Employment for which the employer receives a subsidy from public funds to offset a portion or all of the wages and costs of employing an individual. This type of employment is a short-term placement, pays prevailing wage, and a specific skill is acquired. The employment is prescribed through a memorandum of agreement with no guarantee of permanent employment for the participant. (5-8-09)

389. Temporary Census Income. All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten (10) year U.S. Census. (4-7-11)

3940. Income Excluded By Federal Law. Income excluded by federal law is not counted in determining income available to the participant. (7-1-12)

(BREAK IN CONTINUITY OF SECTIONS)

240. INDIVIDUALS EXCLUDED FROM FAMILY SIZE.

Individuals listed in Subsections 240.01 through 240.056 are excluded from the family size in determining eligibility and grant amount. Income and resources of these ineligible family members are counted unless otherwise excluded in Section 215 of these rules. (7-1-99)()

01. Ineligible Non-Citizens. Individuals who are non-citizens and are not listed in Section 131. (7-1-98)

02. Drug Related Conviction. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance, when they do not comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. (3-30-01)

03. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony. (7-1-98)

04. Felons Violating a Condition of Probation or Parole. Felons who are violating a condition of probation or parole imposed for a federal or state felony. (7-1-98)

05. Fraudulent Misrepresentation of Residency. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid or SSI from two (2) or more states at the same time are ineligible for ten (10) years from the date of conviction. (7-1-99)

06. Children Receiving Supplemental Security Income (SSI). A child who is receiving Supplemental Security Income (SSI). ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1702

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code, and 42 CFR Sections 438, 440, and 457.

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

PUBLIC HEARING

Friday, October 13, 2017 — 2:00 p.m. (Local)

**Central Idaho - DHW Office
3232 Elder Street
Conference Room D - East
Boise, ID 83705**

TELECONFERENCE CALL-IN

**Toll Free: 1-877-820-7831
Participant Code: 701700**

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:

Under the CFR sections cited above, access to mental healthcare services cannot be more restrictive than access for medical/surgical services. These rule changes allow the Department flexibility to adjust requirements for authorizations and coverage to ensure that access to mental health services is consistent with the requirements in CFR.

Specifically, inpatient psychiatric stays will be permitted for as long as they are medically necessary, and will be subject to the same reviews as general hospital stays. Participant eligibility for inpatient psychiatric stays are being defined to align with CFR restrictions. General hospital procedural guidelines are being changed to provide a psychiatric services structure with which to align. General hospital inpatient provisions are being changed to match current Medicaid practice and Centers for Medicare and Medicaid Services (CMS) requirements. Finally, under physician services, limitations for psychiatric evaluations and psychotherapy are being removed. Should the Department need to make adjustments to remain in compliance with federal requirements or to maintain appropriate utilization of services in the future, these changes will allow for modification for those needs.

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

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

The fiscal impact associated with this rule change is minimal to none. An analysis conducted by the Division of Medicaid concluded any potential impact is so minimal that requesting additional funds is not warranted at this time.

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 7, 2017, Idaho Administrative Bulletin, [Vol. 17-6, pages 36 and 37](#).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact William Deseron at (208) 364-1967.

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 October 25, 2017.

DATED this 1st day of September, 2017

Tamara Prisock
DHW - Administrative Rules Unit
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Phone: (208) 334-5500
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0309-1702
(Only Those Sections With Amendments Are Shown.)

402. INPATIENT HOSPITAL SERVICES: COVERAGE AND LIMITATIONS.

The policy, rules, and regulations to be followed will be those cited in 42 CFR 456.50 through 42 CFR 456.145. All hospital services must conform to federal and state laws and regulations. Services must be medically necessary as defined in Section 011 of these rules. (3-30-07)()

01. Initial Length of Stay. Prior authorization requirement for an initial length of stay will be established by the Department, or its designee, in the Idaho Medicaid Provider Handbook. ()

02. Extended Stay. The Department, or its designee, will establish authorization requirements in the Idaho Medicaid Provider Handbook. An authorization is necessary when the appropriate care of the participant indicates the need for hospital days in excess of the initial length of stay, or previously approved extended stay. ()

~~03.~~ **Exceptions and Limitations.** The following exceptions and limitations apply to in-patient hospital services: (3-30-07)

a. Payment for accommodations is limited to the hospital's all-inclusive rate. The all-inclusive rate is a flat fee charge incurred on a daily basis that covers both room and board. (3-30-07)

b. The Department must not authorize reimbursement above the all-inclusive rate unless the attending physician orders a room that is not an all-inclusive rate room for the patient because of medical necessity. (3-30-07)

~~02. Limitation of Administratively Necessary Days (ANDs). Each participant is limited to no more~~

~~than three (3) ANDs per discharge. In the event that a nursing facility level of care is required, an AND may be authorized provided that the hospital documents that no nursing facility bed is available within twenty-five (25) miles of the hospital.~~ (3-30-07)

403. INPATIENT HOSPITAL SERVICES: PROCEDURAL REQUIREMENTS.

01. Prior Authorization. Some services may require a prior authorization from the Department or its designee. Documentation for the request must include the most recent plan of care and adequate documentation to demonstrate continued medical necessity. The Department will set additional documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. ()

02. Certification of Need. At the time of admission, the physician must certify that inpatient services are necessary. Recertification must occur at least every sixty (60) days inpatient hospital services are required, but may be required more frequently as determined by the Department. ()

03. Individual Plan of Care. The individual plan of care is a written plan developed for the participant upon admission to a hospital and updated at least every sixty (60) days, but may be required more frequently as determined by the Department. The plan must include: ()

a. Diagnoses, symptoms, complaints, and complications indicating the need for admission; ()

b. A description of the functional level of the individual; ()

c. Any orders for medications, treatments, rehabilitative services, activities, social services, or diet; and ()

d. Plans for continuing care or discharge, as appropriate. ()

04. Request for Extended Stay. To qualify for reimbursement, authorization must be obtained from the Department, or its designee. The request should be made before the initial length of stay or previously authorized extended stay ends, and submitted as designated by the Department, or its designee. Documentation for the request should include the most recent plan of care. The Department will set additional documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. ()

05. Administratively Necessary Day Requests (AND). When Administratively Necessary Days are requested, the hospital must provide the Department with complete and timely documentation prior to the participant's anticipated discharge date ~~in order to be considered~~. Authorization for reimbursement will be denied for all untimely requests and tardy submittal of requested documentation. All requests for AND must be made in writing ~~or by telephone~~. Hospitals must make the documentation and related information requested by the Department available within ten (10) working days of the date of the request ~~in order~~ for subsequent payment to be granted. The documentation provided by the hospital will include, but is not limited to: (3-30-07)()

~~01~~a. A Brief Summary. A brief summary of the participant's medical condition; and (3-30-07)

~~02~~b. Statements. Statements as to why the participant ~~cannot receive the necessary medical services in is~~ unable to discharge to a nonhospital setting; and (3-30-07)()

~~03~~c. Documentation. Documentation that the hospital has diligently made every effort to locate, without success, a facility or organization within twenty-five (25) miles which is able and willing to deliver the appropriate care. Such evidence must include a list of facilities and organizations, the dates of contact, the names of the persons contacted, and the result of each contact. (3-30-07)()

(BREAK IN CONTINUITY OF SECTIONS)

405. INPATIENT HOSPITAL SERVICES: PROVIDER REIMBURSEMENT.

Under the Medicaid provisions of the Social Security Act, in reimbursing hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of inpatient services in accordance with the procedures detailed under this Section of rule. The upper limits observed by the Department in reimbursing each individual hospital must not exceed the payment that would be determined as a reasonable cost under the policies, definitions and procedures observed under Medicare (Title XVIII) principles of cost reimbursement. (3-30-07)

01. Exemption of New Hospitals. A hospital that has operated as the type of facility for which it is certified (or the equivalent thereof) under present and previous ownership for less than three (3) full years will be paid in accordance with the Title XVIII principles of reasonable cost reimbursement, including those provisions applicable to new providers for the carryover and recovery of unreimbursed costs, in accordance with 42 CFR Section 413.64. (3-30-07)

02. Medicaid Inpatient Operating Cost Limits. The following describe the determination of inpatient operating cost limits. (3-30-07)

a. Medicaid Cost Limits for Dates of Service Prior to a Current Year. The reimbursable reasonable costs for services rendered prior to the beginning of the principal year, but included as prior period claims in a subsequent period's cost report, will be subject to the same operating cost limits as the claims under settlement. (3-30-07)

b. Application of the Medicaid Cost Limit. In the determination of a hospital's reasonable costs for inpatient services rendered after the effective date of a principal year, a $H_{\text{hospital}} I_{\text{inflation}} I_{\text{index}}$, computed for each hospital's fiscal year end, will be applied to the operating costs, excluding capital costs and other allowable costs as defined for the principal year and adjusted on a per diem basis for each subsequent year under the $H_{\text{hospital}} I_{\text{inflation}} I_{\text{index}}$. (3-30-07)()

i. Each inpatient routine service cost center, as reported in the finalized principal year end Medicare cost report, will be segregated in the Medicaid cost limit calculation and assigned a share of total Medicaid inpatient ancillary costs. The prorated ancillary costs will be determined by the ratio of each Medicaid routine cost center's reported costs to total Medicaid inpatient routine service costs in the principal year. (3-30-07)

ii. Each routine cost center's total Medicaid routine service costs plus the assigned share of Medicaid inpatient ancillary costs of the principal year will be divided by the related Medicaid patient days to identify the total costs per diem in the principal year. (3-30-07)

(1) The related inpatient routine service cost center's per diem capital and graduate medical education costs plus the prorated share of inpatient ancillary capital costs will be subtracted from the per diem amount identified in Subsection 405.02.b.ii. of this rule to identify each inpatient routine service cost center per diem cost limit in the principal year. (3-30-07)

(2) If a provider did not have any Medicaid inpatient utilization or render any Medicaid inpatient services in an individual inpatient routine service cost center in the fiscal year serving as the principal year, the principal year for only those routine cost centers without utilization in the provider's principal year will be appropriately calculated using the information available in the next subsequent year in which Medicaid utilization occurred. (3-30-07)

iii. Each routine cost center's cost per diem for the principal year will be multiplied by the $H_{\text{hospital}} I_{\text{inflation}} I_{\text{index}}$ for each subsequent fiscal year. (3-30-07)()

iv. The sum of the per diem cost limits for the Medicaid inpatient routine service cost centers of a hospital during the principal year, as adjusted by the $H_{\text{hospital}} I_{\text{inflation}} I_{\text{index}}$, will be the Medicaid cost limit for operating costs in the current year. (3-30-07)()

(1) At the date of final settlement, reimbursement of the Medicaid current year inpatient routine cost centers plus the assigned ancillary costs will be limited to the total per diem operating costs as adjusted for each subsequent fiscal year after the principal year through the current year by the $H_{\text{hospital}} I_{\text{inflation}} I_{\text{index}}$. (3-30-07)()

(2) Providers will be notified of the estimated inflation index periodically or ~~H~~hospital ~~I~~inflation ~~I~~index (CMS Market Basket Index) prior to final settlement only upon written request. (3-30-07)()

03. Adjustments to the Medicaid Cost Limit. A hospital's request for review by the Department concerning an adjustment to or exemption from the cost limits imposed under the provisions set forth in Section 405 of this chapter of rules, must be granted under the following circumstances: (3-30-07)

a. Adjustments. Because of Extraordinary Circumstances. Where a provider's costs exceed the Medicaid limit due to extraordinary circumstances beyond the control of the provider, the provider can request an adjustment to the cost limit to the extent the provider proves such higher costs result from the extraordinary circumstances including, but not limited to, increased costs attributable to strikes, fires, earthquake, flood, or similar, unusual occurrences with substantial cost effects. (3-30-07)

b. Reimbursement to Public Hospitals. A ~~P~~ublic ~~H~~ospital that provides services free or at a nominal charge, which is less than, or equal to fifty percent (50%) of its total allowable costs, will be reimbursed at the same rate that would be used if the hospital's charges were equal to, or greater than, its costs. (3-30-07)()

c. Adjustment to Cost Limits. A hospital is entitled to a reasonable increase in its Medicaid ~~C~~ost limits if the hospital shows that its per diem costs of providing services have increased due to increases in case- mix, the adoption of new or changed services, the discontinuation of services or decrease in average length of stay for Medicaid inpatients since the principal year. Any hospital making such showing is entitled to an increase commensurate with the increase in per diem costs. (3-30-07)()

i. The Medicaid operating cost limit may be adjusted by multiplying cost limit by the ratio of the current year's ~~C~~ase-~~M~~ix ~~I~~ndex divided by the principal year's ~~C~~ase-~~M~~ix ~~I~~ndex. (3-30-07)()

ii. The contested case procedure set ~~for~~ forth in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," is available to larger hospitals seeking such adjustments to their Medicaid ~~C~~ost ~~L~~imits. (3-30-07)()

d. Adjustment to the Proration of Ancillary Costs in the principal year. Where the provider asserts that the proration of ancillary costs does not adequately reflect the total Medicaid cost per diem calculated for the inpatient routine service cost centers in the principal year, the provider may submit a detailed analysis of ancillary services provided to each participant for each type of patient day during each participant's stay during the principal year. The provider will be granted this adjustment only once upon appeal for the first cost reporting year that the limits are in effect. (3-30-07)

04. Payment Procedures. The following procedures are applicable to in-patient hospitals: (3-30-07)

a. The participant's admission and length of stay is subject to ~~preadmission~~ ~~prior~~ ~~authorization~~, concurrent ~~review~~, ~~continued stay review~~, and retrospective review by a Quality Improvement Organization (QIO) designated by the Department. QIO review will be governed by provisions of the QIO Idaho Medicaid Provider Manual as amended. If ~~such a~~ review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. Failure to obtain a timely QIO review as required by Section 405~~2~~ of this chapter of rules, and as outlined in the QIO Idaho Medicaid Provider Manual as amended, will result in the QIO conducting a late review. After a QIO review has determined that the hospital stay was medically necessary, Medicaid will assess a late review penalty to the hospital as outlined in ~~Sub~~section 405-~~05~~ of this rule. (3-30-07)()

i. All admissions are subject to QIO review to determine if continued stay in inpatient status is medically necessary. A QIO continued stay review is required when the participant's length of stay exceeds the number of days certified by the QIO. If no initial length of stay certification was issued by the QIO, a QIO continued stay review is required when the admission exceeds a number of days as specified by the Department. (3-30-07)

ii. Reimbursement for services originally identified as not medically necessary by the QIO will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-07)

iii. Absent the Medicaid participant's informed decision to incur services deemed unnecessary by the QIO, or not authorized by the QIO due to the negligence of the provider, no payment for denied services may be obtained from the participant. (3-30-07)

b. In reimbursing licensed hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of semi-private rates for in-patient hospital care as set forth in this rule, unless an exception applies as stated in Section 402 of these rules. The upper limits for payment must not exceed the payment which would be determined as reasonable cost using the Title XVIII standards and principles. (3-30-07)

05. Hospital Penalty Schedule. (3-30-07)

a. A request for a preadmission and/or continued stay QIO review that is one (1) day late will result in a penalty of two hundred and sixty dollars (\$260), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)

b. A request for a preadmission and/or continued stay QIO review that is two (2) days late will result in a penalty of five hundred and twenty dollars (\$520), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)

c. A request for a preadmission and/or continued stay QIO review that is three (3) days late will result in a penalty of seven hundred and eighty dollars (\$780), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)

d. A request for a preadmission and/or continued stay QIO review that is four (4) days late will result in a penalty of one thousand and forty dollars (\$1,040), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)

e. A request for a preadmission and/or continued stay QIO review that is five (5) days late or greater will result in a penalty of one thousand three hundred dollars (\$1,300), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)

06. AND Reimbursement Rate. Reimbursement for an AND will be made at the weighted average Medicaid payment rate for all Idaho nursing facilities for routine services, as defined per 42 CFR 447.280(a)(1), furnished during the previous calendar year. ICF/ID rates are excluded from this calculation. (3-30-07)

a. The AND reimbursement rate will be calculated by the Department by March 15 of each calendar year and made effective retroactively for dates of service on or after January 1 of the respective calendar year. (3-30-07)

b. Hospitals with an attached nursing facility will be reimbursed the lesser of their Medicaid per diem routine rate or the established average rate for an AND; and (3-30-07)

c. The Department will pay the lesser of the established AND rate or a facility's customary hospital charge to private pay patients for an AND. (3-30-07)

07. Reimbursement for Services. Routine services as addressed in Subsection 405.08 of this rule include all medical care, supplies, and services which are included in the calculation of nursing facility property and nonproperty costs as described in these rules. Reimbursement of ancillary services will be determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. (3-30-07)

08. Hospital Swing-Bed Reimbursement. The Department will pay for nursing facility care in certain rural hospitals. Following approval by the Department, such hospitals may provide service to participants in licensed hospital ("swing") beds who require nursing facility level of care. (3-30-07)

a. Facility Requirements. The Department will approve hospitals for nursing facility care provided to

eligible participants under the following conditions: (3-30-07)

i. The Department’s Licensure and Certification Section finds the hospital in conformance with the requirements of 42 CFR 482.58 “Special Requirements” for hospital providers of long-term care services (“swingbeds”); and (3-30-07)

ii. The hospital is approved by the Medicare program for the provision of “swing-bed” services; and (3-30-07)

iii. The facility does not have a twenty-four (24) hour nursing waiver granted under 42 CFR 488.54(c); and (3-30-07)

iv. The hospital must not have had a swing-bed approval terminated within the two (2) years previous to application for swing-bed participation; and (3-30-07)

v. The hospital must be licensed for less than one hundred (100) beds as defined by 42 CFR 482.58(a)(1) for swing-bed purposes; and (3-30-07)

vi. Nursing facility services in swing-beds must be rendered in beds used interchangeably to furnish hospital or nursing facility-type services. (3-30-07)

b. Participant Requirements. The Department will reimburse hospitals for participants under the following conditions: (3-30-07)

i. The participant is determined to be entitled to such services in accordance with IDAPA 16.03.05, “Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled”; and (3-30-07)

ii. The participant is authorized for payment in accordance with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Subsection 222.02. (3-30-07)

c. Reimbursement for “Swing-Bed” Patient Days. The Department will reimburse swing-bed hospitals on a per diem basis utilizing a rate established as follows: (3-30-07)

i. Payment rates for routine nursing facility services will be at the weighted average Medicaid rate per patient day paid to hospital-based nursing facility/ICF facilities for routine services furnished during the previous calendar year. ICF/ID facilities’ rates are excluded from the calculations. (3-30-07)

ii. The rate will be calculated by the Department by March 15 of each calendar year. The rate will be based on the previous calendar year and effective retroactively for dates of service on or after January 1 of the respective year. (3-30-07)

iii. The weighted average rate for nursing facility swing-bed days will be calculated by dividing total payments for routine services, including patient contribution amounts but excluding miscellaneous financial transactions relating to prior years, by total patient days for each respective level of care occurring in the previous calendar year. (3-30-07)

iv. Routine services include all medical care, supplies, and services which are included in the calculation of nursing facility property and nonproperty costs as described in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Subsection 225.01. (3-30-07)

v. The Department will pay the lesser of the established rate, the facility’s charge, or the facility’s charge to private pay patients for “swing-bed” services. (3-30-07)

vi. Reimbursement of ancillary services not included in the nursing facility rates furnished for extended care services will be billed and determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. (3-30-07)

vii. The number of swing-bed days that may be reimbursed to a provider in a twelve (12) month period will be limited to the greater of one thousand ninety five (1,095) days which may be prorated over a shorter fiscal period or, fifteen percent (15%) of the product of the average number of available licensed beds in the hospital in the period and the number of days in the fiscal period. (3-30-07)

d. Computation of “Swing-Bed” Patient Contribution. The computation of the patient’s contribution of swing-bed payment will be in accordance with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 224. (3-30-07)

09. Adjustment for Disproportionate Share Hospitals (DSH). All Idaho hospitals serving a disproportionate share of low income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment. (3-29-10)

a. DSH Survey Requirements. The Department will send each hospital a DSH survey on or before January 31 of each calendar year. The DSH survey must be returned to the Department on or before May 31 of the same calendar year. A hospital will not receive a DSH payment if the survey is not returned by the deadline, unless good cause is determined by the Department. No later than July 15 of each calendar year, the Department must notify each hospital of their calculated DSH payment and notify each hospital of its preliminary calculated distribution amount. A hospital may file an amended survey to complete, correct, or revise the original DSH survey by submitting the amended survey and supporting documentation to the Department no later than thirty (30) days after the notice of the preliminary DSH calculation is mailed to the hospital. The state's annual DSH allotment payment will be made by September 30 of the same calendar year based on the final DSH surveys and Department data. (3-30-07)

b. Mandatory Eligibility. Mandatory Eligibility for DSH status will be provided for hospitals which: (3-30-07)

i. Meet or exceed the disproportionate share threshold as defined in Subsection 400.13 of these rules. (3-30-07)

ii. Have at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services. (3-29-10)

(1) Subsection 405.09.b.ii. of this rule does not apply to a hospital in which the inpatients are predominantly individuals under eighteen (18) years of age; or (3-30-07)

(2) Does not offer nonemergency inpatient obstetric services as of December 21, 1987. (3-30-07)

iii. The MUR will not be less than one percent (1%). (3-30-07)

iv. If an Idaho hospital exceeds both disproportionate share thresholds, as described in Subsection 400.13 of these rules, and the criteria of Subsections 405.09.b.ii. and 405.09.b.iii. of this rule are met, the payment adjustment will be the greater of the amounts calculated using the methods identified in Subsections 405.09.b.vi. through 405.09.b.x. of this rule. (3-29-10)

v. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one (1) standard deviation and less than one and one-half (1 1/2) standard deviations above the mean of all Idaho hospitals will receive a DSH payment equal to two percent (2%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

vi. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one and one-half (1 1/2) standard deviations and less than two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

vii. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates exceeding two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to six

percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

viii. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to or exceeding twenty-five percent (25%) will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

ix. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to, or exceeding, thirty percent (30%) will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

c. Deemed Disproportionate Share Hospital (DSH). All hospitals in Idaho which have inpatient utilization rates of at least one percent (1%) only in Idaho inpatient days, and meet the requirements unrelated to patient day utilization specified in Subsection 405.09.b. of this rule, will be designated a Deemed Disproportionate Share Hospital. The disproportionate share payment to a Deemed DSH hospital will be the greater of: (3-29-10)

i. Five dollars (\$5) per Idaho Medicaid inpatient day included in the hospital's MUR computation; or (3-30-07)

ii. An amount per Medicaid inpatient day used in the hospital's MUR computation that equals the DSH allotment amount, less the Mandatory DSH payment amount, divided by the number of Medicaid inpatient days used in the MUR computation for all Idaho DSH hospitals. (3-30-07)

d. Insufficient DSH Allotment Amounts. When the DSH allotment amount is insufficient to make the aggregate amount of DSH payments to each DSH hospital, payments to each hospital will be reduced by the percentage by which the DSH allotment amount was exceeded. (3-30-07)

e. DSH Payments Will Not Exceed Costs. A DSH payment will not exceed the costs incurred during the year of furnishing services to individuals who are either eligible for medical assistance under the State Plan or were uninsured for health care services provided during the year. (3-30-07)

i. Payments made to a hospital for services provided to indigent patients by a state or a unit of local government within a state will not be considered a source of third party payment. (3-30-07)

ii. Claims of uninsured costs which increase the maximum amount which a hospital may receive as a DSH payment must be documented. (3-30-07)

f. DSH Will be Calculated on an Annual Basis. A change in a provider's allowable costs as a result of a reopening or appeal will not result in the recomputation of the provider's annual DSH payment. (3-30-07)

g. To the extent that audit findings demonstrate that DSH payments exceed the documented hospital specific cost limits, the Department will collect overpayments and redistribute DSH payments. (4-7-11)

i. If at any time during an audit the Department discovers evidence suggesting fraud or abuse by a provider, that evidence, in addition to the Department's final audit report regarding that provider, will be referred to the Medicaid Fraud Unit of the Idaho Attorney General's Office. (4-7-11)

ii. The Department will submit an independent certified audit to CMS for each completed Medicaid State plan rate year, consistent with 42 CFR Part 455, Subpart D, "Independent Certified Audit of State Disproportionate Share Hospital Payment Adjustments." (4-7-11)

iii. Beginning with FFY 2011, if based on the audit of the DSH allotment distribution, the Department determines that there was an overpayment to a provider, the Department will immediately: (4-7-11)

(1) Recover the overpayment from the provider; and (4-7-11)

(2) Redistribute the amount in overpayment to providers that had not exceeded the hospital-specific upper payment limit during the period in which the DSH payments were determined. The payments will be subject to

hospital-specific upper payment limits. (4-7-11)

iv. Disproportionate share payments must not exceed the DSH state allotment, except as otherwise required by the Social Security Act. In no event is the Department obligated to use State Medicaid funds to pay more than the State Medicaid percentage of DSH payments due a provider. (4-7-11)

10. Out-of-State Hospitals. (3-30-07)

a. Cost Settlements for Certain Out-of-State Hospitals. Hospitals not located in the state of Idaho will have a cost settlement computed with the state of Idaho if the following conditions are met: (3-30-07)

i. Total inpatient and outpatient covered charges are more than fifty thousand dollars (\$50,000) in the fiscal year; or (3-30-07)

ii. When less than fifty thousand dollars (\$50,000) of covered charges are billed to the state by the provider, and a probable significant underpayment or overpayment is identifiable, and the amount makes it administratively economical and efficient for cost settlement to be requested by either the provider or the state, a cost settlement will be made between the hospital and the Department. (3-30-07)

b. Payment for Hospitals Without Cost Settlement. Those out-of-state hospitals not cost settling with the state will have annually adjusted rates of payment no greater than seventy-five percent (75%) for inpatient covered charges and no greater than eighty percent (80%) of outpatient covered charges or, the Department's established fee schedule for certain outpatient services. These rates represent average inpatient and outpatient reimbursement rates paid to Idaho hospitals. (3-30-07)

~~**11. Institutions for Mental Disease (IMD).** Except for individuals under twenty-two (22) years of age which are contracted with the Department under the authority of the Division of Family and Community Services and certified by the Health Care Financing Administration, no services related to inpatient care will be covered when admitted to a freestanding psychiatric hospital. (3-30-07)~~

~~**121. Audit Function.** Under a common audit agreement, the Medicare Intermediary may perform any audit required for both Title XVIII and Medicaid purposes. The Department may elect to perform an audit even though the Medicare Intermediary does not choose to audit the facility. (3-30-07)~~

~~**132. Adequacy of Cost Information.** Cost information as developed by the provider must be current, accurate, and in sufficient detail and in such form as needed to support payments made for services rendered to participants. This includes all ledgers, books, reports, records and original evidences of cost (purchase requisitions, purchase orders, vouchers, requisitions for materials, inventories, labor time cards, payrolls, bases for apportioning costs, etc.), which pertain to the determination of reasonable costs, leaving an audit trail capable of being audited. Financial and statistical records will be maintained in a consistent manner from one (1) settlement period to another. (3-30-07)~~

~~**143. Availability of Records of Hospital Providers.** A participating hospital provider of services must make available to the Department in the state in which the facility is licensed, the provider's fiscal and other necessary records for the purpose of determining its ongoing record keeping capability and to ascertain information pertinent to the determination of the proper amount of program payments due the provider. (3-30-07)~~

~~**154. Interim Cost Settlements.** The Department may initiate or a hospital may request an interim cost settlement based on the Medicare cost report as submitted to the Medicare Intermediary. (3-30-07)~~

~~a. Cost Report Data. Interim settlement cost report data will be adjusted to reflect Medicaid payments and statistical summary reports sent to providers before the filing deadline. (3-30-07)~~

~~b. Hard Copy of Cost Report. Hospitals which request to undergo interim cost settlement with Idaho Medicaid must submit a hard copy of the Medicare cost report to the Department upon filing with the Intermediary. (3-30-07)~~

c. Limit or Recovery of Payment. The Department may limit a recovery or payment of an interim settlement amount up to twenty-five percent (25%) of the total settlement amount when the cost report information is in dispute. (3-30-07)

165. **Notice of Program Reimbursement.** Following receipt of the finalized Medicare cost report and the timely receipt of any other information requested by the Department to fairly cost settle with the provider, a certified letter with the return receipt requested will be sent to the provider which sets forth the amounts of underpayment or overpayment made to the provider. The notice of the results of the final retroactive adjustment will be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Medicaid program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. Such action of recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. (3-30-07)

a. Timing of Notice. The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the cost report from the Medicare Intermediary. (3-30-07)

b. Reopening of Completed Settlements. A Medicaid completed cost settlement may be reopened by the provider or the state within a three (3) year period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed and resolved through the reopening of the cost report by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. (3-30-07)

176. **Nonappealable Items.** The formula for the determination of the ~~H~~hospital ~~I~~inflation ~~I~~index, the principles of reimbursement which define allowable cost, non-Medicaid program issues, interim rates which are in compliance with state and federal rules, and the preliminary adjustments prior to final cost settlement determinations as supported by properly completed cost reports and audits must not be accepted as appealable items. (~~3-30-07~~)()

187. **Interim Reimbursement Rates.** The interim reimbursement rates are reasonable and adequate to meet the necessary costs which must be incurred by economically and efficiently operated providers which provide services in conformity with applicable state and federal laws, rules, and quality and safety standards. (3-30-07)

a. Annual Adjustments. Interim rates will be adjusted at least annually based on the best information available to the Department. The interim rate will reflect the Medicaid Inpatient Operating Cost Limits used to set inpatient rates and the Reimbursement Floor Percentage. (3-30-07)

b. Retrospective Adjustments. Interim rates will not be adjusted retrospectively upon request for rate review by the provider. (3-30-07)

c. Basis for Adjustments. The Department may make an adjustment based on the Medicare cost report as submitted and accepted by the Intermediary after the provider's reporting year to bring interim payments made during the period into agreement with the tentative reimbursable amount due the provider at final settlement. If the settlement amount is equal to or greater than ten percent (10%) of the payments received or paid and equal to or greater than one hundred thousand dollars (\$100,000), the interim rate will be adjusted to account for half (½) of the difference. (3-30-07)

d. Unadjusted Rate. The Medicaid interim reimbursement rate on file is synonymous with the term unadjusted rate used by other payors. (3-30-07)

198. **Audits.** All financial reports are subject to audit by Departmental representatives in accordance with Section 305 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

500. PHYSICIAN SERVICES: DEFINITIONS.

01. **Physician Services.** Physician services include the treatment of medical and surgical conditions by doctors of medicine or osteopathy subject to the limitations of practice imposed by state law, and to the restrictions and exclusions of coverage contained in Section 390 and ~~Subsection 502-07~~ of these rules. *Physician services as defined in Subsection 500.01 of this rule will be reimbursed by the Department.* (5-8-09)()

02. **Telehealth.** Telehealth as defined in Title 54, Chapter 57, Idaho Code. (3-25-16)

501. (RESERVED)

502. PHYSICIAN SERVICES: COVERAGE AND LIMITATIONS.

~~01. **Outpatient Psychiatric Mental Health Services.** Physician services not provided through the IBHP as outpatient psychiatric mental health services are limited to twelve (12) hours of psychiatric evaluations per eligible participant in any twelve (12) month period; and any combination of individual or group psychotherapy services provided by a physician up to a maximum of forty five (45) hours of service in the consecutive twelve (12) months period beginning with the first such service.~~ (3-20-14)

021. **Sterilization Procedures.** ~~Particular~~ Restrictions pertaining to payment for sterilization procedures are contained in Sections 680 through 686 of these rules. (3-30-07)()

032. **Abortions.** Restrictions governing payment for abortions are contained in Sections 511 through 514 of these rules. (3-30-07)

043. **Tonometry.** Payment for tonometry is limited to one (1) examination for individuals over the age of forty (40) years during any twelve (12) month period (in addition to tonometry as a component of examination to determine visual acuity). In the event examination to determine visual acuity is not done, two (2) tonometry examinations per twelve (12) month period are allowed for participants over the age of forty (40). This limitation does not apply to participants receiving continuing treatment for glaucoma. (3-30-07)()

054. **Physical Therapy Services.** Payment for physical therapy services performed in the physician's office is limited to those services which are described and supported by the diagnosis. (3-30-07)

065. **Injectable Vitamins.** Payment for allowable injectable vitamins will be allowed when supported by the diagnosis. Injectable vitamin therapy is limited to Vitamin B12 (and analogues), Vitamin K (and analogues), folic acid, and mixtures consisting of Vitamin B12, folic acid, and iron salts in any combination. (3-30-07)

076. **Corneal Transplants and Kidney Transplants.** Corneal transplants and kidney transplants are covered by the Medical Assistance Program. (3-30-07)

087. **Telehealth.** Synchronous interaction telehealth encounters, delivered as defined in Title 54, Chapter 57, Idaho Code, are reimbursable as follows: (3-25-16)

a. Physician services delivered via telehealth are subject to primary care provider communication requirements in Section 210 of these rules. The Department will define limitations for telehealth in the Idaho Medicaid Provider Handbook to promote quality services and program integrity. (3-25-16)

b. Fee for service reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a physician and a participant. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

~~700. (RESERVED)~~

700. INPATIENT BEHAVIORAL HEALTH SERVICES: DEFINITIONS.

01. Freestanding Psychiatric Hospital. A hospital, nursing facility, or other institution of sixteen (16) beds or less that is primarily engaged in the diagnosis and treatment of mental diseases. The hospital is not considered freestanding if it shares a building or campus with another hospital, or is owned by another hospital. ()

02. Hospital Psychiatric Unit. The psychiatric unit of a general hospital that furnishes inpatient care and treatment services for mental illness under a psychiatrist or other physician qualified to treat mental diseases. ()

03. Institutions for Mental Disease (IMD). A hospital, nursing facility or other institution of seventeen (17) beds or more that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. A specific licensure is not necessary to meet this definition. This definition does not apply to ICF/IDs. ()

04. Substance Use Disorder. A substance use disorder is evidenced by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using a substance despite significant substance-related problems. A diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to use of the substance and the current DSM. ()

701. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.

01. Inpatient Psychiatric Hospital Services. Participants ~~must~~ are eligible who have a DSM-5 diagnosis from the current DSM with substantial impairment in thought, mood, perception, or behavior. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. Medical necessity must be demonstrated for admission or extended stay by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. Services may be provided in: ~~(3-30-07)~~()

a. A freestanding psychiatric hospital; ()

b. A hospital psychiatric unit; ()

c. Institutions for mental disease for participants meeting the conditions in Subsections 701.01.c.i. and 701.01.c.ii. of this rule; ()

i. Participants must be under the age of twenty-one (21); and ()

ii. If a participant reaches age twenty-one (21) while receiving services, he may continue inpatient treatment until services are no longer required, or he reaches age twenty-two (22), whichever comes first. ()

02. Inpatient Substance Use Disorder Services. Participants are eligible when medical necessity is demonstrated by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. Services may be provided in: ()

a. A freestanding psychiatric hospital; or ()

b. A hospital psychiatric unit. ()

03. ~~Medical Necessity Criteria~~ Severity of Illness Criteria. Both severity of illness and intensity of services criteria must be met for admission to an IMD or psychiatric unit of a general hospital. ~~(3-30-07)~~()

a. Severity of illness criteria. The child participant must meet one (1) of the following criteria related to the severity of his psychiatric illness: ~~(3-30-07)~~()

- i. Is currently dangerous to self as indicated by at least one (1) of the following: (3-30-07)
- (1) Has actually made an attempt to take his own life in the last seventy-two (72) hours (details of the attempt must be documented); or (3-30-07)
- (2) Has demonstrated self-mutilative behavior within the past seventy-two (72) hours (details of the behavior must be documented); or (3-30-07)
- (3) Has a clear plan to seriously harm himself, overt suicidal intent, and lethal means available to follow the plan (this information can be from the child participant or a reliable source and details of the child participant's plan must be documented); or (3-30-07)()
- (4) ~~A mental health professional has information from the child or a reliable source that the child~~ The participant has a current plan, specific intent, or recurrent thoughts to seriously harm himself or others, and is at significant risk to of making an attempt ~~to carry out the plan~~ without immediate intervention ~~(details must be documented)~~; or (3-30-07)()
- ii. Child Participant is actively violent or aggressive and exhibits homicidal ideation or other symptoms which indicate he is a probable danger to others as indicated by one (1) of the following: (3-30-07)()
- (1) The child participant has ~~actually~~ engaged in or threatened behavior harmful or potentially harmful to others or caused serious damage to property which would pose a serious threat of injury or harm to others within the last twenty-four (24) hours (description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to the present); or (3-30-07)()
- (2) The child participant has made threats to kill or seriously injure others or to cause serious damage to property which would pose a threat of injury or harm to others and has effective means to carry out the threats (details of threats must be documented); or (3-30-07)()
- (3) A mental health professional has information from the child participant or a reliable source that the child participant has a current plan, specific intent, or recurrent thoughts to seriously harm others or property and is at significant risk of making the attempt without immediate intervention (details must be documented); or (3-30-07)()
- iii. Child Participant is gravely impaired as indicated by at least one (1) of the following criteria: (3-30-07)()
- (1) The child participant has such limited functioning that his physical safety and well being are in jeopardy due to his inability for basic self-care, judgment and decision making (details of the functional limitations must be documented); or (3-30-07)()
- (2) The acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the child participant unmanageable and unable to cooperate in non-hospital treatment (details of the child participant's behaviors must be documented); or (3-30-07)()
- (3) There is a need for treatment, evaluation, or complex diagnostic testing where the child participant's level of functioning or communication precludes assessment and/or treatment in a non-hospital based setting, and may require close supervision of medication or behavior or both. (3-30-07)()
- (4) The participant is undergoing severe or medically complicated withdrawal from alcohol, opioids, stimulants, or sedatives. ()
- b04. Intensity of Service Criteria.** The child participant must meet all of the following criteria related to the intensity of services needed ~~to for treatment his mental illness:~~ (3-30-07)()
- i. ~~It is documented by the Regional Mental Health Authority that less restrictive services in the~~

~~community do not exist or do not meet the treatment or diagnostic needs of the child, or the child has been unresponsive to treatment at a less intensive level of care. The services considered, tried, and/or needed must be documented; and (3-30-07)~~

~~a. Documentation that ambulatory care resources available in the community do not meet the treatment needs of the participant; and ()~~

~~b. Ambulatory care resources available in the community do not meet the treatment needs of the participant; and ()~~

~~ii.c. The services provided in the hospital can reasonably be expected to improve the child participant's condition or prevent further regression so that inpatient services will no longer be needed; and (3-30-07)()~~

~~iii.d. Treatment of the child participant's psychiatric condition requires services on an inpatient basis, including twenty-four (24) hour nursing observation, under the direction of a psychiatrist. The child requiring this treatment must not be eligible for independent passes or unit passes without observation or being accompanied by hospital personnel or a responsible other. (3-30-07)()~~

~~ee. Exceptions. The requirement to meet intensity of service criteria may be waived for first-time admissions if severity of illness is met and the physician is unable to make a diagnosis or treatment decision while the child participant is in his current living situation. The waiver of the intensity of services requirement can be for no longer than forty-eight (48) hours and is not waivable for repeat hospitalizations. (3-30-07)()~~

025. Exclusions. If a **child participant** meets one (1) or more of the following criteria, Medicaid reimbursement will be denied: (3-30-07)()

~~a. The child participant is unable to actively participate in an outpatient psychiatric treatment program solely because of a major medical condition, surgical illness or injury; or (3-30-07)()~~

~~b. The child demonstrates anti-social or criminal behavior or has criminal or legal charges against him and does not meet the severity of illness or intensity of service criteria; or (3-30-07)~~

~~e. The child has anti-social behaviors or conduct problems that are a danger to others but are not attributable to a mental illness (DSM-5) with substantial impairment in thought, mood or perception; or (3-30-07)~~

~~fb. The child participant has a primary diagnosis of being intellectually disabled and the primary treatment need is related to the intellectual disability; or (3-30-07)()~~

~~e. The child lacks a place to live and/or family supports and does not meet severity of illness and intensity of service criteria; or (3-30-07)~~

~~f. The child has been suspended or expelled from school and does not meet severity of illness and intensity of service criteria. (3-30-07)~~

702. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ **BEHAVIORAL HEALTH SERVICES: COVERAGE AND LIMITATIONS.**

~~01. **Emergency Admissions.** An emergency for purposes of a waiver of the prior authorization requirement is defined as the sudden onset of acute psychiatric symptoms of such severity that the absence of immediate medical attention could reasonably be expected to result in serious dysfunction of any bodily organ/part or death of the individual or harm to another person. A court-ordered admission or physician's emergency certificate does not, in itself, justify characterizing the admission as an emergency admission. The severity of illness and intensity of services criteria must be met. The hospital medical record of the admission must include documentation to support that the participant's status upon admission meets the definition of an emergency, as defined in Section 702 of this chapter of rules. The information for authorization of services must be FAXED, or otherwise delivered to the Department on the next business day following the emergency admission. Requests for authorization of emergency admissions must include the same information as required for elective admissions. (3-30-07)~~

01. Initial Length of Stay. A prior authorization requirement for an initial length of stay will be established by the Department, or its designee, in the Idaho Medicaid Provider Handbook. Requirements for establishing length of stay will not be more restrictive than requirements for non-behavioral health services in a general hospital. ()

02. Length of Extended Stay. An initial length of stay will be established by the Department. An initial length of stay will usually be for no longer than five (5) days. For first time admissions where intensity of services criteria is not met the initial length of stay may not exceed forty eight (48) hours. A hospital may request a continued stay review from ~~the~~ The Department, or its designee, will establish authorization requirements in the Idaho Medicaid Provider Handbook. An authorization is necessary when the appropriate care of the participant indicates the need for hospital inpatient days in excess of the originally approved number. The continued stay review request may be made no later than the date authorized by the Department. Approval of additional days will be based on the following criteria: initial length of stay or previously approved extended stay. (3-30-07)()

- ~~a.~~ Documentation sufficient to demonstrate the medical necessity criteria is still met; (3-30-07)
- ~~b.~~ A plan of care that includes documentation sufficient to demonstrate that the child's psychiatric condition continues to require services which can only be provided on an in-patient basis, including twenty-four (24) hour nursing observation, under the direction of a psychiatrist or other physician qualified to treat mental diseases; and (3-30-07)
- ~~e.~~ Documentation sufficient to demonstrate the need for continued hospitalization, and that additional days at in-patient level of care will improve the participant's condition. (3-30-07)

03. Excluded Services Limited. Inpatient psychiatric hospital services are limited to ten (10) days per year. Placement in an IMD for participants between the ages of twenty-one (21) and sixty-four (64) is not a covered service. (3-30-07)()

703. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES: PROCEDURAL REQUIREMENTS.

Admissions must be authorized by the Department. (3-30-07)

01. Prior Authorization for Elective Admissions. To qualify for reimbursement, prior authorization must be obtained from the Department prior to an elective admission. An elective admission is defined as one that is planned and scheduled in advance, and is not emergency in nature, as "emergency" is defined in Subsection 702.01 of these rules. Some services may require a prior authorization from the Department, or its designee. The Department will set documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. Requests for prior authorization must include: (3-30-07)()

- a. Diagnosis; and (3-30-07)
- b. Summary of present medical findings including symptoms, complaints and complications indicating the need for admission; and (3-30-07)
- c. Medical history; and (3-30-07)
- d. Mental and physical functional capacity; and (3-30-07)
- e. Prognosis; and (3-30-07)
- f. Recommendation by a physician for admission, preferably the primary care physician. If the child participant is enrolled in the Healthy Connections (HC) program, a HC referral is required. (3-30-07)()

02. Individual Plan of Care – Content. The individual plan of care is a written plan developed for the participant upon admission. ~~to an in-patient psychiatric hospital~~ The objective of the plan is to improve his condition to the extent that acute psychiatric care is no longer necessary. It must be developed by an interdisciplinary team as

defined in Subsection 703.03 of this rule. The plan of care must be ~~developed and~~ implemented within seventy-two (72) hours of admission, and reviewed at least every three (3) days., ~~and must~~ The individual plan of care must contain: (3-30-07)()

a. ~~Be based on a~~ A diagnostic evaluation that includes examination of the medical, behavioral, and developmental aspects of the participant's situation and reflects the ~~need~~ (medical necessity ~~criteria~~) for in-patient care; and (3-30-07)()

b. Treatment objectives related to conditions that necessitated the admission; and ()

c. An integrated program of therapies, treatments (including medications), activities (including special procedures to assure the health and safety of the participant), and experiences designed to meet the objectives; and ()

d. A discharge plan designed to achieve the participant's discharge at the earliest possible time that includes plans for coordination of community services to ensure continuity of care with the participant's family, school, and community upon discharge. ()

~~b03.~~ Individual Plan of Care – Interdisciplinary Team. ~~Be~~ The individual plan of care must be developed by an interdisciplinary team capable of assessing the ~~child participant's~~ immediate and long range therapeutic needs, developmental priorities and personal strengths and liabilities, assessing the potential resources of the ~~child participant's~~ family, setting the treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team must include at a minimum: (3-30-07)()

a. One of the following: ()

i. ~~A~~ B board-certified psychiatrist (~~preferably with a specialty in child psychiatry~~); or (3-30-07)()

ii. A licensed psychologist and a physician licensed to practice medicine or osteopathy; or (3-30-07)

iii. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental disease and a licensed clinical professional counselor; and (3-30-07)

b. One of the following: ()

~~iv.~~ Either a A licensed, clinical or master's social worker ~~or a registered nurse with specialized training or one (1) year's experience in treating mentally ill individuals (preferably children);~~ or (3-30-07)()

ii. A registered nurse with specialized training or one (1) year's experience in treating individuals with behavioral health needs; or ()

~~iii.~~ A licensed occupational therapist who has had specialized training or one (1) year of experience in treating ~~mentally ill individuals (preferably children); and~~ with behavioral health needs. (3-30-07)()

~~iv.~~ The participant and his parents, legal guardians, or others into whose care he will be released after discharge. (3-30-07)

~~e.~~ State treatment objectives (related to conditions that necessitated the admission); and (3-30-07)

~~d.~~ Prescribe an integrated program of therapies, treatments (including medications), activities (including special procedures to assure the health and safety of the child), and experiences designed to meet the objectives; and (3-30-07)

~~e.~~ Include a discharge and post discharge plan designed to achieve the child's discharge at the earliest possible time and include plans for coordination of community services to ensure continuity of care with the participant's family, school and community upon discharge. (3-30-07)

704. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. **Provider Qualifications.** Inpatient hospital psychiatric services ~~for individuals under age twenty-one (21)~~ must be provided under the direction of a physician in a facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and licensed by the state of Idaho or the state in which they provide services. ~~Facilities currently providing psychiatric hospital services under the authority of Family and Community Services that are certified by the Health Care Financing Administration have until October 1, 1998 to comply with this requirement.~~ To provide services beyond emergency medical screening and stabilization treatment, the hospital must have a separate psychiatric unit with staff qualified to provide psychiatric services ~~to children~~. General hospitals licensed to provide services in Idaho ~~which but~~ are not JCAHO certified may not bill for psychiatric services beyond emergency screening and stabilization. (3-30-07)()

02. **Record Keeping.** A written report of each evaluation and the plan of care must be entered into the ~~child~~ participant's record at the time of admission or if the ~~child~~ participant is already in the facility, immediately upon completion of the evaluation or plan. (3-30-07)()

03. **Utilization Review (UR).** The facility must have in effect a written utilization review plan that provides for review of each ~~child~~ participant's need for the services that the hospital furnishes him. The UR plan must meet the requirements under 42 CFR 456.201 through 456.245. (3-30-07)()

705. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES: PROVIDER REIMBURSEMENT.

Failure to request a preadmission prior authorization, concurrent review, or continued stay review in a timely manner will result in a retrospective review being conducted by the Department. If the retrospective review determines the admission stay is medically necessary, the Department will assess a penalty to the hospital as specified in Subsection 705.02 of this rule. The ~~primary care~~ admitting physician will be assessed a penalty for failure to request a preadmission prior authorization, concurrent review, or continued stay review in a timely manner as specified in Subsection 705.03 of this rule. A physician who provides hospital care but has no control over the admission, continued stay, or discharge of the participant is not subject to this penalty. (3-30-07)()

01. **Payment.** Reimbursement for the participant's admission and length of stay is subject to preadmission prior authorization, concurrent review, continued stay review, or retrospective review by the Department. The hospital and the participant's physician are responsible for obtaining the required review. If such review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. (3-30-07)()

a. In reimbursing for inpatient hospital psychiatric services the Department will pay the lesser of customary charges or the reasonable cost of semi-private rates for inpatient hospital care in accordance with the rules set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

b. The cost of services that would be the responsibility of the Department of Education for school age children cannot be considered in the cost of inpatient psychiatric hospital services. (3-30-07)

~~c. The participant may be charged for services only when he or she has made an informed decision to incur expenses for services deemed not medically necessary by the Department. (3-30-07)~~

02. **Hospital Penalty Schedule.** Failure to request a preadmission prior authorization, concurrent review, or continued stay review from the Department in a timely manner will result in the hospital being assessed a penalty as follows. The penalty will be assessed after payment for hospital services for a medically necessary hospital admission. (3-30-07)()

a. A request for a preadmission or continued stay review that is one (1) day late will result in a penalty of two hundred sixty dollars (\$260). (3-30-07)

b. A request for a preadmission or continued stay review that is two (2) days late will result in a penalty of five hundred twenty dollars (\$520). (3-30-07)

c. A request for a preadmission or continued stay review that is three (3) days late will result in a penalty of seven hundred eighty dollars (\$780). (3-30-07)

d. A request for a preadmission or continued stay review that is four days (4) late will result in a penalty of one thousand forty dollars (\$1,040). (3-30-07)

e. A request for a preadmission or continued stay review that is five (5) or more days late will result in a penalty of one thousand three hundred dollars (\$1,300). (3-30-07)

03. Physician Penalty Schedule. Failure to request a preadmission review from the Department in a timely manner will result in the ~~primary care~~ admitting physician being assessed a penalty as follows. The penalty will not be assessed against a physician who provides hospital care but has no control over the admission, continued stay, or discharge of the participant. The penalty will be assessed after payment for physician services for a medically necessary hospital admission: ~~(3-30-07)~~ ()

a. A request for a preadmission review that is one (1) day late will result in a penalty of fifty dollars (\$50). (3-30-07)

b. A request for a preadmission review that is two (2) days late will result in a penalty of one hundred dollars (\$100). (3-30-07)

c. A request for a preadmission review that is three (3) days late will result in a penalty of one hundred fifty dollars (\$150). (3-30-07)

d. A request for a preadmission review that is four (4) days late will result in a penalty of two hundred dollars (\$200). (3-30-07)

e. A request for a preadmission review that is five (5) or more days late will result in a penalty of two hundred fifty dollars (\$250). (3-30-07)

706. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES: QUALITY ASSURANCE.

The policy, rules, and regulations to be followed must be those cited in 42 CFR 456.480 through 42 CFR 456.482. ~~(3-30-07)~~ ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1703

NOTICE OF RULEMAKING – PROPOSED RULE

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

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

PUBLIC HEARING

Tuesday, October 17, 2017 — 2:00 p.m. (Local)

**Central Idaho - DHW Office
3232 Elder Street
Conference Room D - East
Boise, ID 83705**

TELECONFERENCE CALL-IN

**Toll Free: 1-877-820-7831
Participant Code: 626553**

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 Department's Infant Toddler and Medicaid programs are both required by federal law to provide access and reimbursement for early intervention services. This rule change streamlines the processes between two Department Divisions and resolves the current access issue. Currently, the Infant Toddler Program has a waiting list of children, including Medicaid-eligible children, that are unable to access Part C, early intervention treatment services. The changes in this docket will keep the State in compliance in both areas, provide a more streamlined approach between the two Divisions, and will ensure improved access to these services for participants.

Specifically, early intervention service requirements are being removed from IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" and added as a new Section in this chapter. The rule text is being updated to support program eligibility, service coverage, limitations, provider, and reimbursement requirements. These changes will allow the Department more flexibility for collaboration within IDHW Divisions and ensure all Medicaid-eligible infants and toddlers receive the right preventive services, at the right time, through the best financial means for the State. Updates to references or other minor technical corrections are being made as needed.

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

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

This proposed change impacts the Division of Medicaid and the Division of Family and Community Services. Currently both divisions support these services for children with special healthcare needs from birth through the end of their 36th month of age through a combination of a federal grant and Medicaid benefits payments.

This rule will enable additional Medicaid coverage for these services, which will allow leveraging federal funds to support better services for Idaho. There is no overall impact to the general fund; however, a transfer of general funds between divisions will be necessary. In addition, the FACS division will require an increase of \$1,129,800 in federal spending authority and will revert \$1,126,700 in receipt spending authority.

The net impact will increase federal expenditures for these services but will not increase the general fund needs. This will allow us to increase services to children and use state general funds more efficiently.

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 7, 2017, Idaho Administrative Bulletin, [Vol. 17-6, page 38](#).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cindy Brock at (208) 364-1983.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0309-1703
(Only Those Sections With Amendments Are Shown.)

011. DEFINITIONS: I THROUGH O.

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

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

02. Idaho Behavioral Health Plan (IBHP). The Idaho Behavioral Health Plan is a prepaid ambulatory health plan (PAHP) that provides outpatient behavioral health coverage for Medicaid-eligible children and adults. Outpatient behavioral health services include mental health and substance use disorder treatment as well as case management services. The coordination and provision of behavioral health services as authorized through the IBHP contract are provided to qualified, enrolled participants by a statewide network of professionally licensed and certified behavioral health providers. (3-20-14)

03. Idaho Infant Toddler Program. The Idaho Infant Toddler Program serves children from birth ~~up to three (3) years of age~~ ~~(through the end of their 36th months), and must of age, who~~ meet the requirements and

provisions of the Individuals with Disabilities Education Act (IDEA), Part C; ~~the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C.~~ (7-1-13)()

- ~~a. These requirements for the Idaho Infant Toddler Program include: (7-1-13)~~
- ~~i. Adherence to procedural safeguards and time lines; (7-1-13)~~
- ~~ii. Use of multi-disciplinary assessments and Individualized Family Service Plans (IFSPs); (7-1-13)~~
- ~~iii. Provision of early intervention services in the natural environment; (7-1-13)~~
- ~~iv. Transition planning; and (7-1-13)~~
- ~~v. Program enrollment and reporting requirements. (7-1-13)~~
- ~~b. The Idaho Infant Toddler Program may provide the following services for Medicaid reimbursement: (7-1-13)~~
- ~~i. Occupational therapy; (7-1-13)~~
- ~~ii. Physical therapy; (7-1-13)~~
- ~~iii. Speech language pathology; (7-1-13)~~
- ~~iv. Audiology; and (7-1-13)~~
- ~~v. Children's developmental disabilities services defined under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-13)~~

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

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

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

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

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

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

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

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

- 12. Locum Tenens/Reciprocal Billing.** The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the “Locum Tenens” physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less. (3-30-07)
- 13. Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)
- 14. Medicaid.** Idaho's Medical Assistance Program. (3-30-07)
- 15. Medicaid-Related Ancillary Costs.** For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. (3-30-07)
- 16. Medical Necessity (Medically Necessary).** A service is medically necessary if: (3-30-07)
- a.** It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-30-07)
- b.** There is no other equally effective course of treatment available or suitable for the participant requesting the service which is more conservative or substantially less costly. (3-30-07)
- c.** Medical services must be of a quality that meets professionally-recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (3-30-07)
- 17. Medical Supplies.** Healthcare-related items that are consumable, disposable, or cannot withstand repeated use by more than one (1) individual, are suitable for use in any setting in which normal life activities take place, and are reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (7-1-17)
- 18. Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual (CMS/Medicare DME Coverage Manual).** A publication that is incorporated by reference in Section 004 of these rules and contains information on DME supplier enrollment, documentation, claim submission, coverage, appeals, and overpayments. (7-1-17)
- 19. Midwife.** An individual qualified as one of the following: (3-29-12)
- a.** Licensed Midwife. A person who is licensed by the Idaho Board of Midwifery under Title 54, Chapter 55, Idaho Code, and IDAPA 24.26.01, “Rules of the Idaho Board of Midwifery.” (3-29-12)
- b.** Nurse Midwife (NM). An advanced practice registered nurse who is licensed by the Idaho Board of Nursing and who meets all the applicable requirements to practice as a nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” (3-29-12)
- 20. Nominal Charges.** A public provider’s charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (3-30-07)
- 21. Nonambulatory.** Unable to walk without assistance. (3-30-07)
- 22. Non-Legend Drug.** Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-30-07)

- 23. Non-Physician Practitioner.** A non-physician practitioner, previously referred to as a midlevel practitioner, comprises the following practitioner types: certified registered nurse anesthetists (CRNA), nurse practitioners (NP), nurse midwives (NM), clinical nurse specialists (CNS), and physician assistants (PA), as defined in Sections 010, 011, 012 of these rules. (7-1-17)
- 24. Nurse Practitioner (NP).** A registered nurse or licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-1-13)
- 25. Nursing Facility (NF).** An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-30-07)
- 26. Orthotic.** Pertaining to or promoting the support of an impaired joint or limb. (3-30-07)
- 27. Outpatient Hospital Services.** Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of inpatient hospital care. (3-30-07)
- 28. Out-of-State Care.** Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-30-07)
- 29. Oxygen-Related Equipment.** Equipment which is utilized or acquired for the routine administration of oxygen in any setting in which normal life activities take place. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment which is used solely for the administration of medication into the lungs is excluded from this definition. (7-1-17)

(BREAK IN CONTINUITY OF SECTIONS)

585. EARLY INTERVENTION SERVICES.

Early Intervention Services for infants and toddlers enrolled in Idaho Medicaid are provided by the Idaho Infant Toddler Program (ITP). Early Intervention Services must be provided in accordance with the Individuals with Disabilities Education Act (IDEA), Part C, and all Medicaid regulations. ()

586. EARLY INTERVENTION SERVICES: PROGRAM REQUIREMENTS.

Idaho Medicaid and the ITP coordinate the delivery of Early Intervention Services through an intra-agency agreement published on the Department's website. Program requirements include: ()

01. Physician Recommendation. The ITP can bill for health-related services provided to eligible children when the services are documented as medically necessary and provided under the recommendation of a physician. ITP may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated physician recommendation. The recommendation is valid for up to three hundred sixty-five (365) days. ()

02. Individualized Family Service Plan (IFSP). The ITP may bill for Medicaid services covered by a current IFSP. The plan must be developed by a multi-disciplinary team and be based on the results of assessment(s). ()

03. Qualified Staff. ITP staff qualifications must meet IDEA Part C requirements, and all Medicaid regulations as specified in the intra-agency agreement. ()

587. EARLY INTERVENTION SERVICES: PROVIDER REIMBURSEMENT.

Medicaid will reimburse the Infant Toddler Program for covered medically necessary services. ()

01. Fee Schedule. Reimbursement for Early Intervention Services will be based on the Idaho Medicaid Fee Schedule for Early Intervention. ()

02. Payment Review. Reimbursement is subject to pre-payment and post-payment review in accordance with Section 56-209(h)(j)(3), Idaho Code, and recoupment in accordance with IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." ()

5858. -- 589. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

732. THERAPY SERVICES: COVERAGE AND LIMITATIONS.

Therapy services are covered under these rules when delivered by a therapy professional and provided by one (1) of the following providers: outpatient hospitals, outpatient rehabilitation facilities, comprehensive outpatient rehabilitative facilities, nursing facilities, school-based services, ~~Idaho Infant Toddler Program~~, independent practitioners, and home health agencies. Therapy services provided by a home health agency under a home health plan of care must meet the requirements found in Sections 730 through 739 of these rules, and the requirements found in Sections 720 through 729 of these rules. (7-1-17)()

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

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

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

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

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

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

f. The services of occupational or physical therapy assistants used when providing covered therapy benefits are included as part of the covered service. These services are billed by the supervising therapist. Therapy assistants may not provide evaluation services, make clinical judgments or decisions, or take responsibility for the service. The therapist has full responsibility for the service provided. Therapy assistants act at the direction and under the supervision of the treating therapist and in accordance with state licensure rules. (7-1-16)

02. Service Description: Speech-Language Pathology. Speech-language pathology services must be provided as defined in Section 730 of these rules. Services provided by speech-language pathology aides and assistants are considered unskilled services, and will be denied as not medically necessary if they are billed as speech-language pathology services. (7-1-16)

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

- a.** Continuing services for participants who do not exhibit the capability to achieve measurable improvement and who do not meet the criteria for a maintenance program. (7-1-16)
- b.** Services that address developmentally acceptable error patterns. (4-2-08)
- c.** Services that do not require the skills of a therapy professional. (7-1-16)
- d.** Massage, work hardening, and conditioning. (4-2-08)
- e.** Services that are not medically necessary, as defined in Section 011 of these rules. (4-2-08)
- f.** Duplicate services, as defined under Section 730 of these rules. (4-2-08)
- g.** Group therapy in settings other than school-based services and the Idaho Infant Toddler Program. (7-1-13)
- h.** Acupuncture (with or without electrical stimulation). (7-1-16)
- i.** Biofeedback, unless provided to treat urinary incontinence. (7-1-16)
- j.** Duplicate Services. (7-1-16)
- k.** Services that are considered to be experimental or investigational. (7-1-16)
- l.** Vocational Program. (7-1-16)
- m.** Vision Therapy. (7-1-16)
- 04. Service Limitations.** (4-2-08)

 - a.** Physical therapy (PT) and speech-language pathology (SLP) services are limited to a combined annual dollar amount for all PT and SLP services. The Department will set the total amount based on the annual Medicare caps. The Department may authorize additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (7-1-17)
 - b.** Occupational therapy services are limited to an annual dollar amount set by the Department based on the annual Medicare caps. The Department may authorize additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (7-1-17)
 - c.** Exceptions to service limitations. (3-29-12)

 - i.** Therapy provided by home health agencies is subject to the limitations on home health services contained in Section 722 of these rules. (3-29-12)
 - ii.** Therapy provided through school-based services or the Idaho Infant Toddler Program is not included in the service limitations under Subsection 732.04 of this rule. (7-1-13)
 - iii.** Therapy provided to EPSDT participants under the age of twenty-one (21) in accordance with the EPSDT requirements contained in Sections 881 through 883 of these rules, and in Section 1905(r) of the Social Security Act, will be authorized by the Department when additional therapy services are medically necessary. (3-29-12)
 - d.** Feeding therapy services are covered for children with a diagnosed feeding disorder that results in a clinically significant deviation from normal childhood development. The provider of feeding therapy is an occupational therapist or speech therapist with training specific to feeding therapy. (7-1-16)

e. Maintenance therapy is covered when an individualized assessment of the participant's condition demonstrates that skilled care is required to carry out a safe and effective maintenance program. (7-1-16)

f. Telehealth modalities are covered to the extent they are allowed under the rules of the applicable board of licensing. The Department will define limitations on telehealth in the provider handbook to promote quality services and program integrity. (7-1-16)

(BREAK IN CONTINUITY OF SECTIONS)

735. THERAPY SERVICES: PROVIDER REIMBURSEMENT.

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

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

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

b. Therapists enrolled with Medicaid as independent practitioners and licensed by the appropriate state licensing board will be reimbursed on a fee-for-service basis. Only those independent practitioners who have been enrolled as Medicaid providers can bill the Department directly for their services. A therapy assistant cannot bill Medicaid directly. The maximum fee will be based upon the Department's fee schedule, available from the central office for the Division of Medicaid, the contact information for which is found in Section 005 of these rules. (3-20-14)

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

d. Payment for therapy services rendered to participants in long-term care facilities is included in the facility reimbursement as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-13)

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

~~f. Payment for therapy services rendered by the Idaho Infant Toddler Program will be reimbursed on a fee for service basis. (7-1-13)~~

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1704

NOTICE OF RULEMAKING – PROPOSED RULE

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

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

PUBLIC HEARING

Monday, October 23, 2017 — 3:00 p.m. (MDT)

**Medicaid Central Office
3232 Elder Street
Conference Room D - West/East
Boise, ID 83705**

TELECONFERENCE CALL-IN

**Toll Free: 1-877-820-7831
Participant Code: 301388**

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:

Under a court-approved settlement agreement, the Department is implementing the use of a new assessment tool to replace the SIB-R assessment tool. The Department uses assessment tools to determine developmental disability eligibility, waiver eligibility, skill level, and the participant's budget for services. Reference to the SIB-R assessment tool is being removed from this chapter.

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

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

The fiscal impact to implement and use a new assessment tool is a total of \$909,375. These costs are funded by 71.26% (\$648,020) federal funds and 28.74% (\$261,355) state general funds. The costs to the state were included in the SFY 2018 budget previously approved by the 2017 Legislature.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Department determined it was not feasible to do negotiated rulemaking because the change is being made to comply with a court-approved settlement agreement.

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 SIB-R Comprehensive Manual is being deleted from the documents that are incorporated by reference in this chapter of rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Westbrook at (208) 364-1960.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0309-1704
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

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

01. American Speech-Language-Hearing Association (ASHA): Medicaid Guidance for Speech-Language Pathology Services. The American Speech-Language-Hearing Association (2004) Medicaid Guidance for Speech-Language Pathology Services: Addressing the “Under the Direction of” Rule technical report is available on the internet at: <http://www.asha.org/policy/ps2004-00098.htm>. The report may also be obtained at the ASHA National Office, 2200 Research Boulevard, Rockville, MD 20850-3289, telephone (301) 296-5700. (3-29-10)

02. DSM-5. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5) Arlington, VA, American Psychiatric Association, 2013. A copy of the manual is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (3-20-14)

03. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives. This document may be obtained from American Hospital Publishing, Inc., 211 East Chicago Avenue, Chicago, IL, 60611. (3-30-07)

04. Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual 2016, As Amended (CMS/Medicare DME Coverage Manual). Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual. The full text of the CMS/Medicare DME Coverage Manual is available via the Internet at <https://med.noridianmedicare.com/web/jddme/education/supplier-manual>. (7-1-17)

05. Provider Reimbursement Manual (PRM). The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available on the CMS website at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals.html>. (3-30-07)

~~**06. SIB-R Comprehensive Manual. Scales of Independent Behavior—Revised Comprehensive Manual, 1996, Riverside Publishing Co, 425 Spring Lake Drive, Itasca, IL 60143-2079. A copy is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702. (3-30-07)**~~

~~**07. Travel Policies and Procedures of the Idaho State Board of Examiners.** The text of “Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners,” Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.idaho.gov>. (3-30-07)~~

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1702

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code, and 42 CFR Sections 438, 440, and 457.

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

PUBLIC HEARING

Friday, October 13, 2017 — 2:00 p.m. (Local)

**Central Idaho - DHW Office
3232 Elder Street
Conference Room D - East
Boise, ID 83705**

TELECONFERENCE CALL-IN

**Toll Free: 1-877-820-7831
Participant Code: 701700**

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:

Under the Code of Federal Regulations (CFR) sections cited above, access to mental healthcare services cannot be more restrictive than access for medical/surgical services. These rule changes allow the Department flexibility to adjust requirements for authorizations and coverage to ensure that access to mental health services is consistent with the requirements in CFR.

Specifically, inpatient psychiatric stays will be permitted for as long as they are medically necessary, and will be subject to the same reviews as general hospital stays. Participant eligibility for inpatient psychiatric stays are being defined to align with CFR restrictions. General hospital procedural guidelines are being changed to provide a psychiatric services structure with which to align. General hospital inpatient provisions are being changed to match current Medicaid practice and Centers for Medicare and Medicaid Services (CMS) requirements. Finally, under physician services, limitations for psychiatric evaluations and psychotherapy are being removed. Should the Department need to make adjustments to remain in compliance with federal requirements or to maintain appropriate utilization of services in the future, these changes will allow for modification for those needs.

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

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

The fiscal impact associated with this rule change is minimal to none. An analysis conducted by the Division of Medicaid concluded any potential impact is so minimal that requesting additional funds is not warranted at this time.

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 7, 2017, Idaho Administrative Bulletin, **Vol. 17-6, pages 39 and 40.**

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact William Deseron at (208) 364-1967.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0310-1702
(Only Those Sections With Amendments Are Shown.)**

**SUB AREA: ENHANCED INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES
(Sections 100 - 199)**

100. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES.

*In addition to The Medicaid Enhanced Plan Benefits include psychiatric services covered under inpatient hospital services and inpatient ~~psychiatric hospital~~ behavioral health services covered in IDAPA 16.03.09 "Medicaid Basic Plan Benefits," ~~the Medicaid Enhanced Plan Benefit include enhanced medically necessary services for certain individuals under the age of twenty-one (21) in free standing psychiatric hospitals (Institutions For Mental Disease):~~
(3-19-07)()*

~~101. (RESERVED)~~

1021. INPATIENT ~~PSYCHIATRIC HOSPITAL~~ BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.

All rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 700 through 707~~6~~ apply to Inpatient ~~Psychiatric Hospital~~ Behavioral Health ~~s~~Services in this chapter of rules. Individuals over age sixty-five (65) are eligible for inpatient behavioral health services under this chapter of rule.
(3-19-07)()

~~01. **Limitation Exemption.** The ten (10) day limitation does not apply to participants who are eligible for inpatient psychiatric hospital services under this chapter of rule.~~
(3-19-07)

~~02. **Individuals Over 65.** Individuals over age sixty-five (65) are eligible for inpatient psychiatric hospital services under this chapter of rule.~~
(3-19-07)

1032. -- 199. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1703

NOTICE OF RULEMAKING – PROPOSED RULE

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

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

PUBLIC HEARING

Tuesday, October 17, 2017 — 2:00 p.m. (Local)

**Central Idaho - DHW Office
3232 Elder Street
Conference Room D - East
Boise, ID 83705**

TELECONFERENCE CALL-IN

**Toll Free: 1-877-820-7831
Participant Code: 626553**

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 Department's Infant Toddler and Medicaid programs are both required by federal law to provide access and reimbursement for early intervention services. This rule change is needed to streamline the processes between two Department Divisions and to resolve the current access issue. Currently, the Infant Toddler Program has a waiting list of children, including Medicaid-eligible children, that are unable to access Part C, early intervention treatment services. This change will keep the State in compliance in both areas, provide a more streamlined approach between the two Divisions, and will ensure improved access to these services for participants.

Early intervention service requirements will be removed from this chapter and added as a new Section in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." The rule text will be updated to support program eligibility, service coverage, limitations, provider, and reimbursement requirements. These changes will allow the Department more flexibility for collaboration within IDHW Divisions and ensure all Medicaid-eligible infants and toddlers receive the right preventive services, at the right time, through the best financial means for the State. Updates to references or other minor technical corrections may be made as needed.

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

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

This proposed change impacts the Division of Medicaid and the Division of Family and Community Services. Currently both divisions support these services for children with special healthcare needs from birth through the end of their 36th month of age through a combination of a federal grant and Medicaid benefits payments.

This rule will enable additional Medicaid coverage for these services, which will allow leveraging federal funds to support better services for Idaho. There is no overall impact to the general fund; however, a transfer of general funds between divisions will be necessary. In addition, the FACS division will require an increase of \$1,129,800 in federal spending authority and will revert \$1,126,700 in receipt spending authority.

The net impact will increase federal expenditures for these services but will not increase the general fund needs. This will allow us to increase services to children and use state general funds more efficiently.

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 7, 2017, Idaho Administrative Bulletin, [Vol. 17-6, page 41](#).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cindy Brock at (208) 364-1983.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0310-1703
(Only Those Sections With Amendments Are Shown.)

660. CHILDREN'S HOME AND COMMUNITY BASED SERVICES (HCBS) STATE PLAN OPTION.

In accordance with [Section](#) 1915i of the Social Security Act, the Department will pay for home and community based services provided by individuals or agencies that have entered into a provider agreement with the Department. Services provided by a developmental disabilities agency ~~or the Infant Toddler Program~~ to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary assessments, evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements. ~~(7-1-13)~~()

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

For the purposes of these rules, the definitions in Section 521 of these rules apply. Additionally, the following terms apply to the Children's Home and Community Based Services State Plan Option: (7-1-11)

01. Agency. A developmental disabilities agency (DDA) as defined in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." (7-1-11)

02. Annual. Every three hundred sixty-five (365) days except during a leap year which equals three hundred sixty-six (366) days. (7-1-11)

03. Clinical Supervisor. For the purposes of these rules, the clinical supervisor is the professional responsible for the supervision of DDA staff as outlined in IDAPA 16.03.21, “Developmental Disabilities Agencies (DDA);” ~~or is the professional responsible for the child's IFSP as designated by the Infant Toddler Program.~~ (7-1-13)()

04. Community. Natural, integrated environments outside of the home, school, or DDA center-based settings. (7-1-11)

05. Developmental Disabilities Agency (DDA). A DDA is an agency that is: (7-1-11)

a. A type of developmental disabilities facility, as defined in Section 39-4604(7), Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-11)

b. Certified by the Department to provide home and community based services to people with developmental disabilities, in accordance with these rules; (7-1-11)

c. A business entity, open for business to the general public; and (7-1-11)

d. Primarily organized and operated to provide home and community based services and the corresponding assessments to people with developmental disabilities. DDA services include evaluations, diagnostic, treatment, and support services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. (7-1-11)

06. Home and Community Based Services State (HCBS) Plan Option. The federal authority under section 1915(i) of the Social Security Act that allows a state to provide through a state plan amendment, medical assistance for home and community-based services for elderly and individuals with disabilities, without determining that without the provision of services the individuals would require institutional level of care. (7-1-11)

07. Human Services Field. A particular area of academic study in health care, social services, education, behavioral science or counseling. (7-1-11)

~~**08. Infant Toddler Program.** The Infant Toddler Program serves children birth up to three (3) years of age (36 months), and must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include: adherence to procedural safeguards and time lines, use of multi-disciplinary assessments and Individualized Family Service Plans (IFSPs), provision of early intervention services in the natural environment, transition planning, and program enrollment and reporting requirements.~~ (7-1-13)

09. Integration. The process of promoting a life for individuals with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of individuals with developmental disabilities. (7-1-11)

10. Paraprofessional. A person qualified to provide direct support services which include respite and habilitative supports. (7-1-11)

11. Professional. A person qualified to provide direct intervention services which include habilitative intervention, therapeutic consultation, family education, family training, interdisciplinary training, and crisis intervention. (7-1-11)

12. Support Services. Support services may provide supervision for a participant, as well as may provide assistance to a participant by facilitating integration into the community. (7-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. General Requirements for Program Documentation. The provider must maintain records for each participant served. Each participant's record must include documentation of the participant's involvement in and response to the services provided. For each participant, the following program documentation is required: (7-1-11)

a. Direct service provider information that includes written documentation of the service provided during each visit made to the participant, and contains, at a minimum, the following information: (7-1-11)

i. Date and time of visit; and (7-1-11)

ii. Intervention and support services provided during the visit; and (7-1-11)

iii. A statement of the participant's response to the service; and (7-1-11)

iv. Length of visit, including time in and time out; and (7-1-11)

v. Specific place of service. (7-1-11)

vi. A copy of the above information will be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-11)

02. Habilitative Supports Documentation. In addition to the general requirements listed in Subsection 664.01 of this rule, the following must be completed: (7-1-11)

a. On a monthly basis, the habilitative support staff must complete a summary of the participant's response to the support service and submit the monthly summary to the clinical supervisor. (7-1-11)

b. The clinical supervisor reviews the summary on a monthly basis and when recommendations for changes to the type and amount of support are identified, submits the recommendations to the plan developer. (7-1-11)

03. Family Education Documentation. In addition to the general requirements listed in Subsection 664.01 of this rule, the DDA ~~or Infant Toddler Program~~ must survey the parent or legal guardian's satisfaction of the service immediately following a family education session. (7-1-13)()

04. Reporting Requirements. The clinical supervisor must complete at a minimum, six- (6) month and annual provider status reviews for habilitative support services provided. These provider status reviews must be completed more frequently, when so required on the plan of service. (7-1-11)

a. Documentation of the six- (6) month and annual reviews must be submitted to the plan monitor. (7-1-11)

b. The provider must use Department-approved forms for provider status reviews. (7-1-11)

665. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER QUALIFICATIONS AND DUTIES.

All providers of HCBS state plan option services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (7-1-11)

01. Respite. Respite services may be provided by an agency that is certified as a DDA and is capable of supervising the direct services provided, by an independent respite provider, ~~or by the Infant Toddler Program~~. An independent respite provider is an individual who has entered into a provider agreement with the Department. Providers of respite services must meet the following minimum qualifications: (7-1-13)()

a. Must be at least sixteen (16) years of age when employed by a DDA ~~or Infant Toddler Program~~; or (7-1-13)()

- b. Must be at least eighteen (18) years of age and be a high school graduate, or have a GED, to act as an independent respite provider; and (7-1-11)
- c. Meet the qualifications prescribed for the type of services to be rendered, or must be an individual selected by the participant, the family, or the participant's guardian; and (7-1-11)
- d. Have received instructions in the needs of the participant who will be provided the service; and (7-1-11)
- e. Demonstrate the ability to provide services according to a plan of service; and (7-1-11)
- f. Must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06 "Criminal History and Background Checks"; and (7-1-11)
- g. When employed by a DDA ~~or Infant Toddler Program~~, must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)." Independent respite providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. (7-1-13)()

02. Habilitative Support Staff. Habilitative supports must be provided by an agency certified as a DDA with staff who are capable of supervising the direct services provided ~~or by the Infant Toddler Program~~. Providers of habilitative supports must meet the following minimum qualifications: (7-1-13)()

- a. Must be at least eighteen (18) years of age; (7-1-11)
- b. Must be a high school graduate or have a GED; (7-1-11)
- c. Have received instructions in the needs of the participant who will be provided the service; (7-1-11)
- d. Demonstrate the ability to provide services according to a plan of service; (7-1-11)
- e. Must have six (6) months supervised experience working with children with developmental disabilities. This can be achieved in the following ways: (7-1-11)
 - i. Have previous work experience gained through paid employment, university practicum experience, or internship; or (7-1-11)
 - ii. Have on-the-job supervised experience gained through employment at a DDA ~~or the Infant Toddler Program~~ with increased supervision. Experience is gained by completing at least six (6) hours of job shadowing prior to the delivery of direct support services, and a minimum of weekly face-to-face supervision with the clinical supervisor for a period of six (6) months while delivering services. (7-1-13)()
- f. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative supports. (7-1-11)
- g. In addition to the habilitative support qualifications listed in Subsections 665.02.a. through f. of this rule, habilitative support staff serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: (7-1-11)
 - i. Have transcribed courses for a minimum of a Child Development Associate degree (CDA) or the equivalent through completion of twelve (12) semester credits from an accredited college or university in child development, special education, or closely-related coursework; or (7-1-11)
 - ii. Have three (3) years of documented experience providing care to infants, toddlers, or children less than five (5) years of age with developmental delays or disabilities under the supervision of a child development

professional, certified educator, licensed therapist, or Developmental Specialist. (7-1-11)

03. Family Education. Family education must be provided by an agency certified as a DDA and with staff who are capable of supervising the direct services provided, ~~or by the Infant Toddler Program~~. Providers of family education must meet the following minimum qualifications: (7-1-13)

a. Must hold at least a bachelor's degree in a human services field from a nationally-accredited university or college, and has: (7-1-11)

i. One (1) year experience providing care to children with developmental disabilities; (7-1-11)

ii. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide family education; or (7-1-11)

b. Individuals working as Developmental Specialists for children ages birth through three (3) or three (3) through seventeen (17), and individuals certified as Intensive Behavioral Interventionist professionals prior to July 1, 2011, are qualified to provide family education until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain his certification. (7-1-11)

c. Each professional providing family education services must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any yearly training period, he may not provide family education services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training-deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period. (7-1-11)

04. Family Education for Children Birth to Three. In addition to the family education qualifications listed in Subsections 665.03.a. through 665.03.c. of this rule, family education staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following: (7-1-11)

a. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or (7-1-11)

b. A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; or (7-1-11)

c. A bachelor's or master's degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: (7-1-11)

i. Promotion of development and learning for children from birth to three (3) years; (7-1-11)

ii. Assessment and observation methods for developmentally appropriate assessment of young children; (7-1-11)

iii. Building family and community relationships to support early interventions; (7-1-11)

iv. Development of appropriate curriculum for young children, including IFSP and IEP development; (7-1-11)

v. Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and (7-1-11)

vi. Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. (7-1-11)

d. Electives closely related to the content under Subsection 665.04.c.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. (7-1-11)

e. Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 665.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement. (7-1-11)

f. When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area: (7-1-11)

i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired. (7-1-11)

ii. Satisfactory progress will be determined on an annual review by the Department. (7-1-11)

iii. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire. (7-1-11)

05. Requirements for Clinical Supervision. All DDA services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in Section 685 of these rules. Clinical supervisor(s) are professionals employed by a DDA ~~or the Infant Toddler Program~~ on a continuous and regularly scheduled basis. (7-1-13)()

a. The clinical supervisor is responsible for the oversight and supervision of service and support elements of the agency, including face-to-face supervision of agency staff providing direct services. (7-1-11)

b. The clinical supervisor must observe and review the direct services performed by all paraprofessional and professional staff on a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services and support. (7-1-11)

c. Each DDA ~~and the Infant Toddler Program~~ must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. (7-1-13)()

06. Requirements for Collaboration. Providers of home and community based services must coordinate with the family-centered planning team as specified on the plan of service. (7-1-11)

07. Requirements for Quality Assurance. Providers of children's home and community based state plan option services must demonstrate high quality of services through an internal quality assurance review process. (7-1-11)

08. DDA Services. In order for a DDA to provide respite, habilitative supports, and family education the DDA must be certified to provide support services. Each DDA is required to provide habilitative supports. (7-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

680. CHILDREN'S WAIVER SERVICES.

01. Purpose of and Eligibility for Waiver Services. Under 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible children to prevent unnecessary institutional placement, provide for the greatest degree autonomy and of independence possible, enhance the quality of life, encourage individual choice, and achieve and maintain community integration. For a participant to be eligible, the Department must find that the participant requires services due to a developmental disability that impairs his mental or physical function or independence, is capable of being maintained safely and effectively in a non-institutional setting, and would, in the absence of such services, need to reside in an ICF/ID. (7-1-16)

02. Waiver Services Provided by a DDA ~~or the Infant Toddler Program~~. Services provided by a developmental disabilities agency ~~or the Infant Toddler Program~~ to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary assessments, evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements. (7-1-13)()

(BREAK IN CONTINUITY OF SECTIONS)

684. CHILDREN'S WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

01. Authorization of Services on a Written Plan. All children's waiver services must be identified on the plan of service and authorized by the Department. The plan of service must be reviewed by a plan developer at least every six (6) months or at a frequency determined by the family-centered planning team. (7-1-11)

02. General Requirements for Program Documentation. Children's waiver providers must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. For each participant the following program documentation is required: (7-1-11)

a. Direct service provider information which includes written documentation of each visit made or service provided to the participant, and will record at a minimum the following information: (7-1-11)

i. Date and time of visit; and (7-1-11)

ii. Services provided during the visit; and (7-1-11)

iii. A statement of the participant's response to the service, including any changes in the participant's condition; and (7-1-11)

iv. Length of visit, including time in and time out; and (7-1-11)

v. Specific place of service. (7-1-11)

b. A copy of the above information ~~will~~ **must** be maintained by the independent provider, ~~Infant Toddler Program~~, or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-13)()

03. Program Implementation Plan Requirements. For each participant receiving intervention and family training services, the DDA ~~or the Infant Toddler Program~~ must develop a program implementation plan to determine objectives to be included on the participant's required plan of service. (7-1-13)()

a. All program implementation plan objectives must be related to a goal on the participant's plan of service. (7-1-11)

b. The program implementation plan must be written, implemented, and submitted to the plan developer within fourteen (14) days after the first day of ongoing programming and be revised whenever participant needs change. If the program implementation plan is not completed within this time frame, the participant's records must contain documented participant-based justification for the delay. (7-1-13)

c. The program implementation plan must be completed by the habilitative interventionist, and must include the following requirements: (7-1-11)

i. The participant's name. (7-1-11)

ii. A baseline statement. (7-1-11)

iii. Measurable, behaviorally-stated objectives that correspond to those goals or objectives previously identified on the required plan of service. (7-1-11)

iv. Written instructions to the staff that may include curriculum, interventions, task analyses, activity schedules, type and frequency of reinforcement and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward the stated objective. (7-1-11)

v. Identification of the type of environment(s) and specific location(s) where services will be provided. (7-1-11)

vi. A description of the evidence-based treatment approach used for the service provided. (7-1-11)

vii. When the child has a current positive behavior support plan, it must be incorporated into the program implementation plan. (7-1-11)

viii. When interdisciplinary training is provided, identification of the type of interdisciplinary training and the objectives related to the training must be included on the program implementation plan. (7-1-11)

ix. Target date for completion, not to exceed one (1) year. (7-1-11)

x. The program implementation plan must be reviewed and approved by the clinical supervisor, as indicated by signature, credential, and date on the plan. (7-1-13)

04. Reporting Requirements. The clinical supervisor must complete, at a minimum, six- (6) month and annual provider status reviews for habilitative intervention and family training services provided. These provider status reviews must be completed more frequently when so required on the plan of service. (7-1-11)

a. Documentation of the six (6) month and annual reviews must be submitted to the plan developer. (7-1-11)

b. The provider must use Department-approved forms for provider status reviews. (7-1-11)

05. Provider Responsibility for Notification. It is the responsibility of the service provider to notify the plan developer when any significant changes in the participant's condition, as defined by the family-centered planning team, are noted during service delivery. Such notification will be documented in the service record. (7-1-11)

06. Records Maintenance. When a participant leaves the waiver services program, the records will be retained by the Department as part of the participant's closed case record. Provider agencies will be responsible to retain their participant's records for five (5) years following the date of service. (7-1-11)

685. CHILDREN'S WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Family Training. Providers of family training must meet the requirements for habilitative intervention providers defined in Subsections 685.03 and 685.04 of this rule. (7-1-11)

02. Interdisciplinary Training. Providers of interdisciplinary training must meet the following requirements: (7-1-11)

a. Occupational Therapist, as defined in Section 734 under IDAPA 16.03.09, “Medicaid Basic Plan Benefits”; (7-1-11)

b. Physical Therapist, as defined in Section 734 under IDAPA 16.03.09, “Medicaid Basic Plan Benefits”; (7-1-11)

c. Speech-Language Pathologist, as defined in Section 734 under IDAPA 16.03.09, “Medicaid Basic Plan Benefits”; (7-1-11)

d. Practitioner of the healing arts; (7-1-11)

e. Habilitative intervention provider as defined in Subsections 685.03 and 685.04 of this rule; or (7-1-11)

f. Therapeutic consultation provider as defined in Subsection 685.05 of this rule. (7-1-11)

03. Habilitative Intervention. Habilitative intervention must be provided by a DDA certified to provide both support and intervention services under IDAPA 16.03.21, “Developmental Disabilities Agencies (DDA);” *and is* The DDA must be capable of supervising the direct services provided, ~~or by the Infant Toddler Program.~~ Providers of habilitative intervention must meet the following minimum qualifications: (7-1-13)()

a. Must hold at least a bachelor’s degree in a human services field from a nationally-accredited university or college; (7-1-11)

b. Must be able to provide documentation of one (1) year’s supervised experience working with children with developmental disabilities. Experience must be gained through paid employment or university practicum experience or internship; (7-1-11)

c. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative intervention; or (7-1-11)

d. Individuals working as Developmental Specialists for children age birth through three (3) or three (3) through 17, and individuals certified as Intensive Behavioral Intervention professionals prior to July 1, 2011, are qualified to provide habilitative intervention until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013 to maintain his certification. (7-1-11)

04. Habilitative Intervention for Children Birth to Three. In addition to the habilitative intervention qualifications listed in Subsections 685.03.a. through d. of this rule, habilitative intervention staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following: (7-1-11)

a. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or (7-1-11)

b. A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; or (7-1-11)

c. A bachelor’s or master’s degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: (7-1-11)

- i. Promotion of development and learning for children from birth to three (3) years; (7-1-11)
 - ii. Assessment and observation methods for developmentally appropriate assessment of young children; (7-1-11)
 - iii. Building family and community relationships to support early interventions; (7-1-11)
 - iv. Development of appropriate curriculum for young children, including IFSP and IEP development; (7-1-11)
 - v. Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and (7-1-11)
 - vi. Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. (7-1-11)
- d.** Electives closely related to the content under Subsection 685.04.c.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. (7-1-11)
- e.** Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 685.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement. (7-1-11)
- f.** When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area: (7-1-11)
- i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired. (7-1-11)
 - ii. Satisfactory progress will be determined on an annual review by the Department. (7-1-11)
 - iii. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire. (7-1-11)
- 05. Therapeutic Consultation.** Therapeutic consultation may be provided by a DDA certified to provide both supports and intervention services under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," or by an independent Medicaid provider under agreement with the Department, ~~or by the Infant Toddler Program.~~ Providers of therapeutic consultation must meet the following minimum qualifications: (7-1-13)()
- a.** Doctoral or Master's degree in psychology, education, applied behavioral analysis, or have a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and (7-1-11)
 - b.** Two (2) years relevant experience in designing and implementing comprehensive behavioral therapies for children with DD and challenging behavior. (7-1-11)
 - c.** Therapeutic consultation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-11)
 - d.** Therapeutic consultation providers employed by a DDA ~~or the Infant Toddler Program~~ must be

certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21 “Developmental Disabilities Services (DDA).” Independent therapeutic consultation providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. ~~(7-1-13)~~()

06. Crisis Intervention. Crisis intervention may be provided by a DDA certified to provide support and intervention services under IDAPA 16.03.21, “Developmental Disabilities Services (DDA),” by an independent Medicaid provider under agreement with the Department, ~~or by the Infant Toddler Program~~. Providers of crisis intervention must meet the following minimum qualifications: ~~(7-1-13)~~()

a. Crisis Intervention professionals must meet the minimum therapeutic consultation provider qualifications described in Subsection 685.05 of this rule. (7-1-11)

b. Emergency intervention technician providers must meet the minimum habilitative support provider qualifications described under Subsection 665.02 of these rules. (7-1-11)

c. Crisis intervention providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, “Criminal History and Background Checks.” (7-1-11)

07. Continuing Training Requirements for Professionals. Each professional providing waiver services must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any yearly training period, he may not provide waiver services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training-deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period. (7-1-11)

08. Requirements for Clinical Supervision. All DD services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in this rule. Clinical supervisor(s) are professionals employed by a DDA ~~or the Infant Toddler Program~~ on a continuous and regularly scheduled basis. ~~(7-1-13)~~()

a. The clinical supervisor is responsible for the oversight and supervision of service and support elements of the agency, including face-to-face supervision of agency staff providing direct services. (7-1-11)

b. The clinical supervisor must observe and review the direct services performed by all paraprofessional and professional staff on a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services and support. (7-1-11)

c. Each DDA ~~and the Infant Toddler Program~~ must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. ~~(7-1-13)~~()

09. Requirements for Collaboration with Other Providers. Providers of waiver services must coordinate with the family-centered planning team as specified on the plan of service. When a participant has had a psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to ensure therapies provided accommodate the participant’s mental health needs and to ensure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant’s mental health status. (3-20-14)

10. Requirements for Quality Assurance. Providers of children’s waiver services must demonstrate high quality of services, including treatment fidelity, through an internal quality assurance review process. (7-1-11)

11. DDA Services. In order for a DDA to provide waiver services, the DDA must be certified to provide both support and intervention services. Each DDA is required to provide habilitative supports. When a DDA opts to provide habilitative intervention services, the DDA must also provide habilitative supports and family training. (7-1-11)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1706

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b), 56-264, and 56-1610, Idaho Code; House Bill 43 (2017); and Section 1915(i) of the Social Security Act (42 U.S.C. 1396n).

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

PUBLIC HEARING
Wednesday, October 18, 2017 — 9:00 a.m. (Local)

Central Idaho - DHW Office
3232 Elder Street
Conference Room D - East
Boise, ID 83705

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:

As part of the Jeff D settlement agreement and the adoption of HB 43 (2017) which is directly related to it, the Department has created the Youth Empowerment Services (YES) program for children with Serious Emotional Disturbance (SED). The YES program will provide medical and behavioral health assistance to this target population, including respite care. These rule changes are needed so that the Department can provide these services to YES Program participants in accordance with the Jeff D settlement agreement.

This rulemaking adds new sections of rules to administer services and supports to be delivered under 1915(i) authority as a Medicaid state plan option. This will include the service of respite care. (Section 1915(i) of the Social Security Act gives states the option to offer home and community-based services (HCBS), previously available only through a 1915(c) Home and Community Based Services (HCBS) waiver, through the state's Medicaid state plan.)

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

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

The costs for the Youth Empowerment Services (YES) program were originally estimated in the fiscal note for House Bill 43 (2017) and funding was addressed in House Bill 313 (2017).

A revised version of this fiscal note is presented in the following paragraph:

This rulemaking will have no impact to the State General Fund, but will have a federal fund spending authority impact of \$2,968,400 in the Division of Medicaid for the last 6 months of SFY 2018. The Division of Behavioral Health's Children's Mental Health program reverted \$1,181,600 General Fund for services that do not draw a federal match in SFY 2018 under House Bill 313. The Division of Medicaid will leverage matching federal funds through Federal Medical Assistance Percentage (FMAP) funding. In future years, as additional services are implemented as required by the lawsuit settlement agreement, there is an anticipated annual ongoing cost of \$8,300,000 (\$2,363,200 General Fund/\$5,936,800 federal funds).

In addition to the above fiscal impact, Rule Docket 16-0318-1701 in the 2018 legislative session is bringing forward sliding scale premiums for participants with income levels above 150% of the Federal Poverty Guidelines, as

directed under HB 313 in the 2017 legislative session. It is anticipated that revenue generated through premium collections will also contribute to offsetting the fiscal impact of the implementation of these services.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking was not feasible since these rule changes are not negotiable as the benefits included herein are court-ordered through the Jeff D settlement agreement.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Clay Lord at (208) 364-1979.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0310-1706
(Only Those Sections With Amendments Are Shown.)

634. ~~644.~~ (RESERVED)

YOUTH EMPOWERMENT SERVICES (YES) HOME AND COMMUNITY-BASED SERVICES (HCBS)
STATE PLAN OPTION
(Sections 635-638)

635. YOUTH EMPOWERMENT SERVICES (YES) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN OPTION.

Home and community-based services are provided through the HCBS State Plan option, as allowed in Section 1915(i) of the Social Security Act, for children who are YES program participants. HCBS state plan option services must be delivered in accordance with Sections 635 through 638 of these rules. ()

636. YOUTH EMPOWERMENT SERVICES (YES) HCBS STATE PLAN OPTION: DEFINITIONS.

For the purposes of Sections 635 through 638 of these rules, the following terms are used as defined below. ()

01. Idaho Behavioral Health Plan (IBHP). The Idaho Behavioral Health Plan is defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 011. ()

02. Independent Assessment. A comprehensive clinical diagnostic assessment and a Department-approved assessment tool to identify the child's needs, strengths, and degree of functional impairment, administered by a Department-designated independent assessor. The assessment process also includes the following activities: ()

a. Evaluation of the child's current behavioral health, living situation, relationships, and family functioning: ()

b. Contacts, as necessary, with significant individuals such as family and teachers; and ()

c. A review of information regarding the child's clinical, educational, social, and behavioral health, and juvenile/criminal justice history. ()

03. **Person-centered Service Plan.** The person-centered service plan identifies the participant's physical and behavioral health services and supports needs. The person-centered service plan must be reviewed and updated by the Department or its designated representative at least every twelve (12) months, upon the participant's request, when new services are needed, or when there is a significant change in the participant's condition. ()

04. **Serious Emotional Disturbance (SED).** The term "serious emotional disturbance" is defined in Section 16-2403, Idaho Code. ()

05. **YES Program Participant.** A YES program participant is an Idaho resident under eighteen (18) years of age with a serious emotional disturbance as determined by an independent assessment. ()

637. YOUTH EMPOWERMENT SERVICES (YES) HCBS STATE PLAN OPTION: ELIGIBILITY REDETERMINATION.

YES program participant eligibility must be redetermined by an independent assessment every twelve (12) months. The Department may extend participant eligibility to allow for redetermination if the independent assessment is unavoidably delayed. ()

638. YOUTH EMPOWERMENT SERVICES (YES) HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.

The following services are covered for YES participants: ()

01. **Respite Care.** Respite care provides supervision to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver of a YES program participant. Respite care is available in response to a family emergency or crisis, or may be used on a regular basis to provide relief to the caregiver. Payment and administration of respite care services will be done through the IBHP and will be established by the Department in the IBHP contract. ()

02. **Person-Centered Planning.** A person-centered planning team, comprised of the participant, family members, and other support persons significant to the participant, will direct the development of the person-centered service plan through a process approved by the Department. The process will include support necessary to enable the participant and his family to make informed choices and decisions concerning the person-centered service plan. ()

639. -- 644. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1707

NOTICE OF RULEMAKING – PROPOSED RULE

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

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

PUBLIC HEARING

Monday, October 23, 2017 — 3:00 p.m. (MDT)

**Medicaid Central Office
3232 Elder Street
Conference Room D - West/East
Boise, ID 83705**

TELECONFERENCE CALL-IN

**Toll Free: 1-877-820-7831
Participant Code: 301388**

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:

Under a court-approved settlement agreement, the Department is implementing the use of a new assessment tool to replace the SIB-R assessment tool. The Department uses assessment tools to determine developmental disability eligibility, waiver eligibility, skill level, and the participant's budget for services. Reference to the SIB-R assessment tool is being removed from this chapter and will no longer be incorporated by reference. The Department-approved assessment tool is being defined in the chapter and all references to the SIB-R will be removed and replaced throughout this chapter. Any manuals for new assessment tools being used by the Department are not being incorporated by reference. Other amendments to these rules are for updating terminology and references in these rules as needed.

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

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

The fiscal impact to implement and use a new assessment tool is a total of \$909,375. These costs are funded by 71.26% (\$648,020) federal funds and 28.74% (\$261,355) state general funds. The costs to the state were included in the SFY 2018 budget previously approved by the 2017 Legislature.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Department determined it was not feasible to do negotiated rulemaking because the change is being made to comply with a court-approved settlement agreement.

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 SIB-R Comprehensive Manual is being deleted from the documents that are incorporated by reference in this chapter of rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Westbrook at (208) 364.1960.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0310-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The Department has incorporated by reference the following document: (3-19-07)

01. 42 CFR Part 447. 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations website at http://www.ecfr.gov/cgi-bin/text-idx?SID=3ec1965dbf5044d8f79b25d4d58c4cd1&mc=true&tpl=/ecfrbrowse/Title42/42cfrv4_02.tpl#0. (3-19-07)

02. CDT - 2007/2008 (Current Dental Terminology, Sixth Edition). Current Dental Terminology, Sixth Edition, is available from the American Dental Association, 211 East Chicago Ave., Chicago, IL 60601-9985, or may be ordered online at <http://www.adacatalog.org>. A copy is available for public review at the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (5-8-09)

03. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives. This document may be obtained from American Hospital Publishing, Inc., 211 E. Chicago Ave., Chicago, IL 60611. (3-19-07)

04. Medicare Region D Durable Medical Equipment Regional Carrier (DMERC) Supplier Manual or Its Successor. The full text of the Medicare Region D DMERC Supplier Manual Chapters IX and X, date April 2001, is available via the Internet at www.cignamedicare.com. A copy is also available at the Idaho State Supreme Court Law Library. (3-19-07)

05. Provider Reimbursement Manual (PRM). The Provider Reimbursement Manual (PRM), Part I and Part II CMS Publication 15-1 and 15-2, is available on the CMS website at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals.html>. (3-19-07)

06. Resource Utilization Groups (RUG) Grouper. The RUG III, version 5.12, 34 Grouper, nursing weights only, with index maximization. The RUG Grouper is available from CMS, 7500 Security Blvd., Baltimore, MD, 21244-1850. (3-19-07)

~~07. **SIB-R Comprehensive Manual.** Scales of Independent Behavior—Revised Comprehensive Manual, 1996, Riverside Publishing Co, 425 Spring Lake Drive, Itasca, IL 60143-2079. (3-19-07)~~

087. Travel Policies and Procedures of the Idaho State Board of Examiners. The text of “Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners,” Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.idaho.gov/>. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

503. DEVELOPMENTAL DISABILITY DETERMINATION: TEST INSTRUMENTS.

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

01. Test Instruments For Adults. ~~Unless contra indicated, the following test instruments or subsequent revisions~~ A Department-approved assessment tool for conducting cognitive and functional assessments must be used to determine eligibility. ~~(3-19-07)()~~

~~a. Cognitive: Wechsler Adult Intelligence Scale-Third Edition (WAIS-III). (3-19-07)~~

~~b. Functional: Scales of Independent Behavior Revised (SIB-R). (3-19-07)~~

02. Test Instruments for Children. The assessments utilized to determine eligibility must be based on age appropriate criteria. Evaluations must be performed by qualified personnel with experience and expertise with children; selected evaluation tools and practices should be age appropriate, based on consideration of the child's language and motor skills. ~~Unless contraindicated, the most recent version of the following test instruments~~ A Department-approved assessment tool for conducting cognitive and functional assessments must be used with children. ~~(7-1-11)()~~

~~a. Cognitive: (3-19-07)~~

~~i. Bayley Scales of Infant Development, for ages birth through forty-two (42) months; (7-1-11)~~

~~ii. Stanford Binet Intelligence Scales, for ages two (2) years through adult; (7-1-11)~~

~~iii. Wechsler Preschool and Primary Scale of Intelligence, for ages two (2) years, six (6) months to seven (7) years, three (3) months; (7-1-11)~~

~~iv. Wechsler Intelligence Scale for Children, for ages six (6) through sixteen (16) years, eleven (11) months; or (7-1-11)~~

~~v. Wechsler Adult Intelligence Scale, for ages sixteen (16) years to adult. (7-1-11)~~

~~b. Functional: (3-19-07)~~

~~i. Battelle Developmental Inventory, 2nd Edition (BDI-2) for ages birth to ninety-five (95) months; (3-19-07)~~

~~ii. Scales of Independent Behavior (SIB-R) for ages birth through adult; or (7-1-11)~~

- iii. ~~Mullen Scales of Early Learning (MSEL) for ages birth to three (3) years.~~ (7-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

508. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: DEFINITIONS.

For the purposes of these rules the following terms are used as defined below. (3-29-12)

- 01. Adult.** A person who is eighteen (18) years of age or older. (3-29-10)
- 02. Assessment.** A process that is described in Section 509 of these rules for program eligibility and in Section 512 of these rules for plan of service. (3-19-07)
- 03. Clinical Review.** A process of professional review that validates the need for continued services. (3-19-07)
- 04. Community Crisis Support.** Intervention for participants who are at risk of losing housing, employment or income, or who are at risk of incarceration, physical harm, family altercations or other emergencies. (3-19-07)
- 05. Concurrent Review.** A clinical review to determine the need for continued prior authorization of services. (3-19-07)
- 06. Department-Approved Assessment Tool.** Any standardized assessment tool approved by the Department for use in determining developmental disability eligibility, waiver eligibility, skill level to identify the participant's needs for the plan of service, and for determining the participant's budget. ()
- ~~067.~~ **Exception Review.** A clinical review of a plan that falls outside the established standards. (3-19-07)
- ~~078.~~ **Interdisciplinary Team.** For purposes of these rules, the interdisciplinary team is a team of professionals, determined by the Department, that reviews requests for reconsideration. (3-19-07)
- ~~089.~~ **Level of Support.** An assessment score derived from ~~the SIB-R~~ a Department-approved assessment tool that indicates types and amounts of services and supports necessary to allow the individual to live independently and safely in the community. (3-19-07)()
- ~~0910.~~ **Person-Centered Planning Process.** A meeting facilitated by the participant or plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service. (7-1-16)
- ~~101.~~ **Person-Centered Planning Team.** The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. (3-19-07)
- ~~112.~~ **Plan Developer.** A paid or non-paid person identified by the participant who is responsible for developing one (1) plan of service and subsequent addenda that cover all services and supports, based on a person-centered planning process. (3-19-07)
- ~~123.~~ **Plan Monitor.** A person who oversees the provision of services on a paid or non-paid basis. (3-19-07)
- ~~134.~~ **Plan of Service.** An initial or annual plan that identifies all services and supports based on a

person-centered planning process. Plans are authorized annually every three hundred sixty-five (365) days. (3-19-07)

145. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by these rules. (3-19-07)

156. Provider Status Review. The written documentation that identifies the participant's progress toward goals defined in the plan of service. (3-19-07)

167. Right Care. Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. (3-19-07)

178. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (3-19-07)

189. Right Price. The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. (3-19-07)

1920. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (3-19-07)

201. Service Coordination. Service coordination is an activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. (3-19-07)

212. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under Sections 729 through 732 of these rules. (3-19-07)

223. Services. Services paid for by the Department that enable the individual to reside safely and effectively in the community. (3-19-07)

~~**23. SIB-R.** *The Scales of Independent Behavior—Revised (SIB-R) is a standardized assessment tool evaluating functional skill levels and evaluating maladaptive behavior. The SIB-R is used by the Department to determine developmental disability eligibility, waiver eligibility, skill level to identify the participant's needs for the plan of service, and for determining the participant budget.* (3-19-07)~~

24. Supports. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. (3-19-07)

509. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: ELIGIBILITY DETERMINATION.

The Department will make the final determination of an individual's eligibility, based upon the assessments and evaluations administered by the Department. Initial and annual assessments must be performed by the Department. The purpose of the assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402, Idaho Code, and Sections 500 through 506 of these rules and for ICF/ID level of care for waiver services in accordance with Section 584 of these rules. (3-29-12)

01. Initial Assessment. For new applicants, an assessment must be completed within thirty (30) days from the date a completed application is submitted. (3-19-07)

02. Annual Assessments. Assessments must also be completed for current participants at the time of their annual eligibility redetermination. The assessor must evaluate whether assessments are current and accurately describe the status of the participant. At least sixty (60) days before the expiration of the current plan of service: (3-19-07)

a. The assessment process must be completed; and (3-19-07)

- b. The assessor must provide the results of the assessment to the participant. (3-19-07)

03. Determination of Developmental Disability Eligibility. The evaluations or assessments that are required for determining developmental disabilities for a participant's eligibility for developmental disabilities services must include a medical/social history and a functional assessment. Participants must provide the results of psychometric testing if eligibility for developmental disabilities services is based on an intellectual disability and they have no prior testing or prior testing is inconclusive. Documentation of diagnosis is required for participants whose eligibility is based on developmental disabilities other than an intellectual disability. A ~~SIB-R~~ Department-approved assessment tool will be administered by the Department for use in this determination. ~~(3-19-07)~~ ()

04. ICF/ID Level of Care Determination for Waiver Services. The assessor will determine ICF/ID level of care for adults in accordance with Section 584 of these rules. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

512. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: PROCEDURAL REQUIREMENTS.

01. Assessment for Plan of Service. The assessment for a plan of service is required for all participants prior to the development of the plan of service. This assessment must include the following in Subsections 512.02 through 512.06 of these rules. (3-19-07)

02. Physician's History and Physical. The history and physical must include a physician's referral for nursing services under the DD waivers and for developmental disabilities agencies' services, if they are anticipated to be part of the plan of service. A physician's history and physical is required within the year prior to the initiation of service and thereafter on a frequency determined by the physician. For participants in Healthy Connections: (3-29-10)

a. The Healthy Connections physician may delegate to the Department the authority to approve developmental disability services. (3-19-07)

b. The Healthy Connections physician must conduct the history and physical, and may refer the participant for other evaluations. (3-19-07)

03. Medical, Social, and Developmental History. The medical, social and developmental history is used to document the participant's medical social and developmental history information. A current medical social and developmental history must be evaluated prior to the initiation of developmental therapy and must be reviewed annually to assure it continues to reflect accurate information about the participant's status. (7-1-13)

a. A medical, social and developmental history for each adult participant is completed by the Department or its contractor. (7-1-13)

b. Providers should obtain and utilize the medical, social developmental history documents generated by the Department or its contractor when one is necessary for adult program or plan development. (7-1-13)

04. ~~SIB-R~~ Department-Approved Assessment Tool. The results of ~~the SIB-R~~ a Department-approved assessment tool are used to determine the level of support for the participant. A current ~~SIB-R~~ Department-approved assessment tool must be evaluated prior to the initiation of service and must be reviewed annually to assure it continues to reflect the functional status of the participant. ~~The SIB-R~~ A department-approved assessment tool for adults is completed by the Department or its contractor. Providers must obtain and utilize the document generated by the Department or its contractor when one is necessary for program or plan development. ~~(7-1-13)~~ ()

05. Medical Condition. The participant's medical conditions, risk of deterioration, living conditions, and individual goals. (3-19-07)

06. Behavioral or Psychiatric Needs. Behavioral or psychiatric needs that require special consideration. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

514. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: PROVIDER REIMBURSEMENT.

Providers are reimbursed on a fee for service basis based on a participant budget. (3-29-12)

01. Individualized Budget Beginning on October 1, 2006. Beginning October 1, 2006, for DD waiver participants, and beginning January 1, 2007, for all other adult DD participants, the Department sets an individualized budget for each participant according to an individualized measurement of the participant's functional abilities, behavioral limitations, and medical needs, related to the participant's disability. Using these specific participant factors, the budget-setting methodology will correlate a participant's characteristics with the participant's individualized budget amount, so participants with higher needs will be assigned a higher individualized budget amount. (3-29-12)

a. The Department notifies each participant of his set budget amount as part of the eligibility determination process or annual redetermination process. The notification will include how the participant may appeal the set budget amount. (3-29-12)

b. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes in the participant's condition resulting in a need for services that meet medical necessity criteria, and this is not reflected on the current inventory of individual needs. (3-29-12)

02. Residential Habilitation - Supported Living Acuity-Based Levels of Support. Reimbursement for residential habilitation - supported living is based on the participant's assessed level of support need. All plans of service that include supported living must include community integration goals that provide for maintained or enhanced independence, quality of life, and self-determination. As a participant's independence increases and he is less dependent on supports, he must transition to less intense supports. (3-19-07)

a. High support is for those participants who require twenty-four (24) hour per day supports and supervision ~~and have an SIB-R Support Level of Pervasive, Extensive, or Frequent~~ **as determined by a Department-approved assessment tool.** High support allows for a blend of one-to-one and group staffing. Participants authorized at the high support daily rate will not be authorized to receive developmental therapy services, adult day care, or non-medical transportation. These services are included in the high support daily rate. (3-19-07)()

b. Intense support is for those exceptional participants who require intense, twenty-four (24) hour per day supports and supervision. This support level typically requires one-on-one staffing, but requests for a blend of one-on-one and group staffing will be reviewed on a case-by-case basis. Participants authorized at the intense support daily rate will not be authorized to receive developmental therapy services, adult day care, or non-medical transportation. These services are included in the intense support daily rate. To qualify for this level of support, participants must be evaluated to meet one or more of the following criteria: (3-19-07)

i. Recent felony convictions or charges for offenses related to the serious injury or harm of another person. These participants must have been placed in a supported living setting directly from incarceration or directly after being diverted from incarceration. (3-19-07)

ii. History of predatory sexual offenses and are at high risk to re-offend based on a sexual offender risk assessment completed by an appropriate professional. (3-19-07)

iii. Documented, sustained history of serious aggressive behavior showing a pattern of causing harm to themselves or others. The serious aggressive behavior must be such that the threat or use of force on another person

makes that person reasonably fear bodily harm. The participant must also have the capability to carry out such a threat. The frequency and intensity of this type of aggressive behavior must require continuous monitoring to prevent injury to themselves or others. (3-19-07)

iv. Chronic or acute medical conditions that are so complex or unstable that one-to-one staffing is required to provide frequent interventions and constant monitoring. Without this intervention and monitoring the participant would require placement in a nursing facility, hospital, or ICF/ID with twenty-four (24) hour on-site nursing. Verification of the complex medical condition and the need for this level of service requires medical documentation. (3-19-07)

c. Hourly support is for those individuals that do not meet criteria for either high or intense supports or those individuals who qualify for a daily rate but whose needs can be met with less than twenty-four (24) per day support. The combination of hourly supported living, developmental therapy, community supported employment, and adult day care will not be authorized to exceed the maximum set daily amount established by the Department except when all of the following conditions are met: (3-19-07)

i. The participant is eligible to receive the high support daily rate; (3-19-07)

ii. Community supported employment is included in the plan and is causing the combination to exceed the daily limit; (3-19-07)

iii. There is documentation that the Person-Centered Planning team has explored other options including using lower cost services and natural supports; and (3-19-07)

iv. The participant's health and safety needs will be met using hourly services despite having been assessed to qualify for twenty-four (24) hour care. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

584. ICF/ID: CRITERIA FOR DETERMINING ELIGIBILITY.

Individuals who have intellectual disabilities or a related condition as defined in Section 66-402, Idaho Code, and Sections 500 through 503 of these rules, must be determined by an interdisciplinary team to need the consistent, intense, frequent services including active treatment provided in an ICF/ID or receive services under one of Idaho's programs to assist individuals with intellectual disabilities or a related condition to avoid institutionalization in an ICF/ID, as indicated in Section 584.02 of these rules. To meet Title XIX and Title XXI entitlement for ICF/ID level of care and be eligible for services provided in an ICF/ID. The following must be met in Subsections 584.01 through 584.08 of these rules. (3-19-07)

01. Diagnosis. Persons must be financially eligible for Medicaid; must have a primary diagnosis of being intellectually disabled or have a related condition defined in Section 66-402, Idaho Code and Section 500 through 506 of these rules; and persons must qualify based on functional assessment, maladaptive behavior, a combination of both, or medical condition. (3-19-07)

02. Active Treatment. Persons living in an ICF/ID, must require and receive intensive inpatient active treatment as defined in Section 010 of these rules, to advance or maintain his functional level. (3-19-07)

a. Active treatment does not include: parenting activities directed toward the acquisition of age-appropriate developmental milestones; services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous active treatment program or services; interventions that address age-appropriate limitations; or general supervision of children whose age is such that such supervision is required by all children of the same age. (3-19-07)

b. The following criteria/components will be utilized when evaluating the need for active treatment: (3-19-07)

i. Evaluation. Complete medical, social, and psychological evaluations. These evaluations must clearly indicate the functional level of the participant and the interventions needed; and (3-19-07)

ii. Plan of Care. A written plan of care which sets forth initial goals and objectives, specifies further evaluations to be done, and training programs to be developed. (3-19-07)

03. Must Require Certain Level of Care. Persons living in the community must require the level of care provided in an ICF/ID, including active treatment, and in the absence of available intensive alternative services in the community, would require institutionalization, other than services in an institution for mental disease, in the near future. (3-19-07)

04. Care for a Child. The department may provide Medicaid to a child eighteen (18) years of age or younger, who would be eligible for Medicaid if they were in a medical institution and who are receiving, while living at home, medical care that would be provided in a medical institution, if the Department determines that the child requires the level of care provided in an ICF/ID. (3-19-07)

05. Functional Limitations. (3-19-07)

a. Persons Sixteen Years of Age or Older. Persons ~~sixteen (16) years of age or older~~ may qualify based on their functional skills. Persons with an age equivalency composite score of eight (8) years and zero (0) months or less on a full scale functional assessment ~~(Woodcock Johnson Scales of Independent Behavior, or SIB-R, or subsequent revisions)~~ using a Department-approved assessment tool would qualify; or ~~(3-19-07)~~()

b. Persons Under Sixteen Years of Age. Persons ~~under sixteen (16) years of age~~ qualify if their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; or ~~(3-19-07)~~()

06. Maladaptive Behavior. (3-19-07)

a. A Minus Twenty-Two (-22) or Below Score. Individuals may qualify for ICF/ID level of care based on maladaptive behavior. Persons will be eligible if their General Maladaptive Index on ~~the Woodcock Johnson Scales of Independent Behavior (SIB-R) or subsequent revision~~ a Department-approved assessment tool is minus twenty-two (-22) or less; or ~~(3-19-07)~~()

b. Above a Minus Twenty-Two (-22) Score. Individuals who score above minus twenty-two (-22) may qualify for ICF/ID level of care if they engage in aggressive or self injurious behaviors of such intensity that the behavior seriously endangers the safety of the individual or others, the behavior is directly related to developmental disability, and the person requires active treatment to control or decrease the behavior; or (3-19-07)

07. Combination Functional and Maladaptive Behaviors. Persons may qualify for ICF/ID level of care if they display a combination of criteria as described in Subsections 584.05 and 584.06 of these rules at a level that is significant and it can be determined they are in need of the level of services provided in an ICF/ID, including active treatment services. Significance would be defined as: (3-19-07)

a. Persons Sixteen Years of Age or Older. For persons sixteen (16) years of age or older, an overall age equivalency up to eight and one-half (8 1/2) years is significant in the area of functionality when combined with a General Maladaptive Index on ~~the Woodcock Johnson SIB-R~~ a Department-approved assessment tool up to minus seventeen (-17), minus twenty-two (-22) inclusive; or ~~(3-19-07)~~()

b. Persons Under Sixteen Years of Age. For persons under sixteen (16) years of age, an overall age equivalency up to fifty-three percent (53%) of their chronological age is considered significant when combined with a General Maladaptive Index on ~~the Woodcock Johnson SIB-R~~ a Department-approved assessment tool between minus seventeen (-17), and minus twenty-one (-21) inclusive; or ~~(3-19-07)~~()

08. Medical Condition. Individuals may meet ICF/ID level of care based on their medical condition if the medical condition significantly affects their functional level/capabilities and it can be determined that they are in need of the level of services provided in an ICF/ID, including active treatment services. (3-19-07)

09. Annual Redetermination for ICF/ID Level of Care for Community Services. The RMS staff must redetermine the participant's continuing need for ICF/ID level of care for community services. Documentation will consist of the completion of a redetermination statement on the "Level of Care" form HW0083. Such documentation will be accomplished no later than every three hundred sixty-five (365) days from the most recent determination. (3-19-07)

a. Home Care for Certain Disabled Children (HCDC). Persons receiving HCDC Medicaid services through ICF/ID eligibility, will receive services until the end of the month in which the redetermination was made. These individuals must receive ten (10) days notification of termination of services. If the redetermination is made less than ten (10) days from the end of the month, payment continues until the end of the following month. (3-19-07)

b. Developmentally Disabled Waiver. Individuals receiving developmentally disabled waiver services will have thirty (30) days from the time of the determination to transition to other community supports. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

682. CHILDREN'S WAIVER SERVICES: ELIGIBILITY.

Waiver eligibility will be determined by the Department as described in Section 522 of these rules. Children's waiver participants must meet the following requirements: (7-1-11)

01. Age of Participants. The following waiver programs are available for children: (7-1-11)

a. Children's DD Waiver. Children's DD waiver participants must be birth through seventeen (17) years of age. (7-1-11)

b. Act Early Waiver. Act Early waiver participants must be three (3) through six (6) years of age. (7-1-11)

02. Eligibility Determinations. The Department must determine that: (7-1-11)

a. The participant would qualify for ICF/ID level of care as set forth in Section 584 of these rules, if the waiver services listed in Section 683 of these rules were not made available; and (7-1-11)

b. The participant could be safely and effectively maintained in the requested or chosen community residence with appropriate waiver services. This determination must: be made by a team of individuals with input from the family-centered planning team. Prior to any denial of services, it must be determined by the plan developer that services to correct the concerns of the team are not available. (7-1-11)

c. The average annual cost of waiver services and other medical services to participants would not exceed the average annual cost to Medicaid of ICF/ID care and other medical costs. (7-1-11)

d. Following the approval by the Department for services under the waiver, the participant must receive and continue to receive a waiver service as described in these rules. A participant who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. (7-1-11)

03. Additional Act Early Waiver Requirements. In addition to the requirements listed in Subsections 682.01 and 682.02 of this rule, a participant must have the following characteristics to qualify for Act Early waiver services: (7-1-11)

a. An autism spectrum diagnosis; or (7-1-11)

b. Self-injurious, aggressive, or severely maladaptive behavior as evidenced by a General Maladaptive Index score of minus twenty-two (-22) or below on ~~the Scales of Independent Behavior - Revised (SIB-R)~~ a Department-approved assessment tool or other behavioral assessment indicators identified by the Department

and a severe deficit, defined as having a composite full scale functional age equivalency of fifty percent (50%) or less of the participant's chronological age. ~~(7-1-11)~~ ()

04. Children's Waiver Eligible Participants. A participant who is determined by the Department to be eligible for services under the children's waivers may elect not to use waiver services, but may choose admission to an ICF/ID. (7-1-11)

05. Home and Community-Based Waiver Participant Limitations. The number of Medicaid participants to receive waiver services under the children's waivers for participants with developmental disabilities will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after June 30th of each new waiver year. (7-1-11)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.18 – MEDICAID COST-SHARING

DOCKET NO. 16-0318-1701 (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 56-202(b), 56-253, and 56-257, Idaho Code; and House Bill 43 (2017).

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

<p>PUBLIC HEARING Wednesday, October 18, 2017 — 9:00 a.m. (Local)</p>

Central Idaho - DHW Office
3232 Elder Street
Conference Room D - East
Boise, ID 83705

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:

These rule changes will enable the Department to charge a monthly premium to YES participants whose family income is above Title XIX income limits. The Department is charging a premium to comply with the cost-sharing provisions in Section 56-257, Idaho Code, as well as to uphold parity among similar programs targeting populations of Idaho children with special health care needs.

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

The Department will establish a premium fee schedule at rates not to exceed maximums set forth in federal law (i.e., the aggregate limit of five percent (5%) of the family's income at 42 CFR 447.56) and regulations governing state Medicaid programs. The fee schedule will be published on the Department's website and provided to families participating in the Youth Empowerment Services (YES) program who are subject to premiums. This monthly premium may be waived if the Department determines that the family is unable to participate in the cost of care. The fee is being imposed pursuant to Section 56-257, Idaho Code.

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

The costs for the Youth Empowerment Services (YES) program were originally estimated in the fiscal note for House Bill 43 (2017) and funding addressed in House Bill 313 the same year, which provided legislative direction to pursue premiums for families of children with serious emotional disturbance. This cost-sharing rule establishes a sliding scale premium for eligible YES participants over 150% of the Federal Poverty Guidelines. Based on similar premium cost sharing methodologies, it is estimated that these premiums will generate approximately \$57,000 in receipts in SFY 2019, \$86,000 in SFY 2020, and \$115,000 in SFY 2021. These premiums will contribute to offsetting future costs of the YES program as services are implemented over time.

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 7, 2017, Idaho Administrative Bulletin, [Vol. 17-6, pages 43 and 44](#).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Clay Lord at (208) 364-1979.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0318-1701
(Only Those Sections With Amendments Are Shown.)

001. TITLE, SCOPE, AND POLICY.

01. Title. The title of this chapter is IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-19-07)

02. Scope. ~~(3-21-12)~~

~~a-~~ These rules describe the general requirements regarding the administration of the cost-sharing provisions for participation in a medical assistance program providing direct benefits in Idaho. (3-21-12)

~~b-~~ ~~This chapter does not apply to participants receiving benefits under IDAPA 16.03.16, "Premium Assistance."~~ ~~(3-21-12)~~

03. Policy. It is the policy of the Department that certain participants share in the cost of their benefits. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

~~206. —209.~~ (RESERVED)

207. PREMIUMS FOR PARTICIPATION UNDER THE YOUTH EMPOWERMENT SERVICES (YES) PROGRAM.

01. Premium Fee Schedule. Each YES program participant, as that individual is defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 636, is subject to assessment of a premium based on family income. The Department will establish a premium fee schedule at rates not to exceed maximums set forth in federal law and regulations governing state Medicaid programs. The fee schedule will be published on the Department's website and provided to families participating in the YES program who are subject to premiums. ()

02. Enforcement of Premiums. Payment of premiums will be enforced within the limitations of federal laws and regulations governing state Medicaid programs. ()

03. Waiver of Premium. The monthly premium described in Subsection 207.01 of this rule may be waived if the Department determines that the family is unable to participate in the cost of care. ()

04. Premium Recalculation. The premium amount is recalculated at each annual eligibility redetermination. If a financially responsible adult reports a reduction in family income prior to eligibility redetermination, the premium will be reduced to the appropriate level upon verification of the reduction in the family's income. When the family income is reduced to a level that does not require premium payments, the premium will no longer be assessed. ()

208. -- 209. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.07 – THE INVESTIGATION AND ENFORCEMENT OF FRAUD, ABUSE, AND MISCONDUCT

DOCKET NO. 16-0507-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b), 56-203(1) & (2), 56-209h, 56-227, 56-227A through D, 56-1001, and 56-1003, Idaho Code, and 42 CFR 1002.214 and 1002.215.

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 October 18, 2017.

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

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

The amendments to these rules are to align ownership or control interest with percentages and definitions with other existing state rules and federal definitions. Payment suspensions under federal regulations can be suspended without first notifying a Medicaid provider of the intention to do so under certain circumstances and these rules are being amended to allow the Department to do so. This ability was inadvertently removed from the rule when other public assistance providers were added to these rules in 2014. Medicaid providers will continue to receive notification of payment suspensions under federal requirements in 42 CFR455.23(b).

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

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

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication. This rulemaking is intended to be cost-neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Department determined it was not feasible to do negotiated rulemaking as this rule change aligns with federal regulations and other Department rules.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lori Stiles at (208) 334-0653.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0507-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS AND ABBREVIATIONS.

For purposes of this chapter of rules, the following terms apply. (3-20-14)

01. Abuse or Abusive. Provider practices that are inconsistent with sound fiscal, business, child care, or medical practices, and result in an unnecessary cost to a public assistance program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a medical assistance recipient. (3-20-14)

02. Access to Documentation and Records. To review and copy records at the time a written request is made during normal business hours. Documentation includes all materials as described in Section 101 of these rules. (3-30-07)

03. Claim. Any request or demand for payment, or document submitted to initiate payment, for items or services provided under a public assistance program, whether under a contract or otherwise. (3-20-14)

04. Conviction. An individual or entity is considered to have been convicted of a criminal offense: (3-30-07)

a. When a judgment of conviction has been entered against the individual or entity by a federal, state, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged; (3-30-07)

b. When there has been a finding of guilt against the individual or entity by a federal, state, or local court; (3-30-07)

c. When a plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court; or (3-30-07)

d. When the individual or entity has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. (3-30-07)

05. Department. The Idaho Department of Health and Welfare, its authorized agent or designee. (3-30-07)

06. Exclusion. A specific person or provider will be precluded from directly or indirectly providing services and receiving reimbursement under Medicaid. (3-30-07)

07. Fraud or Fraudulent. An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. (3-30-07)

08. Knowingly, Known, or With Knowledge. A person, with respect to information or an action, who: (3-20-14)

a. Has actual knowledge of the information or an action; (3-20-14)

b. Acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or (3-20-14)

c. Acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (3-20-14)

- 09. Managing Employee.** A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency. (3-30-07)
- 10. Medicaid.** Idaho's Medical Assistance Program. (3-30-07)
- 11. Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)
- 12. Ownership or Control Interest.** A person or entity that: (3-20-14)
- a.** Has an ownership interest totaling ~~twenty~~-five percent (25%) or more in an entity; ~~(3-20-14)~~ ()
 - b.** Is an officer or director of an entity that is organized as a corporation; (3-20-14)
 - c.** Is a partner in an entity that is organized as a partnership; or (3-20-14)
 - d.** Is a managing member in an entity that is organized as a limited liability company. (3-20-14)
- 13. Participant.** An individual or recipient who is eligible and enrolled in any public assistance program. (3-20-14)
- 14. Person.** An individual, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private. (3-30-07)
- 15. Program.** Any public assistance program, including the Medicaid program and Idaho's State Plan, or any parts thereof. (3-20-14)
- 16. Provider.** An individual, organization, agency, or other entity providing items or services under a public assistance program. (3-20-14)
- 17. Provider Agreement.** A written agreement between the Department and a provider or group of providers of supplies or services. This agreement contains any terms or conditions deemed appropriate by the Department. (3-30-07)
- 18. Public Assistance Program.** Assistance for which provision is made in any federal or state law existing, or hereafter enacted, by the state of Idaho or the congress of the United States by which payments are made from the federal government to the state in aid, or in respect to payment by the state for welfare purposes to any category of needy person, and any other program of assistance for which provision for federal or state funds for aid may from time to time be made. (3-20-14)
- 19. Recoup and Recoupment.** The collection of funds for the purpose of recovering overpayments made to providers for items or services the Department has determined should not have been paid. The recoupment may occur through the collection of future claims paid or other means. (3-30-07)
- 20. Sanction.** Any abatement or corrective action taken by the Department which is appealable under Section 003 of these rules. (3-30-07)
- 21. State Plan.** The contract between the state and federal government under 42 U.S.C. section 1396a(a). (3-30-07)
- 22. Title XIX.** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-30-07)
- 23. Title XXI.** Title XXI of the Social Security Act, known as the Children's Health Insurance Program

(CHIP). This is a program that primarily pays for medical assistance for low-income children. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

210. SUSPENSION OF PAYMENTS PENDING INVESTIGATION.

The Department may suspend public-assistance payments in whole or part in a suspected case of fraud or abuse pending investigation and conclusion of legal proceedings related to the provider's alleged fraud or abuse. When payments have been suspended under this section of rule, the Department will provide for a hearing within thirty (30) days of receipt of any timely filed notice of appeal. (3-20-14)

01. Basis for Suspension of Payments. When the Department through reliable evidence suspects fraud or abuse, or when a provider fails to provide immediate access to records, public-assistance payments may be withheld or suspended. (3-20-14)

02. Notice of Suspension of Payments. The Department may ~~not~~ withhold public-assistance payments without first notifying the provider of its intention to do so when the Department is suspending payments of a Medicaid provider. The Department will send written notice within five (5) days of taking such action in accordance with 42 CFR 455.23(b). All other public assistance providers will be notified prior to the suspension of payments. ~~(3-20-14)~~()

03. Duration of Suspension of Payments. The withholding of payment actions under this section of rule will be temporary and will not continue after: (3-30-07)

a. The Department or the prosecuting authorities determine there is insufficient evidence of fraud or willful misrepresentation by the provider; or (3-30-07)

b. Legal proceedings related to the provider's alleged fraud or abuse are completed. (3-30-07)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.06.12 – RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
DOCKET NO. 16-0612-1701
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 56-202, Idaho Code, and CFR 45 Part 98.42.

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 October 18, 2017.

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

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

The Department is amending these rules to clarify and align with the Re-Authorization of Child Care and Development Block Grant federal regulations. The Department is implementing new health and safety requirements for child care providers around safe sleep for infants, streamlining and clarifying the processes for determining eligibility, and updating terms and references needed to meet federal and state requirements.

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

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

There is no anticipated fiscal impact to state general funds or to the federally-funded block grant for these proposed rule changes. This rulemaking is intended to be cost-neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Department determined it was not feasible to do negotiated rulemaking as this rule change aligns with federal regulations. The Idaho Child Care Program facilitated seven “open forums” with providers throughout the state. Information was shared with providers about rule additions for safe sleep practices that are needed to complete the federal requirements and received feedback from providers on the new health and safety trainings implemented this year.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ericka Rupp at (208) 334-5641.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
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450 W. State Street - 10th Floor
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0612-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH L.

The following definitions and abbreviations apply to this chapter: (4-2-08)

01. AABD. Aid to the Aged, Blind, and Disabled. (4-2-08)

02. Abuse or Abusive. Provider practices that are inconsistent with sound fiscal, business, or child care practices and result in an unnecessary cost to the Idaho Child Care Program, in reimbursement that is not necessary, or that fail to meet professional recognized standards for child care, or result in physical harm, pain, or mental anguish to children. (7-1-09)

03. Child. Any person under age eighteen (18) who is under the care of a parent, relative, or ~~a person eighteen (18) years of age or older who is claimed on tax returns as a dependent~~ someone acting in loco parentis. (4-2-08)()

04. Child Care. Care, control, supervision, or maintenance of a child provided for compensation by an individual, other than a parent, for less than twenty-four (24) hours in a day. (4-2-08)

05. Claim. Any request or demand for payment, or document submitted to initiate payment, for items or services provided under the Idaho Child Care Program. (7-1-09)

06. Department. The Idaho Department of Health and Welfare or its designee. (7-1-09)

07. Earned Income. Income received by a person as wages, tips, or self-employment income before deductions for taxes or any other purposes. (4-2-08)

08. Employment. A job paying wages or salary at federal or state minimum wage, whichever is applicable, including work paid by commission or in-kind compensation. Full or part-time participation in a VISTA or AmeriCorps program is also employment. (4-2-08)

09. Foster Care. The twenty-four (24) hour substitute care of children in the legal custody of the state of Idaho provided in a state licensed foster home by persons who may or may not be related to a child. Foster care is provided in lieu of parental care and is arranged through a private or public agency. (3-2-17)

10. Foster Child. A child in the legal custody of the state of Idaho placed for twenty-four (24) hour substitute care by a private or public agency. (3-2-17)

11. Foster Home. The private home of an individual or family licensed under the state of Idaho and providing twenty-four (24) hour substitute care to six (6) or fewer children. (3-2-17)

12. Fraud or Fraudulent. An intentional deception or misrepresentation made by a person with knowledge that the deception could result in some unauthorized benefit to himself or some other person. (7-1-09)

13. Good Cause. The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (7-1-99)

14. In Loco Parentis. Acting “in loco parentis” means a person who acts in place of a parent, assuming care and custody of a child ~~by a formal or informal agreement with the child's parent~~ by legal guardianship. (4-2-08)()

15. Intentional Program Violation (IPV). An intentional false or misleading action, omission, or

statement made in order to qualify as a provider or recipient in the Idaho Child Care program or to receive program benefits or reimbursement. (7-1-09)

16. Job Training and Education Program. A program designed to provide job training or education. Programs may include high school, junior college, community college, college or university, general equivalency diploma (GED), technical school, and vocational programs. To qualify as a Job Training and Education Program, the program must prepare the trainee for employment. (4-2-08)

17. Infant/Toddler. A child less than forty-eight (48) months of age. (3-2-17)

18. Incapacitated Parent. A parent who is determined by a licensed practitioner of the healing arts to be unfit, incapable, or significantly limited in his ability to provide adequate care for his child or ward. (3-2-17)

19. Knowingly, Known, or With Knowledge. With respect to information or an action about which a person has actual knowledge of the information or action; acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (7-1-09)

20. Legal Guardian. A court-appointed individual who acts as the primary caretaker of a child or minor. ()

~~201.~~ **Licensed Practitioner of the Healing Arts.** A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. (4-2-08)

011. DEFINITIONS AND ABBREVIATIONS -- M THROUGH Z.

The following definitions and abbreviations apply to this chapter of rules: (4-2-08)

01. Managing Employee. A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an organization or entity. (7-1-09)

02. Minor Parent. A parent under the age of eighteen (18). (4-2-08)

03. Non-Recurring Lump Sum Income. Income received by a family in a single payment, not expected to be available to the family again. (7-1-99)

04. Parent. A person responsible for a child because of birth, adoption, step-parent marriage, or legal guardianship, foster care; or a person acting in loco parentis. ~~(4-2-08)~~()

05. Preventive Services. Services needed to reduce or eliminate the need for protective intervention. Preventive services permit families to participate in activities designed to reduce or eliminate the need for out-of-home placement of a child by the Department. (4-2-08)

06. Prospective Income. Income a family expects to receive within a given time. This can be earned or unearned income. (7-1-99)

07. Provider. An individual, organization, agency, or other entity providing child care. (7-1-99)

08. Relative Provider. Grandparent, great-grandparent, aunt, uncle, or adult sibling by blood or current marriage who provides child care. (4-2-08)

09. SSI. Supplemental Security Income. (4-2-08)

10. Special Needs. Any child with physical, mental, emotional, behavioral disabilities, or developmental delays identified on an Individual Education Plan (IEP) or an Individualized Family Service Plan (IFSP). (4-2-08)

11. State Median Income (SMI). State Median Income Estimates in the Code of Federal Regulations are available on the U.S. Government Publishing Office website at <https://www.gpo.gov/fdsys>. (3-2-17)

12. TAFI. Temporary Assistance for Families in Idaho. (4-2-08)

13. Unearned Income. Unearned income includes retirement, interest child support, and any income received from a source other than employment or self-employment. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

070. INCOME LIMITS.

To be eligible for child care assistance, a family's countable income must meet the following guidelines using the published Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. (3-2-17)

01. Income at Application. At the time of application, a family's income must not exceed one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) for a family of the same size. (3-2-17)

02. Income During Eligibility Period. During the eligibility period, when a family's countable income exceeds eighty-five percent (85%) of the State Median Income (SMI) for a family of the same size, the family becomes ineligible for child care assistance. (3-2-17)

03. Income at Time of Redetermination. At the time of redetermination, if a family's income exceeds one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) for a family of the same size, ~~but does not exceed eighty five percent (85%) of the State Median Income (SMI) for a family of the same size,~~ the family may ~~be eligible to~~ receive a graduated phase out of child care assistance. (3-2-17)()

071. COUNTABLE INCOME.

All gross earned and unearned income is counted in determining eligibility and the child care benefit amount, unless specifically excluded under Section 072 of these rules. (5-1-11)

072. EXCLUDED INCOME.

The following sources of income are not counted as family income. (4-2-08)

01. Earned Income of a Dependent Child. Income earned by a dependent child under age eighteen (18) is not counted, unless the child is a parent who is seeking or receiving child care benefits. (4-2-08)

02. Income Received for Person Not Residing With the Family. Income received on behalf of a person who is not living in the home. (4-2-08)

03. Educational Funds. All educational funds including grants, scholarships, an AmeriCorps Education Award, and federal and state work-study income. (4-2-08)

04. Assistance. Assistance to meet a specific need from other organizations and agencies. (4-2-08)

05. Lump Sum Income. Non-recurring ~~or~~ lump sum income is excluded ~~as income if it is used to pay medical bills resulting from accident or injury, or used to pay funeral or burial costs. When lump sum income, minus exclusions, exceeds current income limits for a family of the same size, the family is not eligible to receive child care benefits. The period of ineligibility is computed by dividing the lump sum payment by the family's monthly income limit. In no case will the period of ineligibility exceed twelve (12) months.~~ (4-2-08)()

06. Loans. A loan is money received that is to be repaid. (3-2-17)

07. TAFI and AABD Benefits. (4-4-13)

- 08. Foster Care Payments.** (4-4-13)
- 09. AmeriCorps/VISTA Volunteers.** Living allowances, wages and stipends paid to AmeriCorps or VISTA volunteers under 42 U.C.S. 5044, P.L. 93-113, Title IV, Section 404(g) are excluded as income. (4-2-08)
- 10. Income Tax Refunds and Earned Income Tax Credits.** Income tax refunds and earned income tax credits are excluded as income. (4-2-08)
- 11. Travel Reimbursements.** Reimbursements from employers for work-related travel. (4-2-08)
- 12. Tribal Income.** Income received from a tribe for any purpose other than direct wages. (4-2-08)
- 13. Foster Parents' Income.** Income of licensed foster parents is excluded when determining eligibility for a foster child. Income is counted when determining eligibility for the foster parent's own child(ren). (4-2-08)
- 14. Adoption Assistance.** Adoption assistance payments are excluded from income. (4-2-08)
- 15. Temporary Census Income.** All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten-year U.S. Census. (4-7-11)
- 16. Office of Refugee Resettlement Assistance.** (4-4-13)
- 17. Workforce Investment Act (WIA) Benefits or Workforce Innovation and Opportunity Act (WIOA) Benefits.** (3-2-17)

(BREAK IN CONTINUITY OF SECTIONS)

077. CONVERTING INCOME TO A MONTHLY AMOUNT.

If a full month's income is expected, but is received on other than a monthly basis, convert the income to a monthly amount using one of the formulas below: (5-1-11)

- 01. Weekly Amount.** Multiply weekly amounts by four point three (4.3). (5-1-11)
- 02. Bi-Weekly Amount.** Multiply bi-weekly amounts by two point one five (2.15). (5-1-11)
- 03. Semi-Monthly Amount.** Multiply semi-monthly amounts by two (2). (5-1-11)
- 04. Salary Monthly Amount.** Use the exact monthly income if it is expected for each month of the certification period. (~~5-1-11~~)()

(BREAK IN CONTINUITY OF SECTIONS)

103. COOPERATION IN ESTABLISHMENT OF PATERNITY AND OBTAINING SUPPORT.

~~If a minor child has a non-custodial parent, the biological~~ A natural or adoptive parent, or other individual who lives with ~~the child~~ and exercises parental control over a minor child who has an absent parent, must cooperate in establishing paternity for the child and obtaining child support. (~~3-26-08~~)()

- 01. Providing All Information.** "Cooperation" includes providing all information to identify and locate the non-custodial parent. ~~At a minimum, the first and last name of the non-custodial parent and at least two (2) of the following pieces of information must be provided,~~ unless good cause for non-cooperation exists. (~~3-26-08~~)()

- ~~a. Birth date; (3-26-08)~~
- ~~b. Social Security Number; (3-26-08)~~
- ~~c. Current address; (3-26-08)~~
- ~~d. Current phone number; (3-26-08)~~
- ~~e. Current employer; (3-26-08)~~
- ~~f. Make, model, and license number of any motor vehicle owned by the non-custodial parent; and (3-26-08)~~
- ~~g. Name, phone numbers and addresses of the parents of the non-custodial parent. (3-26-08)~~

02. Established Case for Custodial Parent. After Child Support Services (CSS) has established a case for a custodial parent, all child support payments must be sent directly to CSS. If the custodial parent receives child support directly from the non-custodial parent, the custodial parent must forward the payment to CSS for receipting. (3-26-08)

03. Failure to Cooperate. (3-26-08)

a. Failure to cooperate includes failure to complete the non-custodial or alleged parent information or filiation affidavit as requested, failure to sign the limited power of attorney, or evidence of failure to cooperate provided by Child Support Services (CSS). (3-2-17)

b. When a parent or individual fails to cooperate in establishing paternity and obtaining support, the family is not eligible to participate in the Idaho Child Care Program. (3-26-08)

04. Exemptions From Cooperation Requirement. The parent or individual will not be required to provide information about the non-custodial or alleged parent or otherwise cooperate in establishing paternity or obtaining support if good cause for not cooperating exists. Good cause for failure to cooperate must be provided. (3-26-08)

a. Good cause for failure to cooperate in obtaining support is: (3-26-08)

i. Proof the child was conceived as a result of incest or forcible rape; (3-26-08)

ii. Proof the non-custodial parent may inflict physical or emotional harm to the children, the custodial parent or individual exercising parental control. This must be supported by medical evidence, police reports, or as a last resort, an affidavit from a knowledgeable source; and (3-26-08)

iii. Substantial and credible proof is provided indicating the custodial parent cannot provide the minimum information regarding the non-custodial parent. (3-26-08)

b. A parent or individual claiming good cause for failure to cooperate must submit a notarized statement to the Department identifying the child for whom the exemption is claimed. The statement must list the reasons for the good cause claim. (3-26-08)

c. The cooperation requirement will be waived if good cause exists. No further action will be taken to establish paternity or obtain support. If good cause does not exist the parent will be notified that he is not eligible to receive Idaho Child Care program benefits, until child support cooperation as been obtained. (3-26-08)

104. FAMILY COMPOSITION.

A family is a group of individuals living in a common residence, whose combined income is considered in determining eligibility and the child care benefit amount. No individual may be considered a member of more than

one (1) family in the same month. The following individuals are included in determining the family composition: (4-2-08)

01. Married Parents. Married parents living together in a common residence, includes biological, adoptive, step-parent, guardian, and foster parent. (~~5-1-11~~)()

02. Unmarried Parents. Unmarried parents who live in the same home and who have a child in common living with them. (4-2-08)

03. Dependents. Individuals who are claimed as dependents of a parent, guardian, or caretaker relative and living in the home at the primary residence. (~~3-2-17~~)()

04. Minor Parent. A minor parent and child are considered a separate family when they apply for child care benefits, even if they live with other relatives. (4-2-08)

05. Individual Acting In Loco Parentis. An individual acting in loco parentis who is eligible to apply for child care benefits, and the child's natural or adoptive parents are not living in the home. (3-2-17)

06. Citizenship or Alien Status Requirement. Family members who are not citizens or living lawfully in the United States will not be counted in the family size. The income of those non-counted family members will be counted when determining the household's income according to Sections 070 through 099 of these rules.

(BREAK IN CONTINUITY OF SECTIONS)

200. QUALIFYING ACTIVITIES FOR CHILD CARE BENEFITS.

To be eligible for child care benefits, each parent included in the household must need child care because they are engaged in one (1) of the qualifying activities listed in Subsections 200.01 through 200.05 of this rule. (5-1-11)

01. Employment. The parent is currently employed. (4-2-08)

02. Self-Employment. The parent is currently self-employed in a business that is a sole proprietorship. A sole proprietorship is a business owned by one (1) person. Restrictions apply for self-employment as follows: (5-8-09)

a. For the first twelve (12) months of self-employment benefits, actual activity hours are used. (3-2-17)

b. At ~~the time of redetermination~~ month thirteen (13), the number of activity hours will be limited. To calculate the activity hours, the net monthly self-employment income is divided by the current federal minimum wage. The qualifying activity hours are the lesser of the calculated activity hours or actual activity hours. (~~3-2-17~~)()

03. Training or Education. The parent is attending an accredited education or training program. The following restrictions apply to training or education activities: (4-2-08)

a. On-line classes cannot be counted as a qualifying activity for child care. (4-2-08)

b. Persons who are attending post-baccalaureate classes with no other qualifying activity, do not qualify for child care benefits. (3-2-17)

c. More than forty-eight (48) months of post-secondary education has been used as a qualifying activity. (3-2-17)

04. Preventive Services. The parent is receiving preventive services as defined in Section 011 of these rules. The Department will verify the continued need for preventive services at least every three (3) months. (4-2-08)

05. Personal Responsibility Contract (PRC) or Other Negotiated Agreement. The parent is completing Personal Responsibility Contract (PRC) or other self-sufficiency activities negotiated between the Department and the parent. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

500. ALLOWABLE CHILD CARE COSTS.

Care provided to an eligible child by an eligible child care provider is payable subject to the following conditions: (4-2-08)

01. Payment for Employment, Training, Education, or Preventive Service Hours. Child care must be reasonably related to the hours of the parent's qualifying activities. (5-1-11)

02. One-Time Registration Fees. One-time fees for registering a child in a child care facility are payable above the local market rate, if the fee is charged to all who enroll in the facility. *Fees may Reimbursement can* not exceed two hundred fifty dollars (\$250) and must be usual and customary rates charged to all families. Registration fees are separate from local market rates. (3-2-17)()

501. NON-ALLOWABLE CHILD CARE COSTS.

Care provided to an eligible child is not payable under the following conditions: (3-2-17)

01. Family Member or Guardian Providing Child Care. A parent, step-parent, or *unmarried parent guardian* will not be paid for providing child care to *his their own* child *or ward*. *A guardian will not be paid for providing child care to his ward. Absent parents, or anyone living in the absent parent's home are not eligible to receive ICCP payment.* (3-2-17)()

02. Provider Living at Same Address as Child. ICCP will not pay for in-home child care if the provider lives at the same address as the child. (3-2-17)

03. School Tuition, Academic Credit, or Tutoring. ICCP payments will not be made for school tuition, academic credit, or tutoring for school age children; this includes: (3-2-17)

a. Any services provided to such students during the regular school day, including kindergarten; (3-2-17)

b. Any services for which such students receive academic credit toward graduation; or (3-2-17)

c. Any instructional services which supplant or duplicate the academic program of any public or private school. (3-2-17)

502. AMOUNT OF PAYMENT.

Child care payments will be based on Subsections 502.01 through 502.04 of this rule. (3-2-17)

01. Payment Rate. Payment will be based on the lower of the provider's usual and customary rates or the Local Market Rate (LMR). (3-2-17)

a. The local market rates for child care are the maximum monthly amounts that ICCP will pay for any given category of child care in a geographic area designated by the Department. The local market rates for child care are established based on a comprehensive survey of child care providers. Using information gathered in the survey, including the age of child, the type of child care, and the designated area where the provider does business, a local market rate is specified for each category of child care. The rate survey is conducted triennially. (3-2-17)

b. Payment rates will be determined by the location of the child care facility. (3-2-17)

c. If the child care facility is not in Idaho, the local market rate will be the rate where the family lives. (4-2-08)

02. **Usual and Customary Rates.** Rates charged by the child care provider must not exceed the usual and customary rates charged for child care to persons not entitled to receive benefits under ICCP. (7-1-09)

03. **In-Home Care.** Parents are responsible to pay persons providing care in the child's home the minimum wage, as required by the Fair Labor Standards Act (29 U.S.C. 206a) and other applicable state and federal requirements. ~~Department payments must not exceed the lower of the hourly federal minimum wage or actual cost of care.~~ (4-2-08)()

04. **Payments.** Payments will be issued directly to eligible providers. (3-2-17)

(BREAK IN CONTINUITY OF SECTIONS)

600. CHANGE REPORTING REQUIREMENTS.

A family who receives child care benefits must report the following permanent changes by the tenth day of the month following the month in which the change occurred. (4-4-13)

01. Change in ~~Eligible~~ **Full-time or Part-time** Activity Hours. (4-4-13)()

02. Change in ~~Your~~ Permanent Address. (5-1-11)()

03. Change in Household Composition. (4-4-13)

04. Change in Income. (3-2-17)

~~a. When the household's total gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Guideline (FPG) for the household size.~~ (4-4-13)

~~b.~~ When the household's total gross income exceeds **the income limit for the program, as described the higher of either one hundred and thirty percent (130%) of the Federal Poverty Guidelines (FPG) or** eighty-five percent (85%) of the State Median Income (SMI) for a family of the same size. (3-2-17)()

05. Change in Child Care Provider. (5-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

602. REDETERMINATION OF ELIGIBILITY FOR CHILD CARE BENEFITS.

01. **Redetermination.** The Department must redetermine eligibility for child care benefits at least every twelve (12) months. (3-2-17)

02. **Graduated Phase Out.** At the time of redetermination, if a household's income exceeds one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) for ~~a~~ family of the same size, ~~but does not exceed eighty five percent (85%) of the State Median Income (SMI) for a family of the same size, benefits for~~ eligible children ~~will be paid for three (3) months in an amount equal to the payment amount of the 12th month of eligibility, if all other eligibility criteria are met~~ **may receive a graduated phase out benefit. Graduated phase out benefits are limited to twelve (12) months following the completion of a redetermination.** (3-2-17)()

(BREAK IN CONTINUITY OF SECTIONS)

701. RECOUPMENT OF OVERPAYMENTS.

~~01. **Recoupment of Overpayments.** The Department may recoup or recover the amount paid for child care services from a provider or a parent. Interest will accrue on these overpayments at the statutory rate set under Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for services. Interest will not accrue on overpayments made due to Department error. An overpayment due to family, agency, or provider error, IPV or fraud must be recovered in full. A parent or provider may negotiate a repayment schedule with the Department.~~ (3-2-17)()

~~02. **Parental Repayment Requirement.** A parent must repay any overpayment resulting from the parent's failure to report changes within ten (10) days as required in Section 600 of these rules. The parent may negotiate a repayment schedule with the Department. Failure to comply with the negotiated repayment agreement will result in loss of the family's eligibility to receive child care benefits. Ineligibility will continue until the parent repays the overpayment or a new repayment agreement is negotiated with the Department.~~ (5-1-11)

702. INTENTIONAL PROGRAM VIOLATIONS (IPV).

An IPV is an intentionally false or misleading action or statement as identified below in Subsections 702.01 through 702.08 of this rule. An IPV is established when a family member or the child care provider admits the IPV in writing and waives the right to an administrative hearing, or when determined by an administrative hearing, a court decision, or through deferred adjudication. Deferred adjudication exists when the court defers a determination of guilt because the accused family member or child care provider meets the terms of a court order or an agreement with the prosecutor. (4-2-08)

01. False Statement. An individual makes a false statement to the Department, either orally or in writing, in order to participate in the Idaho Child Care Program. (4-2-08)

02. Misleading Statement. An individual makes a misleading statement to the Department, either orally or in writing, to participate in the Idaho Child Care Program. (4-2-08)

03. Misrepresentation of Fact. An individual misrepresents one (1) or more facts to the Department, either orally or in writing, to participate in the Idaho Child Care Program. (4-2-08)

04. Concealing Fact. An individual conceals or withholds one (1) or more facts to participate in the Idaho Child Care Program. (4-2-08)

05. Non-Compliance With Rules and Regulations. An individual fails repeatedly or substantially to comply with this chapter of rules. (4-2-08)

06. Violation of Provider Agreement. An individual knowingly violates any term of his provider agreement. (4-2-08)

~~07. **Failure to Repay.** An individual has failed to repay, or was a managing employee or had an ownership or control interest in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or provider agreement.~~ (4-2-08)

~~08. **Failure to Meet Qualifications.** A provider fails to meet the qualifications specifically required by this chapter of rules or by any applicable licensing board.~~ (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

802. HEALTH AND SAFETY REQUIREMENTS.

All providers must comply with the health and safety requirements listed in Subsections 802.01 through 802.13 of this rule. All providers must agree to an annual, unannounced health and safety inspection, with the exception of in-home child care described in Section 401 of these rules. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other

applicable law. (3-2-17)

01. Age of Provider. All child care providers providing services must be eighteen (18) years old or older. Persons sixteen (16) or seventeen (17) years old may provide child care if they have direct, on-site supervision from a licensed child care provider who is at least eighteen (18) years old. (4-2-08)

02. Sanitary Food Preparation. Food for use in child care facilities must be prepared and served in a sanitary manner. Utensils and food preparation surfaces must be cleaned and sanitized before using to prevent contamination. (4-2-08)

03. Food Storage. All food served in child care facilities must be stored to protect it from potential contamination. (4-2-08)

04. Hazardous Substances. Medicines, cleaning supplies, and other hazardous substances must be handled safely and stored out of the reach of children. Biocontaminants must be disposed of appropriately. (3-2-17)

05. Emergency Communication. A telephone or some type of emergency communication system is required. (4-2-08)

06. Smoke Detectors, Fire Extinguishers, and Exits. A properly installed and operational smoke detector must be on the premises where child care occurs. Adequate fire extinguishers and fire exits must be available on the premises. (4-2-08)

07. Hand Washing. Each provider must wash his hands with soap and water at regular intervals, including before feeding, after diapering or assisting children with toileting, after nose wiping, and after administering first aid. (4-2-08)

08. CPR/First Aid. Providers must insure that at all times children are present at least one (1) adult on the premises has current certification in pediatric rescue breathing (CPR) and pediatric first aid treatment from a certified instructor. (3-2-17)

09. Health of Provider. Each provider must certify that he does not have a communicable disease or any physical or psychological condition that might pose a threat to the safety of a child in his care. (4-2-08)

10. Child Abuse. Providers must report suspected child abuse to the appropriate authority. (4-2-08)

11. Transportation. Providers who transport children as part of their child care operations must operate safely and legally, using child safety restraints and seat belts as required by state and local statutes. (3-2-17)

12. Disaster and Emergency Planning. Providers must have documented policies and procedures planning for emergencies resulting from a natural disaster, or man-caused event that include: (3-2-17)

a. Evacuation, relocation, shelter-in-place, and lock-down procedures, and procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions. (3-2-17)

b. Procedures for staff and volunteer emergency preparedness training and practice drills. (3-2-17)

c. Guidelines for the continuation of child care services in the period following the emergency or disaster. (3-2-17)

13. Environmental Safety. Building and physical premises must be safe, including identification of and protection from hazards that can cause bodily injury including electrical hazards, bodies of water, and vehicular traffic. (3-2-17)

14. Safe Sleep. Providers must place newborn infants to twelve (12) months in a safe sleep environment. Safe sleep practices include, alone, on their backs, and in a Consumer Product Safety Commission

(CPSC) certified crib. ()

803. CHILD CARE PROVIDER TRAINING REQUIREMENTS.

Each child care provider must receive and ensure that each staff member who provides child care receives and completes twelve (12) hours of ongoing training every twelve (12) months after the staff member's date of hire. (3-2-17)

01. Training Contents. Training must be related to continuing education in child development, teaching and curriculum, health and safety, and business practices. ~~The following Pediatric rescue breathing (CPR) and pediatric first aid treatment training will not count towards the required twelve (12) hours of annual training.~~ (3-2-17) ()

~~a. Pediatric rescue breathing (CPR) and pediatric first aid treatment training; and (3-2-17)~~

~~b. Trainings related to participation with the Child and Adult Care Food Program (CACFP). (3-2-17)~~

02. Documented Training. It is the responsibility of the child care provider to ensure that each staff member who provides child care has completed twelve (12) hours of training each year. The training must be documented in the staff member's record. (3-2-17)

03. Staff Training Records. Each child care provider is responsible for maintaining documentation of staff's training and must produce this documentation when the provider agreement is renewed annually. (3-2-17)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.07.37 – CHILDREN'S MENTAL HEALTH SERVICES

DOCKET NO. 16-0737-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, 56-1004A, 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 October 18, 2017.

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:

These amendments remove tables that provide reimbursement amounts for foster care, and add references to IDAPA 16.06.01, "Child and Family Services," that provide payments to alternate care providers. Also, changes are being made for class members covered by a court-ordered settlement agreement for grievances and expedited hearings.

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

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

The fiscal impact for these rule changes are meant to be cost-neutral. Items being removed or amended in this chapter are covered under other rules and have no fiscal impact to state general funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Department determined it was not feasible to do negotiate these changes due to the simple nature of the change for duplicated rules and to comply with a court-ordered settlement agreement.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 1st day of September, 2017.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0737-1701
(Only Those Sections With Amendments Are Shown.)

003. ADMINISTRATIVE APPEALS.

01. **Appeal from a Denial Based on Eligibility Criteria.** Administrative appeals from a denial of children's mental health services based on the eligibility criteria under Section 107 of these rules are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-17)

02. **Grievances and Expedited Hearings.** Grievances and expedited hearings related to non-Medicaid Youth Empowerment Services (YES) will be provided as described in IDAPA 16.05.03 "Rules Governing Contested Case Proceeding and Declaratory Ruling," Sections 750 and 751. ()

023. **Appeal of Decision Based on Clinical Judgment.** All decisions involving clinical judgment, which may include the category of services, the particular provider of services, or the duration of services, are reserved to the Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

283. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers: are paid according to IDAPA 16.06.01, "Child and Family Services."

<i>Family Alternate Care Payments—Table 283</i>			
<i>Ages</i>	<i>0-5</i>	<i>6-12</i>	<i>13-18</i>
<i>Monthly Room and Board</i>	<i>\$329</i>	<i>\$366</i>	<i>\$487</i>

(7-1-17)()

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

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

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

284. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who, as determined by the Department, require additional care above room, board, shelter, daily supervision, school supplies, and personal incidentals, the Department may pay the family alternate care provider an additional amount to that paid ~~under Section 283 of these rules.~~ according to IDAPA 16.06.01, "Child and Family Services." The family alternate care rate is based upon a continuous ongoing assessment of the child's circumstances which necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows:

Additional Family Alternate Care Payments – Table 284		
<i>Lowest Level of Need</i>	<i>Moderate Level of Need</i>	<i>Highest Level of Need</i>
<i>\$90 per month</i>	<i>\$150 per month</i>	<i>\$240 per month</i>

(7-1-17)()

01. Lowest Level of Need. ~~Ninety dollars (\$90) per month for a~~ Δ child requiring a mild degree of care for documented conditions ~~including~~ receives the lowest level of additional payments for the following:

(5-8-09)()

- a. Chronic medical problems; (5-8-09)
- b. Frequent, time-consuming transportation needs; (5-8-09)
- c. Behaviors requiring extra supervision and control; and (5-8-09)
- d. Need for preparation for independent living. (5-8-09)

02. Moderate Level of Need. ~~One hundred fifty dollars (\$150) per month for a~~ Δ child requiring a moderate degree of care for documented conditions ~~including~~ receives the moderate level of additional payments for the following:

(5-8-09)()

- a. Ongoing major medical problems; (5-8-09)
- b. Behaviors that require immediate action or control; and (5-8-09)
- c. Alcohol or other substance use disorder. (5-8-09)

03. Highest Level of Need. ~~Two hundred forty dollars (\$240) per month for a~~ Δ child requiring an extraordinary degree of care for documented conditions ~~including~~ receives the highest level of additional payments for the following:

(5-8-09)()

- a. Serious emotional or behavioral disorder that requires continuous supervision; (5-8-09)
- b. Severe developmental disability; and (5-8-09)
- c. Severe physical disability such as quadriplegia. (5-8-09)

04. Reportable Income. Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (5-8-09)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.01.75 – CREDIT FOR REINSURANCE RULES

DOCKET NO. 18-0175-1701

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-515, Idaho Code.

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

The pending rule revises and updates IDAPA 18.01.75 to include current NAIC Credit for Reinsurance Model Regulation #786 provisions supporting the modernization of reinsurance regulation. This pending rule sets forth rules and procedural requirements necessary to carry out the provisions of Idaho Code, Section 41-515 as amended in 2017 by House Bill No. 101.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 2, 2017, Idaho Administrative Bulletin, [Vol. 17-8, pages 71-106](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Thomas A. Donovan, tom.donovan@doi.idaho.gov, (208) 334-4214.

DATED this 31st day of August, 2017.

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 18 – IDAHO DEPARTMENT OF INSURANCE
18.01.81 – CORPORATE GOVERNANCE ANNUAL DISCLOSURE
DOCKET NO. 18-0181-1701 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2018 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-6404, Idaho Code.

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

House Bill No. 102 enacted in 2017, created Title 41, Chapter 64, Corporate Governance Annual Disclosure requiring insurance companies to file a Corporate Governance Annual Disclosure (CGAD). The addition of a new rule following the enactment of Title 41, Chapter 64, Idaho Code, provides insurers with more detailed procedures for submitting the required CGAD filing and includes the contents that are deemed necessary by the Director of the Department of Insurance to carry out the provisions of Chapter 64.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 2, 2017, Idaho Administrative Bulletin, [Vol. 17-8, pages 107-112](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Thomas A. Donovan, tom.donovan@doi.idaho.gov, (208) 334-4214.

DATED this 31st day of August, 2017.

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

20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION

DOCKET NO. 20-0401-1701

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 Title 38, Chapter 1, including section 38-132, Idaho Code, and Title 38, Chapter 4, including section 38-402, Idaho Code.

MEETING SCHEDULE: All scheduled negotiated rulemaking meetings will occur between OCTOBER 18, 2017 through DECEMBER 15, 2017. Scheduled negotiated rulemaking meetings will be posted and made accessible on the agency website at the web address listed below. Please contact JT Wensman at (208) 769-1525 or jtwensman@idl.idaho.gov to be added to the email list of interested parties.

The meeting site(s) 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 may participate by attending any negotiated rulemaking meeting, or submitting written comments during the allowed comment period. Comments may be submitted to <https://www.idl.idaho.gov/rulemaking/20.04.01/index.html>.

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

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The Idaho Department of Lands is preparing to amend select fire protection standards and introduce new fire protection standards to IDAPA 20.04.01 Rules Pertaining to Forest Fire Protection specific to forest operation activities conducted on forest lands. During the 2015 fire season, the Department worked with forest landowners, logging contractors, forest industry representatives, and others to develop and implement fire protection best practices to lessen the risk of fire starts from forest operations on forest lands. Post fire season reviews were conducted to discuss the effectiveness of the fire protection best practices and the need to update specific standards in the Rules Pertaining to Forest Fire Protection. After further review of those Rules and follow-up meetings in 2016 and 2017 with fire managers, forest landowners, logging contractors, and forest industry representatives, the Department determined a need to enter into negotiated rulemaking to address certain concerns during closed fire season.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact JT Wensman, Bureau Chief – Fire Management (208) 769-1525. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Lands website at the following web address: <https://www.idl.idaho.gov/rulemaking/index.html>. Submission of written comments regarding this negotiated rulemaking should be directed to the undersigned or to the Idaho Department of Lands website at the website address as noted and must be delivered on or before December 15, 2017.

DATED this 4th day of October, 2017.

JT Wensman, Bureau Chief
Fire Management Bureau
Idaho Department of Lands
3284 W. Industrial Loop
Coeur d'Alene, ID 83815
Phone: (208) 666-8650
Fax: (208) 769-1524

IDAPA 22 – BOARD OF MEDICINE
22.01.13 – RULES FOR THE LICENSURE OF DIETITIANS
DOCKET NO. 22-0113-1701
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 54-3505(2), Idaho Code.

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

PUBLIC HEARING
Wednesday, November 1, 2017 - 1:00 to 2:00 pm (MDT)

Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
Boise, ID 83704

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:

These rules update the Board's rules regarding Dietetic licensure and practice, making the Dietetic rules consistent with the Dietetic Practice Act that was updated during the 2017 Legislative Session. These rules update Dietitians' scope of practice, definitions, and organizational titles, and add the option for licensure by endorsement.

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

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

This rule change is budget neutral and there is no fiscal impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted with interested parties, including the state association, and such negotiations shall continue through the comment period and hearing.

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 Anne K. Lawler, Executive Director, (208) 327-7000.

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 November 1, 2017.

DATED this 25th day of August, 2017.

Anne K. Lawler, JD, RN, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
Boise, Idaho 83704
Phone (208) 327-7000
Fax (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0113-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. Academy of Nutrition and Dietetics. The national organization that credentials dietetics professionals and accredits undergraduate and graduate programs that prepare dietetics professionals. ()

02. Accreditation Council for Education in Nutrition and Dietetics. Accreditation Council for Education in Nutrition and Dietetics or “ACEND” means the accrediting organization of the Academy of Nutrition and Dietetics that is recognized by the United States Department of Education as the accrediting agency for education programs that prepare dietetic professionals. ()

043. **Board.** The Idaho State Board of Medicine. (4-2-03)

024. **Dietitian.** A person who meets all of the requirements of and is licensed under the provisions of Title 54, Chapter 35, Idaho Code, to engage in the practice of dietetics as set forth in Section 54-3505(3)2A, Idaho Code. Dietitian and dietician are interchangeable terms. (4-2-03)()

035. **Dietetic Practice.** ~~As set forth in Title 54, Chapter 35, Section 3502A of the Idaho Code, D~~ dietetic practice, the practice of dietetics or practicing dietetics ~~means the integration and application of principles derived from the sciences of nutrition, biochemistry, food physiology, management, and behavioral and social sciences to achieve and maintain human health through the provision of medical nutrition services and the development of therapeutic nutrition care plans to assist in the maintenance of health and the prevention and treatment of disorders of body function, systems or organs~~ focuses on food and nutrition and related services developed and provided by dietitians to protect the public, enhance the health and well-being of patients/clients, and to deliver quality products, programs and services, and medical nutrition therapy. Clinical nutrition and dietetics practice is the utilization of skills, knowledge and applied judgment of the dietitian whose practice involves nutrition care, medical nutrition therapy, and related services provided to individuals and groups of all ages to address health promotion and prevention, delay or management of diseases and conditions. Dietetic practice is across varied settings, including health care, business and industry, communities and public health systems, schools, colleges, the military, government, research, food service management, teaching, consulting, media, writing, public speaking and informatics, and private practice. (4-2-03)()

06. Commission on Dietetic Registration (CDR). The credentialing organization of the Academy of Nutrition and Dietetics that awards and administers credentials to individuals at entry, specialist and advanced levels who have met CDR’s specified criteria to practice in the dietetics profession, including successful completion of its national accredited certification examination and recertification by continuing professional education and/or examination. ()

047. **Licensure Board.** The Dietetic Licensure Board. (4-2-03)

058. **Medical Nutrition ~~Services~~ Therapy.** Medical nutrition ~~services refers to the nutritional assessment, the design and implementation of therapeutic nutrition care plans, and nutrition therapy counseling provided by a licensed dietitian~~ therapy or “MNT” means an evidence-based application of the nutrition care process. The provision of MNT to a patient/client may include one (1) or more of the following: nutrition assessment or reassessment, nutrition diagnosis, and nutrition intervention for the prevention, delay or management of diseases or conditions. (4-2-03)()

069. **Monitor of Provisionally Licensed Graduate Dietitian.** An Idaho licensed dietitian who shall be responsible for the activities of the provisionally licensed graduate dietitian being supervised and shall review and countersign all patient documentation performed by the provisionally licensed graduate dietitian being supervised. (4-2-03)

~~07. **Nutritional Assessment.** The evaluation of nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data which is necessary to determine nutrient needs and to recommend appropriate enteral or parenteral nutritional intake. (4-2-03)~~

~~08. **Nutrition Therapy Counseling.** The advising or assisting individuals or groups on appropriate nutrient intake by integrating information from the nutritional assessment and therapeutic nutrition care plan with information on food and other sources of nutrients and meal preparation consistent with health needs, disease state, psychological status, cultural background, and available resources. (4-2-03)~~

10. Therapeutic Nutrition Care Plan Process. A plan of care developed by a licensed dietitian that includes systematic approach to providing high-quality nutrition care that consists of four (4) distinct, interrelated steps: (4-2-03)()

~~a. The design and implementation of nutrition goals and objectives for individuals and groups for the maintenance of health and prevention of disease; (4-2-03)~~

~~b. The design and implementation of therapeutic nutrition regimens, including enteral and parenteral nutrition for the treatment of disorders of body functions, systems, or organs; (4-2-03)~~

~~c. Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints; (4-2-03)~~

~~d. Developing, implementing, and managing nutrition care systems; and (4-2-03)~~

~~e. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services. (4-2-03)~~

a. Nutrition assessment, which means a systematic method for obtaining, verifying and interpreting data needed to evaluate nutritional needs and to identify nutrition-related problems, their causes and their significance; ()

b. Nutrition diagnosis, which means the identification of a specific nutrition problem that a dietitian is responsible for treating independently; ()

c. Nutrition intervention, which means a purposefully planned action intended to positively change a nutrition-related behavior, environmental condition or aspect of health status for the patient/client and family or caregivers, target group or the community at large; and ()

d. Nutrition monitoring and evaluation: ()

i. Nutrition monitoring means the preplanned review and measurement of selected nutrition care indicators of the patient/client's status relevant to the defined needs, nutrition diagnosis, nutrition intervention and outcomes; and ()

ii. Nutrition evaluation means the systematic comparison of current findings with the previous status, nutrition intervention goals, effectiveness of overall nutrition care or comparison to a reference standard. ()

~~**0911. Provisional License.** The Board may issue a provisional license to a graduate dietitian who meets the requirements set forth by Sections 54-3506(1) and 54-3506(2), Idaho Code. A provisional license shall authorize the practice of dietetics under the supervision of a monitor who is an Idaho licensed dietitian. (4-2-03)~~

011. -- 019. (RESERVED)

020. GENERAL QUALIFICATIONS FOR LICENSURE.

01. Applicant. An applicant must be of good moral character and shall meet the requirements set forth in Section 54-3506, Idaho Code. The Board may refuse licensure if it finds the applicant has engaged in conduct prohibited by Section 54-3510, Idaho Code, provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (12-28-94)

02. Examination. Each applicant shall either pass an examination required by the Board or shall be entitled to apply for ~~a waiver~~ Licensure by Endorsement pursuant to Section 54-3508, Idaho Code. ~~(4-2-03)~~()

a. The written examination shall be the examination conducted by the Commission on Dietetic Registration and the passing score shall be the passing score established by the Commission. (12-28-94)

b. An applicant who fails to pass the examination must submit a new application. (12-28-94)

c. An applicant who has failed to pass the examination on two (2) separate occasions will be denied eligibility to reapply; however, this application may be considered on an individual basis if the applicant submits proof of additional training. ~~(12-28-94)~~()

d. An applicant for Licensure by Endorsement will meet the requirements as set forth in Section 54-3508, Idaho Code. ()

03. Application Expiration. An application upon which the applicant takes no further action will be held for no longer than one (1) year. (12-28-94)

021. APPLICATION FOR LICENSURE.

01. Application. Each applicant for licensure shall submit a completed written application to the board on forms prescribed by the board, together with the application fee. The application shall be verified and under oath and shall require the following information: (12-28-94)

a. A certificate of successful completion of a program approved by the Academy of Nutrition and Dietetics or its successor and a certificate of successful completion of a dietetic internship or preprofessional program approved or accredited by the Academy of Nutrition and Dietetics or its successor organization; ~~(3-20-14)~~()

b. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (12-28-94)

c. The disclosure of any disciplinary action against the applicant by any state professional regulatory agency or professional organization; (12-28-94)

d. The disclosure of the denial of registration or licensure by any state or district regulatory body; (12-28-94)

e. Not ~~less~~ fewer than two (2) certificates of recommendation from persons having personal knowledge of the applicant's character; ~~(12-28-94)~~()

f. Two (2) unmounted photographs of the applicant, no larger than three inches by four inches (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; (12-28-94)

g. A copy of any registration by the Commission on Dietetic Registration, if applicable; (12-28-94)

h. A copy of examination results or the application to write the qualifying exam and the date the examination is scheduled; (4-2-03)

i. Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials; and (4-2-03)

j. A Provisional License Dietitian/Monitor Affidavit, if applicable. (4-2-03)

02. Personal Interview. The Board may, at its discretion, require the applicant to appear for a personal interview. This interview shall be limited to a review of the applicant's qualifications and professional credentials. (12-28-94)()

022. LICENSE EXPIRATION AND RENEWAL.

01. Provisional Licensure Expiration. Provisional licenses shall become full active licenses to practice as a dietitian upon the date of receipt of a copy of registration by the Commission on Dietetic Registration. All provisional licenses shall expire on June 30 following issuance. (4-2-03)

02. Renewal. Each full license shall be renewed annually or biennially before July 1 of the expiration year by submitting a completed request for renewal accompanied by payment of the renewal fee and a copy of current registration as a registered dietitian, as determined by the Commission on Dietetic Registration of the American Dietetic Association, or ~~current credentialing as a credentialed dietitian by any other association which is also recognized by the National Commission for Health Certifying Agencies to the Board~~ its successor organization. Full licenses not renewed by the expiration date shall be canceled. (4-2-03)()

023. PROVISIONAL LICENSURE.

01. Provisional License. The Board may issue a provisional license to a person who has successfully completed the academic requirements of an education program in dietetics approved by the licensure board and has successfully completed a dietetic internship or preprofessional practice program, coordinated program or such other equivalent experience as may be approved by the board and who has met all the other requirements set forth by Section 021 of this rule but who has not yet passed the examination conducted by the Commission on Dietetic Registration. (4-2-03)

02. Provisional License Dietitian/Monitor Affidavit. The provisionally licensed graduate dietitian must obtain ~~an~~ affidavit signed by an Idaho licensed dietitian affirming and attesting to be responsible for the activities of the provisionally licensed graduated dietitian being supervised and to review and countersign all patient documentation performed by the provisionally licensed graduate dietitian being supervised. (4-2-03)()

03. Supervision by Monitor. The practice or provision of dietetics by a graduate dietitian holding a provisional license to practice dietetics shall be in direct association with an Idaho licensed dietitian who shall be responsible for the activities of the provisionally licensed graduate dietitian being supervised and shall review and countersign all patient documentation performed by the provisionally licensed graduate dietitian. The supervising monitor need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the monitor and the provisionally licensed graduate dietitian shall be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.

01. Disciplinary Authority. A new or renewal application may be denied or a license may be suspended or revoked by the Board, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to disciplinary actions or probationary conditions pursuant to the procedures and powers established by and set forth in Section 54-3505, Idaho Code, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine." (3-20-14)

02. Grounds for Discipline. ~~In addition to the grounds set forth in Section 54-3510, Idaho Code, applicants may be refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to~~ In addition to statutory grounds for discipline set forth in Section 54-3510, Idaho Code, every person

licensed or provisionally licensed as a dietitian is subject to discipline by the Board under the following grounds:
~~(12-28-94)~~()

a. Being guilty of unprofessional conduct, including the provision of care which fails to meet the standard of care provided by other qualified licensees within the state of Idaho. (12-28-94)

b. Violating any provisions of this act or any of the rules promulgated by the Board under the authority of the act. (12-28-94)

c. Being convicted of a crime which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; (3-27-13)

d. Demonstrating a manifest incapacity to carry out the functions of the licensee's ability to practice dietetics or deemed unfit by the Board to practice dietetics; (3-27-13)

e. Using any controlled substance or alcohol which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; (3-27-13)

f. Misrepresenting educational or experience attainments; (3-27-13)

g. Failing to maintain adequate dietetic records. Adequate dietetic records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; (3-27-13)

h. ~~Failure~~ **Failing** to monitor and be responsible for the activities of the provisionally licensed graduate dietitian; ~~(3-27-13)~~()

i. Employing, directing or supervising the unlicensed practice of dietetics; (3-27-13)

j. Practicing in an area of dietetics for which the licensee is not trained; (3-27-13)

k. ~~Commission of~~ **Committing** any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient or related to the licensee's practice of dietetics; ~~(3-27-13)~~()

i. Consent of the patient shall not be a defense; ()

ii. Subsection 032.02 does not apply to sexual contact between a dietitian and the dietitian's spouse or a person in a domestic relationship who is also a patient; ()

iii. A former patient includes a patient for whom the dietitian has provided dietetic services within the last twelve (12) months; ()

iv. Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the dietitian uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient; ()

l. Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; (3-27-13)

m. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; (3-27-13)

n. ~~Failure~~ **Failing** to obey federal and local laws and rules governing the practice of dietetics; or ~~(3-27-13)~~()

o. ~~Failure~~ **Failing** to be lawfully present in the United States. ~~(3-27-13)~~()

033. DISCIPLINARY SANCTIONS.

01. Sanctions. As stated in Section 54-3510A, Idaho Code, if grounds for discipline are found to exist, the Board of Medicine, upon the recommendation of the licensure board, may issue an order to: ()

a. Revoke the dietitian's license to practice dietetics: ()

b. Suspend or restrict the dietitian's license to practice dietetics; and/or ()

c. Impose conditions or probation upon the dietitian's license to practice dietetics. ()

~~034.~~ -- 040. (RESERVED)

041. FEES.

Actual fees shall be set to reflect costs of Board administration. (12-28-94)

01. Initial/Provisional Licensure and Examination Fee. The fee for initial licensure and examination shall be no more than one hundred fifty dollars (\$150). (3-27-13)

02. Renewal Fee. The ~~annual~~ renewal fee shall be no more than one hundred dollars (\$100) per year. ~~(3-27-13)~~()

03. Reinstatement Fee. The reinstatement fee for a lapsed license shall be the annual renewal fee for each year of the two (2) years not licensed plus a fee of no more than fifty dollars (\$50). Lapsed licenses not reinstated after two (2) years shall be canceled. (3-27-13)

04. Inactive Fee. The fee for inactive licensure shall be no more than fifty dollars (\$50). (3-27-13)

05. Inactive to Active License Fee. An inactive license may be converted to an active license by application to the Board and payment of required fees. (4-2-03)

a. The fee for converting an inactive license to ~~an~~ license shall be a fee of no more than fifty dollars (\$50) and the ~~annual~~ renewal fee for each year not actively licensed minus inactive fees previously paid. ~~(3-27-13)~~()

b. Before the license will be converted, the applicant must account for the time during which an inactive license was held. The Board, in its discretion, may require a personal interview. (4-2-03)

06. Application Fees and Refunds. Necessary fees shall accompany applications. Fees shall not be refundable. (4-2-03)

07. Extraordinary Expenses. In situations where the processing of an application or a change in status requires extraordinary expenses, the Board will charge the applicant with reasonable fees to cover all the extraordinary expenses. (3-27-13)

~~042. -- 049.~~ (RESERVED)

~~050. EFFECTIVE DATE.~~

~~These rules shall be effective, December 28, 1994.~~ (12-28-94)

~~051~~42. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS
DOCKET NO. 24-0101-1701 (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 54-304 and 54-312, 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 October 18, 2017.

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

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

The Board of Architectural Examiners operates primarily on fees collected from licensees. It is recommended that boards maintain a balance equivalent to 100-150% of their annual budget. The Board of Architectural Examiners' balance exceeds that amount. Accordingly, the rule lowers fees and leaves more money in the hands of licensees.

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

Rule 200 reduces the annual license renewal fee from \$75 to \$50, the endorsement license fee from \$150 to \$50, and sets the temporary license fee at \$50.

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 proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-0101-1701
(Only Those Sections With Amendments Are Shown.)

200. FEES FOR EXAMINATIONS AND LICENSURE (RULE 200).

- 01. Fees for Examination.** (7-1-97)
- a.** Examination Fees. Examination fees will be as established by the National Council of Architectural Registration Boards (NCARB). (7-1-97)
- b.** Processing Fee. Applicants for licensing by examination must submit a twenty-five dollar (\$25) processing fee. (7-1-98)
- 02. Annual License Renewal Fee.** Annual license renewal fee - ~~Seventy-five~~ Fifty dollars (\$~~75~~50).
(7-1-93)()
- 03. Endorsement License Fee.** Endorsement license ~~F~~fee - ~~One hundred~~ Fifty dollars (\$~~100~~50).
(7-1-93)()
- 04. Temporary License Fee.** Temporary license Fee – Fifty dollars (\$50). ()
- 045. License Reinstatement Fees.** License ~~R~~einstatement fees ~~are~~ is as provided in Section 67-2614, Idaho Code. (7-1-98)()
- 056. No Refund of Fees.** No refund of fees shall be made ~~to any person who has paid such fees for application for examination, or reexamination, licensure, or reinstatement of license.~~
(7-1-98)()

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
24.03.01 – RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS
DOCKET NO. 24-0301-1701 (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 54-707 and 54-707A, Idaho Code, and Sections 54-708, 54-716 and 54-717, 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 October 18, 2017.

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 proposed fee rule implements HB 195, which was signed into law during the 2017 legislative session, establishes a set of standards and educational requirements for a chiropractic certification in clinical nutrition for those licensed chiropractic physicians who wish to utilize vitamins and minerals, via intravenous or injectable routes of administration, in the treatment of their patients. This proposed fee rule establishes fees for clinical nutrition certification and practice, instructions for certification application, recertification, cancellation and reissuance, standards of practice, rules for obtaining and administering clinical nutrition prescription drug products, and a clinical nutrition formulary.

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

The rule establishes an application for clinical nutrition certification fee and a clinical nutrition certification fee of \$150 each, which is within the authority granted by Section 707A, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rules were discussed during noticed, open meetings of the Board.

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 Dicie Gullick at (208) 334-3233. 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 October 25, 2017.

DATED this 1st day of September, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-0301-1701
(Only Those Sections With Amendments Are Shown.)

020. SCOPE OF NON-PRESCRIPTION NUTRITIONAL PRACTICE (RULE 20).

Clinical nutritional methods as referenced in Section 54-704(1), Idaho Code, include, but are not limited to, the clinical use, administration, recommendation, compounding, prescribing, selling, and distributing non-prescription vitamins, minerals, botanical medicine, herbals, homeopathic, phytonutrients, antioxidants, enzymes and glandular extracts, and durable and non-durable medical goods and devices. Nothing herein shall allow any deviation from Section 54-704(23), Idaho Code. ~~(3-25-16)~~()

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (RULE 150).

- 01. Application Fee.** Application Fee - One hundred fifty dollars (\$150). (3-24-17)
- 02. Original License Fee.** Original License Fee – One hundred fifty dollars (\$150). (3-24-17)
- 03. Annual Renewal Fee.** Annual Renewal Fee - One hundred fifty dollars (\$150). (3-24-17)
- 04. Inactive License.** Inactive License - One hundred dollars (\$100). (3-24-17)
- 05. Temporary Permit Fee.** Temporary Permit Fee - One hundred dollars (\$100). (3-24-17)
- 06. Intern Permit Fee.** Intern Permit Fee – One hundred dollars (\$100). (3-24-17)
- 07. Application for Clinical Nutrition Certification Fee.** Application for Clinical Nutrition Certification Fee – One hundred fifty dollars (\$150). ()
- 08. Clinical Nutrition Certification Fee.** Clinical Nutrition Certification Fee – One hundred fifty dollars. ()
- 079. Non-Refundable.** All fees are non-refundable. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

606. -- ~~96~~99. (RESERVED)

700. CLINICAL NUTRITION CERTIFICATION AND PRACTICE.

The Board may issue clinical nutrition certification to a chiropractic physician licensed by the Board who successfully completes the minimum education and complies with requirements in chapter 7, title 54, Idaho Code governing clinical nutrition certification and the requirements of Sections 700 through 706. ()

701. APPLICATION FOR CLINICAL NUTRITION CERTIFICATION.

01. Filing an Application. Applicants for clinical nutrition certification must submit to the Board at its official address a complete application, verified under oath, on forms approved by the Board together with appropriate fee(s) and supporting documentation. ()

02. Supporting Documents. The applicant must provide or facilitate the provision of any supporting third party documents that may be required under the qualifications for clinical nutrition certification. ()

03. Applications Must Be Complete. Applications will not be considered complete until all required information, documents, and fees are received by the Board. ()

04. No Misrepresentation. The application for certification and for reissuance of certification or recertification and all supporting documents are free from any fraud or material misrepresentations and shall be subject to discipline pursuant to chapter 7, title 54, Idaho Code. ()

05. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless the applicant demonstrates good cause to the Board. ()

06. Violations. Violation of the laws or rules governing issuance or maintenance of clinical nutrition certification or the practice of clinical nutrition by a licensee shall be subject to investigation and discipline pursuant applicable provisions of chapter 7, title 54, Idaho Code and rules of the Board. ()

702. REQUIREMENTS FOR CLINICAL NUTRITION CERTIFICATION.

The Board may grant clinical nutrition certification to a licensee who completes an application, pays the applicable fees and meets the following requirements: ()

01. General. ()

a. Hold and maintain a current, active, unrestricted license as a chiropractic physician issued by the Board. ()

b. Not have been on probation or otherwise disciplined by the Board or by any other licensing board or regulatory entity; provided the applicant may make written request to the Board for an exemption review to determine the applicant's suitability for certification, which the Board shall determine in accordance with the following: ()

i. The exemption review shall consist of a review of any documents relating to the probation or discipline and any supplemental information provided by the applicant bearing upon the applicant's suitability for certification. The Board may, at its discretion, grant an interview of the applicant. During the review, the Board shall consider the following factors or evidence: ()

(1) The severity or nature of the violation(s) resulting in probation or discipline; ()

(2) The period of time that has passed since the violation(s) under review; ()

(3) The number or pattern of violations or other similar incidents; ()

(4) The circumstances surrounding the violation(s) that would help determine the risk of repetition; ()

(5) The relationship of the violation(s) to the practice of chiropractic or any health care profession, including but not limited to, whether the violation(s) related to clinical practice, involved patient care, a violation of any state or federal law, rule or regulation relating to controlled substances or to a drug, substance or product identified in Section 54-704(3)(b), Idaho Code; ()

(6) The applicant's activities since the violation(s) under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and ()

(7) Any other mitigating or aggravating circumstances. ()

- ii. The applicant shall bear the burden of establishing current suitability for certification. ()
- c. Successfully complete the requirements of Section 54-717, Idaho Code, and Section 702. ()
- d. Written verification of current health care provider cardiopulmonary resuscitation (CPR) certification. Health care provider CPR certification must be from a course that includes a hands-on skill component as provided by the American Heart Association, American Red Cross, American Health and Safety Institute or similar provider approved by the Board. Written verification of current basic life support (BLS) certification. All chiropractic physicians holding clinical nutrition certification must maintain current health care provider CPR and BLS certification as provided in this section. ()
- e. Certify that the chiropractic physician has BLS and Advanced Cardiac Life Support (ACLS) equipment on the chiropractic premises where clinical nutrition treatment is being performed. All chiropractic physicians holding clinical nutrition certification must have BLS and ACLS equipment on the chiropractic premises at all times where clinical nutrition treatment is being performed. BLS and ACLS equipment shall include as a minimum: ()

 - i. Automatic external defibrillator (AED). ()
 - ii. Rescue breathing equipment. ()
 - iii. Oxygen. ()
 - iv. Epinephrine. ()
- f. Certify that the chiropractic physician possesses and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code. ()
- g. Payment of all fines, costs, fees or other amounts that are due and owing to the Board or in compliance with a payment arrangement with the Board is required to be eligible for clinical nutrition certification pursuant to Sections 700 through 706. ()
- 02. Didactic Education Requirement.** Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of seven (7) credits (seventy-seven (77) hours) of didactic human nutrition, nutrition biochemistry, and nutritional pharmacology courses. The certificate or other evidence of successful completion must be provided directly to the Board by the educational institution. ()

 - a. Until January 1, 2019, chiropractic physicians licensed by the Board who commenced obtaining the didactic education requirements of this section on or after January 1, 2013 and thereafter successfully completed those requirements may be determined to have satisfied the requirements of this section by presenting a certificate or other evidence acceptable to the Board of successful completion. ()
 - b. After January 1, 2019, chiropractic physicians licensed by the Board who apply for clinical nutrition certification may be determined to have satisfied the didactic education requirements only if they present a certificate or other evidence acceptable to the Board pursuant to this section demonstrating they commenced obtaining the didactic education required by this section no earlier than three (3) years prior to applying for clinical nutrition certification and thereafter successfully completed the requirements. ()
- 03. Practicum Requirement.** Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of twenty-four (24) hours of practicum in intravenous and injectable nutrient therapy, which must include: sterile needle practices, phlebotomy, proper injection techniques, intravenous therapy techniques, intramuscular injection techniques, safety practices, and use and expected outcomes utilizing micronutrients, response to adverse effects, lab testing, and blood chemistry interpretation. ()

 - a. The practicum of any applicant for clinical nutrition certification required by this section must

commence after July 1, 2017, and be successfully completed within two (2) years of the date of application. ()

b. After July 1, 2019, the practicum of any applicant for clinical nutrition certification required by this section must not have commenced more than two (2) years prior to the date of application for clinical nutrition certification and be successfully completed thereafter. ()

04. Accredited Institution and Program Requirement. The courses and practicum required by Subsections 702.02 and 702.03 must be taken from an accredited chiropractic college or other accredited institution of higher education. In addition the courses and practicum must be from an accredited program at the college or institution or be a program approved by the Board. ()

a. For purposes of this section “accredited” means accredited by an accrediting agency recognized by the United States Department of Education. ()

b. For purposes of this section “approved by the Board” means a program that is a “recognized candidate for accreditation,” has “initial accreditation” status or “preaccreditation” status by an accrediting body recognized by the United States Department of Education, or is substantially equivalent to a program having that status. ()

c. An applicant for clinical nutrition certification shall bear the burden to demonstrate their education and training in clinical nutrition meets the requirements of this section including both the accredited institution and accredited program requirements. ()

05. Audit of Compliance with Clinical Nutrition Certification and Recertification Requirements. The Board may conduct audits to confirm that licensees meet the requirements to maintain clinical nutrition certification and recertification. In the event a licensee audited by the Board fails to provide documentation or other evidence acceptable to the Board of meeting the clinical nutrition certification or recertification requirements as verified to the Board as part of their annual license renewal or the recertification process the matter will be referred to Bureau’s investigative unit for investigation and potential disciplinary proceedings by the Board. ()

06. Requirement to Maintain Supporting Documentation. A licensee need not submit documentation to the Board with a chiropractic license renewal application verifying qualifications for annual issuance of clinical nutrition certification pursuant to Section 703, or verifying qualifications to recertify clinical nutrition certification pursuant to Section 706. However, a licensee must maintain documentation for a period of five (5) years verifying the licensee has satisfied the requirements. A licensee must submit the documentation to the Board if the annual reissuance or the recertification is audited. All documentation must include the licensee’s name, and as applicable, the date the course or other required activity commenced and was completed, provider name, course title and description, length of the course/activity, and other information required by the Board. ()

703. ANNUAL ISSUANCE OF CLINICAL NUTRITION CERTIFICATION WITH LICENSE RENEWAL.

01. Expiration Date. Chiropractic physicians’ clinical nutrition certification expires on the expiration date of their chiropractic license and must be issued annually with the renewal of their license pursuant to Section 250. The Board shall waive the clinical nutrition certification fee in conjunction with the first timely renewal of the chiropractic license after initial clinical nutrition certification. ()

02. Issuance. Clinical nutrition certification shall be issued annually by timely submission of a chiropractic license renewal application, payment of the chiropractic license renewal fee, the clinical nutrition certification fee, any amounts owing pursuant to Subsection 702.01.g., and verifying to the Board that the licensee is in compliance with the requirements for clinical nutrition certification as provided in the Board’s laws and rules. ()

03. Failure to Comply with Issuance Requirements. ()

a. If a licensee with clinical nutrition certification fails to verify meeting clinical nutrition certification annual issuance requirements when renewing their chiropractic physician license the clinical nutrition certification is

canceled and the chiropractic physician license will be renewed without clinical nutrition certification. ()

b. If a licensee with clinical nutrition certification fails to timely renew their chiropractic physician license their clinical nutrition certification is canceled. ()

c. Clinical nutrition certification canceled pursuant to this section may be reissued within three (3) years in accordance with Section 704. ()

704. REISSUANCE OF CANCELLED CLINICAL NUTRITION CERTIFICATION.

01. Reissuance. Clinical nutrition certification canceled pursuant to Subsection 703.03 may be reissued within three (3) years of cancellation as follows: ()

a. Submission of a reissuance application and payment of the current clinical nutrition certification fee. ()

b. Submission of any other documents required by the Board for reissuance including but not limited to: ()

i. Documentation of holding current licensure as a chiropractic physician from the Board meeting the requirements of Section 702. ()

ii. Documentation of compliance with clinical recertification requirements in accordance with Section 706. ()

iii. Documentation of current health care provider CPR and BLS certification and certification that the chiropractic physician has BLS and ACLS equipment on the chiropractic premises where clinical nutrition treatment is performed and that informed consent and voluntary permission to perform the proposed therapy are being used in accordance with Section 702. ()

705. CLINICAL NUTRITION CERTIFICATION CANCELLED FOR OVER THREE (3) YEARS.

Clinical nutrition certification canceled for a period of more than three (3) years may not be reissued. The chiropractic physician so affected shall be required to make application to the Board in compliance with Section 701 and Section 702 and pay the application and other fees for new clinical nutrition certification. The applicant shall be reviewed by the Board and considered as follows: ()

01. Current Competency and Training. The chiropractic physician shall fulfill requirements as determined by the Board that demonstrate the chiropractic physician's competency to regain clinical nutrition certification in this state. Such requirements may include, but are not limited to, education, supervised practice, and examination, including some or all education, training and other requirements for original clinical nutrition certification as set forth in Section 54-717, Idaho Code, and Section 702. ()

02. New Clinical Nutrition Certification. Chiropractic Physicians who fulfill the conditions and requirements of this section may be granted a new clinical nutrition certification. ()

706. CLINICAL NUTRITION RECERTIFICATION REQUIREMENT.

01. Recertification in Clinical Nutrition Every Three (3) Years. After Initial certification in clinical nutrition, chiropractic physicians must recertify in clinical nutrition every three (3) years in order to maintain clinical nutrition certification. ()

02. Annual Verification of Meeting Requirements. In order to maintain clinical nutrition certification pursuant to Section 54-717, Idaho Code, and Section 700, chiropractic physicians having clinical nutrition certification must annually verify, along with their chiropractic license renewal, pursuant to Subsection 706.01 by attesting to the Board they are in compliance with the requirements to recertify in clinical nutrition the following: ()

a. Completion within the three (3) years prior to required recertification of a twelve (12) hour in person face to face classroom course from an institution and program meeting Section 702.04 accreditation requirements. The course must include both didactic education and practical review and practice of contemporary developments and best practices to maintain core competency in the practice of clinical nutrition as set forth in Section 54-716, Idaho Code, and Section 54-717, Idaho Code. ()

b. Current licensure as a chiropractic physician issued by the Board meeting the requirements of Section 702. ()

c. Current health care provider CPR and BLS certification and that BLS and ACLS equipment is maintained on the chiropractic premises where clinical nutrition treatment is performed pursuant to Section 702. ()

d. They possess and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code. ()

03. Recertification is in Addition to Required Annual Continuing Education. The twelve (12) hour recertification course requirement is in addition to the annual eighteen (18) hours of continuing education required under Subsection 300.01. ()

04. Failure to Timely Recertify in Clinical Nutrition. Clinical nutrition certification not timely recertified in accordance with Section 706 shall expire and be canceled. Clinical nutrition certification canceled for failure to recertify may be reissued within three (3) years in accordance with Section 704. ()

707. OBTAINING AND INDEPENDENTLY ADMINISTERING CLINICAL NUTRITION PRESCRIPTION DRUG PRODUCTS.

A chiropractic physician with clinical nutrition certification as defined by Sections 54-704(4), 54-716 and 54-717, Idaho Code, may obtain and independently administer prescription drug products in the practice of chiropractic subject to the conditions below. ()

01. Current Certification in Clinical Nutrition Required. Only chiropractic physicians who hold current certification in clinical nutrition by the Board may obtain and independently administer prescription drug products during chiropractic practice. ()

02. Obtain Prescription Drugs Products from the Formulary. A chiropractic physician with clinical nutrition certification may not obtain a prescription drug product that is not listed in the chiropractic clinical nutrition formulary. ()

03. Only Administer Prescription Drug Products from the Formulary. Chiropractic physicians with clinical nutrition certification may only administer those prescription drug products listed in the chiropractic clinical nutrition formulary. ()

a. Chiropractic physicians with clinical nutrition certification shall not prescribe, dispense, distribute, or direct to a patient the use of a prescription drug product. ()

04. Routes of Administration and Dosing of Prescription Drug Products. Prescription drug products listed in the chiropractic clinical nutrition formulary may be administered through oral, topical, intravenous, intramuscular or subcutaneous routes by a chiropractic physician with clinical nutrition certification. The route of administration and dosing shall be in accordance with the product's labeling as approved by the federal food and drug administration or with the manufacturer's instructions. ()

05. Practice Limited to Chiropractic Physicians with Clinical Nutrition Certification. Chiropractic interns, chiropractic assistants, holders of chiropractic temporary practice permits and others working under the authority or direction of a chiropractic physician may not perform any practice or function requiring clinical nutrition certification. ()

06. Sale, Transfer, or Other Distribution of Prescription Drugs Prohibited. Chiropractic physicians with clinical nutrition certification may obtain and administer prescription drug products to a patient only in accordance with this Section 707. Chiropractic physicians may not prescribe, sell, transfer, dispense, or otherwise distribute prescription drug products to any person or entity. Prescription drug products not administered to a patient shall be handled in accordance with Subsections 708.05, 708.06, and 708.07. ()

708. CLINICAL NUTRITION FORMULARY.

Chiropractic physicians certified in clinical nutrition may obtain and independently administer, during chiropractic practice, only the prescription drug products listed in this chiropractic clinical nutrition formulary and subject to the provisions hereof. ()

01. Chiropractic Clinical Nutrition Prescription Drug Formulary. Prescription drug products that may be used by chiropractic physicians with clinical nutrition certification are limited to the following: ()

a. Vitamins: vitamin A, all B vitamins and vitamin C; ()

b. Minerals: ammonium molybdate, calcium, chromium, copper, iodine, magnesium, manganese, potassium, selenium, sodium, and zinc; ()

c. Fluids: dextrose, lactated ringers, plasma lyte, saline, and sterile water; ()

d. Epinephrine; and ()

e. Oxygen for use during an emergency or allergic reaction. ()

02. Sources of Clinical Nutrition Prescription Drug Products. Prescription drug products listed in the chiropractic clinical nutrition formulary shall be obtained only by a chiropractic physician with clinical nutrition certification and only from a source licensed under chapter 17, title 54, Idaho Code, that is a wholesale distributor, a manufacturer, a pharmacy, or an outsourcing facility and from no other source. ()

03. No Compounding of Prescription Drug Products. No vitamin or mineral may be compounded, as defined in Section 54-1705, Idaho Code, by a chiropractic physician. A compounded drug product containing two (2) or more of the vitamins or minerals approved in the chiropractic clinical nutrition formulary shall be obtained for office use by a chiropractic physician with clinical nutrition certification only from an outsourcing facility licensed under chapter 17, title 54, Idaho Code and from no other source. A chiropractic physician may not obtain or use in chiropractic practice a compounded drug product containing a prescription drug product that is not included in the chiropractic clinical nutrition formulary. ()

04. Limitations on Possession of Prescription Drug Products. Possession of prescription drug products without a valid prescription drug order by chiropractic physicians licensed pursuant to chapter 7, title 54, Idaho Code, and certified pursuant to Sections 54-708, and 54-717, Idaho Code, or their agents or employees shall be limited to: ()

a. Only those prescription drug products listed in Sections 54-716, Idaho Code, and in the chiropractic clinical nutrition formulary; ()

b. Only those quantities reasonably required for use in the usual and lawful course of the chiropractic physician's clinical nutrition practice based on the patient panel size and history of orders. ()

05. Prescription Drug Product Storage. Clinical nutrition prescription drugs must be stored in accordance with United States Pharmacopeia-National Formulary requirements in an area maintained and secured appropriately to safeguard product integrity and protect against product theft or diversion. ()

06. Expired, Deteriorated, Adulterated, Damaged, or Contaminated Prescription Drug Products. Expired, deteriorated, adulterated, damaged, or contaminated prescription drug products must be removed from stock and isolated for return, reclamation or destruction. ()

07. Compliance with Federal and State Requirements. In addition to the requirements of the Idaho Chiropractic Practice Act and rules of the Board, chiropractic physicians shall comply with all federal and state laws, rules and policies governing possession, storage, record keeping, use, and disposal of prescription drug products. ()

709. MEDICAL WASTE.

Chiropractic physicians certified in clinical nutrition must dispose of medical waste during the practice of chiropractic clinical nutrition according to the following protocol: ()

01. Containers for Non-Sharp, Medical Waste. Medical waste, except for sharps, must be placed in disposable containers/bags which are impervious to moisture and strong enough to preclude ripping, tearing, or bursting under normal conditions of use. The bags must be securely tied so as to prevent leakage or expulsion of solid or liquid waste during storage, handling, or transport. The containment system must have a tight-fitting cover and be kept clean and in good repair. All bags used for containment of medical waste must be clearly identified by label or color, or both. ()

02. Containers for Sharps. Sharps must be placed in impervious, rigid, puncture-resistant containers immediately after use. Needles must not be bent, clipped or broken by hand. Rigid containers of discarded sharps must either be labeled or colored like the disposable bags used for other medical waste, or placed in such labeled or colored bags. ()

03. Storage Duration. Medical waste may not be stored for more than seven (7) days, unless the storage temperature is below thirty-two (32) degrees Fahrenheit. Medical waste must never be stored for more than ninety (90) days. ()

04. Waste Disposal. Medical waste must be disposed of by persons knowledgeable in handling and disposal of medical waste. ()

710. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.06.01 – RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

DOCKET NO. 24-0601-1701 (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 Section 54-3712, 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 October 18, 2017.

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

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

The Occupational Therapy Licensure Board operates primarily on fees collected from licensees. It is recommended that boards maintain a balance equivalent to 100-150% of their annual budget. The Occupational Therapy Licensure Board's balance exceeds that amount. Accordingly, the rule lowers fees and leaves more money in the hands of licensees.

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

Rule 41 reduces the initial licensure fee for occupational therapists from \$100 to \$80 and occupational therapy assistants from \$75 to \$60. It reduces the active license renewal fee for occupational therapists from \$55 to \$40 and occupational therapy assistants from \$35 to \$30. It also reduces the inactive license renewal fee for occupational therapists and occupational therapy assistants from \$25 to \$20.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 1st day of September, 2017.

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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-0601-1701
(Only Those Sections With Amendments Are Shown.)

041. FEES.

- 01. Fees.** Necessary fees shall accompany applications. Fees shall not be refundable. (3-29-10)
- 02. Initial Licensure.** The fee for initial licensure of occupational therapists shall be ~~one hundred~~ eighty dollars (~~\$100~~80) and the fee for occupational therapy assistants shall be ~~seventy-five~~ sixty dollars (~~\$75~~60).
(4-6-15)()
- 03. Limited Permit or Temporary License.** The fee for a limited permit or temporary license shall be twenty-five dollars (\$25). (4-6-15)
- 04. Active License Renewal Fee.** The annual renewal fee for an active license shall be ~~fifty-five~~ forty dollars (~~\$55~~40) for occupational therapists and thirty ~~five~~ dollars (~~\$35~~30) for occupational therapy assistants.
(4-6-15)()
- 05. Reinstatement Fee.** The fee to reinstate an expired license is as provided in Section 67-2614, Idaho Code. (3-24-16)
- 06. Inactive License Renewal Fee.** The annual renewal fee for an inactive license shall be twenty ~~five~~ dollars (~~\$25~~20) for occupational therapists and occupational therapy assistants.
(4-6-15)()
- 07. Inactive to Active License Fee.** The fee for reinstating an inactive license to an active license is the difference between the current inactive and active license renewal fees. (4-7-11)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.07.01 – RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

DOCKET NO. 24-0701-1701 (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 Section 54-3003, 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 October 18, 2017.

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

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

The Board of Landscape Architects operates primarily on licensing fees. It is recommended that boards maintain a cash balance of 100-150% of their annual budget. The cash balance of the Board of Landscape Architects exceeds that amount. Accordingly, the Board wants to lower its balance and leave more money in the hands of its licensees. This rule will also update the name of the landscape architect accrediting body from the American Society of Landscape Architects (ASLA) to the more precise Landscape Architectural Accreditation Board (LAAB).

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

Rule 400 reduces the license application fee from \$100 to \$75 and the original license and annual renewal fees from \$150 to \$125.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-0701-1701
(Only Those Sections With Amendments Are Shown.)

101. APPROVED EDUCATION (RULE 101).

An approved college or school of landscape architecture shall have a landscape architecture program accredited by the ~~American Society of Landscape Architects~~ Landscape Architectural Accreditation Board (LAAB), or shall substantially meet the accrediting standards of the ~~ASLA~~ LAAB as may be determined by the Board. ~~(3-20-04)~~()

(BREAK IN CONTINUITY OF SECTIONS)

400. FEES (RULE 400).

Fees are not refundable, therefore, applications should not be filed unless the applicant can meet all requirements.

(7-1-93)

01. Application Fee. Application Fee: ~~One hundred~~ Seventy-five dollars (~~\$100~~75). ~~(3-20-14)~~()

02. Landscape Architect-in-Training Application Fee. Landscape architect-in-training application fee: Twenty-five dollars (\$25). (3-26-08)

03. Examination Fees. Examination fees will be as established by the Council of Landscape Architectural Registration Boards (CLARB). ~~(3-20-04)~~()

04. Original License and Annual License Fee. Original license and annual license fee: One hundred ~~fifty~~ twenty-five dollars (~~\$150~~125). ~~(3-21-07)~~()

05. Reinstatement Fee. Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-1701 (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 54-1106 and 54-1110, 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 October 18, 2017.

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

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

The 2017 Legislature passed House Bill 120 that created inactive licenses for morticians and funeral directors. The bill directed the Board to specify in rule the terms, procedures, and fees necessary to maintain an inactive license. That is what this proposed fee rule does.

FEE SUMMARY: Rule 380 sets the terms under which a mortician or a funeral director may request inactive status, and specifies the steps required for an inactive license holder to return to active status. Rule 500 establishes an inactive license and renewal fee of \$40.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-0801-1701
(Only Those Sections With Amendments Are Shown.)

351. -- ~~397~~9. (RESERVED)

380. INACTIVE LICENSE.

01. Request for Inactive License. Persons holding an unrestricted mortician or funeral director license in this state may apply for inactive status by making written application to the Board on a form prescribed by the Board and paying the established fee. ()

02. Inactive License Status. ()

a. Inactive license renewal notices and licenses will be marked “inactive”. ()

b. Inactive license holders may not practice in Idaho while on inactive status. ()

c. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. ()

03. Return to Active License Status. An inactive license holder may convert from inactive to active license status by: ()

a. Making written application to the Board on a form prescribed by the Board; ()

b. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ()

c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ()

381. -- 399. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

500. FEES (RULE 500).

01. Funeral Director. Funeral director – eighty-five dollars (\$85) (original license/annual renewal). ~~(3-13-02)~~()

02. Funeral Establishment. Funeral establishment – one hundred twenty-five dollars (\$125) (original license/annual renewal). (3-13-02)

03. Crematory Establishment. Crematory establishment – two hundred dollars (\$200) (original license/annual renewal). (3-16-04)

04. Mortician. Mortician – eighty-five dollars (\$85) (original license/annual renewal). (3-13-02)

05. Inactive License. Inactive license – forty dollars (\$40) (original license/annual renewal). ()

~~05~~6. Resident Trainee. Resident trainee – fifty dollars (\$50) (original license/annual renewal). (4-11-06)

- 067.** **Application Fee.** Application fee - one hundred dollars (\$100). (3-13-02)
- 078.** **Certificate of Authority.** Certificate of Authority - fifty dollars (\$50) (original certificate/annual renewal). (3-13-02)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.12.01 – RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2305 and 54-5713, 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 October 18, 2017.

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 proposed rule will ensure that temporary licensees hold a certification of prescriptive authority issued by the Board before issuing a prescription. It shortens the length of face-to-face supervision time required for category III service extenders, and it amends the telepsychology rules to refine the definition of telepsychology and clarify the informed consent provisions.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1201-1701
(Only Those Sections With Amendments Are Shown.)

300. TEMPORARY LICENSES (RULE 300).

Persons not licensed in this state who desire to practice psychology under the provisions of this chapter for a period not to exceed thirty (30) days within a calendar year may do so if they hold an interjurisdictional practice certificate (IPC) from the association of state and provincial psychology boards (ASPPB). As such, in order to practice temporarily under the IPC psychologists would be required to notify the Board of their intent to practice and provide documentation of their status. It is the IPC holders responsibility to contact the ASPPB to send verification of IPC status, including verification of no discipline. Persons authorized to practice under this section must hold a certification of prescriptive authority issued by the Idaho Board of Psychologist Examiners to issue a prescription. (3-29-10)(____)

(BREAK IN CONTINUITY OF SECTIONS)

450. GUIDELINES FOR USE OF SERVICE EXTENDERS TO LICENSED PSYCHOLOGISTS (RULE 450).

The Board recognizes that licensed psychologists may choose to extend their services by using service extenders. The Board provides general rules to cover all service extenders as well as specific rules to cover service extenders with different levels of training and experience. (7-1-93)

01. General Provisions for Licensed Psychologists Extending Their Services Through Others. (7-1-93)

- a.** The licensed psychologist exercising administrative control for a service extender shall: (7-1-93)
 - i.** Have the authority to cause termination of compensation for the service extender. (7-1-93)
 - ii.** Have the authority to cause the suspension or removal of the service extender from his position as a service provider. (7-1-93)
- b.** The licensed psychologist exercising professional direction for a service extender shall: (7-1-93)
 - i.** Prior to employing the service extender, formulate and provide to the Board a written supervisory plan for each service extender and obtain approval for the plan. The plan shall include provisions for supervisory sessions and chart review. If the psychologist requires tapes to be made of psychological services delivered by the service extender, then the plan shall also specify review and destruction of these tapes. The plan shall also specify the hours per calendar week that the licensed psychologist will be at the same physical location as the person extending the services of the licensed psychologist. The plan shall be accompanied by a completed application form and appropriate application fee. (3-29-17)

- ii.** Establish and maintain a level of supervisory contact sufficient to be readily accountable in the event that professional, ethical, or legal issues are raised. For service extenders in Categories I and II, there will be a minimum of one (1) hour of face-to-face supervisory contact by a licensed psychologist with the service extender for each one (1) to twenty (20) hours of services provided by the service extender during any calendar week. At least one half (1/2) of this face-to-face supervisory contact will be conducted individually, and up to one half (1/2) of this face-to-face supervisory contact may be provided using a group format. A written record of this supervisory contact, including the type of activities conducted by the service extender, shall be maintained by the licensed psychologist. Except under unusual circumstances, the supervisory contact will occur either during the week the services are extended or during the week following. In no case will services be extended more than two (2) weeks without supervisory contact between the service extender and a licensed psychologist. For service extenders in Category III, there will be a minimum of one (1) hour of face-to-face supervisory contact by a licensed psychologist with the

service extender during each calendar month that services are provided by the service extender. A written record of this supervisory contact, including the type of activities conducted by the service extender, shall be maintained by the licensed psychologist. The licensed psychologist will also be available for consultation either face-to-face, by phone, or by other means of contact on any day that services are provided by the service extender. (7-1-93)()

iii. Provide the service extender a copy of the current Ethical Standards of the American Psychological Association, and obtain a written agreement from the service extender of his intention to abide by them. (7-1-93)

c. Supervision of service extenders through electronic communications, including video conferencing, cannot replace face-to-face supervision. Psychologists will ensure that the service that they provide through the use of service extenders is provided according to all applicable laws and rules. (3-29-17)

02. Qualifications for Service Extenders. (7-1-93)

a. Category I: A service extender will be placed in Category I if: (7-1-93)

i. The licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender holds a license issued by the state of Idaho to practice a specific profession, and that the issuance of that license requires the licensee hold a master's degree or its equivalent as determined by the Board; or (7-1-93)

ii. The service extender meets the criteria for Category II specified below and the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender has satisfactorily functioned as a service extender to one (1) or more licensed psychologist for at least twenty (20) hours per calendar week over a period totaling two hundred sixty (260) weeks. (7-1-93)

b. Category II: A service extender will be placed in Category II if the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender holds a master's degree or equivalent from a program in psychology, counseling, or human development as determined by the Board. (3-29-17)

c. Category III: A service extender will be placed in Category III if the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender holds a master's degree or equivalent from a program in psychology, counseling, or human development as determined by the Board, and the service extender will only provide psychometrician services. Such services are defined as administrating, scoring, and/or summarizing psychological or neuropsychological tests and test data that require specialized training. Interpretation of the testing data must be performed by the licensed psychologist. Service extenders in Category III will not be allowed to perform psychotherapy, intake assessments, or other services outside the scope of psychometric services defined above. The licensed psychologist wishing to employ the service extender must also verify in writing to the satisfaction of the Board that the service extender has been properly trained in all of the testing instruments that the service extender will administer at the start of employment and will continue to receive proper training in any new testing instruments utilized by the service extender over the course of employment. (3-29-17)

03. Conditions for Use of Service Extenders. (7-1-93)

a. All persons used to extend the services of a licensed psychologist shall be under the direct and continuing administrative control and professional direction of a licensed psychologist. These service extenders may not use any title incorporating the word "psychologist" or any of its variants or derivatives, e.g. "psychological," "psychotherapist." (5-8-09)

b. Work assignments shall be commensurate with the skills of the service extender and procedures shall be planned in consultation with the licensed psychologist under all circumstances. (7-1-93)

c. Public announcement of fees and services, as well as contact with lay or professional public shall be offered only in the name of the licensed psychologist whose services are being extended. However, persons licensed to practice professions other than psychology may make note of their status in such announcements or

contacts. (7-1-93)

d. Setting and collecting of fees shall remain the sole domain of the licensed psychologist; excepting that when a service extender is used to provide services of the licensed psychologist, third party payers shall be informed of this occurrence in writing at the time of billing. Unless otherwise provided in these rules and regulations, licensed psychologists may neither claim or imply to service recipients or to third party payers an ability to extend their services through any person who has not been approved as a service extender to that psychologist as specified in this section. (7-1-93)

e. All service recipients shall sign a written notice of the service extender's status as a service extender for the licensed psychologist. A copy of the signed written notice will be maintained on file with the licensed psychologist. (7-1-93)

f. Within the first three (3) contacts, the licensed psychologist shall have face-to-face contact with each service recipient. (7-1-93)

g. A licensed psychologist shall be available to both the service extender and the service recipient for emergency consultation. (7-1-93)

h. Service Extenders shall be housed in the same service delivery site as the licensed psychologist whose services they extend. Whatever other activities they may be qualified to perform, service extenders shall limit themselves to acting as service extenders of the licensed psychologist when providing direct services so long as they are physically located in the offices of the licensed psychologist. (7-1-93)

i. A service extender in Category I may deliver as much as, but not more than fifty percent (50%) of their service while the licensed psychologist is not physically present at the service delivery site. A service extender in Category II may deliver as much as, but not more than twenty-five percent (25%) of their service while the licensed psychologist is not physically present at the service delivery site. Service extenders in the Category III may deliver as much as, but not more than seventy-five percent (75%) of their service while the licensed psychologist is not physically present at the service delivery site. Service Extenders providing as many as, but no more than, three (3) hours of service extension per calendar week shall be exempted from the on-site provisions of Section 450 of this rule. Without notification to the Board, short term exemption from this rule for atypical circumstances, such as irregular travel by the licensed psychologist, may occur for periods as long as, but no longer than three (3) calendar weeks. Longer exemptions may be granted at the discretion of the Board on written request by the licensed psychologist to the Board. (3-29-17)

j. The licensed psychologist shall employ no more than three (3) service extenders. (3-18-99)

k. When a licensed psychologist terminates employment of a service extender, the licensed psychologist will notify the Board in writing within thirty (30) days. (7-1-93)

l. At the time of license renewal the licensed psychologist shall submit for each service extender the appropriate fee together with certification to the Board that they possess: (3-19-07)

i. A written record of supervisory contact for the previous twelve (12) months; and (3-20-04)

ii. The percentage of time during the previous twelve (12) months that the service extender extended services while the licensed psychologist was at the service delivery site; and (3-20-04)

iii. An updated plan for the supervision of each of his service extenders. (3-20-04)

m. Documentation of supervisory notes, hours of supervision, number of hours on-site while the service extender provided services, and plan of supervision shall be maintained by the supervisor for not less than three (3) years for each service extender and submitted to the Board upon request. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

601. TELEPSYCHOLOGY.

This rule supplements Title 54, Chapter 57, Idaho Code, the Idaho Telehealth Access Act, the American Psychological Association Guidelines for the Practice of Telepsychology, and all other laws and rules applicable to the practice of telepsychology in this state. (3-29-17)

01. Definitions. For purposes of telepsychology services, the following terms are defined as follows: (3-29-17)

a. Emergency. Emergency means a situation in which there is an occurrence that poses an imminent threat of a life threatening condition or severe bodily harm. (3-29-17)

b. Information Technology. Information technology means the production, storage, and communication of information using computers and microelectronics including but not limited to telephones, mobile devices, interactive videoconferencing, email, chat, text, social media, and other Internet based services. (3-29-17)

c. Telehealth Provider. Telehealth provider means a person who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho by Title 54, Chapter 23, Idaho Code and who provides or offers to provide telepsychology services to persons who are located in or who reside in Idaho. (3-29-17)

d. Telepsychology Services. Telepsychology services mean psychological services provided ~~to a person through the use of information technology for the purpose of assessing, testing, diagnosing, treating, educating, or consulting. Telepsychology services may be synchronous or asynchronous~~ by a provider through the use of electronic communications, information technology, asynchronous store and forward transfer of information or synchronous interaction between the provider at a distant site and a service recipient at an originating site. Such services include, but are not limited to, assessing, testing, diagnosing, treating, educating, and consulting. (3-29-17)()

02. General. (3-29-17)

a. When telepsychology services are contemplated, a telehealth provider will document individualized potential benefits and potential risks to the service recipient(s). (3-29-17)

b. Before telepsychology services are provided, a telehealth provider will document an emergency plan in the service recipient's record. The plan will specify the procedure for dealing with emergencies that will in an effective and timely way, provide for the service recipient's welfare. (3-29-17)

c. Except for psycho-educational purposes, the use of avatars for telepsychology services is prohibited. (3-29-17)

03. Initial Contact. Telehealth providers will, upon initial contact with the service recipient except in an emergency, prior to providing telepsychology services, obtain the written, informed consent of the service recipient(s), consistent with accepted professional and legal requirements concerning: ()

a. The limitations and challenges of using information technology to provide telepsychology services; ()

b. The potential for breaches in confidentiality of information while delivering telepsychology services; ()

c. The risks of sudden and unpredictable disruption of telepsychology services and the alternative means by which communication may be re-established. ()

034. Informed Consent. Telehealth providers will, upon initial and subsequent contact with the service recipient: (3-29-17)

- a. Make reasonable efforts to verify the identity of the service recipient; (3-29-17)
- b. Provide to the service recipient alternative means of contacting the telehealth provider should communications be disrupted during the provision of services. (3-29-17)
- ~~e. Except in an emergency, prior to providing telepsychology services, obtain the written, informed consent of the service recipient(s), consistent with accepted professional and legal requirements concerning; (3-29-17)~~
- ~~i. The limitations and challenges of using information technology to provide telepsychology services; (3-29-17)~~
- ~~ii. The potential for breaches in confidentiality of information while delivering telepsychology services; (3-29-17)~~
- ~~iii. The risks of sudden and unpredictable disruption of telepsychology services and the alternative means by which communication may be re-established; (3-29-17)~~
- ~~d.c.~~ Discuss who, in addition to the provider and the service recipient, may have access to the content of telecommunications between the provider and service recipient; (3-29-17)
- ~~ed.~~ Inform the service recipient of when and how the provider will respond to electronic messages; (3-29-17)
- ~~fe.~~ Ensure that a written agreement has been executed with service recipient(s) concerning compensation, billing, and payment arrangements. (3-29-17)
- 045. Security and Confidentiality.** Telehealth providers must: (3-29-17)
 - a. Use secure communications when providing telepsychology services *whenever feasible* and document consent for the use of non-secure communication means when they are necessary; ~~(3-29-17)~~ ()
 - b. Document how electronic communications are stored and maintain confidentiality of communications with service recipients; (3-29-17)
 - c. Ensure that unauthorized persons cannot recover or access confidential electronically-stored information when retained by the provider and after the data or equipment in which the data is stored has been discarded. (3-29-17)
 - d. Inform service recipients how electronic communications may be sent to the provider and how the provider will store these communications. (3-29-17)
- 056. Assessment.** (3-29-17)
 - a. When conducting psychological assessments using telepsychology services, telehealth providers must only use test and assessment procedures that are empirically supported for the patient population being evaluated. (3-29-17)
 - b. Telehealth providers using telepsychology for assessment must ensure that the identity of service recipients remains secure, that test security is maintained, that test-taking conditions are conducive to quiet and private test administration, and that the parameters of the test(s) are not compromised. (3-29-17)
 - c. Telehealth providers will explain to service recipients the potential limitations of conclusions and recommendations drawn from the results on online assessments and will document these limitations in the findings or report. Treatment will not be based solely upon the results of online assessments. (3-29-17)
- 067. Interjurisdictional Practice.** (3-29-17)

- a.** Before delivering telepsychology services to recipients across state, territorial, and international boundaries, telehealth providers should familiarize themselves and ensure that they comply with all applicable laws. (3-29-17)
- b.** Telehealth providers who are licensed to practice psychology pursuant to Title 54, Chapter 23, Idaho Code are under the jurisdiction of the Board when providing telepsychology services to Idaho residents located either within or outside of Idaho and to all recipients located within the state of Idaho. (3-29-17)
- c.** Except when providing telepsychology services in response to an emergency, telehealth providers who are not licensed to practice psychology in this state, who do not hold a temporary license under Section 300, or who are not otherwise exempt by law, but who are nevertheless providing telepsychology services to recipients located in this state, are guilty of a misdemeanor crime under Chapter 23, Title 54, Idaho Code. (3-29-17)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.13.01 – RULES GOVERNING THE PHYSICAL THERAPY LICENSURE BOARD

DOCKET NO. 24-1301-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2206, 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 October 18, 2017.

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 proposed rule outlines the number of hours of continuing education (“CE”) required for reinstatement of a physical therapy license. This proposed rule requires 1 year of CE (or 16 hours) for licenses expired for one year or less; 2 years of CE (or 32 hours) for licenses expired for more than a year and up to 2 years; and 3 years of CE (or 48 hours) for licenses expired for more than 2 years.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1301-1701
(Only Those Sections With Amendments Are Shown.)

250. CONTINUING EDUCATION REQUIREMENT (RULE 250).

01. Renewal of License. ~~On and after January 1, 2008, e~~Every person holding a license issued by the Board must annually complete sixteen (16) contact hours of continuing education prior to license renewal. (3-19-07)()

02. Reinstatement of License. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant shall submit proof of having met the following continuing education requirement: ()

a. For licenses expired for one (1) year or less, one (1) year of continuing education: ()

b. For licenses expired for more than one (1) year and up to two (2) years, two (2) years of continuing education: ()

c. For licenses expired for more than two (2) years, three (3) years of continuing education. ()

043. Contact Hours. The contact hours of continuing education shall be obtained in areas of study germane to the practice for which the license is issued as approved by the board. (3-19-07)

024. Documentation of Attendance. It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided to the board upon request by the board or its agent. (3-19-07)

035. Excess Hours. Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date may be applied toward meeting the continuing education requirement for the next license renewal. Hours in excess of the required hours may be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (3-19-07)

046. Compliance Audit. The board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the board of meeting the continuing education requirement be submitted to the bureau. Failure to provide proof of meeting the continuing education upon request of the board shall be grounds for disciplinary action. (3-19-07)

057. Special Exemption. The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must provide any information requested by the board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the board. (3-19-07)

068. Continuing Education Credit Hours. Hours of continuing education credit may be obtained by attending and participating in a continuing education activity approved by the Board. (3-19-07)

a. General Criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit: (3-19-07)

i. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee; (3-19-07)

ii. Pertains to subject matters integrally related and germane to the practice of the profession;

- (3-19-07)
- iii. Conducted by individuals who have specialized education, training and experience to be considered qualified to present the subject matter of the program. The Board may request documentation of the qualifications of presenters; (3-19-07)
 - iv. Application for Board approval is accompanied by a paper, manual or outline which describes the specific offering and includes the program schedule, goals and objectives; and (3-19-07)
 - v. Provides proof of attendance to licensees in attendance including: Date, location, course title, presenter(s); Number of program contact hours (One (1) contact hour equals one (1) hour of continuing education credit.); and the official signature or verification of the program sponsor. (3-19-07)
- b. Specific Criteria.** Continuing education hours of credit may be obtained by: (3-19-07)
- i. Presenting professional programs which meet the criteria listed in these rules. Two (2) hours of credit will be awarded for each hour of presentation by the licensee. A course schedule or brochure must be maintained for audit; (3-19-07)
 - ii. Providing official transcripts indicating successful completion of academic courses which apply to the field of physical therapy in order to receive the following continuing education credits: (3-19-07)
 - (1) One (1) academic semester hour = fifteen (15) continuing education hours of credit; (3-19-07)
 - (2) One (1) academic trimester hour = twelve (12) continuing education hours of credit; (3-19-07)
 - (3) One (1) academic quarter hour = ten (10) continuing education hours of credit. (3-19-07)
 - iii. Attending workshops, conferences, symposiums or electronically transmitted, live interactive conferences which relate directly to the professional competency of the licensee; (3-19-07)
 - iv. Authoring research or other activities which are published in a recognized professional publication. The licensee shall receive five (5) hours of credit per page; (3-19-07)
 - v. Viewing videotaped presentations if the following criteria are met: (3-19-07)
 - (1) There is a sponsoring group or agency; (3-19-07)
 - (2) There is a facilitator or program official present; (3-19-07)
 - (3) The program official may not be the only attendee; and (3-19-07)
 - (4) The program meets all the criteria specified in these rules; (3-19-07)
 - vi. Participating in home study courses that have a certificate of completion; (3-19-07)
 - vii. Participating in courses that have business-related topics: marketing, time management, government regulations, and other like topics; (3-19-07)
 - viii. Participating in courses that have personal skills topics: career burnout, communication skills, human relations, and other like topics; (4-7-11)
 - ix. Participating in courses that have general health topics: clinical research, CPR, child abuse reporting, and other like topics; (3-29-12)
 - x. Supervision of a physical therapist student or physical therapist assistant student in an accredited college program. The licensee shall receive four (4) hours of credit per year; and (3-29-12)

xi. Completion and awarding of Board Certification or recertification by American Board of Physical Therapy Specialists (ABPTS). The licensee shall receive sixteen (16) hours for the year the certification or recertification was received. (3-29-12)

079. Course Approval. Courses of study relevant to physical therapy and sponsored or provided by the following entities or organizations shall be approved for continuing education credits: (3-29-12)

- a. The American Physical Therapy Association (APTA) or any of its sections or local chapters; or (3-29-12)
- b. The Federation of State Boards of Physical Therapy (FSBPT); or (3-29-12)
- c. Commission on Accreditation in Physical Therapy Education (CAPTE); or (3-29-12)
- d. National Athletic Trainers Association (NATA); or (3-29-12)
- e. A College or University which is accredited or a candidate for accreditation by the Northwest Association of Secondary and Higher Schools or any similar accrediting body; or (3-29-12)
- f. Otherwise approved by the Board. (3-29-12)

0810. Submitting False Reports or Failure to Comply. The Board may condition, limit, suspend, or refuse to renew the license of any individual whom the Board determines submitted a false report of continuing education or failed to comply with the continuing education requirements. (3-19-07)

0911. Failure to Receive the Renewal Application. Failure to receive the renewal application shall not relieve the licensee of the responsibility of meeting the continuing education requirements and submitting the renewal application and renewal fee. (3-19-07)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.18.01 – RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-1701 (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 54-4106 and 54-4113, Idaho Code and Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, United States Code (“FIRREA”).

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 October 18, 2017.

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

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

In the 2017, the Legislature passed H119, which allows the Real Estate Appraiser Board to collect and pass-through fees to the federal government for appraisal management companies (“AMCs”). This rule implements that legislation. This rule also updates the incorporated “Uniform Standards of Professional Appraisal Practice (USPAP)” from the 2016-2017 to the 2018-2019 edition.

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

This fee rule will have no impact on the general fund or the Bureau of Occupational Licenses’ dedicated fund because the Real Estate Appraiser Board passes through an amount equal to any federal fee that will apply to AMCs, which is currently projected to be between \$25-\$50 multiplied by the number of appraisers working for or contracting with an AMC per year.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rule updates the version of the Uniform Standards of Professional Appraisal Practice (USPAP) that is currently incorporated by reference into the Rules of the Real Estate Appraiser Board. USPAP are the generally recognized ethical and performance standards for real estate appraisers, nationally.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dicsie Gullick at (208) 334-3233. 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 October 25, 2017.

DATED this 31st day of August, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720, Boise, ID 83720-0063
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-1801-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled “Uniform Standards of Professional Appraisal Practice (USPAP),” 201~~4~~⁸-201~~5~~⁹ Edition, excluding standards 7, 8, 9, and 10, published by the Appraisal Foundation and effective January 1, 201~~4~~⁸, as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board’s office and may be purchased from the Appraisal Foundation, Distribution Center, P. O. Box 381, Annapolis Junction, MD 20701-0381. ~~(3-25-16)~~()

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (RULE 150).

Fees are established in accord with Sections 54-4113, 54-4124 and 54-4134, Idaho Code, as follows: (3-24-17)

- 01. Application.** Application fee for License and Registration - two hundred fifty dollars (\$250). (3-24-17)
- 02. Original License.** Original License - one hundred forty dollars (\$140*). (3-21-12)
- 03. Original AMC Registration.** Original Registration – One thousand two hundred dollars (\$1,200)**. (3-24-17)
- 04. License Renewal.** License renewal - three hundred sixty-five dollars (\$365*). (3-21-12)
- 05. AMC Registration Renewal.** Registration renewal – One thousand two hundred dollars (\$1,200)**. (3-24-17)
- 06. Reinstatement.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)
- 07. Application for Reciprocity.** Application for reciprocity - two hundred fifty dollars (\$250*). (3-30-01)
- 08. Original License Via Reciprocity.** Original License via reciprocity - one hundred dollars (\$100*). (3-21-12)
- 09. Temporary Permit.** Temporary permit - one hundred dollars (\$100). (7-1-93)
- 10. Trainee Registration Fee.** Trainee registration fee - fifty dollars (\$50). (3-13-02)
- 11. Examination and Reexamination Fees.** Examination and Reexamination fees will be calculated based on the actual cost of the examination. Successful applicants will be notified of the fees at the time they are scheduled for examination. (7-1-97)
- 12. Continuing Education Provider Application Fee.** Continuing Education Provider Application fee - one hundred dollars (\$100). (3-21-12)
- 13. Fees are Non-Refundable.** Fees are non-refundable. (7-1-93)
- 14. Fees Followed By One Asterisk (*) Means.** Proposed fees for these categories marked with an asterisk (*) include forty dollars (\$40) to be submitted by the state to the federal government. Title XI, Section 1109

of the FIRREA as amended requires each state to submit a roster listing of state licensed appraisers to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council “no less than annually.” The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of “not more than eighty-five dollars (\$85),” such fees to be transmitted by the state to the federal government on an annual basis. This fee is subject to change by the Appraisal Subcommittee. (3-21-12)

15. Fees Followed By Two Asterisks ()** Means. The fees for the categories marked with two (2) asterisks (**) do not include ~~up to fifty dollars (\$50) as determined by the Appraisal Subcommittee multiplied by the number of appraisers working for or contracting with an AMC to be submitted by the state to the federal government. Title XI, Section 1109 of the FIRREA as amended requires each state to submit a roster listing registered AMC's to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council “no less than annually.”~~ additional fees assessed pursuant to Title XI, Section 1109 of the FIRREA as amended including, but not limited to, an AMC registry fee, such fees to be collected from AMCs by the state and transmitted to the federal government on an annual basis. (3-24-17)()

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
24.23.01 – RULES OF THE SPEECH, HEARING AND COMMUNICATION
SERVICES LICENSURE BOARD

DOCKET NO. 24-2301-1701

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 54-2910, 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 October 18, 2017.

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 proposed rule clarifies that the practice of audiology does not include the operation of automated newborn hearing screening machines. It also increases flexibility for licensees in completing continuing education (CE) by moving from a 1-year CE cycle (completion of 10 hours of CE within a one-year period) to a 3-year CE cycle (completion of 30 hours of CE within a three-year period).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 31st day of August, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
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Phone: (208) 334-3233
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-2301-1701
(Only Those Sections With Amendments Are Shown.)

212. NEWBORN HEARING SCREENING TESTS.

Performing newborn hearing screening tests on infants using automated equipment that produces a pass/fail response does not, by itself, constitute the practice of audiology or convert persons performing the tests into audiology support personnel. ()

~~2123.~~ -- 219. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

400. CONTINUING EDUCATION (RULE 400).

~~Every person holding an Idaho license pursuant to this act must annually complete ten (10) contact hours of continuing education prior to license renewal~~ In order to protect public health and safety and promote the public welfare, the Board has adopted the following continuing education requirement of all licensees: (3-30-06)()

~~01. Contact Hours. The contact hours of continuing education shall be obtained in areas of study germane to the practice for which the license is issued as approved by the Board.~~ (3-30-06)

01. Requirement. Until January 1, 2021, each licensee will successfully complete, in the twelve (12) months preceding each renewal of their license, a minimum of ten (10) contact hours of continuing education. ()

a. Effective January 1, 2021, each licensee will successfully complete, in the three (3) years prior to their license expiration date, a minimum of thirty (30) contact hours of continuing education. ()

b. A contact hour is a measurement of the licensee's participation in an area of study germane to the practice for which the license is issued as approved by the Board. One (1) contact hour requires one (1) hour of participation in a Board-approved continuing education program excluding meals and breaks. One (1) contact hour equals one (1) clock hour for purposes of obtaining continuing education credit. ()

c. For college or university courses that are approved by the Board for continuing education credit, one (1) semester credit hour equals fifteen (15) contact hours; one (1) quarter credit hour equals ten (10) contact hours. ()

d. Effective January 1, 2021, the Board will waive the continuing education requirement for the first three (3) license renewals after initial licensure. ()

02. Documentation of Attendance. It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the applicant. This documentation must be maintained by the applicant and provided to the Board upon request by the Board or its agent. (3-30-06)

03. Compliance Audit. The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action in accordance with Section 54-2923, Idaho Code. (3-30-06)

04. Initial Compliance. Until January 1, 2021, licensees shall not be required to meet the continuing education requirement for the first renewal. (3-30-06)()

~~05. **Equivalence.** One (1) continuing education hour shall equal one (1) clock hour. (3-30-06)~~

~~06. **Carryover of Continuing Education (CE) Hours.** Continuing education courses not claimed for CE credit in the current renewal year may be credited for the next renewal year. A maximum of five (5) hours may be carried forward from the immediately preceding year. (3-29-10)~~

075. **Special Exemption.** The Board shall have authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Requests for special exemption must be received by the Bureau fifteen (15) business days prior to expiration of the license. (3-29-10)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.23.01 – RULES OF THE SPEECH, HEARING AND COMMUNICATION SERVICES LICENSURE BOARD

DOCKET NO. 24-2301-1702 (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 54-2905, 54-2916A, 54-2917, 67-2614, and 54-5713, 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 October 18, 2017.

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

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

In 2017, the Idaho Legislature passed H46 that included sign language interpreting within the Speech and Hearing Services Practice Act. These rules implement the new provisions of the Speech and Hearing Services Practice Act.

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

Rule 175 adds a \$10 registration fee for out of state licenses and clarifies that fees relating to reinstatement and dual licensure are as set in the law. Sign language interpreters will pay the same fees that are charged to other licensees under the Speech and Hearing Services Practice Act and already established in rule. No change is being made to those fees in this proposed rule.

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 proposed changes to these rules were discussed during noticed, open meetings of the Board.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rule incorporates by reference the “National Association of the Deaf (NAD)–Registry of Interpreters for the Deaf, Inc. (RID) Code of Professional Conduct as the code of ethics for sign language interpreters.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dicie Gullick at (208) 334-3233. 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 October 25, 2017.

DATED this 31st day of August, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-2301-1702
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE (RULE 4).

~~*These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced. The document titled "National Association of the Deaf (NAD)-Registry of Interpreters for the Deaf, Inc. (RID) Code of Professional Conduct," copyright 2005 by the Registry of Interpreters for the Deaf, is incorporated by reference into this rule and is available at the Board's office and on the Board's web site.*~~ (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (RULE 10).

01. Board. The Speech, Hearing and Communication Services Licensure Board as prescribed in Section 54-2908, Idaho Code. (3-30-06)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-2903 and 67-2602, Idaho Code. (3-30-06)

03. Audiology Support Personnel. Unlicensed natural persons who work under the direction and supervision of an audiologist who is licensed in accordance with Title 54, Chapter 29, Idaho Code, and is engaged in the practice of audiology. (3-24-17)

~~**04. Deaf Interpreter.** A person who is deaf or hard-of-hearing and not a licensed sign language interpreter, who is nonetheless permitted by Section 54-2905, Idaho Code, and Board rule to perform in the role of a sign language interpreter. ()~~

~~**05. Dual Licensure.** The status of a person who holds more than one (1) license under Title 54, Chapter 29, Idaho Code. ()~~

~~**06. Distant Site.** The site at which a provider of audiology, speech-language pathology, sign language interpreting or hearing aid dealing and fitting services is located at the time the service is provided. ()~~

~~**07. Originating Site.** The location of a service recipient at the time audiology, speech-language pathology, sign language interpreting or hearing aid dealing and fitting services are provided. ()~~

~~**08. Tele-Speech, Hearing and Communication Services.** Audiology, speech-language pathology, sign language interpreting or hearing aid dealing and fitting services provided to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a service provider at a distant site and a service recipient at an originating site. The practice of audiology, speech-language pathology, sign language interpreting or hearing aid dealing and fitting via tele-speech, hearing and communication services is deemed to take place at the originating site. ()~~

~~**09. Tele-Speech, Hearing and Communication Provider.** A person who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho by Title 54, Chapter 29, Idaho Code, and who provides or offers to provide tele-speech, hearing and communication services to persons who are located in Idaho. ()~~

(BREAK IN CONTINUITY OF SECTIONS)

150. APPLICATION (RULE 150).

~~Each applicant for a license shall submit a complete application on application forms approved by the Board together with the required fee(s). The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. The Board will review only those applications deemed complete. (3-30-06)~~

01. Filing an Application. Applicants for licensure will submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fees and supporting documents. ()

02. Supporting Documents. The applicant must provide or facilitate the provision of any supporting third-party documents that may be required under the qualifications for the license being sought. ()

03. Applications Must Be Complete. Applications will not be considered complete until all required information, documents, and fees are received by the Board. ()

04. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless the applicant demonstrates good cause to the Board. ()

(BREAK IN CONTINUITY OF SECTIONS)

175. FEES (RULE 175).

Applications should not be filed unless the applicant can meet all requirements. (3-30-06)

01. Application Fee. Application Fee - Thirty dollars (\$30). (3-30-06)

02. Original License Fee. The original license fee is seventy dollars (\$70) to be accompanied by the completed application. (3-24-17)

03. Examination/Reexamination Fee. Examination fee shall be that charged by the examination provider plus an administration fee of fifty dollars (\$50) when the examination is administered by the Board. (3-30-06)

04. Provisional Permit. Provisional permit and provisional permit extension fee is one hundred dollars (\$100). ~~(3-30-06)~~ ()

05. Registration Fee for Out of State Licenses. Registration fee is ten dollars (\$10). ()

~~06.~~ **Annual Renewal Fee.** Annual renewal fee is one hundred dollars (\$100). (3-24-17)

~~07.~~ **Annual Renewal Fee for Inactive License.** Annual renewal fee is sixty-five dollars (\$65). (3-27-13)

08. Reinstatement Fee. Reinstatement fee is as provided in Section 67-2614, Idaho Code. ()

09. Dual Licensure Fee. There is no fee for dual licensure. A person shall be charged fees as though the person had obtained only one (1) license. ()

~~10.~~ **Refund of Fees.** No refund of fees shall be made to any person who has paid such fees for application or reinstatement of a license or examination fees for unexcused applicants. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

251. -- 299. (RESERVED)

260. QUALIFICATIONS FOR SIGN LANGUAGE INTERPRETER LICENSURE (RULE 260).

The Board may grant a sign language interpreter license to an applicant who completes an application as set forth in Section 150 and meets the following: ()

01. General. ()

a. Be at least twenty-one (21) years of age; ()

b. Certify that the applicant has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony. If the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 320 of these rules; and ()

c. Certify that the applicant or the applicant's license or certification has not been subject to any disciplinary action by a regulatory entity in another state, territory, or country including, but not limited to, having an application for licensure denied. If the applicant or applicant's license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 320 of these rules. ()

02. Education. Possess a high school diploma or the equivalent; ()

03. Examination or Certification. Pass competency examinations approved by the Board or obtain a certification approved by the Board. ()

261. -- 269. (RESERVED)

270. OUT OF STATE LICENSEES (RULE 270).

A person licensed or certified as sign language interpreters in another state, territory, or the District of Columbia, who is not a resident of the state of Idaho, may practice sign language interpreting in this state for a period not to exceed in the aggregate thirty (30) days in any calendar year provided that they fulfill the following requirements: ()

01. Statement of Registration. Before commencing such work, the person will file with the Board on a form approved by the board a statement of registration providing the person's name, residence, sign language interpreter license or certificate of registration number, and the name, address, and phone number of the issuing authority; ()

02. Registration Fee. The person will pay one (1) registration fee for each calendar year in which they register; ()

03. Statement of Time Engaged. Within five (5) business days of completion of the work, the person will submit to the Board on a form approved by the Board a statement of the number of days in which the person engaged in that work within the state. ()

271. -- 279. (RESERVED)

280. DEAF INTERPRETERS (RULE 280).

01. Letter of Endorsement. Persons who are deaf or hard-of-hearing and are not sign language interpreters may perform in the role of a deaf interpreter if they file with the Board two (2) written endorsement letters from a sign language interpreter licensed under Title 54, Chapter 29, Idaho Code. Each letter must, at a minimum, include: ()

a. Date letter of endorsement was written; ()

b. Full name, mailing address, and phone number of the deaf interpreter; ()

c. Name, mailing address, and phone number of the sign language interpreter; and ()

d. A statement endorsing the deaf interpreter to perform sign language interpreting services and an explanation as to why the sign language interpreter believes that the deaf interpreter has the skills and the knowledge to perform this role. ()

02. Withdrawal of Endorsement. A sign language interpreter who has endorsed a deaf interpreter may withdraw their endorsement at any time upon delivery of written notice to the deaf interpreter and the Board. ()

281. -- 299. (RESERVED)

300. EXAMINATION AND RE-EXAMINATION (RULE 300).

Each applicant shall be required to successfully pass the examination approved by the Board that is relevant to the license or permit for which application is being made. (3-30-06)

01. Dates and Locations of Exams. Examinations shall be held at such times and places as shall be determined by the Board and/or third-party examination administering authorities. ~~(3-30-06)~~()

02. Content of Exam. Each applicant shall be required to successfully pass the examination approved by the Board that is relevant to the license or permit for which application is being made. (3-30-06)

a. Applicants for Speech-Language Pathologist licensure shall successfully pass the national Praxis speech-language pathologist examination. Applicants for speech-language pathologist aide or speech-pathologist assistant must pass an examination approved by the Board. (3-30-06)

b. Applicants for audiologist licensure shall successfully pass the national Praxis audiologist examination. (3-30-06)

c. Applicants for Hearing Aid Dealer and Fitter licensure shall successfully pass the national International Hearing Instrument Studies examination. (3-30-06)

d. Applicants for a sign language interpreter license by examination must pass one (1) written examination from Subsection 300.02.d.i. or as approved by the Board and one (1) practical examination from Subsection 300.02.d.ii. or as approved by the Board: ()

i. The Educational Interpreter Performance Assessment (EIPA), any interpreting generalist written examination developed by the Registry of Interpreters for the Deaf (RID), the Center for Assessment of Sign Language Interpreters (CASLI), or any state government. ()

ii. Any practical or performance general interpreting examination recognized by the Registry of Interpreters for the Deaf (RID) or the Educational Interpreter Performance Assessment (EIPA) at score 4.0 or above. This practical or performance examination must have been passed within twenty (20) years before original application. ()

03. Failure of Exam. An applicant who fails to obtain a satisfactory score as determined by the examination provider in either the written examination or a section of the practical examination, shall be required to retake only the portion of the examination failed in order to qualify for licensure. If the applicant again fails the examination the applicant shall be required to retake the entire examination until the examination is successfully passed to qualify for licensure. (3-30-06)

301. CERTIFICATIONS (RULE 301).

01. Approved Certification Sponsors. Certifications approved by the Board for purposes of licensure are those administered by: ()

a. Registry of Interpreters for the Deaf (RID); ()

- b.** National Association of the Deaf (NAD); ()
 - c.** Center for Assessment of Sign Language Interpreters (CASLI). ()
 - d.** Board for Evaluation of Interpreters (BEI) at basic level or above, or if certified before 2014, at intermediate level or above; ()
 - e.** Utah Interpreter Program (UIP) at professional or master level. ()
 - 02.** Board Approved Certification. Also approved is any certification that may be approved by the Board. ()
 - 03.** Valid Certification. To be valid for licensure, a certification must be current. ()
 - 04.** Multiple-Level Certifications. Some certifications are multiple-level. It is the responsibility of each sign language interpreter to work in settings appropriate to their certification. ()
- ~~307~~2. -- 309. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

311. -- 319. (RESERVED)

320. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE (RULE 320).

An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or has been subject to discipline in another state, territory, or country must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. ()

- 01.** Consideration of Factors and Evidence. The board shall consider the following factors or evidence: ()
 - a.** The severity or nature of the crime or discipline; ()
 - b.** The period of time that has passed since the crime or discipline under review; ()
 - c.** The number or pattern of crimes or discipline or other similar incidents; ()
 - d.** The circumstances surrounding the crime or discipline that would help determine the risk of reoccurrence; ()
 - e.** The relationship of the crime or discipline to the practice of sign language interpreting; ()
 - f.** The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and ()
 - g.** Any other information regarding rehabilitation or mitigating circumstances. ()
- 02.** Interview. The Board may, at its discretion, grant an interview of the applicant. ()
- 03.** Applicant Bears the Burden. The applicant shall bear the burden of establishing his current suitability for licensure. ()

~~340~~21. -- 349. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

471. -- ~~499~~79. (RESERVED)

480. PROVISIONAL PERMITS (RULE 480).

The Board may issue a provisional permit allowing a person to engage in the practice of sign language interpreting while that person is pursuing licensure by taking steps to pass a competency examination or obtain a certification. The holder of a provisional permit may only practice under the supervision of person(s) holding an active and unrestricted license under Title 54, Chapter 29, Idaho Code that has not been disciplined for two (2) years immediately prior to the supervisor's appointment. ()

01. Application. An applicant must submit a completed application on a form approved by the Board together with the required fee, a plan of training, an affidavit to abide by the profession's code of professional conduct, and a statement from a supervisor accepting supervisory responsibility. ()

02. Supervision. ()

a. A supervisor will ensure that the practice and conduct of each permit holder under their supervision conforms to the requirements of Title 54, Chapter 29, Idaho Code, and these rules. ()

b. A supervisor will record with the Board a plan of training that encompasses all sections covered in the licensing examination. The plan must be accepted and approved by the Board or its agent prior to issuance of a permit. ()

c. A supervisor will review with the permit holder plans for training necessary to prepare the permit holder for the required examination. ()

d. A supervisor may not supervise more than two (2) permit holder at a time. ()

e. A supervisor may terminate their supervision of a permit holder by delivering written notice to the Board and the permit holder by certified mail at least ten (10) calendar days prior to termination. ()

03. Quarterly Reports. ()

a. Every permit holder must submit a quarterly report of their activities on forms furnished by the Board together with supplemental attachments as may be necessary, attested to and signed by the permit holder and supervisor. Supplemental attachments which must be submitted with this form include: ()

i. Log of supervisor and permit holder contacts; ()

ii. Supervisor's statement of completion of training assignments by permit holder; and ()

iii. Certificate of attendance for any workshop or training session that permit holder has attended; ()

b. Quarterly reports are due on or before April 10th, July 10th, October 10th, and January 10th for the three (3) calendar month period preceding the month due. If the permit has not been in effect for the entire quarter, the report is due for that portion of the quarter in which the permit was in effect. If quarterly reports are not received by the specified due date, the permit may be revoked. ()

c. Supervisors who fail to properly or adequately work with permit holders as required by Subsection 480.02 will be subject to disciplinary action as set forth in Section 54-2923, Idaho Code. ()

04. Expiration and Renewal. ()

a. Upon termination of supervision, a new permit may be applied for in accordance with these rules, provided that the expiration date of the new permit does not exceed the date of the third licensure examination following approval of the original application. ()

b. A provisional permit expires automatically upon issue of an original license. The provisional permit is valid for one (1) year from the date of issue and may be renewed prior to its expiration with an application for extension signed by the permit holder's supervisor at the discretion of the Board for a one (1) year period up to a maximum of two (2) renewals. ()

481. -- 499. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

601. -- ~~6~~99. (RESERVED)

700. **CODE OF ETHICS (RULE 700).**

The code of ethics for sign language interpreters licensed under Title 54, Chapter 29, Idaho Code, is contained within the National Association of the Deaf (NAD)-Registry of Interpreters for the Deaf, Inc. (RID) Code of Professional Conduct as incorporated by reference in Section 004 of these rules. ()

701. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD
DOCKET NO. 24-2401-1701 (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 54-5607, 54-5613 and 54-5713, 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 October 18, 2017.

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

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

The Genetic Counselors Licensing Board operates primarily on licensing fees. It is recommended that boards maintain a cash balance of 100-150% of their annual budget. The cash balance of the Genetic Counselors Licensing Board exceeds that amount. Accordingly, the Board wants to lower its balance and leave more money in the hands of its licensees.

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

Rule 250 reduces the fees for application, original license, annual renewal, provisional license, and license by endorsement from \$500 each to \$200.

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 proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-2401-1701
(Only Those Sections With Amendments Are Shown.)

250. FEES.

Fees are established in accord with Section 54-5613, Idaho Code as follows: (3-24-16)

01. **Application Fee.** Application fee is ~~five~~ two hundred dollars (~~\$5~~200). ~~(3-24-16)~~()
02. **Original License Fee.** Initial full license fee is ~~five~~ two hundred dollars (~~\$5~~200). ~~(3-24-16)~~()
03. **Annual Renewal Fee.** Annual renewal fee is ~~five~~ two hundred dollars (~~\$5~~200). ~~(3-24-16)~~()
04. **Provisional License Fee.** Provisional license fee is ~~five~~ two hundred dollars (~~\$5~~200). ~~(3-24-16)~~()
05. **License by Endorsement Fee.** License by endorsement fee is ~~five~~ two hundred dollars (~~\$5~~200). ~~(3-24-16)~~()
06. **Examination Fee.** The fee for those examinations administered by a third party administrator is the fee determined by the administrator and must be paid by the applicant directly to the administrator. (3-24-16)
07. **Duplicate License Fee.** Duplicate license fee is ten dollars (\$10). (3-24-16)
08. **Reinstatement Fee.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)
09. **Refund of Fees.** All fees are non-refundable except that, if a license fee is tendered but the Board does not issue a license, the respective license fee will be returned. (3-24-16)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.25.01 – RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-1701 (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 54-5403 and 54-5404, 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 October 18, 2017.

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

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

In 2015, the Idaho State Legislature passed Senate Bill 1120 which distributes a portion of the money that the Idaho Department of Transportation collects for driver training permits to the Board. As a result, the Board is able to lower fees for licensees.

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

Rule 175 reduces the initial application processing fee from \$50 to \$25, the original instructor license and renewal fee from \$50 to \$25, the instructor apprentice permit fee from \$50 to \$25, and the original business license and renewal fee from \$500 to \$250.

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 proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Dicsie Gullick at (208) 334-3233.

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 October 25, 2017.

DATED this 1st day of September, 2017.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-2501-1701
(Only Those Sections With Amendments Are Shown.)

175. FEES (RULE 175).

- 01. Fees.** The following fees are established by the Board: (4-7-11)
- a. Initial application processing fee - ~~fifty~~ twenty-five dollars (~~\$50~~25). (~~4-7-11~~)()
 - b. Original instructor license fee and renewal fee - ~~fifty~~ twenty-five dollars (~~\$50~~25). (~~4-7-11~~)()
 - c. Instructor apprentice permit fee - ~~fifty~~ twenty-five dollars (~~\$50~~25). (~~4-7-11~~)()
 - d. Original business license fee and renewal fee - ~~five~~ two hundred fifty dollars (~~\$500~~250). (~~4-7-11~~)()
 - e. Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)
- 02. Refund of Fees.** All fees are non-refundable. (4-7-11)

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.10 – RULES GOVERNING THE ADMINISTRATION OF TEMPORARY PERMITS ON LANDS OWNED BY THE IDAHO DEPARTMENT OF PARKS AND RECREATION

DOCKET NO. 26-0110-1701

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(s) 67-4210, 67-4223, and 67-4249, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

PUBLIC MEETINGS		
Wednesday, October 11, 2017 5:30 p.m. - 6:30 p.m. (PDT)	Thursday, October 19, 2017 5:30 p.m. - 6:30 p.m. (MDT)	Thursday, October 26, 2017 5:30 p.m. - 6:30 p.m. (MDT)
2885 Kathleen Ave, Suite 1 Coeur d'Alene, ID 83815	5657 Warm Springs Ave. Boise, ID 83716	4279 Commerce Circle, Suite B Idaho Falls, ID 83401

The meeting sites 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: Persons wishing to participate in the negotiated rulemaking must do the following:

- (A) Attend the public meeting and provide comments,
- (B) Submit written comments at the public meeting, or
- (C) Submit written comments as detailed below.

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. 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 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:

The proposed rule modifies existing rule to allow the Idaho Department of Parks and Recreation to charge processing fees for Temporary Permits applications requesting encroachment upon department owned or managed lands, which are more consistent with actual associated administrative costs. The existing application fee of \$100, established in 1993, is proposed to increase to \$300 for applications, assignments, and renewals. Additionally, it is proposed that existing rule prescribing a \$50/acre fee annual assessment, be replaced with an annual fee based upon the Fair Market Value of the property.

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 Keith Hobbs at (208) 514-2450. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Parks and Recreation web site at the following web address: www.parksandrecreation.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 October 26, 2017.

DATED this 28th day of August, 2017.

Keith Hobbs, Operations Administrator
Idaho Department of Parks and Recreation
(208) 514-2450

5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

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

DOCKET NO. 26-0120-1701

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(s) 67-4210, 67-4223, and 67-4249, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

PUBLIC MEETINGS		
Wednesday, October 11, 2017 5:30 p.m. - 6:30 p.m. (PDT)	Thursday, October 19, 2017 5:30 p.m. - 6:30 p.m. (MDT)	Thursday, October 26, 2017 5:30 p.m. - 6:30 p.m. (MDT)
2885 Kathleen Ave, Suite 1 Coeur d'Alene, ID 83815	5657 Warm Springs Ave. Boise, ID 83716	4279 Commerce Circle, Suite B Idaho Falls, ID 83401

The meeting sites 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: Persons wishing to participate in the negotiated rulemaking must do the following:

- (A) Attend the public meeting and provide comments,
- (B) Submit written comments at the public meeting, or
- (C) Submit written comments as detailed below.

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. 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 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:

The rule change would clarify that failure to properly display proof of payment of motor vehicle entrance and camping fees may result in a surcharge assessment.

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 Anna Canning at (208) 514-2252. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Parks and Recreation web site at the following web address: www.parksandrecreation.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 October 26, 2017.

DATED this 28th day of August, 2017.

Anna Canning, Management Services Administrator
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065
(208) 514-2252

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.23 – RULES GOVERNING FILMING WITHIN IDAHO STATE PARKS

DOCKET NO. 26-0123-1701

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-4210, 67-4223, and 67-4249, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

PUBLIC MEETINGS		
Wednesday, October 11, 2017 5:30 p.m. - 6:30 p.m. (PDT)	Thursday, October 19, 2017 5:30 p.m. - 6:30 p.m. (MDT)	Thursday, October 26, 2017 5:30 p.m. - 6:30 p.m. (MDT)
2885 Kathleen Ave., Suite 1 Coeur d’Alene, ID 83815	5657 Warm Springs Ave. Boise, ID 83716	4279 Commerce Circle, Suite B Idaho Falls, ID 83401

The meeting sites 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: Persons wishing to participate in the negotiated rulemaking must do the following:

- (A) Attend the public meeting and provide comments,
- (B) Submit written comments at the public meeting, or
- (C) Submit written comments as detailed below.

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. 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 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 rule change will lessen permitting requirements for commercial still photographers, wishing to record images within Idaho State Parks. It is felt that existing permitting requirements places undue burden on photographers with meager commercial aspirations. In addition, with the increasing affordability of professional recording equipment to park visitors, administration of the existing rule has proven costly and relatively ineffective. Provisions remain in the rule to provide authority for park managers to require permitting of photographers whose efforts are considered impactful to park resources, require assistance of park staff or is disruptive of existing visitor uses.

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 Keith Hobbs at (208) 514-2450. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Parks and Recreation web site at the following web address: www.parksandrecreation.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 October 26, 2017.

DATED this 28th day of August, 2017.

Keith Hobbs, Operations Administrator
Idaho Department of Parks and Recreation
(208) 514-2450

5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065

IDAPA 27 – BOARD OF PHARMACY
27.01.01 – RULES OF THE IDAHO STATE BOARD OF PHARMACY
DOCKET NO. 27-0101-1701 (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 Section 54-1717, Idaho Code.

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

PUBLIC HEARING
Wednesday, October 25, 2017 – 9:00 a.m. (MDT)

Idaho State Capitol Building
Room WW53
700 West Jefferson Street
Boise, ID 83702

For those planning to attend the open public hearing, the Board will accept written and verbal comments. For all others not planning to attend the public hearing, written comments will be accepted by the Executive Director on or before close of business on October 24, 2017 as follows:

- Written comments received by October 20, 2017 will be included in the Board’s distributed meeting material for consideration in advance of the hearing.
- Written comments received between October 21, 2017 and October 24, 2017 will be printed and provided to the Board at the open public hearing.

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 rules of the Idaho State Board of Pharmacy, IDAPA 27, Title 01, Chapter 01, are being repealed in their entirety effective July 1, 2018. New rules are being promulgated as six separate chapters as indicated below. The Board does not intend to add any new regulatory requirements as part of its rulemaking; instead, as the Board better organizes its rules into chapters, it aims to simultaneously eliminate outdated regulations and those that stifle the emergence of new technology or new practice models that can improve public health and safety.

1. General Provisions (Docket No. 27-0101-1702)
2. Rules Governing Licensing and Registration (Docket No. 27-0102-1701)
3. Rules Governing Pharmacy Practice (Docket No. 27-0103-1701)
4. Rules Governing Pharmacist Prescriptive Authority (Docket No. 27-0104-1701)
5. Rules Governing Drug Compounding (Docket No. 27-0105-1701)
6. Rules Governing DME, Manufacturing, and Distribution (Docket No. 27-0106-1701)

Detailed descriptions of each of the aforementioned chapters accompany the referenced rule dockets.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in two separate open, public meetings on August 1, 2017 and August 30, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 54 through 56](#), and in the August 2, 2017 Idaho Administrative Bulletin, [Vol.17-8, pages 114 through 115](#).

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 Alex Adams at (208) 334-2356.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Alex J. Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 27.01.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 27 – BOARD OF PHARMACY
27.01.01 – GENERAL PROVISIONS
DOCKET NO. 27-0101-1702 (NEW CHAPTER)
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 54-1717, Idaho Code.

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

PUBLIC HEARING
Wednesday, October 25, 2017 – 9:00 a.m. (MDT)

Idaho State Capitol Building
Room WW53
700 West Jefferson Street
Boise, ID 83702

For those planning to attend the open public hearing, the Board will accept written and verbal comments. For all others not planning to attend the public hearing, written comments will be accepted by the Executive Director on or before close of business on October 24, 2017 as follows:

- Written comments received by October 20, 2017 will be included in the Board’s distributed meeting material for consideration in advance of the hearing.
- Written comments received between October 21, 2017 and October 24, 2017 will be printed and provided to the Board at the open public hearing.

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 scope of Chapter 27.01.01. is to establish general provisions for the Board of Pharmacy, and to serve as a parent chapter for all subsequent chapters. This chapter is comprised of current rules as follows: definitions and abbreviations, criteria for obtaining a waiver or variance, the Board’s authority to inspect and investigate, and acts that constitute unprofessional conduct. Changes made to the current rules include:

- Definitions that merely duplicate those already defined in Sections 54-1705 and 37-2701, Idaho Code, are removed;
- Definitions are added for ‘ACCME,’ ‘CLIA-Waived Test,’ ‘Clinical Guidelines,’ ‘CPE Monitor,’ and ‘Student Technician’; and
- Unprofessional conduct is expanded to include provisions related to ‘Standard of Care’ and ‘Unnecessary Services or Products.’

These rules will take effect in their entirety on July 1, 2018.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in two separate open, public meetings on August 1, 2017 and August 30, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 27-0101-1701 in the June 7, 2017 Idaho Administrative Bulletin, **Vol. 17-6, pages 54-56**, and in the August 2, 2017 Idaho Administrative Bulletin, **Vol. 17-8, pages 114-115**.

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 Alex Adams at (208) 334-2356.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Alex J. Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 27-0101-1702
(New Chapter)**

**IDAPA 27
TITLE 01
CHAPTER 01**

27.01.01 – GENERAL PROVISIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717, 54-1753, 54-1755, and 54-1763, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “General Provisions,” IDAPA 27, Title 01, Chapter 01. ()

02. Scope. The scope of this chapter includes, but is not limited to, provision for, and clarification of, the Board’s assigned responsibility to: ()

a. Regulate and control the manufacture, distribution, and dispensing of controlled substances within or into the state, pursuant to the Uniform Controlled Substances Act, Section 37-2715, Idaho Code; ()

b. Regulate and control the practice of pharmacy, pursuant to the Idaho Pharmacy Act, Section 54-1718, Idaho Code; and ()

c. Carry out its duties in regard to drugs, devices and other materials used in the diagnosis, mitigation and treatment, or prevention of injury, illness, and disease, pursuant to Section 54-1719, Idaho Code, or in regard to professionals or other individuals licensed or registered by the Board or otherwise engaged in conduct subject to regulation under these Acts. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Title 67, Chapter 52, Idaho Code, this agency may have written statements that pertain to the interpretation of, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Board of Pharmacy office. ()

003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.

Administrative proceedings and appeals are administered by the Board in accordance with the “Idaho Rules of Administrative Procedure of the Attorney General,” IDAPA 04.11.01, Subchapter B -- Contested Cases, Rules 100 through 800. ()

01. Place and Time for Filing. Documents in rulemakings or contested cases must be filed with the executive director of the Board at the Board office between the hours of 8 a.m. and 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

02. Manner of Filing. One (1) original of each document is sufficient for filing; however, the person or officer presiding over a particular rulemaking or contested case proceeding may require the filing of additional copies. A document may be filed with the Board by e-mail or fax if legible, complete, and received during the Board’s office hours. The filing party is responsible for verifying with Board staff that an e-mail or fax was successfully and legibly received. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. BOARD OFFICE INFORMATION.

01. Street Address. The office is located at 1199 Shoreline Lane, Suite 303, Boise, Idaho. ()

02. Mailing Address. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0067. ()

03. Telephone Number. The telephone number is (208) 334-2356. ()

04. Fax Number. The fax number is (208) 334-3536. ()

05. Electronic Address. The website address is <https://bop.idaho.gov>. ()

06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Board of Pharmacy records and filings are subject to compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. OFFICIAL BOARD JOURNAL.

The official journal of the Board is the electronic Idaho State Board of Pharmacy Newsletter. A link to recent versions of the newsletter is posted on the Board’s website. Board licensees and registrants are presumed to have knowledge of

the contents of the newsletter on the date of publication. The newsletter may be used in administrative hearings as proof of notification. ()

008. – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS (A -- D).

The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms shall have the meanings set forth below: ()

- 01. ACCME.** Accreditation Council for Continuing Medical Education. ()
- 02. Accredited School or College of Pharmacy.** A school or college that meets the minimum standards of the ACPE and appears on its list of accredited schools or colleges of pharmacy. ()
- 03. ACPE.** Accreditation Council for Pharmacy Education. ()
- 04. ADS -- Automated Dispensing and Storage.** A mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of drugs and that collects, controls, and maintains transaction information. ()
- 05. Biological Product.** A virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), that is applicable to the prevention, treatment, or cure of a disease or condition of human beings and licensed under Section 351(k) of the Public Health Service Act, 42 U.S.C. Section 262(i). ()
- 06. Biosimilar.** A biological product highly similar to a specific reference biological product that is licensed by the FDA pursuant to 42 U.S.C. Section 262(k) and published in the Purple Book. ()
- 07. CDC.** United States Department of Health and Human Services, Centers for Disease Control and Prevention. ()
- 08. Change of Ownership.** A change of majority ownership or controlling interest of a drug outlet licensed or registered by the Board. ()
- 09. CLIA-Waived Test.** A test that is waived under the federal Clinical Laboratory Improvement Amendments (CLIA) of 1988. ()
- 10. Clinical Guidelines.** Recommendations from a reputable organization that are evidence-based and intended to optimize patient care in specific clinical circumstances. ()
- 11. CME.** Continuing medical education. ()
- 12. Collaborative Pharmacy Practice.** A pharmacy practice whereby one (1) or more pharmacists or pharmacies jointly agree to work under a protocol authorized by one (1) or more prescribers to provide patient care and DTM services not otherwise permitted to be performed by a pharmacist under specified conditions or limitations. ()
- 13. Collaborative Pharmacy Practice Agreement.** A written agreement between one (1) or more pharmacists or pharmacies and one (1) or more prescribers that provides for collaborative pharmacy practice. ()
- 14. Community Pharmacy.** A community or other pharmacy that sells prescription drugs at retail and is open to the public for business. ()
- 15. Continuous Quality Improvement Program.** A system of standards and procedures to identify and evaluate quality-related events and to constantly enhance the efficiency and effectiveness of the structures and processes of a pharmacy system. ()

16. **CPE.** Continuing pharmacy education. ()
17. **CPE Monitor.** An NABP service that allows pharmacists to electronically keep track of CPE credits from ACPE-accredited providers. ()
18. **DEA.** United States Drug Enforcement Administration. ()
19. **Distributor.** A supplier of drugs manufactured, produced, or prepared by others to persons other than the ultimate consumer. ()
20. **DME.** Durable medical equipment. ()
21. **Drug Product Selection.** The act of selecting either a brand name drug product or its therapeutically equivalent generic. ()
22. **Drug Product Substitution.** Dispensing a drug product other than prescribed. ()
23. **DTM -- Drug Therapy Management.** Selecting, initiating, or modifying drug treatment pursuant to a collaborative pharmacy practice agreement or statewide protocol agreement. ()
- 011. DEFINITIONS AND ABBREVIATIONS (E -- N).**
The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms shall have the meanings set forth below: ()
01. **Emergency Drugs.** Drugs necessary to meet the immediate therapeutic needs of one (1) or more patients that are not available from any other authorized source in sufficient time to avoid risk of harm due to the delay that would result from obtaining the drugs from another source. ()
02. **Executive Director.** The Idaho State Board of Pharmacy executive director created by Sections 54-1713 and 54-1714, Idaho Code. ()
03. **FDA.** United States Food and Drug Administration. ()
04. **Flavoring Agent.** An additive in food or drugs when used in accordance with the principles of good pharmacy practices and in the minimum quantity necessary to produce its intended effect. ()
05. **Floor Stock.** Drugs or devices not labeled for a specific patient that are maintained at a nursing station or other department of an institutional facility, excluding the pharmacy, for the purpose of administering to patients of the facility. ()
06. **FPGEC.** Foreign Pharmacy Graduate Examination Committee. ()
07. **Hazardous Drug.** Any drug listed as such by the National Institute for Occupational Safety and Health or any drug identified by at least one (1) of the following criteria: ()
- a. Carcinogenicity; ()
 - b. Teratogenicity or developmental toxicity; ()
 - c. Reproductive toxicity in humans; ()
 - d. Organ toxicity at low doses in humans or animals; ()
 - e. Genotoxicity; or ()
 - f. New drugs that mimic existing hazardous drugs in structure or toxicity. ()

08. **HIPAA.** Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191). ()
09. **Idaho State Board of Pharmacy or Idaho Board of Pharmacy.** The terms Idaho State Board of Pharmacy, Idaho Board of Pharmacy, State Board of Pharmacy, and Board of Pharmacy are deemed synonymous and are used interchangeably to describe the entity created under the authority of Title 54, Chapter 17, Idaho Code. Unless specifically differentiated, “the Board” or “Board” also means the Idaho State Board of Pharmacy. ()
10. **Institutional Pharmacy.** A pharmacy located in an institutional facility. ()
11. **Interchangeable Biosimilar.** A licensed biosimilar product determined by the FDA to be therapeutically equivalent to the reference biological product and published in the Purple Book. ()
12. **Limited Service Outlet.** Limited service outlets include, but are not limited to, sterile product pharmacies, remote dispensing pharmacies, facilities operating narcotic treatment programs, durable medical equipment outlets, prescriber drug outlets, outsourcing facilities, nuclear pharmacies, cognitive service pharmacies, correctional facilities, offsite ADSs for non-emergency dispensing, reverse distributors, and analytical or research laboratories. ()
13. **Maintenance Drug.** A drug intended for the treatment of a health condition or disease that is persistent or otherwise expected to be long lasting in its effects. ()
14. **Medication Synchronization Program.** An opt-in program provided by a pharmacy for aligning the refill dates of a patient’s prescription drugs so that drugs that are refilled at the same frequency may be refilled concurrently. ()
15. **MPJE.** Multistate Pharmacy Jurisprudence Exam. ()
16. **NABP.** National Association of Boards of Pharmacy. ()
17. **NAPLEX.** North American Pharmacists Licensure Examination. ()
18. **NDC.** National Drug Code. ()

012. DEFINITIONS AND ABBREVIATIONS (O -- Z).

The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms shall have the meanings set forth below: ()

01. **Parenteral Admixture.** The preparation and labeling of sterile products intended for administration by injection. ()
02. **Pharmaceutical Care Services.** A broad range of pharmacist-provided cognitive services, activities and responsibilities intended to optimize drug-related therapeutic outcomes for patients. Pharmaceutical care services may be performed independent of, or concurrently with, the dispensing or administration of a drug or device and also encompasses services provided by way of DTM under a collaborative practice agreement, statewide protocol agreement, pharmacotherapy, clinical pharmacy practice, pharmacist independent practice, and Medication Therapy Management. Pharmaceutical care services are not limited to, but may include one (1) or more of the following, according to the individual needs of the patient: ()
- a. Performing or obtaining necessary assessments of the patient’s health status, including the performance of health screening activities that may include, but are not limited to, obtaining finger-stick blood samples; ()
 - b. Reviewing, analyzing, evaluating, formulating or providing a drug utilization plan; ()
 - c. Monitoring and evaluating the patient’s response to drug therapy, including safety and effectiveness; ()

- d. Performing a comprehensive drug review to identify, resolve, and prevent drug-related problems, including adverse drug events; ()
- e. Documenting the care delivered; ()
- f. Communicating essential information or referring the patient when necessary or appropriate; ()
- g. Providing counseling education, information, support services, and resources applicable to a drug, disease state, or a related condition or designed to enhance patient compliance with therapeutic regimens; ()
- h. Conducting a drug therapy review consultation with the patient or caregiver; ()
- i. Preparing or providing information as part of a personal health record; ()
- j. Identifying processes to improve continuity of care and patient outcomes; ()
- k. Providing consultative drug-related intervention and referral services; ()
- l. Coordinating and integrating pharmaceutical care services within the broader health care management services being provided to the patient; ()
- m. Ordering and interpreting laboratory tests; and ()
- n. Other services as allowed by law. ()
- 03. Pharmacy Operations.** Activities related to and including the preparation, compounding, distributing, or dispensing of drugs or devices from a pharmacy. ()
- 04. PDMP.** Prescription Drug Monitoring Program. ()
- 05. Prepackaging.** The act of transferring a drug, manually or using an automated system, from a manufacturer's original container to another container prior to receiving a prescription drug order. ()
- 06. Prescriber.** An individual currently licensed, registered, or otherwise authorized to prescribe and administer drugs in the course of professional practice. ()
- 07. Purple Book.** The list of licensed biological products with reference product exclusivity and biosimilarity or interchangeability evaluations published by the FDA under the Public Health Service Act. ()
- 08. Readily Retrievable.** Records are considered readily retrievable if they are able to be completely and legibly produced upon request within seventy-two (72) hours. ()
- 09. Reconstitution.** The process of adding a diluent to a powdered medication to prepare a solution or suspension, according to the product's labeling or the manufacturer's instructions. ()
- 10. Restricted Drug Storage Area.** The area of a drug outlet where prescription drugs are prepared, compounded, distributed, dispensed, or stored. ()
- 11. Sample.** A unit of a drug that is not intended to be sold and is intended to promote the sale of the drug. ()
- 12. Skilled Nursing Facility.** An institutional facility or a distinct part of an institutional facility that is primarily engaged in providing daily skilled nursing care and related services. ()
- 13. Student Technician.** A student who is enrolled in a high school or college supervised program, and

who does not otherwise meet the requirements for registration as a technician-in-training or certified technician. ()

14. Technician. Unless specifically differentiated, a term inclusive of pharmacy technician, certified technician, and technician-in-training to indicate an individual authorized by registration with the Board to perform routine pharmacy support services under the supervision of a pharmacist. ()

15. Telepharmacy. The use of telecommunications and information technologies in the practice of pharmacy to provide pharmaceutical care services to patients at a distance. ()

16. Therapeutic Equivalent Drugs. Products assigned an “A” code by the FDA in the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) and animal drug products published in the FDA Approved Animal Drug Products (Green Book). ()

17. Unit Dose. Drugs packaged in individual, sealed doses with tamper-evident packaging (for example, single unit-of-use, blister packaging, unused injectable vials, and ampules). ()

18. USP. United States Pharmacopeia. ()

19. USP-NF. United State Pharmacopeia-National Formulary. ()

20. USP 795. The current edition of the United States Pharmacopeia-National Formulary, Chapter 795. ()

21. USP 797. The current edition of the United States Pharmacopeia-National Formulary, Chapter 797. ()

22. VAWD – Verified Accredited Wholesale Distributor. An accreditation program for wholesale distributors offered through NABP. ()

013. – 019. (RESERVED)

020. PRACTICE OF PHARMACY: GENERAL APPROACH.

To evaluate whether a specific act is within the scope of pharmacy practice in or into Idaho, a licensee or registrant of the Board must independently determine whether: ()

01. Express Prohibition. The act is expressly prohibited by: ()

a. The Idaho Pharmacy Act, Title 54, Chapter 17, Idaho Code; ()

b. The Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; ()

c. The rules of the Idaho State Board of Pharmacy; or ()

d. Any other applicable state or federal laws, rules or regulations. ()

02. Education and Training. The act is consistent with licensee or registrant’s education, training or practice experience. ()

03. Standard of Care. Performance of the act is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent licensee or registrant with similar education, training and experience. ()

021. WAIVERS OR VARIANCES.

01. Criteria. The board may grant or deny, in whole or in part, a waiver of, or variance from, specified rules if the granting of the waiver or variance is consistent with the Board’s mandate to promote, preserve and protect

public health, safety and welfare, and based on consideration of one (1) or both of the following: ()

a. The application of a certain rule or rules is unreasonable and would impose an undue hardship or burden on the petitioner; or ()

b. The waiver or variance requested would test an innovative practice or service delivery model. ()

02. Content and Filing of a Waiver or Variance Petition. A written petition for waiver or variance should include at least the following: ()

a. The name, address, and telephone number of the petitioner or petitioners; ()

b. A specific reference to the rule or rules from which a waiver or variance is requested; ()

c. A statement detailing the waiver or variance requested, including the precise scope and duration; and ()

d. A description of how the waiver or variance, if granted, will afford substantially equal protection of public health, safety, and welfare intended by the particular rule for which the waiver or variance is requested. ()

03. Invalid Requests. A waiver or variance request that is contrary to federal law or Idaho Code or that seeks to delay or cancel an administrative deadline will not be considered or granted by the Board. ()

04. Time Period of Waiver or Variance. Waivers or variances may be granted on a permanent or temporary basis. Temporary waivers or variances have no automatic renewal, but may be renewed if the Board finds that sufficient grounds to allow the waiver or variance continue to exist. ()

05. Cancellation or Modification of a Waiver or Variance. A waiver or variance granted by the Board may be canceled or modified by the Board at any time. ()

022. BOARD INSPECTIONS AND INVESTIGATIONS.

01. Records Subject to Board Inspection. Records created, maintained, or retained by Board licensees or registrants in compliance with statutes or rules enforced by the Board must be made available for inspection upon request by Board inspectors or authorized agents. It is unlawful to refuse to permit or to obstruct a Board inspection. ()

02. Inspections. Prior to the commencement of business, as applicable, and thereafter at regular intervals, upon presentation of appropriate identification, registrants and licensees must permit the Board or its compliance officers to enter and inspect the premises and to audit the records of each drug outlet for compliance with laws enforced by or under the Board's jurisdiction. ()

03. Inspection Deficiencies. Deficiencies noted must be promptly remedied, and if requested, the Board office notified of corrective measures. If required, one (1) follow-up inspection may be performed by the Board at no cost. For additional follow-up inspections, the drug outlet will be charged actual travel and personnel costs incurred in the inspection and must pay within ninety (90) days of inspection. ()

04. Inspection Reports. Inspection reports must be reviewed with the Board inspector and signed by an agent of the drug outlet upon completion of the exit interview. ()

05. Investigations. Licensees or registrants must also fully cooperate with Board investigations conducted to confirm compliance with laws enforced by the Board, to gather information pertinent to a complaint received by the Board, or to enforce disciplinary actions. ()

023. UNPROFESSIONAL CONDUCT.

The following acts or practices by a pharmacist, pharmacist intern, or technician are declared to be specifically, but

not by way of limitation, unprofessional conduct and conduct contrary to the public interest. ()

01. Unethical Conduct. Conduct in the practice of pharmacy or in the operation of a pharmacy that may reduce the public confidence in the ability and integrity of the profession of pharmacy or endangers the public health, safety, and welfare. A violation of this section includes committing fraud, misrepresentation, negligence, concealment, or being involved in dishonest dealings, price fixing, or breaching the public trust with respect to the practice of pharmacy. ()

02. Lack of Fitness. A lack of fitness for professional practice due to incompetency, personal habits, drug or alcohol dependence, physical or mental illness, or for any other cause that endangers public health, safety, or welfare. ()

03. On-Duty Intoxication or Impairment. Intoxication, impairment, or consumption of alcohol or drugs while on duty, including break periods after which the individual is expected to return to work, or prior to reporting to work. ()

04. Diversion of Drug Products and Devices. Supplying or diverting drugs, biologicals, and other medicines, substances, or devices legally sold in pharmacies that allows the circumvention of laws pertaining to the legal sale of these articles. ()

05. Unlawful Possession or Use of Drugs. Possessing or using a controlled substance without a lawful prescription drug order. A failed drug test creates a rebuttable presumption of a violation of this rule. ()

06. Prescription Drug Order Noncompliance. Failing to follow the instructions of the person writing, making, or ordering a prescription as to its refills, contents, or labeling except as provided in these rules. ()

07. Failure to Confer. Failure to confer with the prescriber when necessary or appropriate or filling a prescription if necessary components of the prescription drug order are missing or questionable. ()

08. Excessive Provision of Controlled Substances. Providing a clearly excessive amount of controlled substances. Evidentiary factors of a clearly excessive amount include, but are not limited to, the amount of controlled substances furnished and previous ordering patterns (including size and frequency of orders). ()

09. Failure to Counsel or Offer Counseling. Failing to counsel or offer counseling, unless specifically exempted or refused. ()

10. Substandard, Misbranded, Adulterated, or Expired Products. Manufacturing, compounding, delivering, dispensing, or permitting to be manufactured, compounded, delivered, or dispensed substandard, misbranded, or adulterated drugs or preparations or those made using secret formulas. Failing to remove expired drugs from stock. ()

11. Prescriber Incentives. Allowing a commission or rebate to be paid, or personally paying a commission or rebate, to a person writing, making, or otherwise ordering a prescription. ()

12. Exclusive Arrangements. Participation in a plan or agreement that compromises the quality or extent of professional services or limits access to provider facilities at the expense of public health or welfare. ()

13. Failure to Report. Failing to report to the Board any violation of statutes or rules pertaining to the practice of pharmacy or any act that endangers the health, safety, or welfare of patients or the public. ()

14. Failure to Follow Board Order. Failure to follow an order of the Board. ()

15. Use of False Information. Knowingly using false information in connection with the prescribing, delivering, administering, or dispensing of a controlled substance or other drug product is prohibited. ()

16. Standard of Care. Providing health care services which fail to meet the standard provided by other

qualified licensees or registrants in the same or similar setting. ()

17. Unnecessary Services or Products. Directly promoting or inducing for the provisions of health care services or products that are unnecessary or not medically indicated. ()

024. – 999. (RESERVED)

IDAPA 27 – BOARD OF PHARMACY

27.01.02 – RULES GOVERNING LICENSURE AND REGISTRATION

DOCKET NO. 27-0102-1701 (NEW CHAPTER, 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 Section 54-1717, Idaho Code.

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

<p>PUBLIC HEARING Wednesday, October 25, 2017 – 9:00 a.m. (MDT)</p>

**Idaho State Capitol Building
Room WW53
700 West Jefferson Street
Boise, ID 83702**

For those planning to attend the open public hearing, the Board will accept written and verbal comments. For all others not planning to attend the public hearing, written comments will be accepted by the Executive Director on or before close of business on October 24, 2017 as follows:

- Written comments received by October 20, 2017 will be included in the Board’s distributed meeting material for consideration in advance of the hearing.
- Written comments received between October 21, 2017 and October 24, 2017 will be printed and provided to the Board at the open public hearing.

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 scope of Chapter 27.01.02 is to establish the rules related to licensure and registration for both individuals and facilities. This chapter is comprised of rules from the existing Board rules as follows: general requirements, board fees, fee schedule, pharmacist licensure and registration, pharmacist intern registration, technician registration, practitioner controlled substance registration, and drug outlet licensure and registration. Changes made to the current rules include:

- Elimination of the following licensure or registration categories: nursing home, non-pharmacy retail outlet, veterinary drug technician, and inactive pharmacist license. Elimination of the license or registration does not mean that these activities cannot occur; it merely removes the need for a government permission slip prior to engaging in these activities as it relates to the practice of pharmacy;
- Consolidation of pharmacist controlled substance registration and distributor controlled substance registration into the main licenses for each category;
- Changes to the fee schedule for pharmacists, manufacturers, distributors, and prescriber drug outlets as outlined below;
- Annual renewal deadlines are changed for individuals (birth month) and facilities (now December 31);
- Continuing pharmacy education requirements are streamlined for pharmacists and Board-approved credits are removed as this duplicates a service provided commonly and more effectively by the private sector;
- Externs and interns are consolidated into a single license type, now called ‘pharmacist interns;’
- The technician-in-training registration is capped at a period at two (2) years from the date of issuance, the employer requirement is removed for technicians-in-training, and a student technician category is created;

- Drug outlets may obtain a temporary license number so that pharmacies can start health plan contracting prior to opening provided certain criteria are met;
- Removes the requirement that a floor plan must be submitted to, and approved by, Board staff prior to a remodel; and
- Streamlines the process for permanently closing a pharmacy.

These rules will take effect in their entirety on July 1, 2018.

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

The following categories of licensure or registration are proposed to be eliminated:

Category	Current Fee(s)	Proposed Fee	Note
Nursing Home	\$35	\$0	Category proposed to be eliminated.
Non-Pharmacy Retail Outlet	\$35	\$0	Category proposed to be eliminated.
Veterinary Drug Technician	\$35	\$0	Category proposed to be eliminated.
Inactive Pharmacist License	\$50	\$0	Category proposed to be eliminated.

Currently, to practice pharmacy in Idaho, a pharmacist must obtain a license or registration (fees vary) and separately a controlled substance registration (\$60). Idaho is among a minority of states that requires these separate licenses and registrations. The Board proposes to eliminate the separate controlled substance registration, and adjust the fees for pharmacists as follows:

Category	Current Fee(s)	Proposed Fee	Note
Pharmacist Controlled Substances Registration	\$60	\$0	Category proposed to be eliminated and bundled with the separate pharmacist license or registration, as described in the following columns.
Pharmacist License by Examination (Initial)	\$100	\$140	The fee would be adjusted to account for consolidation of the pharmacist controlled substances registration. Pharmacists who currently hold both a pharmacist license and controlled substance registration save \$20 annually by consolidating the two. Otherwise there is a net \$40 increase.
Pharmacist License (Renewal)	\$90	\$130	As of April 2017, there were only 80 pharmacists in Idaho (3% of total pharmacist licensees) who held a pharmacist license but not a controlled substance registration. These pharmacists are generally in non-practice settings. In addition, 780 out-of-state pharmacists did not hold a controlled substance registration.
Pharmacist License by Reciprocity (Initial)	\$250	\$140	The National Association of Boards of Pharmacy license transfer process has streamlined the staff work burden for license reciprocity applications; the proposed fee would now create parity with the fee for pharmacist licensure by exam.

In addition, the Board intends to increase the fee for its nonresident pharmacist registration category from \$250 to \$290, which also accounts for the consolidation of the pharmacist controlled substance registration. Currently, Section 54-1720, Idaho Code, caps the fee for pharmacists at \$250, which prevents the Board from making this change as part of this rule docket. The Board intends to bring agency legislation to address this cap; if this agency legislation successfully passes, the Board intends to make this change via temporary rule after the conclusion of the 2018 legislative session and prior to the effective date of these rules (July 1, 2018).

Currently, to distribute medications in Idaho, a distributor must obtain a license or registration (fees vary) and separately a controlled substance registration (\$100) if they are distributing controlled substances. Idaho is among a minority of states that requires these separate licenses and registrations. The Board proposes to eliminate the separate controlled substance registration, and adjust the fees for distributors as follows:

Category	Current Fee(s)	Proposed Fee	Note
Distributor Controlled Substances Registration	\$100	\$0	Category proposed to be eliminated and bundled with the separate distributor/manufacturer license or registration.
Manufacturer	\$100	\$150	Distributors who currently hold both a distributor registration and controlled substance registration save \$50 annually by consolidating the two. Otherwise there is a net \$50 increase.
Wholesale Distributor	\$130	\$180	
Wholesale OTC	\$100	\$150	

Lastly, the Board proposes to modify the following fees for various reasons described in the table:

Category	Current Fee(s)	Proposed Fee	Note
Technician-in-Training	\$35/year	\$35/two years	Technicians-in-training will save \$35 if their training period exceeds the first year.
Prescriber Drug Outlet	\$35	\$100	When the Board initially established the fee, it proved insufficient to cover the costs associated with licensing and inspections. The fee for all other drug outlets is \$100, so this creates parity and accounts for the Board's actual expenses.

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:

The proposed changes have no impact on the state General Fund. The net revenue change to the Board of Pharmacy's dedicated fund is projected to be a net decrease of \$18,503 on renewals as proposed in the current rules. If the Board's agency legislation also passes, enabling an increase in the nonresident pharmacist registration fee, the net impact on the Board's dedicated fund is projected to be an increase of \$4,338 on renewals.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in two separate open, public meetings on August 1, 2017 and August 30, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 27-0101-1701 in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 54 through 56](#), and in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, pages 114 through 115](#).

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 Alex Adams at (208) 334-2356.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Alex J. Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 27-0102-1701
(New Chapter)

IDAPA 27
TITLE 01
CHAPTER 02

27.01.02. - RULES GOVERNING LICENSURE AND REGISTRATION

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717, 54-1753, 54-1755, and 54-1763, Idaho Code. ()

001. TITLE AND SCOPE.

In addition to the General Provisions set forth in “General Provisions,” IDAPA 27.01.01, the following title and scope shall apply to these rules: ()

01. Title. The title of this chapter is “Rules Governing Licensure and Registration,” IDAPA 27, Title 01, Chapter 02. ()

02. Scope. The scope of this chapter includes, but is not limited to, provision for, and clarification of, the Board’s assigned responsibility to license individuals and facilities engaged in the practice of pharmacy in or into Idaho, including pharmacists, technicians, pharmacist interns, practitioners, and drug outlets. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Title 67, Chapter 52, Idaho Code, this agency may have written statements that pertain to the interpretation of, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Board of Pharmacy office. ()

003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.

Administrative proceedings and appeals are administered by the Board in accordance with the “Idaho Rules of Administrative Procedure of the Attorney General,” IDAPA 04.11.01, Subchapter B -- Contested Cases, Rules 100 through 800. ()

01. Place and Time for Filing. Documents in rulemakings or contested cases must be filed with the executive director of the Board at the Board office between the hours of 8 a.m. and 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

02. Manner of Filing. One (1) original of each document is sufficient for filing; however, the person or officer presiding over a particular rulemaking or contested case proceeding may require the filing of additional copies. A document may be filed with the Board by e-mail or fax if legible, complete, and received during the Board's office hours. The filing party is responsible for verifying with Board staff that an e-mail or fax was successfully and legibly received. ()

004. INCORPORATION BY REFERENCE.
No documents have been incorporated by reference into these rules. ()

005. BOARD OFFICE INFORMATION.

01. Street Address. The office is located at 1199 Shoreline Lane, Suite 303, Boise, Idaho. ()

02. Mailing Address. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0067. ()

03. Telephone Number. The telephone number is (208) 334-2356. ()

04. Fax Number. The fax number is (208) 334-3536. ()

05. Electronic Address. The website address is <https://bop.idaho.gov>. ()

06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.
Board of Pharmacy records and filings are subject to compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. OFFICIAL BOARD JOURNAL.
The official journal of the Board is the electronic Idaho State Board of Pharmacy Newsletter. A link to recent versions of the newsletter is posted on the Board's website. Board licensees and registrants are presumed to have knowledge of the contents of the newsletter on the date of publication. The newsletter may be used in administrative hearings as proof of notification. ()

008. – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.
The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the definitions and abbreviations found at IDAPA 27.01.01.010 through 012 are applicable to these rules. ()

011. – 019. (RESERVED)

020. BOARD OF PHARMACY LICENSURE AND REGISTRATION.
The Board will issue or renew a license or certificate of registration upon application and determination that the applicant has satisfied the requirements of the Idaho Pharmacy Act, Idaho Controlled Substances Act, and any additional criteria specified by these rules for the license or registration classification. Licenses or registrations required by state or federal law, or both, must be obtained prior to engaging in these practices or their supportive functions, except that the Board may suspend such requirements for the duration of a national, state or local emergency declared by the President of the United States, the Governor of the State of Idaho, or by any other person with legal authority to declare an emergency, for individuals engaged in the scope of practice for which they are licensed in another state. ()

021. LICENSURE AND REGISTRATION: GENERAL REQUIREMENTS.

01. Board Forms. Initial licensure and registration applications, annual renewal applications, and other forms used for licensure, registration, or other purposes must be in such form as designated by the Board. ()

02. Incomplete Applications. Information requested on the application or other form must be provided and submitted to the Board office with the applicable fee or the submission will be considered incomplete and will not be processed. Applications that remain incomplete after six (6) months from the date of initial submission will expire. ()

03. On-Time Annual Renewal Application. Licenses and registrations must be renewed annually to remain valid. Applications for renewal must be completed and submitted to the Board office prior to the license or registration expiration. Timely submission of the renewal application is the responsibility of each licensee or registrant. Licenses and certificates of registration issued to individuals will expire annually on the last day of the individual's birth month, and on December 31 for facilities, unless an alternate expiration term or date is stated in these rules. ()

04. Late Renewal Application. Failure to submit a renewal application prior to the expiration date will cause the license or registration to lapse and will result in the assessment of a late fee and possible disciplinary action. A lapsed license or registration is invalid until renewal is approved by the Board and if not renewed within thirty (30) days after its expiration will require reinstatement. ()

05. Exemption. New licenses and registrations issued ten (10) weeks or less prior to the renewal due date are exempt from the renewal requirements that year only. ()

06. Cancellation and Registration. Failure to maintain the requirements for any registration will result in the cancellation of the registration. ()

07. Reinstatement of License or Registration. Unless otherwise specified in Board rule, consideration of a request for reinstatement of a license or registration will require a completed application on a Board form, submission of a completed fingerprint card, as applicable, and payment of any applicable fees due or delinquent at the time reinstatement is requested. ()

08. Parent or Legal Guardian Consent. No person under the age of eighteen (18), unless an emancipated minor, may submit an application for licensure or registration without first providing the Board with written consent from a parent or legal guardian. ()

022. BOARD FEES.

01. Fee Determination and Collection. Pursuant to the authority and limitations established by Sections 37-2715 and 54-1720(5)(a), Idaho Code, the Board has determined and will collect fees for the issuance, annual renewal, or reinstatement of licenses and certificates of registration to persons and drug outlets engaged in acts or practices regulated by the Board. The Board may also charge reasonable fees for specified administrative services or publications. ()

02. Time and Method of Payment. Fees are due and must be paid by cash, credit card, or by personal, certified, or cashier's check or money order payable to the "Idaho State Board of Pharmacy" at the time of application, submission, or request. Fees are nonrefundable and will not be prorated, except for the limited purpose of transitioning to the new renewal deadlines established by these rules. ()

03. Fee for Dishonored Payment. A reasonable administrative fee may be charged for a dishonored check or other form of payment. If a license or registration application has been approved or renewed by the Board and payment is subsequently dishonored, the approval or renewal is immediately canceled on the basis of the submission of an incomplete application. The board may require subsequent payments to be made by cashier's check, money order, or other form of guaranteed funds. ()

04. Overpayment of Fees. “Overpayment” refers to the payment of any fee in excess of the listed amount. Refunds issued will be reduced by a reasonable processing fee. ()

05. Fee Exemption for Controlled Substance Registrations. Persons exempt pursuant to federal law from fee requirements applicable to controlled substance registrations issued by the DEA are also exempt from fees applicable to controlled substance registrations issued by the Board. ()

023. FEE SCHEDULE.

01. Licenses and Registrations -- Professionals.

License/Registration	Initial Fee	Annual Renewal Fee
Pharmacist License	\$140	\$130
Nonresident Pharmacist Registration	\$250	\$250
Pharmacist Intern	\$50	\$50
Technician	\$35	\$35
Practitioner Controlled Substance Registration	\$60	\$60

()

02. Certificates of Registration and Licensure -- Facilities.

License/Registration	Initial Fee	Annual Renewal Fee
Drug Outlet (unless otherwise listed)	\$100	\$100
Wholesale License	\$180	\$180
Wholesale Registration	\$150	\$150
Central Drug Outlet (Nonresident)	\$500	\$250
Mail Service Pharmacy	\$500	\$250
Durable Medical Equipment Outlet	\$50	\$50
Outsourcing Facility (Nonresident)	\$500	\$250
Manufacturer	\$150	\$150
Veterinary Drug Outlet	\$35	\$35

()

03. Late Fees and Reinstatements.

Category	Fee
Late payment processing fee	\$50
License or registration reinstatement fee	One-half (1/2) of the amount of the annual renewal

()

04. Administrative Services.

Category	Fee
Experiential hours certification	\$25

Category	Fee
Duplicate pharmacist certificate of licensure	\$35

()

024. -- 029. (RESERVED)

030. DETERMINATION OF NEED FOR PHARMACIST LICENSE, NONRESIDENT REGISTRATION, OR NEITHER.

01. Practice in Idaho. All pharmacists practicing pharmacy in the state of Idaho must be licensed according to the Board's laws. ()

02. Nonresident Pharmacists. All nonresident pharmacists practicing pharmacy into the state of Idaho must be licensed in their state of practice and must additionally be licensed or registered in Idaho as follows: ()

a. Independent Practice. Pharmacists must be licensed if engaged in the independent practice of pharmacy across state lines and not practicing for an Idaho registered drug outlet. ()

b. Practice for an Idaho Registered Drug Outlet. A nonresident pharmacist serving as the PIC for an Idaho registered nonresident drug outlet must be licensed or registered to practice into Idaho. All other nonresident pharmacists who are employed by, or affiliated with, and practicing for the Idaho registered nonresident drug outlet, but who are not the PIC, are exempt from license and registration requirements for practice into Idaho. ()

03. Exemption from Separate Controlled Substance Registration. All pharmacists who are practicing in or into Idaho are exempt from obtaining a separate controlled substance registration, but must maintain compliance with all requirements under Title 37, Chapter 27, Idaho Code. ()

031. PHARMACIST LICENSURE BY EXAMINATION.

To be considered for licensure, a person must satisfy the requirements of Section 54-1722(1)(a) through (e), Idaho Code, and submit to the Board an application for licensure by examination. ()

01. Graduates of U.S. Pharmacy Schools. An applicant must be a graduate of an ACPE-accredited school or college of pharmacy within the United States. ()

02. Graduates of foreign Pharmacy Schools. An applicant who is a graduate of a school or college of pharmacy located outside of the United States must submit certification by the FRGEC, and verification of completion of a minimum of seventeen hundred forty (1,740) experiential hours. An Idaho State Board of Pharmacy Employer's Affidavit certifying the experiential hours of a foreign pharmacy graduate must be signed by a pharmacist licensed and practicing in the United States and submitted to the Board. The Board may also request verifiable business records to document the hours. ()

03. Licensure Examinations. Qualified applicants must pass the NAPLEX and the MPJE in accordance with NABP standards. A candidate who fails the NAPLEX three (3) times must complete at least thirty (30) hours of continuing education accredited by an ACPE-accredited provider prior to being eligible to sit for each subsequent reexamination. Candidates are limited to five (5) total attempts to pass each exam. ()

032. PHARMACIST LICENSURE BY RECIPROCITY.

An applicant for pharmacist licensure by reciprocity must satisfy the requirements of Section 54-1723, Idaho Code, and this rule to obtain an Idaho license. An applicant whose pharmacist license is currently restricted by a licensing entity in another state must appear before the Board to petition for licensure by reciprocity. ()

01. Transfer Application. The applicant must submit a preliminary application for licensure transfer through NABP. ()

02. MPJE. The applicant must pass the Idaho-based MPJE within five (5) total attempts. ()

03. Intern Hours. An applicant not actively engaged in the practice of pharmacy during the year preceding the date of application may also be required to complete intern hours for each year away from the practice of pharmacy. ()

033. PHARMACIST LICENSE RENEWAL: CPE REQUIREMENTS.

Each pharmacist applicant for license renewal must complete fifteen (15) CPE hours each calendar year between January 1 and December 31. ()

01. ACPE. At least twelve (12) of the CPE hours obtained must be from programs by an ACPE that have a participant designation of "P" (for pharmacist) as the suffix of the ACPE universal program number. ACPE credits must be reported to and documented in CPE Monitor in order to be accepted. ()

02. CME. A maximum of three (3) of the hours may be obtained from CME, if the credits are: ()

a. Obtained from an ACCME accredited provider; and ()

b. A certificate is furnished that identifies the name of the ACCME accredited provider and a clear reference to its accreditation status, the title of the CME program, the completed hours of instruction, the date of completion, and the name of the individual obtaining the credit. All CME certificates must be submitted to the Board between December 1 and December 31. ()

034. PHARMACIST LICENSE: REINSTATEMENT.

The Board may, at its discretion, consider reinstatement of a pharmacist license upon receipt of a completed application, background check, and payment of the reinstatement and other fees due or delinquent at the time reinstatement is requested. ()

01. Satisfactory Evidence. Reinstatement applicants must provide satisfactory evidence of completion of a minimum of thirty (30) CPE hours within the twenty-four (24) months prior to reinstatement and compliance with any direct orders of the Board. ()

02. Additional Requirements. A pharmacist reinstatement applicant may be required to appear before the Board. If a pharmacist license has lapsed for more than twenty-four (24) months, the applicant must pass the MPJE prior to returning to practice. The Board may also, at its discretion, impose additional requirements on a pharmacist reinstatement applicant who has not practiced as a pharmacist for the preceding twelve (12) months or longer that may include taking and passing an examination, completion of intern hours, completion of additional CPE hours, or other requirements determined necessary to acquire or demonstrate professional competency. ()

035. NONRESIDENT PHARMACIST REGISTRATION TO PRACTICE PHARMACY INTO IDAHO.

To be registered to practice pharmacy into Idaho an applicant must submit an application on a Board form including, but not limited to: ()

01. Individual License Information. Current pharmacist licensure information in all other states, including each state of licensure and each license number; ()

02. Facility License Information. The license or registration number of the facility for which the applicant will be practicing. ()

036. PHARMACIST INTERN REGISTRATION.

01. Registration Requirements. To be approved for and maintain registration as a pharmacist intern, the applicant must: ()

a. Currently be enrolled and in good standing in an accredited school or college of pharmacy, pursuing a professional degree in pharmacy; or ()

b. Be a graduate of an accredited school or college of pharmacy within the United States and awaiting examination for pharmacist licensure; or ()

c. Be a graduate of a school or college of pharmacy located outside the United States, obtain certification by the FPGEC, and be awaiting examination for pharmacist licensure or obtaining practical experience as required under Board rule. ()

02. Renewal. ()

a. **Current Students.** A pharmacist intern registration must be renewed annually by July 15; however, the renewal fee will be waived, if renewed on time, for the duration of the student's enrollment in the school or college of pharmacy. Following graduation, if a pharmacist license application has been submitted, the pharmacist intern license will be extended at no cost for up to six (6) additional months from the date of application as a pharmacist, after which time the individual will need to submit a new application to continue to be a pharmacist intern. ()

b. **Pharmacy Graduates.** A graduate pharmacist intern registration may be obtained and renewed once within one (1) year from the date of issuance. The Board may, at its discretion, grant additional time to complete internship experience if unique circumstances present. ()

037. – 039. (RESERVED)

040. CERTIFIED TECHNICIAN REGISTRATION.

To be approved for registration as a certified technician, a person must satisfy the following requirements: ()

01. **Age.** Be at least sixteen (16) years of age; ()

02. **Education.** Be a high school graduate or the recipient of a high school equivalency diploma; ()

03. **Personal Characteristics.** Be of good moral character and temperate habits; and ()

04. **Certification.** Have obtained and maintained certified pharmacy technician (CPhT) status through the Pharmacy Technician Certification Board (PTCB), the National Healthcareer Association (NHA), or their successors. ()

041. TECHNICIAN-IN-TRAINING REGISTRATION.

01. **Applying for Registration.** A person who has not obtained or maintained technician certification may apply for registration as a technician-in-training if the person satisfies all other requirements for registration as a certified technician. ()

02. **Duration.** An individual may register as a technician-in-training for a maximum of two (2) years from the date of issuance. ()

042. STUDENT TECHNICIAN.

01. **Registration Requirements.** To be approved for registration as a student technician, an applicant must be at least sixteen (16) years of age, currently enrolled and in good standing in a high school or college supervised program, and not meet the requirement for registration as a technician-in-training or certified technician. ()

02. **Exemption from Criminal Background Check.** Student technician candidates under the age of eighteen (18) are exempt from the fingerprint-based criminal history check requirement of Idaho Code. ()

03. **Renewal.** A student technician registration must be renewed annually by July 15; however, the renewal fee will be waived, if renewed on time, for the duration of the student's enrollment in a technician training program. ()

043. TECHNICIAN EXEMPTIONS.

01. Certification Exemption for Continuous Employment. A technician registered with the Board and employed as a technician on June 30, 2009, is not required to obtain or maintain certification as a condition of registration renewal after June 30, 2009, as long as the registrant remains continuously employed as a technician by the same employer. If a registrant that qualifies for this exemption disrupts continuous employment as a technician with one employer, or if any change of ownership occurs at the technician's place of employment, the technician registration will become invalid. ()

02. Duration Exemption. The Board's executive director may grant a brief extension of duration of registration for a technician-in-training or a student technician for the purposes of employment continuity in the instance in which a technician is awaiting the completion of a requirement necessary to become a certified technician. No waiver may be granted in the instance in which the individual delayed sitting for the certification exam that the applicant was otherwise qualified to sit for. ()

044. PRACTITIONER CONTROLLED SUBSTANCE REGISTRATION.

Any practitioner in Idaho who intends to prescribe, administer, dispense, or conduct research with a controlled substance must first obtain an Idaho practitioner controlled substance registration. ()

01. State License. An applicant must hold a valid license or registration to prescribe medications from a licensing entity established under Title 54, Idaho Code. ()

02. DEA Registration. An applicant must also hold a valid federal DEA registration, if required under federal law. ()

045. -- 049. (RESERVED)

050. DRUG OUTLET LICENSURE AND REGISTRATION: GENERAL REQUIREMENTS.

A license or a certificate of registration is required for drug outlets prior to doing business in or into Idaho. A license or certificate of registration will be issued by the Board to drug outlets pursuant to, and in the general classifications defined by, Section 54-1729, Idaho Code. ()

01. New Drug Outlet Inspections. Prior to approving the issuance of a new license or registration, each drug outlet may be inspected to confirm that the facility is appropriately equipped and has implemented proper procedures and minimum standards necessary for compliance with applicable law. Prescription drugs may not be delivered to a new drug outlet location prior to satisfactory completion of a requisite opening inspection. A change of ownership of a currently registered pharmacy will not require an onsite inspection prior to issuance of a new pharmacy registration unless a structural remodel occurs. ()

02. License and Registration Transferability. Drug outlet licenses and registrations are location and owner specific and are nontransferable as to person or place. If the ownership or location of an outlet changes, any registration or license issued to it by the Board is void. ()

03. Temporary Licenses. ()

a. Temporary Pharmacy License Number Issued Prior to Operation. Upon request on a Board form, the Board may issue a temporary pharmacy license number prior to the pharmacy being open for business provided that the proposed location is in Idaho and has designated a PIC. ()

b. Temporary Drug Outlet Facilities and Mobile Drug Outlets. To provide pharmacy services during a national, state, or local emergency declared by the President of the United States, the Governor of the State of Idaho, or by any other person with legal authority to declare an emergency, drug outlets may arrange to temporarily locate or relocate to a temporary drug outlet facility or mobile drug outlet. ()

04. Nonresident Drug Outlet. The Board may license or register a drug outlet licensed or registered under the laws of another state if the other state's standards are comparable to those in Idaho and acceptable to the Board, evidenced by an inspection report. ()

05. Change of Ownership. The registrant must notify the Board of a drug outlet's change of ownership at least ten (10) days prior to the event on a Board form. ()

06. Permanent Closing. A registrant must notify the Board and the general public of the pharmacy's permanent closing at least ten (10) days prior to closing. The notice must include the proposed date of closure and the new location of the prescription files. Notice must be provided to the public by prominent posting in a public area of the pharmacy. The PIC must retain a closing inventory record of controlled substances. ()

07. Exemption from Separate Controlled Substance Registration. All drug outlets doing business in or into Idaho who hold a valid license or registration from the Board are exempt from obtaining a separate controlled substance registration, but must maintain compliance with all requirements under Title 37, Chapter 27, Idaho Code. ()

051. -- 059. (RESERVED)

060. STERILE PRODUCT DRUG OUTLET ENDORSEMENT.

A drug outlet engaged in sterile product preparation must obtain a single endorsement for one (1) or more hood or aseptic environmental control devices. ()

061. OUTSOURCING FACILITY REGISTRATION.

An outsourcing facility must be registered with the Board in order to distribute compounded drug product for human use in or into Idaho. ()

01. Application. An applicant must submit an application in the manner and form prescribed by the Board, including, but not limited to: ()

a. A copy of a valid FDA registration as an outsourcing facility as required by 21 U.S.C. Section 353b; ()

b. Identity of a pharmacist licensed or registered in Idaho who is designated as the PIC of the outsourcing facility; and ()

c. An inspection report indicating compliance with applicable state and federal law. ()

02. Coincidental Activity. An outsourcing facility applicant currently registered by the Board as a pharmacy or mail service pharmacy will be considered for an outsourcing facility registration with a supplemental pharmacy or mail service pharmacy registration at no additional fee. Exemption from registration fees does not excuse compliance with all laws and rules pertaining to pharmacies and mail service pharmacies. ()

062. -- 069. (RESERVED)

070. WHOLESALE LICENSURE AND REGISTRATION.

01. Wholesaler Licensure. In addition to the information required pursuant to Section 54-1753, Idaho Code, the following information must be provided under oath by each applicant for wholesaler licensure as part of the initial licensing procedure and for each renewal on a Board form: ()

a. Any felony conviction or any conviction of the applicant relating to wholesale or retail prescription drug distribution or distribution of controlled substances. ()

b. Any discipline of the applicant by a regulatory agency in any state for violating any law relating to wholesale or retail prescription drug distribution or distribution of controlled substances. ()

02. VAWD Accreditation. The Board will recognize a wholesaler's VAWD accreditation by NABP for purposes of reciprocity and satisfying the new drug outlet inspection requirements of these rules. ()

03. Wholesaler Registration. Except when licensed pursuant to the Idaho Wholesale Drug Distribution Act and these rules, a wholesaler that engages in wholesale distribution of DME supplies, prescription medical devices, or non-prescription drugs in or into Idaho must be registered by the Board. ()

071. -- 079. (RESERVED)

080. MANUFACTURER REGISTRATION.

A manufacturer located in Idaho must be inspected and registered by the Board prior to engaging in drug manufacturing. Non-resident manufacturers that ship, mail, or deliver dispensed prescription drugs or devices to an Idaho resident must be registered by the Board as a mail service pharmacy. ()

081. -- 999. (RESERVED)

IDAPA 27 – BOARD OF PHARMACY
27.01.03 – RULES GOVERNING PHARMACY PRACTICE
DOCKET NO. 27-0103-1701 (NEW CHAPTER)
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 54-1717, Idaho Code.

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

PUBLIC HEARING
Wednesday, October 25, 2017 – 9:00 a.m. (MDT)

Idaho State Capitol Building
Room WW53
700 West Jefferson Street
Boise, ID 83702

For those planning to attend the open public hearing, the Board will accept written and verbal comments. For all others not planning to attend the public hearing, written comments will be accepted by the Executive Director on or before close of business on October 24, 2017 as follows:

- Written comments received by October 20, 2017 will be included in the Board’s distributed meeting material for consideration in advance of the hearing.
- Written comments received between October 21, 2017 and October 24, 2017 will be printed and provided to the Board at the open public hearing.

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 scope of Chapter 27.01.03 is to establish the rules governing the practice of pharmacy. This chapter is comprised of current rules as follows: professional practice standards, drug outlet practice standards, filling and dispensing prescription drugs, recordkeeping and reporting requirements, and prescription drug monitoring program requirements. Changes made to the current rules include:

- Specific requirements related to fixtures, books, equipment, or staffing patterns that drug outlets must have are removed;
- The rules emphasize “what” needs to occur as a means to improve public safety, as opposed to “how” or “where” it occurs. As such, the offsite pharmacy services rule is broadened;
- The rules clarify which drug outlets must have a person-in-charge;
- Specific technology requirements, such as those related to ADSs, are removed;
- Emergency refill authorizations for non-controlled substances are specified; and
- The requirement that all employment changes must be reported by the PIC has been removed.

These rules will take effect in their entirety on July 1, 2018.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in two separate open, public meetings on August 1, 2017 and August 30, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 27-0101-1701 in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 54 through 56](#), and in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, pages 114 through 115](#).

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 Alex Adams at (208) 334-2356.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Alex J. Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 27-0103-1701
(New Chapter)

IDAPA 27
TITLE 01
CHAPTER 03

27.01.03. - RULES GOVERNING PHARMACY PRACTICE

SUBCHAPTER A – STANDARD PROVISIONS
(Rules 000 through 099 – Standard Provisions)

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717,

54-1753, 54-1755, and 54-1763, Idaho Code. ()

001. TITLE AND SCOPE.

In addition to the General Provisions set forth in “General Provisions,” IDAPA 27.01.01, the following title and scope shall apply to these rules: ()

01. Title. The title of this chapter is “Rules Governing Pharmacy Practice,” IDAPA 27, Title 01, Chapter 03. ()

02. Scope. The scope of this chapter includes, but is not limited to, provision for, and clarification of, the Board’s assigned responsibility to: ()

a. Regulate drug outlet practice standards; ()

b. Regulate and control the filling and dispensing of prescription drugs; and ()

c. Regulate drug outlet recordkeeping and reporting requirements. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Title 67, Chapter 52, Idaho Code, this agency may have written statements that pertain to the interpretation of, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Board of Pharmacy office. ()

003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.

Administrative proceedings and appeals are administered by the Board in accordance with the “Idaho Rules of Administrative Procedure of the Attorney General,” IDAPA 04.11.01, Subchapter B -- Contested Cases, Rules 100 through 800. ()

01. Place and Time for Filing. Documents in rulemakings or contested cases must be filed with the executive director of the Board at the Board office between the hours of 8 a.m. and 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

02. Manner of Filing. One (1) original of each document is sufficient for filing; however, the person or officer presiding over a particular rulemaking or contested case proceeding may require the filing of additional copies. A document may be filed with the Board by e-mail or fax if legible, complete, and received during the Board’s office hours. The filing party is responsible for verifying with Board staff that an e-mail or fax was successfully and legibly received. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. BOARD OFFICE INFORMATION.

01. Street Address. The office is located at 1199 Shoreline Lane, Suite 303, Boise, Idaho. ()

02. Mailing Address. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0067. ()

03. Telephone Number. The telephone number is (208) 334-2356. ()

04. Fax Number. The fax number is (208) 334-3536. ()

05. Electronic Address. The website address is <https://bop.idaho.gov>. ()

06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Board of Pharmacy records and filings are subject to compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. OFFICIAL BOARD JOURNAL.

The official journal of the Board is the electronic Idaho State Board of Pharmacy Newsletter. A link to recent versions of the newsletter is posted on the Board's website. Board licensees and registrants are presumed to have knowledge of the contents of the newsletter on the date of publication. The newsletter may be used in administrative hearings as proof of notification. ()

008. – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the definitions and abbreviations found at IDAPA 27.01.01.010 through 012 are applicable to these rules. ()

011. – 099. (RESERVED)

SUBCHAPTER B – PROFESSIONAL PRACTICE STANDARDS
(Rules 100 through 199 – Professional Practice Standards)

100. PRESCRIBER PERFORMANCE OF PHARMACY FUNCTIONS.

01. Prescriber Roles. for the purposes of this chapter, any function that a pharmacist may perform may similarly be performed by an Idaho prescriber in the course of filling or dispensing prescription drugs. ()

02. Prescriber Delegation. For the purposes of this chapter, any function that a pharmacist may delegate to a technician or pharmacist intern may similarly be delegated by an Idaho prescriber to an appropriate support personnel in accordance with the prescriber's practice act. ()

101. DELEGATION OF PHARMACY FUNCTIONS.

A pharmacist may delegate to and allow performance by a technician or pharmacist intern only those functions performed in pharmacy operations that meet the following criteria: ()

01. Supervision. The function is performed under a pharmacist's supervision; ()

02. Education, Skill and Experience. The function is commensurate with the education, skill, and experience of the technician or pharmacist intern; and ()

03. Professional Judgment Restriction. Any function that requires the use of a pharmacist's professional judgment may be performed by a pharmacist intern. ()

102. – 199. (RESERVED)

SUBCHAPTER C – DRUG OUTLET PRACTICE STANDARDS
(Rules 200 through 299 - Drug Outlet Practice Standards)

200. PIC: RESPONSIBILITIES AND LIMITATIONS.

01. Drug Outlets that Must Designate a PIC. The following drug outlets must have a designated PIC by the date of opening and must not thereafter allow a vacancy of a designated PIC to continue for more than thirty (30) sequential days: ()

a. Any drug outlet that dispenses drugs to patients in Idaho; ()

b. Any central drug outlet; and ()

c. Any outsourcing facility. ()

02. PIC and Drug Outlet Responsibility. The PIC is responsible for the management of every part of the drug outlet and its regulated operations. The PIC and the drug outlet each have corresponding and individual responsibility for compliance with applicable state and federal law and these rules. ()

03. PIC Oversight Limitations. A person may neither be designated nor function as the PIC for more than two (2) drug outlets concurrently. ()

201. DRUG OUTLETS THAT DISPENSE PRESCRIPTION DRUGS: MINIMUM FACILITY STANDARDS.

A resident drug outlet that dispenses prescription drugs to patients in Idaho must meet the following minimum requirements: ()

01. Security. A drug outlet must be constructed and equipped with adequate security to protect its equipment, records and supply of drugs, devices and other restricted sale items from unauthorized access, acquisition or use. An alarm or other comparable monitoring system is required for any non-institutional drug outlet that stocks controlled substances and is new or remodeled after July 1, 2018. ()

02. Patient Privacy. All protected health information must be stored and maintained in accordance with HIPAA. In addition, a community pharmacy that is new or remodeled after March 21, 2012 must provide and maintain a patient consultation area that affords the patient auditory and visual privacy and is compliant with the Americans with Disabilities Act. ()

03. Equipment. A drug outlet must be properly equipped to ensure the safe, clean, and sanitary condition necessary and appropriate for proper operation, the safe preparation of prescriptions, and to safeguard product integrity. ()

04. Staffing. A drug outlet must be staffed sufficiently to allow for appropriate supervision, to otherwise operate safely and, if applicable, to remain open during the hours posted as open to the public for business. ()

05. Controlled Substances Storage. Controlled substances must be stored in a securely locked, substantially constructed cabinet or safe. However, a pharmacy may disperse substances listed in Schedules II, III, IV and V, in whole or in part, throughout the stock of non-controlled substances if doing so would be likely to obstruct the theft or diversion of the controlled substances. ()

06. Controlled Substances Disposal. Expired, excess or unwanted controlled substances that are owned by the drug outlet must be properly disposed of through the services of a DEA-registered reverse distributor or by another method permitted by federal law. ()

07. Authorized Access to the Restricted Drug Storage Area. ()

a. Access to the restricted drug storage area can occur only when a pharmacist or prescriber is on duty. ()

b. Access must be limited to pharmacists, technicians and pharmacist interns, or in the case of a prescriber drug outlet, to prescribers and appropriate support personnel in accordance with the prescriber's practice act. A pharmacist or prescriber may, however, authorize an individual temporary access to the restricted drug storage area to perform a legitimate non-pharmacy function if the individual remains under the direct supervision of the pharmacist or prescriber. ()

c. An institutional facility may also develop an emergency drug access protocol in which a non-pharmacist health professional may enter into the restricted drug storage area of an institutional facility that is otherwise closed, and pursuant to a valid prescription drug order, remove a sufficient quantity of non-controlled drugs necessary to meet the immediate needs of a patient. ()

202. DRUG OUTLETS THAT DISPENSE PRESCRIPTION DRUGS: MINIMUM PRESCRIPTION FILLING REQUIREMENTS.

Unless exempted by these rules, each drug outlet that dispenses prescription drugs to patients in Idaho must meet the following minimum requirements: ()

01. Valid Prescription Drug Order. Prescription drugs must only be dispensed pursuant to a valid prescription drug order as set forth in Subchapter D of these rules. ()

02. Prospective Drug Review. Prospective drug review, as defined in Section 54-1705, Idaho Code, must be provided as set forth in Section 54-1739, Idaho Code. ()

03. Labeling. Each drug must bear a complete and accurate label as set forth in Subchapter D of these rules. ()

04. Verification of Dispensing Accuracy. Verification of dispensing accuracy must be performed to compare the drug stock selected to the drug prescribed. If not performed by a pharmacist or prescriber, an electronic verification system must be used that confirms the drug stock selected to fill the prescription is the same as indicated on the prescription label. A compounded drug may only be verified by a pharmacist or prescriber. ()

05. Patient Counseling. Counseling, as defined in Section 54-1705, Idaho Code, must be provided as set forth in Section 54-1739, Idaho Code. ()

203. OFFSITE PHARMACY SERVICES.

A drug outlet may provide offsite pharmacy services at one (1) or more locations. When the services being performed are related to prescription fulfillment or processing, the drug outlet must comply with the following: ()

01. Policies and Procedures. The originating drug outlet must have written policies and procedures outlining the offsite pharmacy services to be provided by the central drug outlet, or the offsite pharmacist or technician, and the responsibilities and accountabilities of each party. ()

02. Secure Electronic File. The parties share a secure common electronic file or utilize other secure technology, including a private, encrypted connection that allows access by the central drug outlet or offsite pharmacist or technician to information necessary to perform offsite pharmacy services. ()

03. Exemption. A single prescription drug order may be shared by an originating drug outlet and a central drug outlet, or offsite pharmacist or technician. The filling, processing and delivery of a prescription drug order by one pharmacy for another pursuant to this section will not be construed as the filling of a transferred prescription or as a wholesale distribution. ()

204. DRUG OUTLETS THAT DISPENSE DRUGS TO PATIENTS WITHOUT AN ONSITE PHARMACIST OR PRESCRIBER.

In addition to all other preceding rules of this subchapter, a drug outlet that dispenses drugs to patients in Idaho that does not have a pharmacist or prescriber onsite to perform or supervise pharmacy operations must comply with the following requirements: ()

01. Security and Access. ()

a. The drug outlet must maintain video surveillance with an adequate number of views of the full facility and retain a high quality recording for a minimum of ninety (90) days. ()

b. Proper identification controls of individuals accessing the restricted drug storage area must be utilized and access must be limited, authorized, and regularly monitored. ()

02. Staffing Limitations. The ratio of pharmacists to support personnel may not exceed one (1) pharmacist for every six (6) technicians and pharmacist interns in total across all practice sites. ()

03. Technology. The video and audio communication system used to counsel and interact with each

patient or patient's caregiver, must be clear, secure, and HIPAA-compliant. ()

04. Controlled Substances Inventories. ()

a. A perpetual inventory must be kept for all Schedule II controlled substances; and ()

b. If a perpetual inventory is not kept for all Schedule III through V substances, the pharmacist or prescriber must inventory and audit at least three (3) random controlled substances quarterly. ()

05. Self-Inspection. A pharmacist or prescriber must complete and retain a monthly in-person self-inspection of the drug outlet using a form designated by the Board. ()

06. Emergency Situations. ()

a. A pharmacist or prescriber must be capable of being on site at the drug outlet within twelve (12) hours if an emergency arises. ()

b. The drug outlet must be, or remain, closed to the public if any component of the surveillance or video and audio communication system is malfunctioning, until system corrections or repairs are completed. ()

07. Exemption for Self-Service Systems. A self-service ADS that is operating as a drug outlet is exempt from the video surveillance requirement and the self-inspection requirement of this rule. In addition, if counseling is provided by an onsite prescriber or pharmacist, a self-service ADS is exempt from the video and audio communication system requirements of this rule. ()

08. Exemption for Veterinarians. Veterinarians practicing in accordance with their Idaho practice act are exempt from this rule. ()

205. DRUGS STORED OUTSIDE OF A DRUG OUTLET FOR RETRIEVAL BY A LICENSED HEALTH PROFESSIONAL.

Drugs may be stored in an alternative designated area outside the drug outlet, including, but not limited to, floor stock, in an emergency cabinet, in an emergency kit, or as emergency outpatient drug delivery from an emergency room at a registered institutional facility, provided the following conditions are met: ()

01. Supervising Drug Outlet. Drugs stored in such a manner must remain under the control of, and be routinely monitored by, the supervising drug outlet. ()

02. Policies and Procedures. The supervising drug outlet must develop and implement policies and procedures regarding authorized access to drugs stored in the alternative designated area, documentation of drugs used, drug returns and wastage, and regular inventory procedures. ()

03. Secure Storage. The area is appropriately equipped to ensure security and protection from diversion or tampering. ()

04. Controlled Substances. Controlled substances may only be stored in an alternative designated area as permitted by, and in accordance with, federal law. ()

05. Stocking and Replenishing. Stocking or replenishing drugs in an alternative designated area may be performed by a pharmacist or prescriber, or by appropriate support personnel using either an electronic verification system or a two (2) person checking system. ()

206. – 299. (RESERVED)

SUBCHAPTER D – FILLING AND DISPENSING PRESCRIPTION DRUGS
(Rules 300 through 399 - Filling and Dispensing Prescription Drugs)

300. PRESCRIPTION DRUG ORDER: VALIDITY.

Prior to filling or dispensing a prescription drug order, a pharmacist must verify its validity. ()

01. Invalid Prescription Drug Orders. A prescription drug order is invalid if not issued: ()

a. In good faith; ()

b. For a legitimate medical purpose; ()

c. By a licensed prescriber; ()

d. Within the course and scope of the prescriber's professional practice and prescriptive authority; ()

e. Pursuant to a valid prescriber-patient relationship, unless statutorily exempted; or ()

f. In the form and including the elements specified in this Subchapter D. ()

02. Antedating or Postdating. A prescription drug order is invalid if antedated or postdated. ()

03. Tampering. A prescription drug order is invalid if, at the time of presentation, it shows evidence of alteration, erasure, or addition by any person other than the person who wrote it. ()

04. Prescriber Self-Use. A prescription drug order written for a controlled substance is invalid if written for the prescriber's own use. ()

05. Family Members. A prescription drug order written for a prescriber's family member is invalid if inconsistent with the scope of practice and prescriptive authority of the prescriber's profession. ()

06. Expiration. A prescription drug order is invalid after its expiration date as follows: ()

a. A prescription drug order for a Schedule II controlled substance must not be filled or dispensed more than ninety (90) days after its date of issue. ()

b. A prescription drug order for a controlled substance listed in Schedules III, IV or V must not be filled or refilled more than six (6) months after its date of issue. ()

c. A prescription drug order for a non-controlled drug must not be filled or refilled more than fifteen (15) months after its date of issue, unless if extended in accordance with these rules. ()

07. Prescriber Change of Status. A prescription drug order is invalid after ninety (90) days from the date the pharmacist learns of a change in status that precludes a continued prescriber-patient relationship. ()

301. PRESCRIPTION DRUG ORDER: SCHEDULE II DRUG LIMITATIONS

01. Faxed and Verbal Prescriptions. A Schedule II prescription must not be dispensed pursuant to a faxed or verbal prescription drug order, except as permitted by federal law. ()

02. Multiple Prescription Drug Orders. A prescriber may issue and a pharmacy may fill multiple prescription drug orders, written on and dated with the same date, that allow the patient to receive up to a ninety (90)-day supply of a Schedule II controlled substance in accordance with federal law. ()

302. PRESCRIPTION DRUG ORDER: MINIMUM REQUIREMENTS.

A prescription drug order must comply with applicable requirements of federal law and, except as differentiation is permitted for an institutional drug order, must include at least the following: ()

01. Patient's Name. The patient's or authorized entity's name and: ()

- a. If for a controlled substance, the patient’s full name and address; and ()
- b. If for an animal, the species. ()
- 02. **Date.** The date issued. ()
- 03. **Drug Information.** The drug name, strength, quantity and, if for a controlled substance, the dosage form. ()
- 04. **Directions.** The directions for use. ()
- 05. **Prescriber Information.** The name and, if for a controlled substance, the address and DEA registration number of the prescriber. ()
- 06. **Signature.** If paper, the pre-printed, stamped or hand-printed name and written signature of the prescriber or, if statutorily allowed, the prescriber’s agent’s signature and, if electronic, the prescriber’s electronic signature. ()
- 07. **Institutional Drug Order Exemptions.** An institutional drug order may exempt the patient’s address, the dosage form, quantity, prescriber’s address, and prescriber’s DEA registration number. ()

303. FILLING PRESCRIPTION DRUG ORDERS: PRACTICE LIMITATIONS.

- 01. **Drug Product Selection.** Drug product selection is allowed only between therapeutic equivalent drugs. If a prescriber orders by any means that a brand name drug must be dispensed, then no drug product selection is permitted. ()
- 02. **Partial Filling.** A prescription drug order may be partially filled within the limits of federal law. The total quantity dispensed in partial fillings must not exceed the total quantity prescribed. ()
- 03. **Refill Authorization.** A prescription drug order may be refilled when permitted by state and federal law and only as specifically authorized by the prescriber, except as follows: ()
 - a. A pharmacist acting in good faith and exercising reasonable care may dispense or refill a prescription drug that is not a controlled substance up to the total amount authorized by the prescriber including refills. ()
 - b. A pharmacist may refill a prescription for a non-controlled drug one (1) time in a six (6)-month period when the prescriber is not available for authorization. In such cases, a pharmacist may dispense a refill up to the quantity on the most recent fill or a thirty (30)-day supply, whichever is less. ()

304. FILLING PRESCRIPTION DRUG ORDERS: ADAPTATION.

Upon patient consent, a pharmacist acting in good faith and exercising reasonable care may adapt drugs as specified in this rule, provided that the drug is not for a controlled substance, compounded drug, or biological product, and provided that the prescriber has not indicated by any means necessary that adaptation is not permitted. ()

- 01. **Change Quantity.** A pharmacist may change the quantity of medication prescribed if: ()
 - a. The prescribed quantity or package size is not commercially available; or ()
 - b. The change in quantity is related to a change in dosage form. ()
- 02. **Change Dosage Form.** A pharmacist may change the dosage form of the prescription if it is in the best interest of patient care, so long as the prescriber’s directions are also modified to equate to an equivalent amount of drug dispensed as prescribed. ()
- 03. **Complete Missing Information.** A pharmacist may complete missing information on a

prescription if there is sufficient evidence to support the change. ()

04. Medication Synchronization. A pharmacist may extend a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program. ()

05. Documentation. A pharmacist who adapts a prescription in accordance with these rules must document the adaptation in the patient's record. ()

305. FILLING PRESCRIPTION DRUG ORDERS: DRUG PRODUCT SUBSTITUTION.
Drug product substitutions are allowed only as follows: ()

01. Hospital. Pursuant to a formulary or drug list prepared by the pharmacy and therapeutics committee of a hospital; ()

02. Skilled Nursing Facility. At the direction of the quality assessment and assurance committee of a skilled nursing facility; ()

03. Drug Shortage. Upon a drug shortage, a pharmacist may exercise professional judgment, without contacting the prescriber, and may substitute an alternative dose of a prescribed drug, so long as the prescriber's directions are also modified, to equate to an equivalent amount of drug dispensed as prescribed; or ()

04. Biosimilars. A pharmacist may substitute an interchangeable biosimilar product for a prescribed biological product if: ()

a. The biosimilar has been determined by the FDA to be interchangeable and published in the Purple Book; ()

b. The prescriber does not indicate by any means that the prescribed biological product must be dispensed; and ()

c. The name of the drug and the manufacturer or the NDC number is documented in the patient medical record. ()

306. FILLING PRESCRIPTION DRUG ORDERS: TRANSFERS.

01. Communicating Prescription Drug Order Transfers. A prescription drug order may be transferred within the limits of federal law. A controlled substance listed in Schedules III, IV or V may be transferred only from the drug outlet where it was originally filled and never from the drug outlet that received the transfer. ()

02. Pharmacies Using Common Electronic Files. Drug outlets using a common electronic file are not required to transfer prescription drug order information for dispensing purposes between or among other drug outlets sharing the common electronic file. ()

307. LABELING: STANDARD PRESCRIPTION DRUG.
Unless otherwise directed by these rules, a prescription drug must be dispensed in an appropriate container that bears the following information: ()

01. Dispenser Information. The name, address, and telephone number of the dispenser (person or business). ()

02. Serial Number. The serial number. ()

03. Date. The date the prescription is filled. ()

04. Prescriber. The name of the prescriber. ()

- 05. Name.** ()
- a.** If a person, the name of the patient or other person authorized to possess a legend drug in accordance with Idaho Code; ()
- b.** If an animal, the name and species of the patient; or ()
- c.** If a facility or other entity is authorized to possess a legend drug in accordance with Idaho Code, the name of the facility or entity. ()
- 06. Drug Name and Strength.** Unless otherwise directed by the prescriber, the name and strength of each drug included (the generic name and its manufacturer's name or the brand name). ()
- 07. Quantity.** The quantity of item dispensed. ()
- 08. Directions.** The directions for use. ()
- 09. Cautionary Information.** Cautionary information as necessary or deemed appropriate for proper use and patient safety. ()
- 10. Expiration.** An expiration date that is either: ()
- a.** The lesser of: ()
- i.** One (1) year from the date of dispensing; ()
- ii.** The manufacturer's original expiration date; ()
- iii.** The appropriate expiration date for a reconstituted suspension or beyond use date for a compounded product; or ()
- iv.** A shorter period if warranted. ()
- b.** If dispensed in the original, unopened manufacturer packaging, the manufacturer's original expiration date. ()
- 11. Refills.** The number of refills remaining, if any, or the last date through which the prescription is refillable. ()
- 12. Warning.** A warning sufficient to convey that state or federal law, or both, prohibits the transfer of this drug to any person other than the patient for whom it was prescribed, except when dispensing to an animal, when a warning sufficient to convey "for veterinary use only" may be utilized. ()
- 13. Identification.** The initials or other unique identifier of the dispensing pharmacist or dispensing prescriber. ()

308. LABELING: INSTITUTIONAL FACILITY DRUGS.

Except if dispensed in unit dose packaging, a drug dispensed for patient use while in a hospital must be dispensed in an appropriate container that bears at least the following information: ()

- 01. Date.** The date filled; ()
- 02. Patient.** The name of the patient; ()
- 03. Drug.** The name and strength of the drug; ()
- 04. Quantity.** The quantity of item dispensed; ()

- 05. **Directions.** The directions for use, including the route of administration; ()
- 06. **Caution.** Cautionary information as necessary or deemed appropriate for proper use and patient safety; ()
- 07. **Expiration Date.** The expiration or beyond use date, if appropriate; and ()
- 08. **Pharmacist.** The initials or other unique identifier of the dispensing pharmacist. ()

309. LABELING: PARENTERAL ADMIXTURE.

If one (1) or more drugs are added to a parenteral admixture, the admixture's container must include a distinctive, supplementary label with at least the following information: ()

- 01. **Ingredient Information.** The name, amount, strength and, if applicable, the concentration of the drug additive and the base solution or diluent; ()
- 02. **Date and Time.** The date and time of the addition, or alternatively, the beyond use date; ()
- 03. **Identification.** The initials or other unique identifier of the pharmacist or preparing prescriber responsible for its accuracy; ()
- 04. **Prescribed Administration Regimen.** The rate or appropriate route of administration or both, as applicable; and ()
- 05. **Special Instructions.** Any special handling, storage, or device-specific instructions. ()

310. LABELING: PREPACKAGED PRODUCT.

The containers of prepackaged drugs prepared for ADS systems or other authorized uses must include a label with at least the following information: ()

- 01. **Drug Name and Strength.** The name and strength of the drug; ()
- 02. **Expiration Date.** An expiration date that is the lesser of: ()
 - a. The manufacturer's original expiration date; ()
 - b. One (1) year from the date the drug is prepackaged; or ()
 - c. A shorter period if warranted (A prepackaged drug returned unopened from an institutional facility and again prepackaged must be labeled with the expiration date used for the initial prepackaging.); ()
- 03. **Conditional Information.** If not maintained in a separate record, the manufacturer's name and lot number and the identity of the pharmacist or provider responsible for the prepackaging. ()

311. DISPENSING CONTROLLED SUBSTANCES: POSITIVE IDENTIFICATION REQUIRED.

A potential recipient of a controlled substance must first be positively identified or the controlled substance must not be dispensed. ()

- 01. **Positive Identification Presumed.** Positive identification is presumed and presentation of identification is not required if dispensing directly to the patient and if: ()
 - a. The controlled substance will be paid for, in whole or in part, by an insurer; ()
 - b. The patient is being treated at an institutional facility or is housed in a correctional facility; or ()

- c. The filled prescription is delivered to the patient or patient's provider. ()

02. Personal Identification. Presentation of identification is also not required if the individual receiving the controlled substance is personally and positively known by a drug outlet staff member who is present and identifies the individual and the personal identification is documented by recording: ()

- a. The recipient's name (if other than the patient); ()
- b. A notation indicating that the recipient was known to the staff member; and ()
- c. The identity of the staff member making the personal identification. ()

03. Acceptable Identification. A valid government-issued identification must include an unaltered photograph and signature to be acceptable. ()

04. Identification Documentation. Documentation of the recipient's identification must be permanently linked to the record of the dispensed controlled substance and include: ()

- a. A copy of the identification presented; or ()
- b. A record that includes: ()
 - i. The recipient's name; ()
 - ii. A notation of the type of identification presented; ()
 - iii. The government entity that issued the identification; and ()
 - iv. The unique identification number. ()

312. DISPENSING CONTROLLED SUBSTANCES: NON-PRESCRIPTION DISPENSING LIMITATIONS.

Limited quantities of a Schedule V non-prescription controlled substance may be dispensed to a retail purchaser as permitted by federal law. ()

313. PRESCRIPTION DELIVERY: RESTRICTIONS.

01. Acceptable Delivery. A drug outlet that dispenses drugs to patients in Idaho may deliver filled prescriptions to the following, as long as appropriate measures are taken to ensure product integrity: ()

- a. To the patient or the patient's residence, the institutional facility in which the patient is convalescing, the correctional facility in which a patient is housed; ()
- b. To the patient's licensed or registered healthcare provider, as follows: ()
 - i. If the drug is not a controlled substance; or ()
 - ii. If the drug is a controlled substance that is intended for direct administration by the prescriber or prescriber's delegate. ()
- c. To another licensed drug outlet. ()

02. Pick-up or Return by Authorized Personnel. Filled prescriptions may be picked up for or returned from delivery by authorized personnel when the drug outlet is closed for business if the prescriptions are placed in a secured delivery area outside of the restricted drug storage area that is equipped with adequate security, including an alarm or comparable monitoring system, to prevent unauthorized entry, theft and diversion under

policies and procedures developed by the PIC. ()

314. DESTRUCTION OR RETURN OF DRUGS OR DEVICES: RESTRICTIONS.

A drug outlet registered with the DEA as a collector may collect controlled and non-controlled drugs for destruction in accordance with applicable federal law. Otherwise a dispensed drug or prescription device must only be accepted for return as follows: ()

01. Error. Those that were dispensed in a manner inconsistent with the prescriber's instructions may be returned for quarantine and destruction purposes only. ()

02. Did Not Reach Patient. Non-controlled drugs that have been maintained in the custody and control of the institutional facility, dispensing pharmacy, or their related clinical facilities may be returned if product integrity can be assured. Controlled substances may only be returned from a hospital daily delivery system under which a pharmacy dispenses no more than a twenty-four (24) hour supply for a drug order, or up to a seventy-two (72) hour supply for a drug order if warranted for good patient care. ()

03. Donation. Those that qualify for return under the provisions of the Idaho Legend Drug Donation Act as specified in Section 54-1762, Idaho Code. ()

315. REPACKAGING DRUG PREVIOUSLY DISPENSED.

A drug outlet may repackage a drug previously dispensed to a patient, pursuant to the patient or the patient's agent's request, if: ()

01. Pharmacist Verification. The repackaging pharmacist verifies the identity of the previously dispensed drugs as matching the label on the container that the drugs were initially dispensed within. ()

02. Intermingled Drugs. The drugs are never intermingled with the repackaging pharmacy's regular stock. ()

03. Labeling. The repackaging pharmacy affixes to the container of the repackaged drug a label that complies with the standard labeling rule and includes: ()

a. The original dispensed prescription's serial number; ()

b. The name, address, and phone number of the original dispensing pharmacy; and ()

c. A statement that indicates that the drug has been repackaged, such as the words "repackaged by" followed by the name of the repackaging pharmacy. ()

316. – 399. (RESERVED).

SUBCHAPTER E – DRUG OUTLET RECORDKEEPING AND REPORTING REQUIREMENTS
(Rules 400 through 499 - Drug Outlet Recordkeeping and Reporting Requirements)

400. RECORDKEEPING: MAINTENANCE AND INVENTORY REQUIREMENTS.

01. Records Maintenance and Retention Requirement. Unless an alternative standard is stated for a specified record type, form, or format, records required to evidence compliance with statutes or rules enforced by the Board must be maintained and retained in a readily retrievable form and location for at least three (3) years from the date of the transaction. ()

02. Prescription Retention. A prescription drug order must be retained in a readily retrievable manner by each drug outlet and maintained as follows: ()

a. Schedule II Prescriptions. Paper prescription drug orders for Schedule II controlled substances

must be maintained at the registered location in a separate prescription file. ()

b. Schedule III through V Prescriptions. Paper prescription drug orders for Schedules III, IV and V controlled substances must be maintained at the registered location either in a separate prescription file for Schedules III, IV and V controlled substances only or in a readily retrievable manner from other prescription records as required by federal law. ()

c. Electronic Prescriptions. Electronic prescription drug orders for controlled substances must be maintained in a system that meets the requirements of federal law. The records may be maintained at another location if readily retrievable at the registered location. The electronic application must be capable of printing or otherwise converting the records into a readily understandable format at the registered location and must allow the records to be sortable by prescriber name, patient name, drug dispensed, and date filled. ()

03. Inventory Records. Each drug outlet must maintain a current, complete and accurate record of each controlled substance manufactured, imported, received, ordered, sold, delivered, exported, dispensed or otherwise disposed of by the registrant. Drug outlets must maintain inventories and records in accordance with federal law. An inventory must be conducted as follows: ()

a. Annual Inventory of Stocks of Controlled Substances. Each registrant must conduct an inventory of controlled substances on hand annually at each registered location no later than seven (7) days after the date of the most recent inventory in a form and manner that satisfies the inventory requirements of federal law. A separate controlled substances inventory must be taken and retained at each DEA-registered location. ()

b. Inventory on PIC Change. A complete controlled substance inventory must be conducted by the incoming PIC or his delegate on or by the first day of employment of the incoming PIC. ()

c. Inventory on Addition to Schedule of Controlled Substances. On the effective date of an addition of a substance to a schedule of controlled substances, each registrant that possesses that substance must take an inventory of the substance on hand, and thereafter, include the substance in each inventory. ()

d. Drugs Stored Outside a Drug Outlet. In addition to the annual inventory requirements, drugs stored outside a drug outlet in accordance with these rules must be regularly inventoried and inspected to ensure that they are properly stored, secured, and accounted for. ()

e. Closing of Pharmacy. A closing inventory must be conducted and retained. ()

04. Rebuttal Presumption of Violation. Evidence of an amount of a controlled substance that differs from the amount reflected on a record or inventory required by state or federal law creates a rebuttable presumption that the registrant has failed to keep records or maintain inventories in conformance with the recordkeeping and inventory requirements of state and federal law. ()

05. Central Records Storage. Financial and shipping records of controlled substances including invoices, but excluding controlled substance order forms and inventories, may be retained at a central location if the registrant has provided DEA notification of central recordkeeping as required by federal law. ()

06. Electronic Records Storage. Any record required to be kept under this section may be electronically stored and maintained if they remain legible and are in a readily retrievable format, and if federal law does not require them to be kept in a hard copy format. ()

401. RECORDKEEPING: ELECTRONIC SYSTEM FOR PATIENT MEDICATION RECORDS.
A drug outlet that is new or remodeled after the effective date of this rule must use an electronic recordkeeping system to establish and store patient medication records and prescription drug order, refill, transfer information, and other information necessary to provide safe and appropriate patient care. ()

01. Real-time Online Retrieval of Information. The electronic recordkeeping system must be capable of real-time, online retrieval of information stored therein for a minimum of fifteen (15) months from the date

of entry. ()

02. Immediately Retrievable Refill Data. The electronic recordkeeping system must have functionality that allows refill data to be immediately retrievable and produced upon request; for example, a refill-by-refill audit trail for a specified strength and dosage form of a drug. ()

03. Audit Trail Documentation. The electronic recordkeeping system must also have audit trail functionality that documents for each prescription drug order the identity of each individual involved at each step of its processing, filling, and dispensing or, alternatively, the identity of the pharmacist or prescriber responsible for the accuracy of these processes. Systems that automatically generate user identification without requiring an entry by the responsible individual are prohibited. Drug outlets that utilize offsite pharmacy services for product fulfillment or processing must track the identity and location of each individual involved in each step of the offsite pharmacy services. ()

04. System Security. The electronic recordkeeping system must include security features to protect the confidentiality and integrity of patient records including: ()

a. Safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription drug order information and patient medication records; and ()

b. Functionality that documents any alteration of prescription drug order information after a prescription drug order is dispensed, including the identification of the individual responsible for the alteration. ()

05. System Downtime, Backup and Recovery. The pharmacy must have policies and procedures in place for system downtime, backup and recovery. ()

06. Exemption. Drug outlets are exempt from this section if they fill on average fewer than twenty (20) prescriptions per business day, and paper records must be maintained. ()

402. REPORTING REQUIREMENTS.

01. PIC Change. Both an outgoing and incoming PIC must report to the Board a change in a PIC designation within ten (10) days of the change. ()

02. Theft or Loss of Controlled Substances. A registrant must report to the Board on the same day reported to the DEA a theft or loss of a controlled substance that includes the information required by federal law. ()

03. Individual Information Changes. Changes in employment or changes to information provided on or with the initial or renewal application must be reported to the Board within ten (10) days of the change. ()

04. Reporting Adulteration or Misappropriation. A licensee or registrant must report to the Board any adulteration or misappropriation of a controlled drug in accordance with Section 37-117A, Idaho Code. ()

403. – 499. (RESERVED)

SUBCHAPTER F – PRESCRIPTION DRUG MONITORING PROGRAM REQUIREMENTS
(Rules 500 through 999 – Prescription Drug Monitoring Program Requirements)

500. CONTROLLED SUBSTANCES: PDMP. Specified data on controlled substances must be reported by the end of the next business day by all drug outlets that dispense controlled substances in or into Idaho and prescribers that dispense controlled substances to humans. Data on controlled substance prescription drug samples does not need to be reported. ()

01. Online Access to PDMP. Online access to the Board’s PDMP is limited to licensed prescribers and

pharmacists, or their delegates, for treatment purposes. To obtain online access, a prescriber or pharmacist, or their delegate must complete and submit a registration application and agree to adhere to the access restrictions and limitations established by law. ()

02. Use Outside Scope of Practice Prohibited. Information obtained from the PDMP must not be used for purposes outside the prescriber's or pharmacist's scope of professional practice. A delegate may not access the PDMP outside of their supervisor's scope of professional practice. ()

03. Profile Requests. Authorized persons without online access may obtain a profile by completing a Board form and submitting it to the Board office with proof of identification and other credentials required to confirm the requestor's authorized status pursuant to Section 37-2726, Idaho Code. ()

04. Suspension, Revocation, or Restriction of PDMP Access. Violation of this rule provides grounds for suspension, revocation, or restriction of the prescriber's, pharmacist's, or delegate's authorization for online access to the PDMP. ()

501. – 999. (RESERVED)

IDAPA 27 – BOARD OF PHARMACY
27.01.04 – RULES GOVERNING PHARMACIST PRESCRIPTIVE AUTHORITY
DOCKET NO. 27-0104-1701 (NEW CHAPTER)
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 54-1717, Idaho Code.

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

PUBLIC HEARING
Wednesday, October 25, 2017 – 9:00 a.m. (MDT)

Idaho State Capitol Building
Room WW53
700 West Jefferson Street
Boise, ID 83702

For those planning to attend the open public hearing, the Board will accept written and verbal comments. For all others not planning to attend the public hearing, written comments will be accepted by the Executive Director on or before close of business on October 24, 2017 as follows:

- Written comments received by October 20, 2017 will be included in the Board’s distributed meeting material for consideration in advance of the hearing.
- Written comments received between October 21, 2017 and October 24, 2017 will be printed and provided to the Board at the open public hearing.

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 scope of Chapter 27.01.04 is to specify which products pharmacists may prescribe. This chapter implements House Bill 191, which passed in the 2017 Idaho Legislature. House Bill 191 amended Section 54-1704, Idaho Code, and provided the Board of Pharmacy with rulemaking authority to designate drugs, drug categories, and devices that pharmacists may prescribe, provided certain conditions are met. In addition, existing rules related to collaborative pharmacy practice and statewide protocol agreements are organized into this chapter.

These rules will take effect in their entirety on July 1, 2018.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in two separate open, public meetings on August 1, 2017 and August 30, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 27-0101-1701 in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 54 through 56](#), and in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, pages 114 through 115](#).

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 Alex Adams at (208) 334-2356.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Alex J. Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 27-0104-1701
(New Chapter)

IDAPA 27
TITLE 01
CHAPTER 04

27.01.04. - RULES GOVERNING PHARMACIST PRESCRIPTIVE AUTHORITY

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717, 54-1753, 54-1755, and 54-1763, Idaho Code. ()

001. TITLE AND SCOPE.

In addition to the General Provisions set forth in “General Provisions,” IDAPA 27.01.01, the following title and scope shall apply to these rules: ()

01. Title. The title of this chapter is “Rules Governing Pharmacist Prescriptive Authority,” IDAPA 27, Title 01, Chapter 04. ()

02. Scope. The scope of this chapter includes, but is not limited to, provision for, and clarification of, the Board’s assigned responsibility to determine which drugs or devices pharmacists can prescribe independently, and further establish criteria for collaborative pharmacy practice and statewide protocol agreements. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Title 67, Chapter 52, Idaho Code, this agency may have written statements that pertain to the interpretation of, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Board of Pharmacy office. ()

003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.

Administrative proceedings and appeals are administered by the Board in accordance with the “Idaho Rules of Administrative Procedure of the Attorney General,” IDAPA 04.11.01, Subchapter B -- Contested Cases, Rules 100 through 800. ()

01. Place and Time for Filing. Documents in rulemakings or contested cases must be filed with the executive director of the Board at the Board office between the hours of 8 a.m. and 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

02. Manner of Filing. One (1) original of each document is sufficient for filing; however, the person or officer presiding over a particular rulemaking or contested case proceeding may require the filing of additional copies. A document may be filed with the Board by e-mail or fax if legible, complete, and received during the Board’s office hours. The filing party is responsible for verifying with Board staff that an e-mail or fax was successfully and legibly received. ()

004. INCORPORATION BY REFERENCE.
No documents have been incorporated by reference into these rules. ()

005. BOARD OFFICE INFORMATION.

01. Street Address. The office is located at 1199 Shoreline Lane, Suite 303, Boise, Idaho. ()

02. Mailing Address. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0067. ()

03. Telephone Number. The telephone number is (208) 334-2356. ()

04. Fax Number. The fax number is (208) 334-3536. ()

05. Electronic Address. The website address is <https://bop.idaho.gov>. ()

06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.
Board of Pharmacy records and filings are subject to compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. OFFICIAL BOARD JOURNAL.
The official journal of the Board is the electronic Idaho State Board of Pharmacy Newsletter. A link to recent versions of the newsletter is posted on the Board’s website. Board licensees and registrants are presumed to have knowledge of the contents of the newsletter on the date of publication. The newsletter may be used in administrative hearings as proof of notification. ()

008. – 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.
The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the definitions and abbreviations found at IDAPA 27.01.01.010 through 012 are applicable to these rules. ()

011. – 019. (RESERVED).

020. PHARMACIST PRESCRIBING: GENERAL REQUIREMENTS.
In addition to all nonprescription drugs and devices and the statutorily authorized drug products and categories set forth in Section 54-1704, Idaho Code, a pharmacist acting in good faith and exercising reasonable care may independently prescribe drugs, drug categories and devices as set forth in this chapter provided the following general requirements are met: ()

01. Education. The pharmacist may only prescribe drugs or devices for conditions for which the pharmacist is educationally prepared and for which competence has been achieved and maintained. ()

02. Patient-Prescriber Relationship. The pharmacist may only issue a prescription for a legitimate medical purpose arising from a patient-prescriber relationship as defined in Section 54-1733, Idaho Code. ()

03. Patient Assessment. The pharmacist must obtain adequate information about the patient's health status to make appropriate decisions based on clinical guidelines or evidence-based research findings and mitigate potential contraindications and interactions, among other potential adverse health outcomes. ()

a. At a minimum, for each drug or drug category the pharmacist intends to prescribe, the pharmacist must maintain a patient assessment protocol based on current clinical guidelines, when available, or evidence-based research findings that specifies the following: ()

b. Patient inclusion and exclusion criteria; and ()

c. Explicit medical referral criteria. ()

d. The pharmacist must revise the patient assessment protocol when necessary to ensure continued compliance with clinical guidelines or evidence-based research findings. The pharmacist's patient assessment protocol, and any related forms, must be made available to the Board upon request. ()

04. Collaboration with Other Health Care Professionals. The pharmacist must recognize the limits of the pharmacist's own knowledge and experience and consult with and refer to other health care professionals as appropriate. ()

05. Follow-Up Care Plan. The pharmacist must develop and implement an appropriate follow-up care plan, including any monitoring parameters, in accordance with clinical guidelines. ()

06. Notification. The pharmacist must inquire about the identity of the patient's primary care provider; and, if one is identified by the patient, provide notification within five (5) business days following the prescribing of a drug. In the instance in which the pharmacist is prescribing to close a gap in care or to supplement a valid prescription drug order, the pharmacist must alternatively notify the provider of record. ()

07. Documentation. The pharmacist must maintain documentation adequate to justify the care provided, including, but not limited to the information collected as part of the patient assessment, the prescription record, any notification provided as required under this section, and the follow-up care plan. ()

021. PHARMACIST PRESCRIBING FOR MINOR CONDITIONS.

A pharmacist may prescribe any drug approved by the FDA that is indicated for the following conditions: ()

01. Lice; ()

02. Cold Sores; ()

03. Motion Sickness; ()

04. Nausea; and ()

05. Uncomplicated Urinary Tract Infections. ()

022. PHARMACIST PRESCRIBING OF DEVICES.

A pharmacist may prescribe any of the following devices approved by the FDA: ()

01. Inhalation Spacer; ()

02. Nebulizer; ()

03. Diabetes Blood Sugar Testing Supplies; ()

04. Insulin Pen Needles; and ()

05. Syringes. Syringes for patients with diabetes. ()

023. PHARMACIST PRESCRIBING BASED ON CLIA-WAIVED TEST.

A pharmacist may prescribe any antimicrobial drug approved by the FDA that is indicated for the following conditions, provided the symptomatic patient first tests positive to a CLIA-waived test indicated for the condition: ()

01. Influenza. When a person has tested positive for influenza, a pharmacist may additionally prescribe an antiviral medication to an individual who has been exposed to the infectious person and for whom clinical guidelines recommend chemoprophylaxis; and ()

02. Group A Streptococcal Pharyngitis. ()

024. PHARMACIST PRESCRIBING FOR CLINICAL GAPS IN CARE.

A pharmacist may prescribe any drug approved by the FDA for the purposes of closing a gap in clinical guidelines as follows: ()

01. Statins. Statins, for patients with diabetes; and ()

02. Short-Acting Beta Agonists. Short-acting beta agonists (SABA), for patients with asthma who have had a prior prescription for a SABA, and who have a current prescription for a long-term asthma control medication. ()

025. PHARMACIST PRESCRIBING OF TRAVEL DRUGS.

A pharmacist who successfully completes an accredited CPE or CME course on travel medicine may prescribe any non-controlled drug recommended for individuals traveling outside the United States that are specifically listed in the federal CDC Health Information for International Travel (e.g., Yellow Book). The pharmacist may only prescribe drugs that are indicated for the patient's intended destination for travel. ()

026. PHARMACIST PRESCRIBING TO SUPPLEMENT AN INFUSION ORDER.

A pharmacist may prescribe any of the following FDA approved drugs or devices to supplement a valid prescription drug order or institutional drug order for drugs intended to be administered to a patient via infusion; ()

01. Flush. Heparin, in concentrations of 100 units per milliliter or less, and saline; ()

02. Devices. Infusion pumps and other rate control devices; ()

03. Supplies. Tubing, filters, catheters, intravenous (IV) start kits, central line dressing kits, and injection caps; and ()

04. Local Anesthetics for IV Port Access. ()

027. PHARMACIST PRESCRIBING IN EMERGENCY SITUATIONS.

If a situation exists that, in the professional judgment of the pharmacist, threatens the health or safety of the patient, a pharmacist may prescribe the following FDA approved drugs in the minimum quantity necessary until the patient is able to be seen by another provider. As soon as possible, the prescribing pharmacist must contact emergency medical services. ()

01. Diphenhydramine; ()

02. Epinephrine; and ()

03. Short-Acting Beta Agonists. ()

028. PHARMACIST PRESCRIBING FOR LYME DISEASE PROPHYLAXIS.

After a recognized tick bite, a pharmacist may prescribe antimicrobial prophylaxis, for the prevention of Lyme disease in accordance with clinical guidelines. ()

029. – 199. (RESERVED).

200. COLLABORATIVE PHARMACY PRACTICE AND STATEWIDE PROTOCOL AGREEMENTS.

01. Collaborative Agreement. Pharmacists or pharmacies and prescribers may enter into collaborative pharmacy practice through a written collaborative pharmacy practice agreement that defines the nature and scope of authorized DTM or other patient care services to be provided by a pharmacist. ()

a. Agreement Elements. The collaborative pharmacy practice agreement must include: ()

i. Identification of the parties to the agreement; ()

ii. The establishment of each pharmacist's scope of practice authorized by the agreement, including a description of the types of permitted activities and decisions; ()

iii. The drug name, class or category and protocol, formulary, or clinical guidelines that describe or limit a pharmacist's authority to perform DTM; ()

iv. A described method for a prescriber to monitor compliance with the agreement and clinical outcomes of patients and to intercede where necessary; ()

v. A provision allowing any party to cancel the agreement by written notification; ()

vi. An effective date; and ()

vii. Signatures of the parties to the agreement and dates of signing. ()

b. Agreement Review. The collaborative pharmacy practice agreement must be reviewed and revised when necessary or appropriate. ()

02. Statewide Protocol Agreement. A pharmacist may perform DTM or other patient care services according to a statewide protocol agreement issued by the director of the Idaho Department of Health and Welfare, in conjunction with the Board, for the purpose of improving public health. The protocol agreement must include: ()

a. An effective date range; ()

b. The geographical portion of the state where the protocol agreement is to be effective; and ()

c. The drug name, class or category and protocol, formulary, or clinical guidelines that describe or limit a pharmacist's authority to perform DTM or other patient care services. ()

03. Prescribing Exemption. The general requirements set forth in Section 020 of these rules do not apply to collaborative agreements and statewide protocol agreements. ()

201. – 999. (RESERVED).

IDAPA 27 – BOARD OF PHARMACY
27.01.05 – RULES GOVERNING DRUG COMPOUNDING
DOCKET NO. 27-0105-1701 (NEW CHAPTER)
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 54-1717, Idaho Code.

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

PUBLIC HEARING
Wednesday, October 25, 2017 – 9:00 a.m. (MDT)

Idaho State Capitol Building
Room WW53
700 West Jefferson Street
Boise, ID 83702

For those planning to attend the open public hearing, the Board will accept written and verbal comments. For all others not planning to attend the public hearing, written comments will be accepted by the Executive Director on or before close of business on October 24, 2017 as follows:

- Written comments received by October 20, 2017 will be included in the Board's distributed meeting material for consideration in advance of the hearing.
- Written comments received between October 21, 2017 and October 24, 2017 will be printed and provided to the Board at the open public hearing.

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 scope of Chapter 27.01.05 is to establish rules related to drug compounding. This chapter is comprised of current rules related to compounding drug products, sterile product preparation, hazardous drug preparation, outsourcing facilities, and labeling of distributed compounded drug products. No substantive changes were made to these rules relative to the current ones, though the Board did correct some minor typos from existing rules.

These rules will take effect in their entirety on July, 1, 2018.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in two separate open, public meetings on August 1, 2017 and August 30, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 27-0101-1701 in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 54 through 56](#), and in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, pages 114 through 115](#).

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 Alex Adams at (208) 334-2356.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Alex J. Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 27-0105-1701
(New Chapter)

IDAPA 27
TITLE 01
CHAPTER 05

27.01.05. - RULES GOVERNING DRUG COMPOUNDING

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717, 54-1753, 54-1755, and 54-1763, Idaho Code. ()

001. TITLE AND SCOPE.

In addition to the General Provisions set forth in “General Provisions,” IDAPA 27.01.01, the following title and scope shall apply to these rules: ()

01. Title. The title of this chapter is “Rules Governing Drug Compounding,” IDAPA 27, Title 01, Chapter 05. ()

02. Scope. The scope of this chapter includes, but is not limited to, provision for, and clarification of, the Board’s assigned responsibility to regulate and control drug compounding. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Title 67, Chapter 52, Idaho Code, this agency may have written statements that pertain to the interpretation of, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Board of Pharmacy office. ()

003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.

Administrative proceedings and appeals are administered by the Board in accordance with the “Idaho Rules of Administrative Procedure of the Attorney General,” IDAPA 04.11.01, Subchapter B -- Contested Cases, Rules 100 through 800. ()

01. Place and Time for Filing. Documents in rulemakings or contested cases must be filed with the executive director of the Board at the Board office between the hours of 8 a.m. and 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

02. Manner of Filing. One (1) original of each document is sufficient for filing; however, the person or officer presiding over a particular rulemaking or contested case proceeding may require the filing of additional copies. A document may be filed with the Board by e-mail or fax if legible, complete, and received during the Board's office hours. The filing party is responsible for verifying with Board staff that an e-mail or fax was successfully and legibly received. ()

004. INCORPORATION BY REFERENCE.
No documents have been incorporated by reference into these rules. ()

005. BOARD OFFICE INFORMATION.

- 01. Street Address. The office is located at 1199 Shoreline Lane, Suite 303, Boise, Idaho. ()
- 02. Mailing Address. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0067. ()
- 03. Telephone Number. The telephone number is (208) 334-2356. ()
- 04. Fax Number. The fax number is (208) 334-3536. ()
- 05. Electronic Address. The website address is <https://bop.idaho.gov>. ()
- 06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.
Board of Pharmacy records and filings are subject to compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. OFFICIAL BOARD JOURNAL.
The official journal of the Board is the electronic Idaho State Board of Pharmacy Newsletter. A link to recent versions of the newsletter is posted on the Board's website. Board licensees and registrants are presumed to have knowledge of the contents of the newsletter on the date of publication. The newsletter may be used in administrative hearings as proof of notification. ()

008. – 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.
The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the definitions and abbreviations found at IDAPA 27.01.01.010 through 012 are applicable to these rules. ()

011. – 099. (RESERVED).

100. COMPOUNDING DRUG PRODUCTS.
Any compounding that is not permitted herein is considered manufacturing. ()

01. Application. This rule applies to any person, including any business entity, authorized to engage in the practice of non-sterile compounding, sterile compounding, and sterile prepackaging of drug products in or into Idaho, except these rules do not apply to: ()

- a. Compound positron emission tomography drugs; ()
- b. Radiopharmaceutics; ()

- c. The reconstitution of a non-sterile drug or a sterile drug for immediate administration; ()
- d. The addition of a flavoring agent to a drug product; and ()
- e. Product preparation of a non-sterile, non-hazardous drug according to the manufacturer's FDA approved labeling. ()

02. General Compounding Standards. ()

a. Active Pharmaceutical Ingredients. All active pharmaceutical ingredients must be obtained from an FDA registered manufacturer. FDA registration as a foreign manufacturer satisfies this requirement. ()

b. Certificate of Analysis (COA). Unless the active pharmaceutical ingredient complies with the standards of an applicable USP-NF monograph, a COA must be obtained for all active pharmaceutical ingredients procured for compounding and retained for a period of not less than three (3) years from the date the container is emptied, expired, returned, or disposed of. The following minimum information is required on the COA: ()

- i. Product name; ()
- ii. Lot number; ()
- iii. Expiration date; and ()
- iv. Assay. ()

c. Equipment. Equipment and utensils must be of suitable design and composition and cleaned, sanitized, or sterilized as appropriate prior to use. ()

d. Disposal of Compromised Drugs. When the correct identity, purity, strength, and sterility of ingredients and components cannot be confirmed (in cases of, for example, unlabeled syringes, opened ampoules, punctured stoppers of vials and bags, and containers of ingredients with incomplete labeling) or when the ingredients and components do not possess the expected appearance, aroma, and texture, they must be removed from stock and isolated for return, reclamation, or destruction. ()

03. Prohibited Compounding. Compounding any drug product for human use that the FDA has identified as presenting demonstrable difficulties in compounding or has withdrawn or removed from the market for safety or efficacy reasons is prohibited. ()

04. Limited Compounding. ()

a. Triad Relationship. A pharmacist may compound a drug product in the usual course of professional practice for an individual patient pursuant to an established prescriber/patient/pharmacist relationship and a valid prescription drug order. ()

b. Commercially Available Products. A drug product that is commercially available may only be compounded if not compounded regularly or in inordinate amounts and if: ()

- i. It is medically warranted to provide an alternate ingredient, dosage form, or strength of significance; or ()
- ii. The commercial product is not reasonably available in the market in time to meet the patient's needs. ()

c. Anticipatory Compounding. Limited quantities of a drug product may be compounded or sterile prepackaged prior to receiving a valid prescription drug order based on a history of receiving valid prescription drug orders for the compounded or sterile prepackaged drug product. ()

05. Drug Compounding Controls. ()

a. Policies and Procedures. In consideration of the applicable provisions of USP 795 concerning pharmacy compounding of non-sterile preparations, USP 797 concerning sterile preparations, Chapter 1075 of the USP-NF concerning good compounding practices, and Chapter 1160 of the USP-NF concerning pharmaceutical calculations, policies and procedures for the compounding or sterile prepackaging of drug products must ensure the safety, identity, strength, quality, and purity of the finished product, and must include any of the following that are applicable to the scope of compounding practice being performed: ()

- i. Appropriate packaging, handling, transport, and storage requirements; ()
- ii. Accuracy and precision of calculations, measurements, and weighing; ()
- iii. Determining ingredient identity, quality, and purity; ()
- iv. Labeling accuracy and completeness; ()
- v. Beyond use dating; ()
- vi. Auditing for deficiencies, including routine environmental sampling, quality and accuracy testing, and maintaining inspection and testing records; ()
- vii. Maintaining environmental quality control; and ()
- viii. Safe limits and ranges for strength of ingredients, pH, bacterial endotoxins, and particulate matter. ()

b. Accuracy. Components including, but not limited to, bulk drug substances, used in the compounding or sterile prepackaging of drug products must be accurately weighed, measured, or subdivided, as appropriate. The amount of each active ingredient contained within a compounded drug product must not vary from the labeled potency by more than the drug product's acceptable potency range listed in the USP-NF monograph for that product. If USP-NF does not publish a range for a particular drug product, the active ingredients must not contain less than ninety percent (90%) and not more than one hundred ten percent (110%) of the potency stated on the label. ()

c. Non-Patient Specific Records. Except for drug products that are being compounded or sterile prepackaged for direct administration, a production record of drug products compounded or sterile prepackaged in anticipation of receiving prescription drug orders or distributed in the absence of a patient specific prescription drug order ("office use") solely as permitted in these rules, must be prepared and kept for each drug product prepared, including: ()

- i. Production date; ()
- ii. Beyond use date; ()
- iii. List and quantity of each ingredient; ()
- iv. Internal control or serial number; and ()
- v. Initials or unique identifier of all persons involved in the process or the compounder responsible for the accuracy of these processes. ()

101. STERILE PRODUCT PREPARATION.

01. Application. In addition to all other applicable rules in this chapter, including the rules governing Compounding Drug Products, these rules apply to all persons, including any business entity, engaged in the practice of sterile compounding and sterile prepackaging in or into Idaho. ()

02. Dosage Forms Requiring Sterility. The sterility of compounded biologics, diagnostics, drugs, nutrients, and radiopharmaceuticals must be maintained or the compounded drug product must be sterilized when prepared in the following dosage forms: ()

- a. Aqueous bronchial and nasal inhalations, except sprays intended to treat bronchial mucosa only; ()
- b. Baths and soaks for live organs and tissues; ()
- c. Injections (for example, colloidal dispersions, emulsions, solutions, suspensions); ()
- d. Irrigations for wounds and body cavities; ()
- e. Ophthalmic drops and ointments; and ()
- f. Tissue implants. ()

03. Compounder Responsibilities. Compounders and sterile prepackagers are responsible for ensuring that sterile products are accurately identified, measured, diluted, and mixed and are correctly purified, sterilized, packaged, sealed, labeled, stored, dispensed, and distributed, as well as prepared in a manner that maintains sterility and minimizes the introduction of particulate matter; ()

a. Unless following manufacturer's guidelines or another reliable literature source, opened or partially used packages of ingredients for subsequent use must be properly stored as follows; ()

i. Opened or entered (such as needle-punctured) single-dose containers, such as bags, bottles, syringes, and vials of sterile products and compounded sterile products shall be used within one (1) hour if opened in non-sterile conditions, and any remaining contents must be discarded; ()

ii. Single-dose vials needle-punctured in a sterile environment may be used up to six (6) hours after initial needle puncture; ()

iii. Opened single-dose ampules shall not be stored for any time period; and ()

iv. Multiple-dose containers (for example, vials) that are formulated for removal of portions on multiple occasions because they contain antimicrobial preservatives, may be used for up to twenty-eight (28) days after initial opening or entering, unless otherwise specified by the manufacturer; ()

b. Water-containing compounded sterile products that are non-sterile during any phase of the compounding procedure must be sterilized within six (6) hours after completing the preparation in order to minimize the generation of bacterial endotoxins; ()

c. Food, drinks, and materials exposed in patient care and treatment areas shall not enter ante-areas, buffer areas, or segregated areas where components and ingredients of sterile products are prepared. ()

04. Environmental Controls. Except when prepared for immediate administration, the environment for the preparation of sterile products in a drug outlet must be in an isolated area, designed to avoid unnecessary traffic and airflow disturbances, and equipped to accommodate aseptic techniques and conditions. ()

a. Hoods and aseptic environmental control devices must be certified for operational efficiency as often as recommended by the manufacturer or at least every six (6) months or if relocated. ()

b. Filters must be inspected and replaced in accordance with the manufacturer's recommendations. ()

05. Sterile Product Preparation Equipment. A drug outlet in which sterile products are prepared must be equipped with at least the following: ()

- a. Protective apparel including gowns, masks, and sterile (or the ability to sterilize) non-vinyl gloves, unless the PIC can provide aseptic isolator manufacturer's written documentation that any component of garbing is not required; ()
- b. A sink with hot and cold water in close proximity to the hood; ()
- c. A refrigerator for proper storage of additives and finished sterile products prior to delivery when necessary; and ()
- d. An appropriate laminar airflow hood or other aseptic environmental control device such as a laminar flow biological safety cabinet. ()
- 06. Documentation Requirements.** The following documentation must also be maintained by a drug outlet in which sterile products are prepared: ()
- a. Justification of beyond use dates assigned, pursuant to direct testing or extrapolation from reliable literature sources; ()
- b. Training records, evidencing that personnel are trained on a routine basis and are adequately skilled, educated, and instructed; ()
- c. Audits appropriate for the risk of contamination for the particular sterile product including: ()
- i. Visual inspection to ensure the absence of particulate matter in solutions, the absence of leakage from bags and vials, and the accuracy of labeling with each dispensing; ()
- ii. Periodic hand hygiene and garbing competency; ()
- iii. Media-fill test procedures (or equivalent), aseptic technique, and practice related competency evaluation at least annually by each compounder or sterile prepackager; ()
- iv. Environmental sampling testing at least upon registration of a new drug outlet, following the servicing or re-certification of facilities and equipment, or in response to identified problems with end products, staff techniques or patient-related infections, or every six (6) months, including: ()
- (1) Total particle counts; ()
- (2) Viable air sampling; ()
- (3) Gloved fingertip sampling; ()
- (4) Surface sampling; ()
- v. Sterility testing of high risk batches of more than twenty-five (25) identical packages (ampules, bags, vials, etc.) before dispensing or distributing; ()
- d. Temperature, logged daily; ()
- e. Beyond use date and accuracy testing, when appropriate; and ()
- f. Measuring, mixing, sterilizing, and purification equipment inspection, monitoring, cleaning, and maintenance to ensure accuracy and effectiveness for their intended use. ()
- 07. Policies and Procedures.** Policies and procedures appropriate to the practice setting must be adopted by a drug outlet preparing sterile pharmaceutical products and must include a continuous quality improvement program for monitoring personnel qualifications and training in sterile technique, including: ()

- a. Antiseptic hand cleansing; ()
- b. Disinfection of non-sterile compounding surfaces; ()
- c. Selecting and appropriately donning protective garb; ()
- d. Maintaining or achieving sterility of sterile products while maintaining the labeled strength of active ingredients; ()
- e. Manipulating sterile products aseptically, including mixing, diluting, purifying, and sterilizing in the proper sequence; ()
- f. Choosing the sterilization method, pursuant to the risk of a contamination of particular compounded sterile product; and ()
- g. Inspecting for quality standards before dispensing or distributing. ()

102. HAZARDOUS DRUGS PREPARATION.

In addition to all other applicable rules in this chapter, including the rules governing Compounding Drug Products and Sterile Product Preparation, these rules apply to all persons, including any business entity, engaged in the practice of compounding or sterile prepackaging with hazardous drugs. Such persons must: ()

01. Ventilation. Ensure the storage and compounding areas have sufficient general exhaust ventilation to dilute and remove any airborne contaminants. ()

02. Ventilated Cabinet. Utilize a ventilated cabinet designed to reduce worker exposures while preparing hazardous drugs. ()

a. Sterile hazardous drugs must be prepared in a dedicated Class II biological safety cabinet or a barrier isolator of appropriate design to meet the personnel exposure limits described in product material safety data sheets; ()

b. When asepsis is not required, a Class I BSC, powder containment hood or an isolator intended for containment applications may be sufficient. ()

c. A ventilated cabinet that re-circulates air inside the cabinet or exhausts air back into the room environment is prohibited, unless: ()

i. The hazardous drugs in use will not volatilize while they are being handled; or ()

ii. The PIC can provide manufacturer written documentation attesting to the safety of such ventilation. ()

03. Clear Identification. Clearly identify storage areas, compounding areas, containers, and prepared doses of hazardous drugs. ()

04. Labeling. Label hazardous drugs with proper precautions, and dispense them in a manner to minimize risk of hazardous spills. ()

05. Protective Equipment and Supplies. Provide and maintain appropriate personal protective equipment and supplies necessary for handling hazardous drugs, spills and disposal. ()

06. Contamination Prevention. Unpack, store, prepackage, and compound hazardous drugs separately from other inventory in a restricted area in a manner to prevent contamination and personnel exposure until hazardous drugs exist in their final unit dose or unit-of-use packaging. ()

07. Compliance With Laws. Comply with applicable local, state, and federal laws including for the disposal of hazardous waste. ()

08. Training. Ensure that personnel working with hazardous drugs are trained in hygiene, garbing, receipt, storage, handling, transporting, compounding, spill control, clean up, disposal, dispensing, medical surveillance, and environmental quality and control. ()

09. Policy and Procedures Manual. Maintain a policy and procedures manual to ensure compliance with this rule. ()

103. OUTSOURCING FACILITY.

01. Federal Act Compliance. An outsourcing facility must ensure compliance with 21 U.S.C. Section 353b of the Federal Food, Drug and Cosmetic Act. ()

02. Adverse Event Reports. Outsourcing facilities must submit a copy of all adverse event reports submitted to the secretary of Health and Human Services in accordance with the content and format requirement established in Section 310.305 of Title 21 of the Code of Federal Regulations to the Board. ()

03. Policies and Procedures. An outsourcing facility must adopt policies and procedures for maintaining records pertaining to compounding, process control, labeling, packaging, quality control, distribution, complaints, and any information required by state or federal law. ()

104. LABELING: DISTRIBUTED COMPOUNDED DRUG PRODUCT.

Compounded and sterile prepackaged drug product distributed in the absence of a patient specific prescription drug order, solely as permitted for outsourcing facilities and pharmacies herein, must be labeled with the following information: ()

01. Drug Name. The name of each drug included. ()

02. Strength or Concentration. The strength or concentration of each drug included. ()

03. Base or Diluents. If a sterile compounded drug product, the name and concentration of the base or diluents. ()

04. Administration. If applicable, the dosage form or route of administration. ()

05. Quantity. The total quantity of the drug product. ()

06. Expiration Date. The expiration or beyond use date. ()

07. Compounder Identifier. The initials or unique identifier of the compounder responsible for the accuracy of the drug product. ()

08. Resale Prohibited. Resale is prohibited and products must be labeled as follows: ()

a. A pharmacy that is distributing, the statement: “not for further dispensing or distribution;” and ()

b. An outsourcing facility, the statement: “not for resale.” ()

09. Instructions, Cautions, and Warnings. Handling, storage or drug specific instructions, cautionary information, and warnings as necessary or appropriate for proper use and patient safety. ()

105. – 999. (RESERVED).

IDAPA 27 – BOARD OF PHARMACY
27.01.06 – RULES GOVERNING DME, MANUFACTURING, AND DISTRIBUTION
DOCKET NO. 27-0106-1701 (NEW CHAPTER)
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 54-1717, Idaho Code.

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

PUBLIC HEARING
Wednesday, October 25, 2017 – 9:00 a.m. (MDT)

Idaho State Capitol Building
Room WW53
700 West Jefferson Street
Boise, ID 83702

For those planning to attend the open public hearing, the Board will accept written and verbal comments. For all others not planning to attend the public hearing, written comments will be accepted by the Executive Director on or before close of business on October 24, 2017 as follows:

- Written comments received by October 20, 2017 will be included in the Board’s distributed meeting material for consideration in advance of the hearing.
- Written comments received between October 21, 2017 and October 24, 2017 will be printed and provided to the Board at the open public hearing

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 scope of Chapter 27.01.06 is to establish rules to regulate durable medical equipment (DME), manufacturing, and distribution. This chapter is comprised of current rules as follows: DME outlet standards, drug distribution, wholesaler standards, and drug manufacturer standards. No substantive changes were made to these rules relative to the current ones, though the following conforming edits have been made:

- The Board proposes to remove the transaction restriction on non-prescription drugs, which coincides with the removal of registration of non-pharmacy retail outlets specified in Chapter 02, IDAPA 27.01.02; and
- The Board proposes to amend the restriction on delivering drugs only to “the premises listed on the authorized receiving person’s license or registration” to “the registered address” to reflect recent changes in what is on a state license and registration.

These rules will take effect in their entirety on July 1, 2018.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted in two separate open, public meetings on August 1, 2017 and August 30, 2017. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 27-0101-1701 in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 54 through 56](#), and in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, pages 114 through 115](#).

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 Alex Adams at (208) 334-2356.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Alex J. Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 27-0106-1701
(New Chapter)

IDAPA 27
TITLE 01
CHAPTER 06

27.01.06. - RULES GOVERNING DME, MANUFACTURING, AND DISTRIBUTION

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717, 54-1753, 54-1755, and 54-1763, Idaho Code. ()

001. TITLE AND SCOPE.

In addition to the General Provisions set forth in “General Provisions,” IDAPA 27.01.01, the following title and scope shall apply to these rules: ()

01. Title. The title of this chapter is “Rules Governing DME, Manufacturing, and Distribution,” IDAPA 27, Title 01, Chapter 06. ()

02. Scope. The scope of this chapter includes, but is not limited to, provision for, and clarification of, the Board’s assigned responsibility to regulate and control drug manufacturing and distribution. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Title 67, Chapter 52, Idaho Code, this agency may have written statements that pertain to the interpretation of, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Board of Pharmacy office. ()

003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.

Administrative proceedings and appeals are administered by the Board in accordance with the “Idaho Rules of Administrative Procedure of the Attorney General,” IDAPA 04.11.01, Subchapter B -- Contested Cases, Rules 100 through 800. ()

01. Place and Time for Filing. Documents in rulemakings or contested cases must be filed with the executive director of the Board at the Board office between the hours of 8 a.m. and 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

02. Manner of Filing. One (1) original of each document is sufficient for filing; however, the person or officer presiding over a particular rulemaking or contested case proceeding may require the filing of additional copies. A document may be filed with the Board by e-mail or fax if legible, complete, and received during the Board’s office hours. The filing party is responsible for verifying with Board staff that an e-mail or fax was successfully and legibly received. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. BOARD OFFICE INFORMATION.

01. Street Address. The office is located at 1199 Shoreline Lane, Suite 303, Boise, Idaho. ()

02. Mailing Address. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0067. ()

03. Telephone Number. The telephone number is (208) 334-2356. ()

04. Fax Number. The fax number is (208) 334-3536. ()

05. Electronic Address. The website address is <https://bop.idaho.gov>. ()

06. Office Hours. The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Board of Pharmacy records and filings are subject to compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. OFFICIAL BOARD JOURNAL.

The official journal of the Board is the electronic Idaho State Board of Pharmacy Newsletter. A link to recent versions of the newsletter is posted on the Board’s website. Board licensees and registrants are presumed to have knowledge of the contents of the newsletter on the date of publication. The newsletter may be used in administrative hearings as proof of notification. ()

008. – 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the definitions and abbreviations found at IDAPA 27.01.01.010 through 012 are applicable to these rules. ()

011. – 019. (RESERVED).

020. DME OUTLET STANDARDS.

01. Policies and Procedures. A DME outlet must adopt policies and procedures that establish: ()

a. Operational procedures for the appropriate provision and delivery of equipment; ()

- b. Operational procedures for maintenance and repair of equipment; and ()
- c. Recordkeeping requirements for documenting the acquisition and provision of products. ()

02. Sale of Specified Prescription Drugs. Registered DME outlets may hold for sale at retail the following prescription drugs: ()

- a. Pure oxygen for human application; ()
- b. Nitrous oxide; ()
- c. Sterile sodium chloride; and ()
- d. Sterile water for injection. ()

03. Prescriber's Order Required. Prescription drugs and devices may only be sold or delivered by a DME outlet upon the lawful order of a prescriber. ()

021. -- 029. (RESERVED)

030. DRUG DISTRIBUTION.

01. Authorized Distributors. The following drug outlets may distribute legend drugs in or into Idaho, in compliance with these rules, pursuant to the following restrictions: ()

a. A licensed or registered wholesale distributor and a registered manufacturer in compliance with the Idaho Wholesale Distribution Act and the Idaho Pharmacy Act; ()

b. An FDA and Idaho registered outsourcing facility in compliance with 21 U.S.C. Section 353b of the Food, Drug and Cosmetic Act; ()

c. A dispenser without being licensed or registered as a wholesale distributor according to the following restrictions: ()

i. A dispenser may distribute to authorized recipients for an emergency medical purpose in which an alternative source for a drug is not reasonably available in sufficient time to prevent risk of harm to a patient that would result from a delay in obtaining a drug. The amount of the drug distributed in an emergency must not reasonably exceed the amount necessary for immediate use; ()

ii. A dispenser may distribute intracompany to any division, subsidiary, parent, affiliated or related company under common ownership and control of a corporate entity; ()

iii. A dispenser may distribute to another dispenser pursuant to a sale, transfer, merger or consolidation of all or a part of a dispenser, whether accomplished as a sale of stock or business assets; ()

iv. A dispenser may distribute compound positron emission tomography drugs or radiopharmaceuticals, if in compliance with applicable federal law; and ()

v. A dispenser may distribute minimal quantities of prescription drugs to a prescriber for in-office administration, including the distribution of compounded drug product in the absence of a patient specific prescription drug order if: ()

- (1) The compounded drug product is not sterile and not intended to be sterile; ()
- (2) The compounded drug product is not further dispensed or distributed by the practitioner; and ()

(3) The quantity of compounded drug product distributed is limited to five percent (5%) of the total number of compounded drug products dispensed and distributed on an annual basis by the dispenser, which may include a drug compounded for the purpose of, or incident to, research, teaching or chemical analysis. ()

02. Distribution. Unless statutorily exempted, an authorized distributor must furnish: ()

a. Drug product only to a person licensed by the appropriate state licensing agency to dispense, conduct research with or independently administer such drugs; ()

b. Scheduled controlled substances only to a person who has been issued a valid controlled substance registration by the DEA and the Board, unless exempt by state or federal law; ()

c. Federally required transaction documentation, including transaction information, transaction history, and transaction statements with each distribution; and ()

d. Drug product only to the registered address of the authorized receiving person. Delivery to a hospital pharmacy receiving area satisfies this requirement, provided that authorized receiving personnel sign for receipt at the time of delivery. ()

03. Controlled Substance Distribution Invoice. Distributions must be pursuant to an invoice and not a prescription drug order. For controlled substances, each dispenser must retain a signed receipt of the distribution that includes at least: ()

a. The date of the transaction; ()

b. The name, address, and DEA registration number of the distributing dispenser; ()

c. The name, address, and DEA registration number of the receiving dispenser; ()

d. The drug name, strength, and quantity for each product distributed; and ()

e. The signature of the person receiving the drugs. ()

04. Monitoring Purchase Activity. An authorized distributor must have adequate processes in place for monitoring purchase activity of customers and identifying suspicious ordering patterns that identify potential diversion or criminal activity related to controlled substances such as orders of unusual size, orders deviating substantially from a normal pattern, orders for drugs that are outside of the prescriber's scope of practice, and orders of unusual frequency. ()

05. Reporting. An authorized distributor must report specified data on controlled substances distributed at least monthly to the Board in a form and manner prescribed by the Board, except when distributing intracompany. ()

06. Prohibited Acts. The following acts are prohibited: ()

a. Distribution of any drug product that is adulterated, misbranded, counterfeit, expired, damaged, recalled, stolen, or obtained by fraud or deceit; and ()

b. Failing to obtain a license or registration when one is required to distribute in or into Idaho. ()

031. -- 039. (RESERVED)

040. WHOLESALER: STANDARDS.

These wholesaler rules establish the minimum standards for the storage and handling of drugs by wholesalers and their officers, designated representative, agents, and employees and for the establishment and maintenance of records required for persons engaged in wholesale drug distribution. ()

041. WHOLESALER: FACILITY REQUIREMENTS.

Facilities where drugs are stored, warehoused, handled, held, offered, marketed, or displayed for wholesale distribution must: ()

01. Minimum Physical Standards. Be of suitable size, construction, and location to accommodate cleaning, maintenance, and proper operations; ()

02. Minimum Environmental Standards. Have adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions; ()

03. Quarantine Area. Have a quarantine area for storage of drugs that are outdated, damaged, deteriorated, misbranded, or adulterated or that are in immediate or sealed secondary containers that have been opened; ()

04. Maintenance Requirements. Be maintained in a clean and orderly condition; and ()

05. Pest Controls. Be free from infestation by insects, rodents, birds, or vermin of any kind. ()

042. WHOLESALER: FACILITY SECURITY.

Facilities used for wholesale drug distribution must be secure from unauthorized entry, as follows: ()

01. Access from Outside. Access from outside the premises must be kept to a minimum and well controlled; ()

02. Perimeter Lighting. The outside perimeter of the premises must be well lighted; ()

03. Authorized Entry. Entry into areas where drugs are held must be limited to authorized personnel; ()

04. Alarm Systems. Facilities must be equipped with an alarm system to detect entry after hours; and ()

05. Security Systems. Facilities must be equipped with security systems sufficient to protect against theft, diversion, and record tampering. ()

043. WHOLESALER: DRUG STORAGE REQUIREMENTS.

Drugs must be stored at temperatures and under conditions required by the labeling of the drugs, if any, or by current requirements of the USP-NF, to preserve product identity, strength, quality, and purity. Temperature and humidity recording equipment, devices, or logs must document proper storage of drugs. ()

044. WHOLESALER DRUG SHIPMENT INSPECTION REQUIREMENTS.

01. Examination on Receipt. Each shipping container must be visually examined on receipt for identity and to avoid acceptance of drugs that are contaminated or otherwise unfit for distribution. ()

02. Outgoing Shipment Inspections. Outgoing shipments must be inspected to verify the accuracy and product integrity of the shipment contents. ()

045. WHOLESALER: QUARANTINE.

Drugs that are outdated, damaged, deteriorated, misbranded, or adulterated must be physically separated from other drugs in a designated quarantine area until destroyed or returned to the original manufacturer or third party returns processor. ()

01. Container Adulteration. Used drugs and those whose immediate or sealed outer or sealed secondary containers have been opened are adulterated and must be quarantined. ()

02. Other Conditions Requiring Quarantine. Drugs must be quarantined under any condition that

causes doubt as to a drug's safety, identity, strength, quality, or purity unless under examination, testing, or other investigation the drug is proven to meet required standards. ()

046. WHOLESALER: RECORDKEEPING REQUIREMENTS.

Wholesalers and other entities engaged in wholesale drug distribution must establish and maintain inventories and records of transactions pertaining to the receipt and distribution or other disposition of drugs. ()

01. Record Contents. The records must include at least: ()

a. The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped; ()

b. The identity and quantity of the drugs received and distributed or disposed of; and ()

c. The dates of receipt and distribution or other disposition of the drugs. ()

02. Records Maintenance. Records may be maintained in an immediately retrievable manner at the inspection site or in a readily retrievable manner at a central location. ()

047. WHOLESALER: PERSONNEL.

01. Responsible Person Designees. A wholesaler must establish and maintain a list of officers, directors, managers, a designated representative, and other persons responsible for wholesale drug distribution, storage, and handling and must include a description of each individual's duties and a summary of their qualifications. ()

02. Adequate Personnel. A wholesaler must employ personnel in sufficient numbers and with adequate education, training, and experience to safely and lawfully engage in wholesale drug distribution activities. ()

03. Designated Representative Continuing Education. A wholesaler's designated representative must complete training and continuing education on state and federal laws pertaining to wholesale distribution of prescription drugs provided by qualified in-house specialists, outside counsel, or consulting specialists with capabilities to help ensure compliance. ()

048. WHOLESALER: POLICIES AND PROCEDURES.

Wholesalers must adopt policies and procedures for the receipt, security, storage, inventory, and distribution of drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, for correcting errors and inaccuracies in inventories, and as necessary to ensure compliance with the following: ()

01. Distribution of Oldest Approved Stock First. The oldest approved stock of a drug product must be distributed first except if extraordinary circumstances require a temporary deviation. ()

02. Recalls and Withdrawals. Drugs must be recalled or withdrawn upon: ()

a. A request by the FDA or other local, state, or federal law enforcement or other government agency, including the Board; ()

b. A voluntary action by a manufacturer to remove defective or potentially defective drugs from the market; or ()

c. An action undertaken to promote public health and safety by replacing existing merchandise with an improved product or a new package design. ()

03. Crisis Preparation. Wholesalers must prepare for, protect against, and competently handle a crisis affecting the security or operation of a facility, including a fire, flood, or other natural disaster, a strike, or other situations of local, state, or national emergency. ()

049. (RESERVED)

050. DRUG MANUFACTURERS.

These rules are applicable to drug manufacturers located within the state of Idaho. Non-resident manufacturers engaged in wholesale drug distribution in or into Idaho must comply with the Idaho Wholesale Drug Distribution Act and rules, as applicable. ()

01. Standards. A manufacturer must ensure compliance with the federal “Current Good Manufacturing Practice” requirements. ()

02. Records. A manufacturer must adopt policies and procedures for maintaining records pertaining to production, process control, labeling, packaging, quality control, distribution, complaints, and any information required by state or federal law. ()

053. -- 999. (RESERVED)

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 – SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, 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 October 18, 2017.

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

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

The Commission's Safety and Accident Reporting Rules (IDAPA 31.11.01) adopt by reference several national safety codes applicable to electric and natural gas utilities and federal safety regulations applicable to natural gas and pipeline utilities. Currently, Rule 201 adopts the October 2014 edition of 49 Code of Federal Regulations (CFR) Parts 191-193, 195, and 199, addressing the construction and operation of natural gas pipelines, and the April 2014 edition of 18 CFR Part 260.9.

Since the publication of those editions, there have been several minor updates and revisions to the safety codes, including amendments relating to the technical requirements of materials, installation methods and use, updated references to technical standards, and other non-substantive editorial corrections. There has also been added rules relating to expanded use of excess flow valves in gas distribution systems. There are no major revisions to the codes in question.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated national safety codes and federal regulations necessary for the safety of utility employees and the public during the installation, operation, or maintenance of natural gas pipelines, fuel gas systems and natural gas-fired appliances.

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

Adoption of the current national safety codes and the CFRs will make these rules consistent with federal safety regulations concerning natural gas and pipeline utilities. In addition, incorporation of the two other national safety codes will promote the safety of utility employees, utility customers, and the public. Finally, incorporation by reference will mitigate the need to publish hundreds of pages of safety codes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brandon Karpen, Deputy Attorney General, at (208) 334-0357.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 25, 2017. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 29th day of August, 2017.

Diane M. Hanian, Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Street address for express delivery:
472 W. Washington
Boise, Idaho 83702-5918
Phone: (208) 334-0338 / Fax: (208) 334-3762

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 31-1101-1701
(Only Those Sections With Amendments Are Shown.)

201. FEDERAL NATURAL GAS SAFETY REGULATIONS (RULE 201).

The Commission incorporates by reference Part 260.9, Title 18 (April 1, 201~~4~~⁷) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 201~~4~~⁷), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available on the web from the U.S. Government Bookstore, <http://bookstore.gpo.gov>, and click on “Code of Federal Regulations,” or by calling toll-free 866-512-1800. The incorporated CFR Parts are also available in electronic format at <https://www.gpo.gov/fdsys>. All gas and pipeline corporations subject to the Commission’s jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference.

~~(3-22-16)~~()

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1701
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 63-105A and 63-802, 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 October 18, 2017.

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:

Rule 509 – City, County, School District, And Special District Or Unit Of Government Abstracts Of Value And Identification Of Urban Renewal Increment And Partial Exemption Values. Defines “abstract” as a document summarizing taxable (net taxable value) and market value for assessment purposes (full market value) by secondary categories. Also, outlines the signature requirements.

Rule 609 – Property Exempt From Taxation – Homestead. Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%.

Rule 619 – Property Exempt From Taxation – Facilities For Water Or Air Pollution Control. Section 63-602(3)b, Idaho Code, application date is April 15 – Current rule states March 15. This change make the dates the same.

Rule 700 – Definitions For Property Tax Reduction Benefit. Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%.

Rule 804 – Tax Levy – Certification – Urban Renewal Districts. This covers levy setting when there is refinancing of bonded debt. Since this is not considered new debt it may still generate revenue for urban renewal agencies depending on the year incurred. Also, the urban renewal attestation of the plan’s modification due date is changed to first Monday in June to match law.

Rule 995 – Certification Of Sales Tax Distribution. Deals with the payment of withheld sales tax funds when taxing districts or urban renewal agencies come back into compliance with reporting requirements. (67-450E and 50-2913) The STC makes the payment no later than next quarterly sales tax distribution due date.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 1, 2017 Idaho Administrative Bulletin, [Volume 17-3, pages 24-25](#).

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 Alan Dornfest, (208) 334-7742, alan.dornfest@tax.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 October 25, 2017.

DATED this 4th day of October, 2017.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1701
(Only Those Sections With Amendments Are Shown.)

509. ~~CITY, COUNTY, SCHOOL DISTRICT, AND SPECIAL DISTRICT OR UNIT OF GOVERNMENT~~
~~ABSTRACTS OF VALUE AND IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL~~
~~EXEMPTION VALUES (RULE 509).~~

Sections 63-105A and 63-509, Idaho Code

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Increment Value. Increment value means, as defined in Section 50-2903, Idaho Code, the total value calculated by summing the differences between the current equalized value of each taxable property in the revenue allocation area and that property's current base value on the base assessment roll, provided such difference is positive. (3-30-07)

b. Primary Category. Primary category means the categories established and described by Subsections 130.02 through 130.06 of these rules and used by the State Tax Commission to test for equalization under Section 63-109, Idaho Code. (3-30-07)

c. Secondary Category. Secondary category means the categories established and described by Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the State Tax Commission under Section 63-509, Idaho Code, and this Rule. Secondary categories may also be tested for equalization purposes, provided they meet the criteria in Subsection 131.05 of these rules. (3-29-12)

d. Abstract. A document summarizing taxable (net taxable value) and market value for assessment purposes (full market value) by secondary category of property. Abstracts are prepared for the county, cities, the Boise School District, and any taxing district or unit of government which does not levy property tax against all otherwise taxable property. Abstracts are to be prepared for the property roll and the combined missed and subsequent property rolls. ()

02. ~~Indicate Increment and Exemption Values~~ Additional Information to be Included. In addition to the taxable value and the market value for assessment purposes of property on the property rolls, the abstract must report the value of exemptions required to be reported under Section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections 63-602W(4), 63-602GG, 63-602HH, 63-602II, 63-602NN, 63-

4502, 63-606A, and 63-3029B, Idaho Code, Increment value and exemption value thus reported shall be indicated and subtracted from the taxable market value for assessment purposes shown for each secondary category of property on each city and county abstract, ~~and the Boise School District abstract. Increment value and the value of the exemptions found in this subsection shall also be indicated and subtracted from the taxable value for each secondary category subject to taxation by special districts and units of government which do not levy property tax against all otherwise taxable property.~~ (4-11-15)()

03. Verification of Abstracts. For the purposes of this rule and meeting the requirements of Section 63-509, Idaho Code, the abstract of the property rolls prepared by the county auditor shall be considered duly verified provided that the auditor signs a document indicating: ()

a. That the required summary information is based on the most current available information received from the assessor following the conclusion of the county board of equalization, and; ()

b. That the assessor certifies to the auditor that all changes, corrections, additions, and exemptions entered onto the rolls as a result of county board of equalization action have been duly entered. ()

04. Nature of Verification Document. The abstract verification document shall include the signatures of the county assessor and auditor or duly appointed representatives. The substance of the verbiage in the document shall be equivalent to that found in the following sample:

(Name of county auditor), being first duly sworn, deposes and says that he/she is the duly qualified and acting auditor in and for the county of (Name), State of Idaho, and that the above and foregoing is a full, true and correct abstract of the valuation of all property entered on the property roll (or subsequent and missed property rolls) for the year (Year), as certified by the assessor to the auditor and equalized by the Board of County Commissioners of said county in session as a board of equalization. ()

035. Submittal of Corrections to Erroneous Abstracts or Related Documents. When completing the procedures set forth in Section 63-810, Idaho Code, boards of county commissioners should submit the corrections to the taxable values submitted on the abstracts or related documents under provisions of Section 63-509, Idaho Code, and this rule, no later than when they submit the corrected levies under Section 63-810, Idaho Code. (4-2-08)

046. Cross Reference. See Rule 115 of these rules for requirements to submit city, Boise School District, and special district or unit of government abstracts. For the descriptions of the categories used to test for equalization, see Subsections 130.02 through 130.06 of these rules. For descriptions of secondary categories used to list and report land values, see Rule 510 of these rules, used to list and report the value of improvements, see Rule 511 of these rules, or used to list and report all property values other than that for land or improvements, see Rule 512 of these rules. For information relating to notification of corrections to erroneous levies, see Sections 63-809 and 63-810, Idaho Code, and Rule 809 of these rules. (3-29-12)

(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. Maximum Amount of Homestead Exemption. The homestead exemption is limited to the lesser of fifty percent (50%) of assessed value or one hundred thousand dollars (\$100,000). (3-29-17)

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 these rules. (3-29-17)

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	Split 50% to each owner
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

(3-29-17)

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	

Description	Value	Notes
Residential Improvement	\$215,000	
Land and Improvement	\$310,000	
Prorated ownership interest (land and improvement) (\$310,000 X 66.67 50%)	\$206,677 \$155,000	Mr. & Mrs. Johnson's interest
Homeowner's Exemption Maximum for 2010 (\$100,000 X 66.67 50%)	\$66,670 \$50,000	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement) (\$310,000 X 33.33 50%)	\$103,323 \$155,000	Ms. Smith's interest
Homeowner's Exemption Maximum for 2017 (\$100,000 X 33.33 50%)	\$33,330 \$50,000	Ms. Smith's Homeowner's Exemption

(3-29-17)()

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 50%)	\$173,342 \$130,000	Mr. & Mrs. Doe's interest
Homeowner's Exemption (Maximum for 2017 is 50% up to \$100,000)	\$86,671 \$65,000	Mr. & Mrs. Doe's Homeowner's Exemption
Prorated ownership interest (land and improvement) (\$260,000 X 33.33 50%)	\$86,658 \$130,000	Mr. Person's interest
Homeowner's Exemption	\$0	Mr. Person does not qualify for a homeowner's exemption on this property.

(3-29-17)()

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)

619. PROPERTY EXEMPT FROM TAXATION -- FACILITIES FOR WATER OR AIR POLLUTION CONTROL (RULE 619).

01. Exempt Property. Only those portions of installations, facilities, machinery, or equipment which are devoted exclusively to elimination, control, or prevention of water or air pollution are exempt. The owner of the property shall annually apply for exemption. (4-4-13)

02. Calculation of Partial Exemption. The exemption shall not include the percentage of the value for any portion of the facility which is used for the production of marketable by-products. The exempted value is the difference between the market value of the pollution control facilities and the present value of the net income from the sale of by-products. Net income shall be determined by subtracting the expenses of sale, raw materials required to produce by-products, and transportation to F.O.B. point from gross sales of recovered by-product.

For example:

The industry capitalization rate is 10%.

The purchase price of scrubber is \$1 million with a 20 year life
1st Year, Calculation of Exemption;

Gross sales of precipitate	\$11,000/yr.
Transport to F.O.B. point	\$100/yr.
Lime to precipitate products	\$900/yr.
Net Income	\$10,000/yr.
Present value of net income	\$85,130
Exempt Value is purchase price minus present value of net income (\$1,000,000-\$85,130)	\$914,870

Indirect costs associated with operating the scrubber such as power, maintenance, etc., are not to be deducted from gross sales to reach net income. (3-30-01)

03. Ineligibility. Landfills, toxic waste dumps, or storage facilities deriving revenue from processing or storing pollution or pollution by-products generated by other persons or businesses are ineligible for this exemption. (7-1-97)

04. Filing Procedure. Application for exemption shall be made in the following manner: (4-4-13)

a. The property owner may obtain the application form issued by the State Tax Commission from the county assessor or the State Tax Commission. (4-4-13)

b. The property owner completes the application to report an itemized listing of all installations, facilities, machines or equipment qualifying for exemption. Each component part of the system must be identified by a brief description (e.g., Dust Collector), the date of original acquisition, dollar amount of the original cost, and the percentage of the component devoted exclusively to pollution control. The application must be signed by the owner or duly authorized agent. Lack of required information shall be grounds for denial. (4-4-13)

c. The completed application must be filed with the county commissioners by ~~March~~ April 15 for locally assessed property or with the State Tax Commission by April 30 for centrally assessed property. (4-4-13)()

05. Inspection. The county or State Tax Commission representative may inspect the property or audit the owner's records to identify components for which the exemption has been applied. Those components listed on the application must be identifiable as capital assets of the property. (4-4-13)

06. Exemption Reported on Abstracts. For locally assessed property, exempt value shall be reported on the property abstracts. (4-4-13)

07. Exemption for Portion of Water Corporation Property. A portion of water corporation property may be exempt from taxation. (3-30-01)

a. On or before April 30, each year, the State Tax Commission shall receive a notice from the Idaho Public Utilities Commission listing the value of the investment percentage of the total plant of each water company that is devoted exclusively to the elimination, control, or prevention of water pollution or air pollution. (3-30-01)

b. In estimating the market value of the company for assessment purposes, the State Tax Commission will take into consideration the investment as certified by the Public Utilities Commission that such equipment bears to the total invested plant of the company. (3-30-01)

c. The State Tax Commission will notify the water company of the estimated market value, gross assessed value, and the amount of exemption allowed under Section 63-602P, Idaho Code, on or before July 15. (4-4-13)

d. Any person or party wishing to contest the percentage of exemption reported to the State Tax Commission by the Public Utilities Commission may submit a written request for a public hearing to the State Tax Commission by August 1 of the current tax year. The request for a hearing shall state the petitioner's grounds for contesting the percentage reported by the Public Utilities Commission. On or before the second Monday of August the State Tax Commission shall notify the petitioner of the hearing time and place. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

700. DEFINITIONS FOR PROPERTY TAX REDUCTION BENEFIT (RULE 700).
Section 63-701, Idaho Code

01. Blind. A person for whom there exists the medically documented opinion that the person is functionally blind as defined in Section 67-5402(2), Idaho Code. (3-30-01)

02. Burden of Proof. See Rule 600 of these rules. (3-15-02)

03. Claimant's Income. All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules. For the purposes of excluding from claimant's income any return of principal paid by the recipient of an annuity, follow these guidelines. (3-30-07)

a. An annuity means a contract sold by an insurance company to the claimant or claimant's spouse and designed to provide payments to the holder at specified equally spaced intervals or as a lump sum payment with the following conditions: (3-30-07)

i. The annuity must not be part of any pension plan available to an employee; (3-30-07)

ii. No tax preference is given to the money spent to purchase the annuity (purchase payments must not reduce the buyer's taxable income); (3-30-07)

iii. The buyer of the annuity must have purchased the annuity voluntary and not as a condition of employment or participation in an employer provided pension system; and (3-30-07)

iv. Earnings from investments in the annuity must be tax-deferred prior to withdrawal. (3-30-07)

b. Annuities do not include KEOGH plans, Individual Retirement Accounts (IRAs), employer provided pensions, and similar financial instruments. Life insurance premiums shall not be treated as the principal of an annuity. (3-30-07)

c. The recipient of the annuity payment(s), the claimant or claimant's spouse, has the burden of proving the income is the principal paid by the recipient. Such proof includes copies of the holder's annuity contract and any other documentation clearly indicating the conditions listed in Subparagraphs 700.03.a.i. through 700.03.a.iv. of this Rule are met. IRS form 1099 does not provide sufficient proof. (3-30-07)

04. Fatherless/Motherless Child. Fatherless/Motherless child for purposes of Section 63-701(1), Idaho Code, means a child judicially determined to be abandoned, as defined by Sections 16-1602 or 16-2005, Idaho Code, by the child's male/female parent or a child whose male/female parent has had his parental rights terminated pursuant to court order or is deceased. (3-30-01)

05. Proportional Reduction of Value. Proportional reduction of value pursuant to Section 63-701(7), Idaho Code, is required for partial ownership of otherwise eligible property. (3-15-02)

a. There is no reduction of value for community property with no other interests except as provided in Rules 610.07 and 709.04 of these rules. Additionally, there is no reduction in value for 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 a five percent (5%) interest in the entity unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation. (3-15-02)

b. In other cases, benefits are to be calculated by applying the claimant's property tax reduction benefit to the eligible net taxable value of the claimant's share of the property. This value is determined by multiplying the market value of the land and of the improvement times the claimant's percent of ownership and subtracting the claimant's homeowner's exemption. (4-2-08)

i. Example 1. The claimant is the sole occupant of the property but only owns fifty percent (50%) of the property. In this example, the claimant's property tax reduction benefit will be applied to the tax on his/her net taxable market value of \$50,000.

Land Market Value	\$50,000
Improvement Market Value	\$150,000
Gross Market Value	\$200,000
Percent of Ownership of Claimant	50%
Claimant's Share of Land Market Value & Improvement Market Value (Land Market Value & Improvement Market Value x Percentage of Ownership)	\$100,000
Claimant's Homeowner's Exemption (Claimant's Share of Improvement and Land Market Value x 50%, not to exceed \$89,325 <u>\$100,000</u> for 2007)	<\$50,000>
Claimant's Eligible Net Taxable Value equals Claimant's Share of Market Value less Homeowner's Exemption (\$100,000 - \$50,000 = \$50,000)	\$50,000

(4-2-08)()

ii. Example 2. Tom Johnson and Marie Johnson, husband and wife, and property tax reduction claimant June Smith jointly own a property and occupy one (1) residential improvement located on the property.

Calculate both homeowners' exemptions, and apply Ms. Smith's property tax reduction benefit to the tax on the net taxable value of her interest in the property.

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 50%)	\$206,677 \$155,000	Mr. & Mrs. Johnson's interest
Homeowner's Exemption Maximum for 2007 (89,325 100,000 X 66.67 50%)	\$59,550 \$50,000	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement) (\$310,000 X 33.33 50%)	\$103,323 \$155,000	Ms. Smith's interest
Homeowner's Exemption Maximum for 2007 (89,325 100,000 X 33.33 50%)	\$29,775 \$50,000	Ms. Smith's Homeowner's Exemption
Value of prorated interest less homeowner's exemption.	\$73,548 \$105,000	Ms. Smith's property tax reduction benefit is applied to the tax on the net taxable value.

(4-2-08)()

06. Physician. Physician shall mean a licensed physician, as defined in Section 54-1803(3), Idaho Code. (3-30-01)

07. Widow/Widower. A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled. (3-15-02)

08. Cross Reference. See Chapter 79, Title 67, Idaho Code, for requirements relating to lawful presence in the United States. See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Subsection 702.02.c. for information concerning authorization to release applicant information to a state or federal elected official. (3-20-14)

804. TAX LEVY - CERTIFICATION - URBAN RENEWAL DISTRICTS (RULE 804).
 Sections 50-2908, 50-2033, 50-1903, 50-2903A, 50-2905A, 50-2913, 63-803, and 63-811, Idaho Code

01. Definitions. (4-5-00)

a. "Urban renewal district." An urban renewal district, as referred to in Section 63-215, Idaho Code, shall mean an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts. (4-5-00)

b. "Revenue allocation area (RAA)." A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, shall be the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. A new urban renewal plan is required when an urban renewal agency establishes a new RAA. Revenue allocation areas (RAAs) are not taxing districts. (3-29-17)

c. "Current base value." The current base value of each parcel in a taxing district or unit shall be the value of that parcel on the current base assessment roll as defined under Section 50-2903, Idaho Code. Current base value does not include value found on the occupancy roll. (4-5-00)

d. "Initial base value." The initial base value for each parcel is the sum of the taxable value of each category of property in the parcel for the year the RAA is established. In the case of annexation to an RAA, initial

base value of each annexed parcel shall be the value of that parcel as of January 1 of the year in which the annexation takes place. (4-11-15)

e. “Increment value.” The increment value is the difference between the current equalized value of each parcel of taxable property in the RAA and that parcel’s current base value, provided such difference is a positive value. (4-5-00)

f. “Revenue allocation financing provision.” A revenue allocation area (RAA) shall be considered to be a revenue allocation financing provision. (3-29-17)

02. Establishing and Adjusting Base and Increment Values. (4-5-00)

a. Establishing initial base value. If a parcel’s legal description has changed prior to computing initial base year value, the value that best reflects the prior year’s taxable value of the parcel’s current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the taxable value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable property, as defined in Section 50-2903, Idaho Code. Initial base value does not include value found on the occupancy roll. (4-5-00)

b. Adjustments to base value - general value changes. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less than the most recent base value for such parcel. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments shall be made by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property shall establish new base values from which future adjustments may be made. In the following examples the parcel’s initial base value is one hundred thousand dollars (\$100,000), including Category 21 value of twenty thousand dollars (\$20,000) and Category 42 value of eighty thousand dollars (\$80,000). (4-5-00)

i. Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar (\$1,000) decrease in value in Category 21 and a one thousand dollar (\$1,000) increase in Category 42 value. There is no change in the base value for the parcel. (4-5-00)

ii. Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars (\$3,000) decrease in value in Category 21 and a one thousand dollars (\$1,000) increase in Category 42 value. The base value decreases two thousand dollars (\$2,000) to ninety-eight thousand dollars (\$98,000). (4-5-00)

iii. Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety-eight thousand dollars (\$98,000), the value of the parcel increases by five thousand dollars (\$5,000) which is the net of category changes. The base value remains at ninety-eight thousand dollars (\$98,000). (4-5-00)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel’s legal description. This adjustment shall be calculated as described in the following subsections. (4-5-00)

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value. Proportions used to determine the amount of base value assigned to each of the new parcels shall be based on the value of the new parcels had they existed in the year preceding the year for which the value of the new parcels is first established. (4-11-15)

ii. When a parcel has been combined with another parcel, the most recent base year values are added together. (4-5-00)

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split shall be calculated as set forth in Subsection 804.02.c.i. and then the value of the combination will be calculated as set forth in Subsection 804.02.c.ii. (4-5-00)

d. Adjustments to base values when exempt parcels become taxable. Base values shall be adjusted as described in the following subsections. (4-5-00)

i. Fully exempt parcels at time of RAA establishment. When a parcel that was exempt at the time the RAA was established becomes taxable, the base value is to be adjusted upwards to reflect the estimated value of the formerly exempt parcel at the time the RAA was established. (4-5-00)

ii. Partially exempt parcels losing the speculative value exemption. When a partially exempt parcel with a speculative value exemption that applies to farmland within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the taxable value of the parcel for the year in which the exemption is lost and the taxable value of the parcel included in the base value of the RAA. For example, assume a parcel of farmland within an RAA had a taxable value of five hundred dollars (\$500) in the year the RAA base value was established. Assume also that this parcel had a speculative value exemption of two thousand dollars (\$2,000) at that time. Two (2) years later the parcel is reclassified as industrial land, loses the speculative value exemption, and has a current taxable value of fifty thousand dollars (\$50,000). The base value within the RAA would be adjusted upwards by forty-nine thousand five hundred dollars (\$49,500), the difference between fifty thousand dollars (\$50,000) and five hundred (\$500). The preceding example applies only in cases of loss of the speculative value exemption that applies to land actively devoted to agriculture and does not apply to timberland. Site improvements, such as roads and utilities, that become taxable after the loss of the speculative value exemption are not to be added to the base value. For example, if, in addition to the fifty thousand dollars (\$50,000) current taxable value of the undeveloped land, site improvements valued at twenty-five thousand dollars (\$25,000) are added, the amount reflected in the base value remains fifty thousand dollars (\$50,000), and the additional twenty-five thousand dollars (\$25,000) is added to the increment value. In addition, this example applies only to land that loses the speculative value exemption as a result of changes occurring in 2010 or later and first affecting taxable values in 2011 or later. Parcels that lost speculative value exemptions prior to 2010 had base value adjustments as described in Subsection 804.02.d.iii. of this rule. (3-29-12)

iii. Partially exempt parcels other than those losing the speculative value exemption. When a partially exempt parcel, other than one subject to the speculative value exemption that applies to farmland, within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA was established and the taxable value of the parcel included in the base value of the RAA. For example, assume a residential parcel within an RAA had a market value of one hundred thousand dollars (\$100,000), a homeowner's exemption of fifty thousand dollars (\$50,000), and a taxable value of fifty thousand dollars (\$50,000) in the year the RAA base value was established. After five (5) years, this parcel is no longer used for owner-occupied residential purposes and loses its partial exemption. At that time the parcel has a taxable value of one hundred eighty thousand dollars (\$180,000). The base value within the RAA would be adjusted upwards by fifty thousand dollars (\$50,000) to one hundred thousand (\$100,000) to reflect the loss of the homeowner's exemption, but not any other value increases. (3-29-12)

iv. Partially exempt properties for which the amount of the partial exemption changes. For partially exempt properties that do not lose an exemption, but for which the amount of the exemption changes, there shall be no adjustment to the base value, unless the current taxable value is less than the most recent base value for the property. For example, assume a home has a market value of two hundred thousand dollars (\$200,000) and a homeowner's exemption of one hundred thousand dollars (\$100,000), leaving a taxable value of one hundred thousand dollars (\$100,000), all of which is base value. The following year the homeowner's exemption limit changes to ninety thousand dollars (\$90,000), so the property's taxable value increases to one hundred ten thousand dollars (\$110,000). The base value remains at one hundred thousand dollars (\$100,000). Alternatively, assume the property in the preceding example increases in market value to two hundred twenty thousand dollars (\$220,000) and the homeowner's exemption drops to ninety thousand dollars (\$90,000) because of the change in the maximum amount of this exemption. The base value remains at one hundred thousand dollars (\$100,000). Finally, assume the property decreases in value to one hundred eighty-eight thousand dollars (\$188,000) at the same time the homeowner's exemption limit changes to ninety thousand dollars (\$90,000). The property now has a taxable value of ninety-eight thousand dollars (\$98,000), requiring an adjustment in the base value to match this amount, since it is lower than the

original base value of one hundred thousand dollars (\$100,000). (3-29-12)

v. Change of exempt status. When a parcel that is taxable and included in the base value at the time the RAA is established subsequently becomes exempt, the base value is reduced by the most current value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is to be adjusted upward by the same amount that was originally subtracted. For example, assume a land parcel had a base value of twenty thousand dollars (\$20,000). One (1) year later the parcel has a value of nineteen thousand dollars (\$19,000), so the base value is reduced to nineteen thousand dollars (\$19,000). Three (3) years later, an improvement valued at one hundred thousand dollars (\$100,000) was added. The land at this later date had a value of thirty thousand dollars (\$30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by nineteen thousand dollars (\$19,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by nineteen thousand dollars (\$19,000). (4-11-15)

e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property shall be considered removed only under the conditions described in the following subsections. (4-5-00)

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0). (4-5-00)

ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA or any of the personal property associated with a parcel becomes exempt. In the case of exemption applying to personal property, the downward adjustment will first be applied to the increment value and then, if the remaining taxable value of the parcel is less than the most current base value, to the base value. Assume, for example that a parcel consists entirely of personal property with a base value of twenty thousand dollars (\$20,000) and an increment value of ninety thousand dollars (\$90,000). The next year the property receives a one hundred thousand (\$100,000) personal property exemption. The increment value is reduced to zero and the base value is reduced to ten thousand dollars (\$10,000). (4-11-15)

iii. For operating property, any of the property under a given ownership is removed from the RAA. (4-5-00)

f. Adjustments to base value for annexation. When property is annexed into an RAA, the base value in the RAA shall be adjusted upwards to reflect the value of the annexed property as of January 1 of the year in which the annexation takes effect. As an example, assume that parcels with current taxable value of one million dollars (\$1,000,000) are annexed into an RAA with an existing base value of two million dollars (\$2,000,000). The base value of the RAA is adjusted upwards to three million dollars (\$3,000,000). (4-11-15)

g. Adjustments to increment values. In addition to the adjustment illustrated in Subsection (02)(e)(ii) of this rule, decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars (\$100,000) decreases in value to ninety-five thousand dollars (\$95,000), but later increases to ninety-eight thousand dollars (\$98,000), an increment value of three thousand dollars (\$3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars (\$102,000) after the decrease to ninety-five thousand dollars (\$95,000), the increment value would be seven thousand dollars (\$7,000). (4-11-15)

h. Apportioning operating property values. For operating property, the original base value shall be apportioned to the RAA on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value shall be adjusted as required under Section 50-2903, Idaho Code. (4-5-00)

03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts. Beginning in 2008, levies shall be computed in one (1) of two (2) ways as follows: (5-8-09)

a. For taxing district or taxing unit funds other than those meeting the criteria listed in Subsection 804.05 of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property

tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district or unit is one hundred million dollars (\$100,000,000) but fifteen million dollars (\$15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's or unit's budget by eighty-five million dollars (\$85,000,000). (5-8-09)

b. For taxing district or taxing unit funds meeting the criteria listed in Subsections 804.05 and 804.07 of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. Given the values in the example in Paragraph 804.03.a. of this rule, the levy would be computed by dividing the property tax portion of the fund by one hundred million dollars (\$100,000,000). (~~5-8-09~~)()

04. Modification of an Urban Renewal Plan. Except when inapplicable as described in Paragraphs 804.04.a, b, or c, of this rule, when an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision, for the tax year immediately following the year in which the modification occurs, the base value of property in the RAA shall be reset by being adjusted to reflect the current taxable value of the property. All modifications to boundaries of RAAs must comply with the provisions of Rule 225 of these rules. (3-29-17)

a. Modification by consolidation of RAAs. If such modification involves combination or consolidation of two (2) or more RAAs, the base value shall be determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current taxable value of property in an area not previously included in any RAA shall be added to determine the total current base value for the consolidated RAA. (4-5-00)

b. Modification by annexation. (5-8-09)

i. If an RAA is modified by annexation, the current taxable value of property in the area annexed shall be added to the most current base value determined for the RAA prior to the annexation. (5-8-09)

ii. For levies described in Paragraphs 804.05.b., c., or d. of this rule approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. The example below shows the value to be used for setting levies for various funds within an urban renewal district "A" that annexes area "B" within a school district. Area (B) was annexed after December 31, 2007. Therefore, the Area (B) increment was added back to the base for all funds shown except the tort fund. The Area (A) increment value was added back to the base for the bond and override funds which were certified or passed after December 31, 2007.

2009 Value Table	School District (base only)	\$500 Million
	RAA (A) increment	\$40 Million
	RAA annexation (B) increment	\$10 Million

<p>School District Area \$500 M base</p> <p>2008 RAA Annexation (B) \$10 M Increment</p> <p>Pre 2008 RAA (A) Boundaries \$40 M Increment</p>	2009 School Levies	
	Fund	Value for Setting Levies \$ Millions
	Tort	500
	2001 Plant	510
	2008 Bond (Passed and first levied in 2008)	550
2009 Supplemental	550	

(3-29-17)

iii. An annexation permitted pursuant to section 50-2033, Idaho Code, to an RAA in existence prior to July 1, 2016 shall not change the status of the urban renewal agency or the RAA and its related plan regarding inapplicability of the base reset or attestation provisions found in section 50-2903A, Idaho Code. (3-29-17)

c. Other modifications – attestation requirements. Modification resulting in adjustment of base value to reflect the current taxable value of the property within the RAA shall not be deemed to have occurred when the urban renewal agency attests to having made no modifications to a plan or is not required to attest to plan modifications. Certain urban renewal agencies are required to attest annually to having made or not made plan modifications. These include: (3-29-17)

i. Urban renewal agencies that establish new RAAs on or after July 1, 2016, provided however that such agencies are only required to attest to having made or not made modifications with regard to any new RAA. (3-29-17)

ii. Urban renewal agencies that enact new plans including an RAA on or after July 1, 2016. (3-29-17)

d. Modifications when there is outstanding indebtedness. When any urban renewal agency attests to having had a plan modification that is not an exception identified in Paragraphs 804.04.a. or b. or c. of this rule or fails to provide the required attestation, the base value will be determined without regard to the modification, provided that the agency certifies to the ~~State Tax~~ ~~Commission~~ by June 30 of the tax year that there is outstanding indebtedness as defined in Section 50-2903A(2), Idaho Code. In this case, the allocation of revenue to the urban renewal agency shall be limited to the amount certified as necessary to pay the indebtedness. Any additional revenue shall be distributed to each taxing district or unit in the same manner as property taxes. Such revenue shall be treated as property tax revenue for the purpose of the limitations in Section 63-802, Idaho Code. The county clerk will notify the tax commission of the amount so distributed for each year beginning July 1 of the prior year and ending June 30 of the current tax year. (3-29-17)()

e. Failure to submit attestation regarding plan modification. For any urban renewal agency subject to the requirements of Section 50-2903A, Idaho Code, attestation of plan modification or attestation that there has been no plan modification is required to be made to the State Tax Commission by ~~June 30~~ ~~the first Monday of June~~ each year. Except as provided in Paragraph 804.04.d. of this rule, if such agency fails to provide the required attestation, the ~~State Tax~~ ~~Commission~~ will proceed to reset the base value or limit allocation of property tax to the urban renewal agency as otherwise required in Section 50-2903A, Idaho Code. Provided there is no new plan, an urban renewal agency with a plan including one or more revenue allocation financing provisions (RAAs) in existence prior to July 1, 2016 shall only be required to provide this attestation or be subject to base resetting or other limitations for failure to submit this attestation with respect to new RAAs formed on or after July 1, 2016. If such an agency develops a new plan, on or after July 1, 2016, or provides for a new RAA under an existing plan, the agency shall be

subject to the attestation requirements and other provisions of Section 50-2903A, Idaho Code, with respect to any RAAs formed July 1, 2016 or later. ~~(3-29-17)~~()

- f. Notice of actions related to base reset or revenue allocation limitations. (3-29-17)
 - i. The State Tax Commission will notify any urban renewal agency within thirty (30) days of the time the State Tax Commission receives an attestation that an urban renewal plan has been modified, or by July 30 in any year in which an attestation is required but none is received, of the State Tax Commission's intent to initiate the process to reset the base value in the following tax year. Said notice will be provided to affected county commissioners and city officials. (3-29-17)
 - ii. In the case of base reset due to failure to attest to a modification or to having made no modification in an urban renewal plan, despite being required to provide this attestation, the agency and county and city officials will be so notified and will be given an opportunity to provide the necessary attestation. This further notice will provide that, if the State Tax Commission has not received the attestation by December 31 of the tax year, the base will be reset in the immediate following year. (3-29-17)
 - iii. In the case of a revenue allocation limitation pursuant to Section 50-2913, Idaho Code, notice will be provided to the agency, county, and city officials including the county assessor and county clerk, within thirty (30) days of the due date of the plan or plan update. (3-29-17)
 - iv. In the case of a revenue allocation limitation due to a plan modification but outstanding indebtedness, notice will be provided to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of receipt by the State Tax Commission of the certification of the amount needed to repay the indebtedness. (3-29-17)
 - v. Once decisions about base reset or revenue allocation limitations are final, additional notice will be sent to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of any such final decision. Said notice will include an identification of the year in which the reset or revenue allocation limitation will take effect and the amount of any revenue allocation limitation. (3-29-17)

05. Criteria for Determining Whether Levies for Funds Are to Be Computed Using Base Value or Market Value for Assessment Purposes. Beginning in 2008, levies to be certified for taxing district or unit funds meeting the following criteria or used for any of the following purposes will be computed as described in Paragraph 804.03.b. of this rule. (5-8-09)

- a. Refunds or credits pursuant to Section 63-1305, Idaho Code, and any school district judgment pursuant to Section 33-802(1), Idaho Code, provided the refunds, credits, or judgments were pursuant to actions taken no earlier than January 1, 2008; (5-8-09)
- b. Voter approved overrides of the limits provided in Section 63-802, Idaho Code, provided such overrides are for a period not to exceed two (2) years and were passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)
- c. Voter approved bonds and plant facilities reserve funds passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)
- d. Voter approved school or charter school district temporary supplemental maintenance and operation levies passed after December 31, 2007; or (3-29-10)
- e. Levies described in Paragraphs 804.05.b., c., or d. approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007; (3-29-10)
- f. Levies authorized by Section 33-317A, Idaho Code, known as the cooperative service agency school plant facility levy. (3-29-10)

g. Levies authorized by Section 33-909, Idaho Code, known as the state-authorized plant facility levy. (4-11-15)

h. Levies authorized by Section 33-805, Idaho Code, known as school emergency fund levy. (3-29-17)

06. Setting Levies When There is a De-annexation From an RAA. In any de-annexation from an RAA, levies will be set using the base value and, as indicated in Subsection 804.05 of this rule, the appropriate amount of increment value associated with the parcels and operating property remaining in the RAA after the de-annexation, provided that the de-annexation is in effect no later than September 1 of the current tax year and provided further that the de-annexation is approved by the State Tax Commission in accordance with Rule 225 of these rules. (3-29-17)

07. Setting Levies When There is a Refinancing of Bonded Indebtedness. Refinancing of bonded indebtedness in existence as of December 31, 2007 does not create new bonded indebtedness for any taxing district with respect to the levy setting criteria in Subsection 804.05 of this rule. ()

07. Cross Reference. The county auditor shall certify the full market value by taxing district as specified in Rule 995 of these rules. See also Rule 802 of these rules for calculation of new construction given de-annexation from an RAA and see Rule 805 of these rules for penalties for failure to submit plans. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

995. CERTIFICATION OF SALES TAX DISTRIBUTION (RULE 995).
Section 63-3638, Idaho Code

01. Most Current Census. Population shall be from the most current population census or estimate of incorporated city populations available from “Table 4, Annual Estimates of the Resident Population for Incorporated Places in Idaho” and estimate of county populations from “Table 1, Annual Estimates of the Resident Population for Counties of Idaho” available from the Bureau of the Census during the quarter of the year for which any distribution of sales tax money is to be made. If the State Tax Commission is notified that the Bureau of the Census has revised any city or county population estimates, the revised estimates shall be used for the distribution of sales tax money. (4-4-13)

02. Market Value for Assessment Purposes. Market value for assessment purposes shall mean the market value certified to the State Tax Commission pursuant to Section 63-510, Idaho Code, and shall include homeowner’s exemptions and the value of personal property exempt pursuant to Section 63-602KK(2), Idaho Code, as determined for tax year 2013, and the amount of real and personal property value which exceeds the assessed value shown on the base assessment roll for a revenue allocation area as defined in Section 50-2903(15), Idaho Code, for the calendar year immediately preceding the current fiscal year. (4-11-15)

03. Current Fiscal Year. For the purposes of this section, current fiscal year shall mean the current fiscal year of the state of Idaho. For distribution purposes, the current fiscal year shall begin with the distribution made in October, following collection of sales taxes in July, August, and September. (3-30-01)

04. Incorporated City. Incorporated city shall, for the current fiscal year, have a duly elected mayor and city council. (4-4-13)

05. Valuation Estimates. Valuation estimates for distribution of revenue sharing monies shall be updated at least annually. Updated estimates shall be used beginning with the October distribution. (4-4-13)

06. Determination Date and Eligibility. (4-11-15)

a. General eligibility. Except as provided in Paragraph 995.06.b. of this rule, the eligibility of each city for revenue sharing monies pursuant to Section 63-3638(10)(a), Idaho Code, shall be determined as of July 1 of

the current year. Cities formed after January 1, 2001, shall also be entitled to a share of the money pursuant to the provisions of Section 63-3638(10)(c), Idaho Code. (4-11-15)

b. Ineligibility as a result of non-compliance. Otherwise eligible taxing districts that are found to be out of compliance with the requirements of Section 67-450B, Idaho Code, or Section 67-450E, Idaho Code, shall be ineligible for distributions provided under Section 63-3638(10), Idaho Code, commencing with the next scheduled quarterly distribution following the State Tax eCommission's receipt of notification of non compliance and continuing until the distribution following the State Tax eCommission's receipt of notification of compliance. At that time the State Tax eCommission shall add to the current quarterly distribution any amount previously withheld under these provisions. (4-11-15)()

07. Quarterly Certification. Except if shares are required to be withheld pursuant to Sections 67-450B and 67-450E, Idaho Code, the State Tax Commission shall certify quarterly to each county clerk the base and excess shares of the distributions required pursuant to Section 63-3638(10)(c) and 63-3638(10)(d), Idaho Code, and the distributions to cities and counties required pursuant to Section 63-3638(10)(a) and 63-3638(10)(b), Idaho Code. Each county clerk shall calculate and certify the distribution of these monies to the eligible taxing districts based on the directives of the State Tax Commission. (4-11-15)

a. City and County Base Shares. For cities and counties, the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. In addition, the initial base share shall be adjusted proportionally to reflect increases that become available or decreases that occur, unless increases exceed five percent (5%) of the initial base share. (3-30-01)

b. Special Purpose Taxing District Base Shares. For special purpose taxing districts the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. Special purpose taxing district initial base shares shall be proportionally reduced to reflect decreases in the amount of sales tax available to be distributed. (3-30-01)

c. Excess Shares. Excess shares shall be any amounts above the base share that any city, county or special purpose taxing district is entitled to receive pursuant to Section 63-3638(10)(c) or 63-3638(10)(d), Idaho Code. These amounts shall not be subject to redistribution provisions of Section 40-801, Idaho Code. (4-6-05)

d. Shares Pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code. Shares to be distributed pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code, shall be termed "revenue sharing." Such shares shall be subject to quarterly distribution and for this purpose, the one million three hundred twenty thousand dollars (\$1,320,000) distribution pursuant to Section 63-3638(10)(b)(i), Idaho Code, shall be considered an annual amount and shall be divided into four (4) equal shares. (4-6-05)

e. Amounts authorized to be paid to counties for redistribution to taxing districts shall be withheld if necessary to comply with the requirements of Sections 67-450B and 67-450E, Idaho Code. The State Tax eCommission shall identify the district for which amounts are being withheld and the amount being withheld. The county should notify the district accordingly and notify them that they will receive the withheld funds following a determination by the legislative services office that they are in compliance with the provisions of these statutes. Withheld funds will be distributed by the tax commission no later than the next quarterly sales tax distribution due date following receipt by the State Tax Commission of a determination by the Legislative Services Office that a previously noncompliant taxing district is in compliance. (4-11-15)()

f. Amounts authorized to be paid to an urban renewal agency pursuant to Section 63-3638(13), Idaho Code, shall be withheld if the agency has not complied with the reporting requirements of Section 50-2913, Idaho Code. The State Tax Commission will notify the urban renewal agency of the amount being withheld and notify the urban renewal agency that the withheld funds will be distributed by the State Tax Commission no later than the next quarterly sales tax distribution due date after the urban renewal agency has complied with the reporting requirements of Section 50-2913, Idaho Code. ()

08. Notification of Value. The county auditor shall notify the State Tax Commission of the value of

each taxing district and unit as specified in Section 63-510, Idaho Code. (3-30-01)

09. Corrections. (3-30-01)

a. When distributions have been made erroneously, corrections shall be made to the following quarterly distribution(s) so as to provide the quickest practicable restitution to affected taxing districts. Corrections shall be made to reconcile erroneous distributions made for the current fiscal year. Errors made in distributions for the last quarter of the current fiscal year shall be corrected as soon as practicable in distributions made for the following fiscal year. (4-6-05)

b. The State Tax Commission shall notify affected county clerks when the State Tax Commission becomes aware of an error in the distribution of the base or excess shares. (3-30-01)

c. The State Tax Commission shall notify affected cities or county clerks when the State Tax Commission becomes aware of an error in the distribution of city or county revenue sharing monies. (3-30-01)

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1704

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 63-105A and 63-802, 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 October 18, 2017.

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:

Rule 314 – County Valuation Program To Be Carried On By Assessor. Addresses the use of aerial photographs and other digital imaging technology tools. These tools may supplement but not replace physical site inspections. The IAAO Standard on Mass Appraisal suggests such tools and applies to the extent that resources are available. Deletes the Idaho Supreme Court Brandon Bay case cross reference concerning section 42 properties.

Rule 404 – Operator’s Statement – Contents. Day for day penalty extension for date to file the operator’s statement applies only to geographic information and not to financial information.

Rule 612 – Property Exempt From Taxation – Motor Vehicles, Recreational Vehicles, And Vessels Properly Registered. (HB156) Park model recreational vehicles - The assessor makes the determination that the park model is permanently attached to a foundation, has attached building addition or has been substantially modified and no longer meets the definition of a park model recreational vehicle. In these cases, as provided by statute, the vehicle is subject to property tax and cannot be licensed. Associated property is taxable and is subject to the homeowner’s exemption regardless of whether the vehicle is exempt from property tax.

Rule 631 – Tax Exemption For Investment In New Plant And Building Facilities Upon County Commissioners’ Approval. (HB235) Addresses the BOCC resolution to establish minimum investment requirement of not less than \$500,000. Expands the examples to explain the base value, which is the value during the year immediately preceding the first year of the exemption.

Rule 803 – Budget Certification – Dollar Certification Form (L-2 Form). HB 207 – Allows taxing districts to disclaim forgone accumulation from the previous year rule change also deletes requirements related to county property tax relief related to local sales taxes (law expired).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2017 Idaho Administrative Bulletin, [Volume 17-6, pages 64-65](#).

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 Alan Dornfest, (208) 334-7742, alan.dornfest@tax.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 October 25, 2017.

DATED this 4th day of October, 2017.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1704
(Only Those Sections With Amendments Are Shown.)

314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (RULE 314).
Sections 63-314 and 63-316, Idaho Code

01. Definitions. (7-1-99)

a. Continuing Program of Valuation. “Continuing program of valuation” means the program by which each assessor completes the assessment of all taxable properties each year. (7-1-99)

b. Field Inspection. The “field inspection” shall include an observation of the physical attributes of all structures which significantly contribute to the property value, the visible land amenities, and a notation of any other factors which may influence the market value of any improvements. (7-1-99)

c. Index. “Index” refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics. (7-1-99)

d. Prediction of Market Value. As used in Section 63-314, Idaho Code, “prediction of market value” means an estimate of market value. (7-1-99)

e. Category to be Assessed at Current Market Value. The level of assessment of each category will be considered to be current market value unless there is reasonable statistical certainty that the category is not equalized pursuant to Section 63-109, Idaho Code, and Rule 131. (3-30-01)

02. Plan for Continuing Program of Valuation. The plan for continuing program of valuation shall include: (7-1-99)

a. General Contents. A parcel count by category, the number of parcels to be appraised each year, maps that show each of the market areas, an analysis of staff requirements, a budget analysis that provides adequate funding for labor costs, capital and supply costs, travel and education costs and the method of program evaluation. (3-30-01)

b. Market Data Bank. A market data bank including collection, verification and analysis of sales, income and expense data, building cost information, and application of this information to estimate market value. To mail assessment notices by the first Monday in June as required by Section 63-308, Idaho Code, assessors should

include income and expense data submitted by property owners by the first Monday in April. Income and expense data for low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Code includes actual rents, the monetary benefit of income tax credits, and expenses. (4-2-08)

c. Maps. Maps prepared in accordance with Section 63-209, Idaho Code, which identify characteristics of each geographic area. (7-1-99)

d. Property Record. A property record for each parcel, complete with the assigned secondary category and property characteristics necessary for an estimate of the current market value. Such characteristics may include data elements as described in the International Association of Assessing Officers (IAAO) Standard on Mass Appraisal of Real Property and the IAAO Standard on Digital Cadastral Maps and Parcel Identifiers. Common elements identified in these standards include: (3-29-12)

- i. Date of most current physical review. (3-29-12)
- ii. Significant improvements, buildings and structures. (3-29-12)
- iii. Photographs of significant improvements. (3-29-12)
- iv. Sketches and/or blue prints of significant improvements. (3-29-12)
- v. Location data, such as market area, neighborhood, site amenities and external nuisances. (3-29-12)
- vi. Year built, effective age and/or condition of significant improvements. (3-29-12)
- vii. Land size or diagram of all taxable parcels within the county. (3-29-12)

~~03e.~~ Date plan is submitted. The plan must be submitted to the State Tax Commission on or before the first Monday of February in ~~1997~~ 2017, and every fifth year thereafter. (~~7-1-99~~)()

~~04f.~~ Request for extension. As provided in Section 63-314, Idaho Code, a county may request an extension to the current five (5) year county valuation plan. (3-30-01)

~~a.i.~~ Amended Plan. Any request for an extension must include an amended plan incorporating an inventory of the parcels to be appraised during the period of the approved extension. This inventory shall constitute the schedule of required appraisals for the initial year or years of the subsequent five (5) year valuation program. Parcels appraised during the extension will be considered appraised during both the current and subsequent five (5) year plan valuation program periods, maintaining the same five (5) year cycle for all counties. (3-30-01)

~~b.ii.~~ Approval of the Extension and Amended Plan. A county shall be notified of the State Tax Commission's decision regarding the granting of an extension as provided in Section 63-314, Idaho Code, within thirty (30) days of receipt of the written request for the extension when accompanied by an amended plan. (3-30-01)

~~e.iii.~~ Approval of the Amended Plan. The State Tax Commission's approval of any extension shall specify timing and nature of progress reports. (3-30-01)

~~d.iv.~~ Voiding of the Extension. The State Tax Commission can void an extension unilaterally. (3-30-01)

03. Field Inspections. The methods of observation of the physical attributes of property as described in the International Association of Assessing Officers (IAAO) "Standard on Mass Appraisal of Real Property" referenced in Rule 006 of these rules should be followed to the extent that resources are available. This includes the use of aerial photographs and other digital imaging technology tools, which may be used to supplement, but not replace physical inspections. ()

~~054.~~ Testing for Current Market Value. Assessed values shall be tested annually by the State Tax Commission as described in Section 63-109, Idaho Code, and Rule 131 of these rules to determine whether the level of assessment reflects "current market value." (3-30-01)

~~06. Cross Reference. For clarification on tax credits when valuing low income housing properties receiving tax credits under Section 42 of the Internal Revenue Code, see the case of Brandon Bay, Ltd. Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (2006). (5-8-09)~~

(BREAK IN CONTINUITY OF SECTIONS)

404. OPERATOR'S STATEMENT -- CONTENTS (RULE 404).

Sections 63-401 and 63-404, Idaho Code

01. Operator's Statement. In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method. (7-1-99)

02. Tax Code Area Maps. By March 1 of each year, the State Tax Commission shall furnish to all entities having operating property within the state of Idaho, except private railcar fleets, a list of all changes in tax code area boundary lines. In case the State Tax Commission receives corrections to any tax code area boundaries, these changes must be furnished by March 15. Every day that the tax code area map deadline is extended beyond March 1 allows for an automatic ~~operator's statement~~ extension equal to the delay in the filing requirement, equal to the delay, for the portion of the operator's statement that includes taxing district or taxing authority specific information that is to be reported by tax code area as required in Section 404.01 of this rule. All other information, excluding the mileage as required in Sections 404.01 and 404.03 of this rule shall still be required by April 30 as required in Section 404.06 of this rule. The reporting entity shall review the list of changes to identify any tax code areas, within which any of the entity's operating property is located. The reporting entity shall report, under Subsection 404.01 of this rule based on these identified tax code areas. The State Tax Commission shall provide the tax code areas maps to the reporting entity as provided for in Rule 225 of these rules. ~~(5-3-03)~~ ()

03. Reporting of Mileage. The following procedures apply for reporting mileage. (7-1-99)

a. Railroad Track Mileage. The railroad track mileage shall be reported by the name of the main line and branch lines with the track mileage for the main line and branch lines reported as Main Track Miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., shall be reported as Secondary Track Miles. (5-3-03)

b. Electric Power Line Mileage. The electric power companies shall report electric power line mileage by transmission and distribution lines. The transmission lines are the lines at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; lines between a generating or receiving point and the entrance to a distribution center or wholesale point; and lines whose primary purpose is to augment, integrate, or tie together the sources of power supply. The distribution lines are the lines between the primary source of supply and of delivery to customers, which are not includible in transmission lines. Cooperative electrical associations may include lines designed to accommodate thirty-four thousand five hundred (34,500) volts or more as transmission or distribution lines. Transmission or distribution lines shall be reported by single linear wire mile. (5-3-03)

c. Telephone Wire Mileage. All telephone wire mileage shall be reported on a single linear wire mile basis, and include any ground wires. (5-3-03)

d. Natural Gas Pipeline and Gathering Line and Water Distribution Pipeline Mileage. Beginning January 1, 2013, all natural gas and water distribution companies shall report pipeline and gathering line miles on a three (3) inch comparison basis. For example, a company with five (5) miles of six (6) inch pipe will report ten (10) pipeline miles: five (5) times six (6) divided by three (3) equals ten (10) miles. (4-4-13)

e. Transmission Pipeline Mileage. All transmission pipeline companies shall report pipeline miles on a one-inch (1") comparison basis. (4-2-08)

04. Situs Property. Situs property includes microwave stations and radio relay towers. This property

also includes facilities, used for and in conjunction with thermal generation of electricity, constructed after January 1, 2004, and located in or within five (5) miles of an incorporated city. The investment in this property shall be reported in the tax code area(s), within which it is located. (4-2-08)

05. Record of Property Ownership. The following procedures apply for maintaining records of operating property ownership. (7-1-99)

a. STC Form R. A record of each property owned, leased, or otherwise operated by each railroad, private railcar fleet or public utility shall be maintained by the State Tax Commission, the appropriate railroad, private railcar fleet or public utility, and the appropriate county assessor's office. Each record shall be maintained on a form identified as STC Form R. The State Tax Commission shall send a copy of each STC Form R to the appropriate company and the appropriate county assessor's office. (7-1-99)

b. Identification of Operating Property and Nonoperating Property. On the STC Form R, the State Tax Commission shall identify which property is operating property and which property is nonoperating property. (5-3-03)

c. Filing of Property Ownership by Railroad Companies. Each railroad company shall file the original railroad right-of-way maps with the State Tax Commission. Each railroad shall file an STC Form R, only, for property that is acquired, leased, or transferred between operating and nonoperating status, or sold during the prior year. (7-1-99)

06. Filing Date for Operator's Statement. By April 30 each year, each railroad, private railcar fleet, and or public utility operating in Idaho shall file information pertinent to the entity's ownership and operation with the State Tax Commission. This information must be reliable for preparing an estimate of market value. For each entity submitting a written request for an extension on or before April 30, the State Tax Commission may grant an extension of the filing date until May 31. An automatic extension beyond April 30 may be granted as set out in Subsection 404.02 of this rule. Such automatic extension shall apply only to the taxing district, taxing authority, and tax code area specific information contained in the operator's statement. (~~4-6-05~~) ()

07. Cross Reference. For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules. For valuation, allocation, and apportionment information, see Section 63-405, Idaho Code, and Rule 405 of these rules. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

612. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES, RECREATIONAL VEHICLES, AND VESSELS PROPERLY REGISTERED (RULE 612).

Sections 49-123, 49-401, 49-402A, 49-422, 49-432, 49-445, 49-446, and 63-602J, Idaho Code

01. Motor Vehicle Defined. Motor vehicle means any vehicle as defined in Section 49-123(2)(g), Idaho Code, and any recreational vehicle as defined in Section 49-119(6.) Idaho Code, and any personal property permanently affixed to ~~that~~ any of those vehicles. (~~4-11-06~~) ()

02. Exempt Motor Vehicles. Except as provided in Subsection 612.03 of this rule, any motor vehicle, as defined in Subsection 612.01 of this rule, registered for any part of the previous year under Chapter 4, Title 49, Idaho Code, is exempt from property taxation under Sections 49-401 and 63-602J, Idaho Code. (4-11-06)

03. Taxable Vehicles. The following registered or permitted vehicles are taxable and not eligible for the exemption under Sections 49-401 and 63-602J, Idaho Code. (4-11-06)

a. Any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. (4-11-06)

b. Any manufactured home registered under Section 49-422, Idaho Code. (4-11-06)

04. Exempt Permanently Affixed Personal Property. Except as provided in Subsection 612.05 of this rule, any personal property permanently affixed to any motor vehicle registered as described in Subsection 612.02 of this rule is part of that vehicle. Hence, that permanently affixed personal property is exempt from property taxation under Section 63-602J, Idaho Code. (4-11-06)

05. Taxable Personal Property. The following personal property, not otherwise exempt under Chapter 6, Title 63, Idaho Code, is taxable and not eligible for the exemption under Section 63-602J, Idaho Code. (4-11-06)

a. Any personal property on, but not permanently affixed to, any motor vehicle registered as described in Subsection 612.02 of this rule. (4-11-06)

b. Any personal property on or affixed, permanently or otherwise, to any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. (4-11-06)

c. Any personal property on or affixed, permanently or otherwise, to any utility trailer registered under Section 49-402A, Idaho Code. (4-11-06)

06. Recreational Vehicles. The owner of a recreational vehicle, as defined in Section 49-119(6), Idaho Code, must pay a recreational vehicle annual license fee as authorized by Section 49-445, Idaho Code, and as computed in accordance with Rule 020 of these rules in order to be exempt under Section 63-602J, Idaho Code. ~~Recreational vehicles that are wider than eight and one-half (8½) feet cannot be licensed by the Idaho Department of Transportation and therefore must be included on the assessment roll.~~ (4-4-13)()

a. Recreational vehicles that qualify for licensing and registration and have paid the required registration fee by August 31 each year are eligible for the exemption provided in Section 63-602J, Idaho Code. The owners of recreational vehicles that do not qualify or have not paid the fee must be sent a valuation assessment notice for the recreational vehicle after the August 31 deadline. The assessment of the recreational vehicle is subject to cancellation as provided in Rule 020, provided any applicable registration fee is paid before the fourth Monday of November. ()

b. The provisions of Paragraph 612.06.a. of this rule apply to a park model recreational vehicle unless it is determined by the assessor to: ()

i. Be permanently attached to a foundation; or ()

ii. Have an attached building addition; or ()

iii. Have been substantially modified and no longer meet the definition of a park model recreational vehicle. ()

07. Taxable Real Property Associated with Vehicles. Associated property, other than the vehicle itself, is taxable unless another exemption applies. Examples include the land on which the vehicle is located, fences, buildings, and appurtenances. Such property may be eligible for the exemption provided in Section 63-602G, Idaho Code, regardless of whether the vehicle is exempt as provided in Section 63-602J, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

631. TAX EXEMPTION FOR INVESTMENT IN NEW OR EXISTING PLANT AND BUILDING FACILITIES UPON COUNTY COMMISSIONERS' APPROVAL (RULE 631).

Section 63-602NN, Idaho Code

01. The Investment in Plant. In order to qualify for this exemption a taxpayer must invest at least ~~three million dollars (\$3,000,000)~~ the minimum required investment as established by county ordinance in new or existing plant or building facilities excluding the investment in land. See Section 63-602NN, Idaho Code. (3-29-17)()

a. Ordinance to establish the minimum required investment. The county commissioners must pass an ordinance to establish any minimum required investment amount of not less than five hundred thousand dollars (\$500,000). Once passed, any minimum so established shall remain in place until superseded by another ordinance. ()

b. Frequency of ordinances to establish minimum required investment. Any ordinance establishing a minimum required investment must remain in effect during the tax year in which it is first in effect. After that tax year, the county commissioners may provide a different required investment amount by passing a new ordinance. However, any agreement entered into under minimum investment criteria established by prior ordinance will be effective for the duration of the exemption time period granted. ()

02. The Exemption. The board of county commissioners may agree to exempt all or a portion of the market value of non-retail commercial and industrial real property improvements and associated personal property that would otherwise be in excess of the base value for property designated as the defined project for a period of up to five (5) years. Land is not eligible to be included in this exemption. See Section 63-602NN(2), Idaho Code. (3-29-17)()

a. Base value. The base value is the taxable value, as found on the property roll, subsequent property roll, or missed property roll, of the property associated with the plant investment for the tax year immediately preceding the first year in which the exemption is to be granted. This includes the taxable value of existing buildings and personal property but not the taxable value of land. ()

b. Site improvements. Site improvements, which may add value to land, but are not otherwise categorized as improvements for property tax purposes, are not eligible for this exemption. ()

c. Mixed use properties. Non-retail, non-residential portions of any mixed use building or structure otherwise used for commercial or industrial purposes may qualify. ()

d. Application. Except as provided in Paragraph 631.02.f. with respect to occupancy tax, the taxpayer must make application by April 15 of the first year for which the exemption is sought. Such application must be made with the county commissioners who have complete discretion to accept or deny the application. ()

e. Agreement for exemption. The agreement granting the exemption shall be considered a contract arrangement between the county and the taxpayer for the exemption time period as granted by the county commissioners, not to exceed five (5) years. The amount of exemption as provided by the agreement may be any amount related to taxable value added due to the investment, to the extent the property's total taxable value before considering the exemption exceeds the base value and the increase in value is not associated with or due to an increase in land value. ()

f. Occupancy tax. As provided in Section 63-602Z, Idaho Code, the exemption may apply to property subject to occupancy tax. Granting of the exemption from occupancy tax will not reduce the period during which the property tax exemption provided in Section 63-602NN, Idaho Code, may be granted. The April 15 application deadline is not applicable to exemption from occupancy tax, which may be granted any time during the year. ()

03. Examples. The exemption applies only to new plant or new building facilities in which the required investment has been is to be made during the project period and that are located at the project site. The exemption does not apply to property existing prior to the execution of the contract to exempt may be applied to any value increases if these increases are directly attributable to the investment. See the following clarifying examples, all of which are based on the assumptions that the county has established five hundred thousand dollars (\$500,000) as the required minimum amount of investment and the county enters into an agreement with the taxpayers for the period shown in the examples. (3-29-17)()

a. A company chooses your community to tear down an existing facility and build a new manufacturing facility. Prior to the project, the base value is four million dollars (\$4,000,000) which is comprised of the market value of the land purchased is three million dollars (\$3,000,000)- and the market value of the new facility after construction is ten million dollars (\$10,000,000), not including the land. The board of county

~~commissioners may exempt all or a portion of the market value of the facility (ten million dollars (\$10,000,000)) for up to five (5) years. They cannot exempt any portion of the land value existing facility at one million dollars (\$1,000,000), thus, the base value is one million dollars (\$1,000,000). After construction, the land and facility have a taxable value of thirteen million dollars (\$13,000,000), three million (\$3,000,000) of which is the land value. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be nine million dollars (\$9,000,000).~~ (3-29-17)()

b. An existing company chooses to expand and build a new processing line. ~~Prior to the project, the base value of the existing building and land are valued at is~~ twelve million dollars (\$12,000,000). ~~After the expansion project is complete, the new processing line will increase the value of the building and land to sixteen million dollars (\$16,000,000), with all of the increase in value attributed to the building. Providing all conditions of the agreement have been met and the commissioners previously agreed to a full exemption, the exempt amount will be. The board of county commissioners may exempt all or a portion of the increase value of the facility, which is~~ four million dollars (\$4,000,000) ~~for up to five (5) years. They cannot exempt any. No~~ portion of the original ~~taxable~~ value of twelve million dollars (\$12,000,000) ~~can be granted this exemption.~~ (3-29-17)()

c. A ~~new~~ company purchases an existing building. ~~The existing building and land is which are~~ valued at eight million dollars (\$8,000,000). The company will purchase new equipment in the amount of three million dollars (\$3,000,000). ~~After the investment is made, the existing property with the new land, building and equipment is are~~ now valued at ~~eleven twelve~~ million dollars (\$12,000,000). ~~The board of county commissioners may exempt all or a portion of the increased value of the property, which is three. The additional one million dollars (\$1,000,000) in building value is attributed to the contributory value of the investment. The investment did not add value to the land. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be four million dollars (\$4,000,000). They cannot exempt any. No~~ portion of the original ~~taxable~~ value of eight million dollars (\$8,000,000) ~~can be granted this exemption.~~ (3-29-17)()

d. A company buys a building with a prior year's value of one million dollars (\$1,000,000). The company makes application to the county commissioners requesting a full exemption for the next five (5) years for any increases in value that are directly related to its plan to invest in the facility. An agreement is reached whereby the taxpayer will be granted a limited exemption for the increase in market value up to two million dollars (\$2,000,000) for three years. In the first year, the company invests two million dollars (\$2,000,000) in the facility and the market value of the building increases to two million five hundred thousand dollars (\$2,500,000) (not all of the investment contributes to market value). Providing all conditions of the agreement have been met, the first year exempt amount will be one million five hundred thousand dollars (\$1,500,000). In year two (2), the company invests an additional eight hundred thousand dollars (\$800,000) and the value of the building increases to three million three hundred thousand dollars (\$3,300,000). The exemption in year two (2) will be two million dollars (\$2,000,000). This is the difference between the original base value of one million dollars (\$1,000,000) and the current value in year two (2), but is limited by the agreed-upon two million dollar (\$2,000,000) maximum. In year three (3), the company makes additional investments and the building value increases to four million dollars (\$4,000,000). The exemption in year three (3) is limited to two million dollars (\$2,000,000) as provided in the original agreement. Beginning in year four (4), there will be no exemption allowed under the original agreement. ()

04. Cross Reference. See Rule 802 of these rules for instructions relating to the valuation of new construction. (5-8-09)

(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), 63-3502B, 50-2903A, 50-2913, 63-3638(11), and (13), Idaho Code

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 63-602KK(7), Idaho Code, for personal property exempted after 2013 for which no replacement money was paid; and (3-29-17)
- iv. Section 63-3502B(2), Idaho Code, for distributions of gross earnings tax on solar farms; and (3-29-17)
- v. Section 50-2903A(3), Idaho Code, for distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, when required; and (3-29-17)

vi. Section 50-2913(3)(c), Idaho Code, for distributions of urban renewal allocations in excess of the amount received during the immediate prior tax year, when required. (3-29-17)

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. ()

a. Foregone Increase Documentation. For any taxing district submitting a budget including previously forgone increases, required documentation includes a copy of the 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 State Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the State Tax Commission. ~~(3-29-17)~~()

b. Foregone increase disclaimer. Any resolution to disclaim the right to recover an increase in the forgone amount from the immediate prior year's amount must state the amount of such forgone increase being disclaimed and must be submitted 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 State Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the State Tax Commission. ()

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 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)~~
 - iv. The amount of money received annually under Section 63-3638(13), for the personal property exemption under 63-602KK(2), Idaho Code; (3-29-17)
 - 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"; (3-29-17)
 - vi. The amount of money received in the twelve (12) month period ending June 30 of the current tax year as a result of distributions of the gross earning tax on solar farms, as provided in Section 63-3502B(2), Idaho Code., and listed on the "Recovered/recaptured property tax substitute funds list"; (3-29-17)
 - vii. The amount of money received in the twelve (12) month period ending June 30 of the current tax year as a result of distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, as provided in Section 50-2903A(3), Idaho Code, and listed on the "Recovered/recaptured property tax substitute funds list"; and (3-29-17)
 - ~~ix~~viii. The amount of money received in the twelve (12) month period ending June 30 of the current tax year as a result of distributions of urban renewal allocations in excess of the amount received by the urban renewal agency in the immediate prior year, as provided in Section 50-2913(3)(c), Idaho Code and listed on the "Recovered/recaptured property tax substitute funds list." (3-29-17)
- 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 or disclaiming any forgone increase, an attestation to having held the required public hearing on the resolution to include or disclaim the forgone amount. (3-29-17)()
- 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 or disclaiming any forgone increase, a copy of the resolution describing the amount of the forgone increase being disclaimed, or the amount included and specific purpose for which it is being included. ~~(3-29-17)~~ ()

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 63-3502B(2), Idaho Code, and the amount actually levied. (3-29-17)

- 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 and 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. (3-29-17)

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 taxing districts receiving distributions of the gross earning tax on solar farms described in Section 63-3502B(2), Idaho Code, the amount of any such distribution received during the 12 (twelve) months ending June 30 of the current tax year shall be subtracted from the maximum amount of property tax revenue permitted pursuant to Section 63-802, Idaho Code. In addition to the amounts reported as described in Paragraph 803.06.b. of this rule, the county clerk shall, by the third Monday in August, notify each taxing unit of the total amount of the gross earnings tax on solar farms billed for the current tax year. (3-29-17)

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. 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 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1706
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 63-105A and 63-802, 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 October 18, 2017.

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:

Rule 610 – Property Exempt From Taxation – Residential Improvements – Special Situations. Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%.

Rule 709 – Property Tax Reduction Benefit Program – Special Situations. Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2016 Idaho Administrative Bulletin, [Volume 16-7, page 81](#).

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 Alan Dornfest, (208) 334-7742, alan.dornfest@tax.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 October 25, 2017.

DATED this 4th day of October, 2017.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1706
(Only Those Sections With Amendments Are Shown.)

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (RULE 610).

Sections 63-602G and 63-701(2), Idaho Code

01. Scope. This rule addresses issues relating to the homeowner's exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. (7-1-99)

02. Definitions. The following definitions apply to this rule: (4-7-11)

a. Dual Residency Couples. As used in this rule, "dual residency couple" means a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.03 of these rules. (4-2-08)

b. Multidwelling or Multipurpose Building. "Multidwelling or Multipurpose Building" means a building which is the primary dwelling place of the owner and which has a portion used for any purpose other than the primary dwelling place of the owner. (4-7-11)

c. Related Land. "Related Land" means land, not to exceed one (1) acre, that is reasonably necessary for the use of the dwelling as a home. (4-7-11)

03. Dual Residency Couples -- General Principles. (7-1-99)

a. Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner's exemption. The test to be applied is the general test set out in Subsection 609.03 of these rules. (4-2-08)

b. If a residential improvement is community property, either the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife can file an application for the homeowner's exemption regarding community property on his or her own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-99)

c. Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homeowner's exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homeowner's exemption. For purposes of the homeowner's exemption, a community property interest is treated the same as a full ownership interest. (3-15-02)

d. An owner may apply only once for the homeowner's exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (3-15-02)

04. Example -- Both Residences are Community Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different

residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

05. Example -- One Residence Is Community Property, the Other Is Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

06. Example -- Both Residences are Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as his or her separate property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. Both residential improvements qualify for the full homeowner's exemption. Neither application is a second application by the same owner. Each spouse is a sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-99)

07. Apportionment of Homeowner's Exemption by Dual Residency Couples. Both spouses of a dual residency couple may elect to equally apportion the homeowner's exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement shall be entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties shall not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (4-5-00)

08. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a ~~two-thirds (2/3)~~ one-half (1/2) partial interest and the child holds a ~~one-third (1/3)~~ one-half (1/2) partial interest in the property. Qualification of the property for the homeowner's exemption is as follows: (7-1-99)()

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the homeowner's exemption applies to ~~two-thirds (2/3)~~ one-half (1/2) of the value of the improvement. (3-15-02)()

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the homeowner's exemption applies to ~~one-third (1/3)~~ one-half (1/2) of the value of the improvement. (3-15-02)()

c. If the residential improvement is the primary dwelling of the husband, wife and child, the homeowner's exemption applies to the full value of the improvement. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homeowner's exemption applies to ~~two-thirds (2/3)~~ one-half (1/2) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The ~~two-thirds (2/3)~~ one-half (1/2) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Paragraph 610.03.c. of this rule. (4-7-11)()

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homeowner's exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. (3-15-02)

09. Determining the Qualifying Portion of a Multidwelling or Multipurpose Building and the Related Land. The portion of a Multidwelling or Multipurpose Building and Related Land used for the primary dwelling place of the owner qualifies for the homeowner's exemption. When determining the value of the qualifying portion, the assessor shall include the Related Land value. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

709. PROPERTY TAX REDUCTION BENEFIT PROGRAM -- SPECIAL SITUATIONS (RULE 709).
Section 63-701, Idaho Code

01. Scope. This rule addresses issues relating to the property tax reduction benefit program as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. The following examples apply to qualified property tax reduction claimants. (3-30-01)

02. General Principles. Benefits under the property tax reduction program are only available to owners of property that have first qualified for the homeowner's exemption under Section 63-602G, Idaho Code. See Rule 610 of these rules. (3-15-02)

03. Dual Residency Couples. The definition of "dual residency couple" in Rule 610.02 of these rules applies to this rule. (3-15-02)

a. Example -- Both residences are community property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.04 of these rules. (3-15-02)

b. Example -- One (1) residence is community property, the other is separate property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.05 of these rules. (3-15-02)

c. Example -- Both residences are separate property. Property tax reduction is available in regard to both residential improvements. See Rule 610.06 of these rules. (3-15-02)

d. Household income. In the three (3) examples in Subsection 709.03, the household income upon which qualification is determined is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence. (3-15-02)

04. Apportionment of Property Tax Reduction Benefits by Dual Residency Couples. If a dual residency couple makes the election provided in Subsection 610.07 of these rules and the applicable county assessor

provided the State Tax Commission with a copy of the election required under that rule, each spouse shall be entitled to one-half (1/2) of the amount of any property tax reduction available to that spouse alone. The household income of the spouse shall be one-half (1/2) of the community income plus any separate income of the spouse residing in the residence. The total property tax reduction benefit shall not exceed the amount of benefit available to the individual spouse with the least household income if no election were made. (3-15-02)

05. Multiple Ownerships Including Community Interests as Partial Owners. Example: A deed conveys title to real property to a husband and wife and to an adult child of theirs. The husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a ~~two-thirds (2/3)~~ one-half (1/2) partial interest and the child holds a ~~one-third (1/3)~~ one-half (1/2) partial interest in the property. For clarification of the calculation of the net taxable value, see Rule 700.05.b. of these rules. Qualification for the property tax reduction is as follows: (3-15-02)()

a. If the residential improvement is the primary dwelling of the husband and wife but not of the child, the claimant qualifies for full benefits applied on ~~two-thirds (2/3)~~ one-half (1/2) of the value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses. (3-15-02)()

b. If the residential improvement is the primary dwelling of the qualifying child, but neither the husband or wife, the claimant qualifies for full benefits applied on ~~one-third (1/3)~~ one-half (1/2) of the value of the property less the homeowner's exemption. Household income is the total of the child's income. (3-15-02)()

c. If the residential improvement is the primary dwelling of the husband, wife and a qualifying child, the claimant qualifies for the full benefits applied on full value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses and the income of the child. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the claimant qualifies for full benefits applied on ~~two-thirds (2/3)~~ one-half (1/2) of the value of the property less the homeowner's exemption unless the residential improvement of the other spouse has qualified for the homeowner's exemption. Household income is the total income of both spouses. (3-15-02)()

e. If the residential improvement is the primary dwelling of one (1) spouse and a qualifying child, the claimant qualifies for the full benefits applied on the full value of the property less the homeowner's exemption unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption. Household income is the total income of both spouses plus the income of the child. (3-15-02)

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1707
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(s) 63-105A and 63-802, 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 October 18, 2017.

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:

Rule 020 – Value Of Recreational Vehicles For Annual Registration And Taxation Of Unregistered Recreational Vehicles. Sets out methods to value park model recreational vehicles as defined in HB156. Confirms the requirement to value park model recreational vehicles using any available standard indices of retail value. If an index is not available the procedures outlined in Rule 217 must be used.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Volume 17-7, page 92](#).

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 Alan Dornfest, (208) 334-7742, alan.dornfest@tax.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 October 25, 2017.

DATED this 4th day of October, 2017.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1707
(Only Those Sections With Amendments Are Shown.)

020. VALUE OF RECREATIONAL VEHICLES FOR ANNUAL REGISTRATION AND TAXATION OF UNREGISTERED RECREATIONAL VEHICLES (RULE 020).

Section 49-446, Idaho Code

01. Value of Recreational Vehicle For Registration Fees. For the types of recreational vehicles shown in the “Depreciation Schedule for RVs,” beginning with registration fees for calendar year 2004, the County assessors shall administer and collect the recreational vehicle (RV) registration fee based on the market value calculated from the following depreciation schedule. For all other types of recreational vehicles, the assessor shall use any available standard industry indices of retail value to determine the market value. If no such indices are available, the assessor shall determine market value from sale price or by using appraisal procedures as defined in Rule 217 of these rules.

DEPRECIATION SCHEDULE FOR RVS				
	Travel/ Camp Trailers	Campers	Van Conversions	Motor Homes
Age	Percent Good	Percent Good	Percent Good	Percent Good
0	100	100	100	100
1	86	83	85	85
2	76	76	74	77
3	66	64	62	68
4	62	60	52	62
5	59	55	47	59
6	56	54	40	55
7	55	52	35	54
8	50	49	32	51
9	49	44	30	48
10	43	40	27	44
11	41	36	23	40
12	38	33	19	36
13	37	30	14	32
14	36	27	13	31
15	31	23	12	28

To use this depreciation schedule, multiply the sales price or the market value of the RV adjusted by the percentage, if applicable from Subsection 020.02 or 020.03 below, by the appropriate “Percent Good” based on the “Age” and type of RV. Decide the “Age” based on the year of purchase as follows: purchased in the current year equals “Age” zero (0), purchased in the previous year equals “Age” one (1), etc. For example, in year 2004, the “Age” for an RV

purchased in 2004 is zero (0), the “Age” for an RV purchased in 2003 is one (1), the “Age” for an RV purchased in 2002 is two (2), the “Age” for an RV purchased in 2001 is three (3), etc. For any RV still in use and purchased fifteen (15) or more years ago, calculate the minimum market value using the lowest depreciation rate for the correct RV type. (3-29-17)

02. Value of Motor Home or Van Conversion For Registration Fees. The value of any motor home or van conversion used to calculate the registration fee shall exclude any chassis value. Beginning with the registration fees for calendar year 2004, the county assessor shall use the following schedule of valuation factors to calculate the value of the motor home or van conversion excluding the chassis value.

Motor Home/Van Type	Valuation Factor
Mini Motor Home (MMH)	50%
Motor Home (MH)	60%
Front Engine Diesel	45%
Rear Engine Diesel	58%
Van Conversions	25%

Multiply the motor home or van conversion’s total value by the appropriate factor to calculate the value excluding the chassis value. (5-3-03)

03. Value of Vehicles Designed For Combined RV and Non-RV Uses For Registration Fees. For vehicles designed to have part of the vehicle for RV use and other parts of the vehicle for non-RV uses like transporting horses or other cargo, the value of the RV to be used to calculate the registration fee on or after January 1, 2015 is fifty percent (50%) of the sales price. (3-20-14)

04. Assessment Notice Mailed or Assessment Canceled. If after August 31, the required annual registration fee has not been paid, a taxpayer’s valuation assessment notice shall be mailed to the owner of the recreational vehicle. If the registration fee is paid before the fourth Monday of November, the assessor shall cancel the assessment. (5-3-03)

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1709
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 63-105A and 63-802, 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 October 18, 2017.

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:

Rule 006 – Incorporation By Reference. This rule is being amended to update references to current editions of the railway equipment register used to identify railcar ownership. The amendment also confirms the link to all referenced IAAO standards. Effective Jan. 1, 2018.

Rule 406 – Rules Pertaining To Market Value Of Operating Property Of Rate Regulated Electric Utility Companies. (HB 30) - Flotation cost factor of 0.2% added to the discount rate. Also deletes an obsolete URL (link) to a table showing the U.S. Dept. of Commerce's GDP price deflator.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the provisions of these rules are of a simple nature.

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 Alan Dornfest, (208) 334-7742, alan.dornfest@tax.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 October 25, 2017.

DATED this 4th day of October, 2017.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1709
(Only Those Sections With Amendments Are Shown.)

006. INCORPORATION BY REFERENCE (RULE 006).

Unless provided otherwise, any reference in these rules to any document identified in Rule 006 of these rules 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 adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-3-03)

01. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available at the main office of the State Tax Commission as listed in Rule 005 of these rules or can be electronically accessed as noted in Subsection 006.02 of this rule. (5-8-09)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-3-03)

a. “Standard on Ratio Studies” published in 2013, “Standard on Digital Cadastral Maps and Parcel Identifiers” published in 2015, “Standard on Mass Appraisal of Real Property” published in 2012, “Standard on Verification and Adjustment of Sales” published in 2010, all published by the International Association of Assessing Officers. These documents can be electronically accessed at http://www.iaao.org/wcm/Resources/Publications_access/Technical_Standards/wcm/Resources_Content/Pubs/Technical_Standards.aspx?hkey=9c330567-135b-4adc-a772-00008232ab90 which was last accessed and verified on June 23, 2016. (1-1-17)()

b. “Official Railway Equipment Register” published for the last three (3) quarters in 2016 and the first quarter in 2017 issued by R. E. R. Publishing Corporation, ~~Agent as a publication of UBM Global Trade and published by JOC Group, Inc.~~ (1-1-17)()

c. “Forest Habitat Types of Northern Idaho: A Second Approximation” published by the Government Printing Office for the U. S. Forest Service in 1991, General Technical Report INT-236, written by Cooper, Stephen V., Neiman, Kenneth E., Rev, David W., and Roberts, Kenneth E. (4-6-05)

d. “Forest Habitat Types of Central Idaho” published by the Government Printing Office for the Intermountain Forest and Range Experimentation Station of the U. S. Forest Service in 1981, General Technical Report INT-114, written by Kittams, Jay A., Pfister, Robert D., Ryker, Russell A., and Steele, Robert. (5-3-03)

e. “Yield of Even-Aged Stands of Ponderosa Pine” published by the Government Printing Office for the U. S. Department of Agriculture in 1938, Technical Bulletin No. 630. (5-3-03)

f. “Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type” published by the Government Printing Office for the U. S. Department of Agriculture in 1932, Technical Bulletin No. 323. (5-3-03)

g. “Manual of Surveying Instructions” published by the Federal Bureau of Land Management and the Public Land Survey System Foundation in 2009. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

406. RULES PERTAINING TO MARKET VALUE OF OPERATING PROPERTY OF RATE REGULATED ELECTRIC UTILITY COMPANIES (RULE 406).
Section 63-105(2) and Section 63-205(1), Idaho Code

01. Valuation of Operating Property of Rate Regulated Electric Utility Companies. The market value for assessment purposes of operating property of rate regulated electric utility companies shall be determined by the State Tax Commission using statute, these rules as referenced in Rule 001 of these rules, any other applicable law, and the following: (3-20-14)

a. Depending on the weighting placed on the income approach, as described in Subsection 406.01.d. of this rule, no more than twenty percent (20%) weight will be placed on the cost indicator when utilizing the Historic Cost Less Depreciation (HCLD) method in the system value correlation. (3-20-14)

b. In the income approach, income to be capitalized will be normalized, utilizing the Gross Domestic Product Implicit Price Deflator found in Table 1.1.9 from the United States Department of Commerce, Bureau of Economic Analysis ~~www.bea.gov/national/txt/dgpa.txt last accessed August 12, 2013~~, by using an average of at least the previous four (4) years' net operating incomes and by adjusting each year's net operating income for unusual non-recurring items. (3-20-14)()

c. In the income approach, a market discount rate will be determined ~~and will include~~ to which a flotation cost component ~~supported by nationally recognized sources~~ of twenty hundredths of one percent (0.20%) will be added. (3-20-14)()

d. A weighting between eighty percent (80%) and one hundred percent (100%) will be placed on the income approach in the system value correlation. (3-20-14)

e. Within the market approach, as prescribed in Rule 405 of these rules, a sales comparison approach may be used if reliable data is available and appropriate comparison adjustments can be made. No weight will be placed on a stock and debt approach in the system value correlation. (3-20-14)

f. For rate regulated electric utility companies, the weightings prescribed in this rule shall supersede any weightings in the system correlation prescribed in Subsection 405.08 of this rule. (3-20-14)

02. Accounting For Obsolescence. Subsection 406.01.a. of this rule shall be construed to mean that the use of no more than twenty percent (20%) weight placed on the cost indicator, when utilizing HCLD method to calculate the cost approach, accounts for any and all forms of depreciation, including any and all forms of obsolescence, and the appraiser shall not consider any further obsolescence as provided for in Subsection 405.05 of these rules. (3-20-14)

IDAPA 35 – STATE TAX COMMISSION

35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1701

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 63-105 and 63-2427, Idaho Code, and Sections 63-2410 and 63-2423, 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 October 18, 2017.

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:

Motor Fuel Tax Rule 270 - Refund Claims – Documentation. This rule outlines the documentation the taxpayer is required to maintain to support refund claims. The intent of amending the rule is to clarify the requirements.

Motor Fuel Tax Rule 290 - Records Required For Intrastate Special Fuels Users Claiming Refunds For Nontaxable Special Fuels Used In Motor Vehicles. This rule outlines the procedure taxpayers are required to use when calculating refund claims of motor fuel tax when using tax-paid special fuel in intrastate motor vehicles to accrue nontaxable miles. The intent of amending the rule is to include the nontaxable mileage refund claims by International Fuel Tax Agreement (IFTA) licensees and clarify the procedure.

Motor Fuel Tax Rule 292 - Calculations Of Refunds For Nontaxable Uses Of Motor Fuels In Motor Vehicles. This rule outlines the documentation taxpayers are required to maintain to support refund claims when using tax-paid motor fuel in auxiliary equipment and special fuel in power-take-off (PTO) equipment. The intent of amending the rule is to clarify the requirements.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, page 93](#).

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 the undersigned using the information below.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Don Williams, Tax Policy Specialist
Phone (208) 334-7855 / Fax (208) 334-7846
Don.williams@tax.idaho.gov

State Tax Commission
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1701
(Only Those Sections With Amendments Are Shown.)

270. REFUND CLAIMS – **GENERAL AND BULK** DOCUMENTATION (RULE 270).
Sections 63-2410, 63-2421, and 63-2423, Idaho Code

01. Refunds to Consumers. ~~Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following, in addition to the requirements outlined above: Tax-paid fuel used in a nontaxable manner according to Sections 63-2410 and 63-2423, Idaho Code, qualifies for a fuel tax refund. To claim a refund, use Form 75, Idaho Fuels Use Report, with the relevant supplemental worksheets.~~

~~(4-11-06)~~()

- ~~a. A preprinted identification number;~~ (4-11-06)
- ~~b. Name and address of seller;~~ (7-1-98)
- ~~c. Name of purchaser;~~ (7-1-98)
- ~~d. Date of delivery;~~ (7-1-98)
- ~~e. Type of motor fuel;~~ (7-1-98)
- ~~f. Gallons invoiced;~~ (7-1-98)
- ~~g. Price per gallon;~~ (7-1-98)
- ~~h. At least one (1) of the following to establish that tax has been charged:~~ (7-1-98)
 - ~~i. The amount of Idaho state fuels tax;~~ (7-1-98)
 - ~~ii. The rate of Idaho state fuels tax; or~~ (7-1-98)
 - ~~iii. A statement that the Idaho state fuels tax is included in the price.~~ (7-1-98)

02. ~~Indian Owned Retail Outlet~~ **Records Retention Requirements.** ~~Motor fuels purchased after December 1, 2007, from an Indian owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of sections 63-2444 or 67-4002, Idaho Code. See definition of Indian owned retail outlet in Rule 010 of these rules. All claimants must keep records for the greater of either:~~ (4-2-08)()

- ~~a. Three (3) years from the due date, including extensions, of the income tax return;~~ ()
- ~~b. The time during which the taxpayer's income tax return is subject to adjustment by either the State Tax Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return;~~ ()
- ~~c. Four (4) years, if an International Fuel Tax Agreement (IFTA) licensee.~~ ()

03. ~~Corrected Invoices~~ **Records Required – Generally.** ~~No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided~~ **A claimant**

must have fuel purchase records and records showing fuel was placed into the supply tank of vehicles or equipment using the fuel in a nontaxable manner. Fuel purchase records must contain the information required by Rule 150 of these rules. Fuel purchase records must be reissued if altered or corrected. (3-20-14)()

04. Invoice Retention Records Required – Retail Fuel Purchases. ~~Original, altered, or corrected invoices required by this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer.~~ When claiming a refund of tax for fuel purchased from a retail outlet, a receipt is required. The vehicles or piece of equipment using the fuel must be recorded on the receipt. If claiming refunds for fuel used in more than one vehicle or piece of equipment, make sure all the vehicles and equipment are identified on each receipt. When placing fuel into containers for use in vehicles, pieces of equipment, or commercial motorboats, identify into which the fuel is placed on the receipt. No other records are required if the fuel from the container isn't used in licensed or required to be licensed motor vehicles. (3-20-14)()

05. Refund Documents Records Required – Bulk Fuel Purchases. ~~An original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document.~~ When claiming a refund tax on fuel delivered in bulk, the claimant must prove the following documentation: (3-20-14)()

- a. Seller Invoices.** ()
- b. Withdrawal Logs.** ()
 - i. Complete withdrawal logs must give the date, the vehicle or piece of equipment, and the amount of fuel withdrawn.** ()
 - ii. Withdrawal logs aren't required for claimants with two (2) or more bulk storage tanks at the same location with Idaho tax-paid fuel of the same type for taxable and nontaxable uses. Claimants must identify each storage tank for taxable or nontaxable use. The seller must mark the invoices at the time of delivery and identify the storage tanks into which the fuel was delivered.** ()
- c. Bulk Fuel Inventory Reconciliations. Reconciliations must include beginning inventory, purchases, withdrawals, calculated ending inventory, and actual ending inventory determined by a physical reading.** ()

06. Records Required for Motor Fuels Tax Refunds Alternate Method for Bulk Tanks – Authorized Percentage. ~~Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both taxable and nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund~~ A claimant can request an authorized percentage if using Idaho tax-paid fuel from one (1) bulk tank in both a taxable and nontaxable manner. International Fuel Tax Agreement (IFTA) licensees and owners of multiple bulk storage tanks containing tax-paid and tax-exempt fuels of the same type at the same location can't use an authorized percentage. The claimant must submit a completed authorized percentage request form before using any percentage to claim a refund. The request must itemize all taxable and nontaxable uses by vehicle and piece of equipment based on previous experience or anticipated use. Records to support an authorized percentage must be kept and presented upon request. Equipment lists must be provided and supported by: (4-11-06)()

- a. Use of Fuel from a Single Storage Tank.** ~~Idaho tax-paid fuel purchased and delivered into a single bulk storage tank and withdrawn for both taxable and nontaxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. No refund is allowed under this paragraph for fuel purchased for use in: motor vehicles licensed under the authority of the International Fuel Tax Agreement (IFTA); non-IFTA motor vehicles for which a refund for nontaxable use is granted using either Rule 290 or 292 of these rules; or, for diesel when the claimant has both undyed (tax paid) and dyed~~

~~(untaxed) diesel tanks. Taxpayers may claim a refund using a proration percentage instead of claiming actual use. The State Tax Commission must authorize a taxpayer's proration percentage before he may receive a refund using any percentage when filing a refund claim. The authorization request shall itemize all taxable and nontaxable uses by vehicle and type of equipment based on previous experience or anticipated use. The State Tax Commission will refund fuel taxes included on Idaho tax paid fuel for nontaxable use based on an authorized percentage which represents the claimant's reasonable nontaxable use. When using an authorized percentage, certain records must be maintained and made available upon request. Acceptable records of refunds based on an authorized percentage include, but are not limited to: fuel purchase invoices and equipment lists. Equipment lists must be supported by documentation. Acceptable equipment list documentation includes, but is not limited to: Equipment purchase records;~~

~~(3-20-14)()~~

- ~~i. Equipment purchase; (3-20-14)~~
- ~~ii. Sales or rental receipts; and (3-20-14)~~
- ~~iii. Depreciation schedules. (3-20-14)~~

~~b. Use of Fuel from Multiple Storage Tanks. When a claimant maintains separate bulk storage tanks of Idaho tax paid fuel for taxable and nontaxable uses, the claimant must identify which storage tank is for taxable and which is for nontaxable use. The seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Only Idaho tax paid fuel placed in the nontaxable tank is refundable. Detailed withdrawal records will only be required if fuel from these tanks are used in motor vehicles that are licensed under IFTA or in non-IFTA motor vehicles for which refunds are granted for nontaxable uses of motor fuels in motor vehicles granted using either Rule 290 or Rule 292 of these rules. No refund may be claimed under this paragraph for diesel when the claimant has both undyed (tax-paid) and dyed (untaxed) diesel tanks. All fuel invoices must be retained as required by this rule. Sales or rental receipts; and~~

~~(3-20-14)()~~

~~c. Use of Fuel for Other Than Bulk Storage. Idaho tax paid fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than registered motor vehicles, must be identified on the purchase invoice. No other records will be required. Depreciation schedules.~~

~~(3-20-14)()~~

~~07. **Untaxed Motor Fuel.** Under the provisions of Section 63-2421, Idaho Code, untaxed motor fuel ~~may not can't~~ be used in licensed or required to be licensed motor vehicles ~~registered or required to be registered~~ unless authorized ~~elsewhere~~ in the Fuels Tax Act or these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, all fuel tax refund claims are subject to audit by the State Tax Commission and no part of these rules may be construed to imply that an audit may not be performed. Tax-paid motor fuel is ~~no longer not~~ exempt from taxes imposed by ~~Chapter 36, Title 63, the Idaho Sales Tax Act~~ when the motor fuel tax is refunded ~~to the consumer according to Rule 171.~~~~

~~(3-20-14)()~~

~~08. **Indian-Owned Retail Outlet.** Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. ()~~

271. -- 289. (RESERVED)

~~290. **RECORDS REQUIRED FOR INTRASTATE SPECIAL FUELS USERS CLAIMING REFUNDS FOR NONTAXABLE SPECIAL FUELS USED IN MOTOR VEHICLES REFUND CLAIMS – NONTAXABLE MILES (RULE 290).** Section 63-2423, Idaho Code~~

~~01. **Refund Claims, Required Records Refunds to Consumers – Nontaxable Miles.** Special fuel users, except IFTA licensees, must file a Form 75 with the relevant supplemental worksheet to claim a fuels tax refund. The following information is required to qualify for a refund except for claims based only on the power take-off allowances provided for in Rule 292 of these rules Tax-paid special fuels used as described in Section 63-2423, Idaho Code, qualifies for a fuels tax refund. To claim a refund, use Form 75, Idaho Fuels Use Report, with the~~

relevant supplemental worksheets. The records retention and fuel record requirements in Subsections 270.02 through 270.05 of these rules also apply to this section. (4-5-00)()

~~a. Total miles. The total miles traveled should be included for motor vehicles which have nontaxable uses of special fuels. Special fuel users who qualify to use one of the "Standard MPGs" found in Subsection 290.02 need only record and report Idaho taxable miles. (4-5-00)~~

~~b. Total fuel. The total number of gallons of fuel delivered into the supply tanks of the motor vehicles should be included for motor vehicles which have nontaxable uses of special fuels. The total miles figure and the total fuel figure must be for the same vehicles. (7-1-98)~~

~~c. Actual miles per gallon. The miles per gallon shall be computed by dividing gallons determined according to Subsection 290.01.b. into the number of miles determined according to Subsection 290.01.a. The computation of fleet miles per gallon should be carried to three (3) decimal places and rounded to two (2) decimal places. Example: 4.514 = 4.51 and 4.515 = 4.52. (4-5-00)~~

~~d. Presumed miles per gallon. In the event that the claimant fails to keep sufficiently detailed records showing the number of miles actually operated per gallon of special fuel consumed, it shall be presumed that one (1) gallon of special fuel was consumed for every: (3-30-07)~~

~~i. Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)~~

~~ii. Five and one half (5 1/2) miles traveled by vehicles from twenty-six thousand one (26,001) to forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)~~

~~iii. Seven (7) miles traveled by vehicles from twelve thousand one (12,001) to twenty-six thousand (26,000) pounds gross registered vehicle weight; or (7-1-98)~~

~~iv. Ten (10) miles traveled by vehicles twelve thousand (12,000) pounds or less gross registered vehicle weight. (3-30-07)~~

~~e. The total taxable miles traveled in Idaho. Only taxable miles traveled in Idaho by the motor vehicles which have nontaxable uses of special fuels should be included. Taxable miles are miles driven on any road that is open to the use of the public and maintained by a governmental entity. Such roads may be constructed using concrete, asphalt, gravel, composition, dirt, or other surfaces. (7-1-98)~~

~~f. The number of gallons of special fuels consumed in Idaho. The gallons consumed in Idaho shall be computed by dividing the miles per gallon determined according to Subsection 290.01.c. and 290.01.d. into the total taxable miles in Idaho according to Subsection 290.01.e. (4-5-00)~~

02. Alternative Refund Calculation for Special Fuels Users Engaged in Certain Industries Nontaxable Miles Defined. A special rule may be applied for motor vehicles, except IFTA licensees, that use special fuels and accrue both taxable and nontaxable miles. Operators of motor vehicles that use special fuels, except those licensed under IFTA, may, instead of using the computations provided in Subsections 290.01.c. and 290.01.d., presume that when engaged in operations in the following industries and accruing taxable miles in Idaho, that such motor vehicles consume fuel at the following rates Nontaxable miles are miles driven on roads:

Logging	4.3 MPG
Agricultural	4.5 MPG
Sand, gravel & rock hauling	4.0 MPG
Construction	4.4 MPG

(4-5-00)()

- a. Not open to the public; or ()
- b. Not maintained by a governmental entity; or ()
- c. Located on private property maintained by the property owner; or ()
- d. Under construction and not open to the public; or ()
- e. Constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. Miles traveled on these roads are nontaxable when the contractor or subcontractor is required to pay the cost of maintaining these roads by contract or permit. ()

03. ~~Actual MPG Calculation~~ Records Required – Mileage Records. *If an operator has reason to believe the standard on-road miles per gallon (MPG) in Subsection 290.02 is not an accurate reflection of his specific operation, the operator can calculate an actual MPG using the computations provided in Subsection 290.01.e. or presumed MPG provided in Subsection 290.01.d* Mileage records are required to claim a refund of tax when using special fuels on nontaxable roads. Claimants operating under the authority of the International Fuel Tax Agreement (IFTA) or International Registration Plan (IRP) are required to follow the recordkeeping requirements of IFTA and IRP in addition to the requirements of this section. Idaho Full Fee registrants must follow the requirements of Rule 422 of these rules and this section. (3-30-07)()

04. ~~Claims Subject to Review or Audit~~ Records Required – Actual Nontaxable Miles. *All fuels tax refund claims are subject to review or audit by the State Tax Commission* Nontaxable miles must be documented for each trip using odometer, hubometer, or GPS readings. (4-5-00)()

05. Alternate Methods. A claimant may use an alternate method to determine nontaxable miles or use a presumed MPG to determine fuel use unless they are an IFTA licensee or IRP registrant in any participating jurisdiction. Claimants may estimate using one of the methods below. ()

a. Estimating Nontaxable Miles. Nontaxable miles may be estimated by using maps, contracts, or a State Tax Commission approved trip analysis. Upon request, the claimant must provide the documents supporting the estimation. Maps other than the Official Idaho Highway map miles are estimates. ()

b. Estimating Nontaxable Gallons. Nontaxable gallons may be estimated using presumed MPGs. Upon request, the claimant must provide the tax-paid fuel purchase records supporting the total gallons claimed. ()

i. Presumed MPGs by Weight. The following are presumed MPGs by gross vehicle weight (GVW) or registered GVW:

<u>Over 40,000 GVW</u>	<u>4.0 MPG</u>
<u>Over 26,000 GVW to 40,000 GVW</u>	<u>5.5 MPG</u>
<u>Over 12,000 GVW to 26,000 GVW</u>	<u>7.0 MPG</u>
<u>12,000 GVW or less</u>	<u>10.0 MPG</u>

()

ii. Presumed MPGs by Operation. The following are presumed MPGs for vehicles over 40,000 GVW or registered GVW used in certain industries:

<u>Logging</u>	<u>4.3 MPG</u>
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Agricultural	4.5 MPG
Sand, gravel & rock hauling	4.0 MPG
Construction	4.4 MPG

()

291. (RESERVED)

292. ~~CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES~~ **REFUND CLAIMS – POWER TAKE-OFF (PTO) AND AUXILIARY ENGINES** (RULE 292).

01. ~~Fuel Records Required for Refund Claims~~ **Refund to Consumers — PTO and Auxiliary Engines.** ~~Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules~~ Tax-paid fuel used in PTO and auxiliary engines qualifies for a fuels tax refund under Sections 63-2410 and 63-2423, Idaho Code. PTO refunds are only allowed for special fuels. Auxiliary engine refunds are allowed for gasoline or special fuels. To claim a refund, use Form 75, Idaho Fuels Use Report, with the relevant supplemental worksheets. The records retention and fuel record requirements in Subsections 270.02 through 270.05 of these rules also apply to this section. (4-5-00)()

02. ~~Nontaxable Miles Defined~~ **PTO and Auxiliary Engines Defined.** ~~Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 171 of these rules regarding application of Idaho Sales and Use Taxes~~ A PTO uses fuel from the main supply tank to operate the main engine for a purpose other than operating or propelling the vehicle on the road. An auxiliary engine uses fuel from the vehicle's main supply tank to operate an engine other than the vehicle's main engine. (4-6-05)()

03. ~~Additional Nontaxable Roadways~~ **Records Required – Actual Consumption Refunds.** ~~Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the “standard miles per gallon (MPG)” for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway~~ Actual fuel consumption for PTO and auxiliary engines may be claimed when the PTO or auxiliary engines are equipped with an electronic monitoring device. The monitoring device must provide the date, time of use, and gallons metered. The State Tax Commission may request verification that the electronic monitoring device is reporting consumption correctly. (3-20-14)()

04. ~~Calculation~~ **Alternate Methods – Standard Allowances.** ~~Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the presumed MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules~~ The following are standard allowances adopted by the State Tax Commission. An International Fuel Tax Agreement (IFTA) licensee isn't allowed to use

alternate methods to determine nontaxable fuel use. Claimants may estimate using unit quantities, percentages, or the nonstandard allowance method. (4-2-08)()

a. Allowances based on unit quantities:

<u>Allowance Type</u>	<u>Allowance Rates</u>	<u>x</u>	<u>Unit Quantities</u>
<u>Gasoline/fuel oil</u>	<u>0.00015 gallons</u>	<u>x</u>	<u>Gallons pumped</u>
<u>Bulk cement</u>	<u>0.1858 gallons</u>	<u>x</u>	<u>Tons pumped</u>
<u>Refrigeration unit/reefer</u>	<u>0.75 gallons</u>	<u>x</u>	<u>Hours unit operated</u>
<u>Tree length timber/logs</u>	<u>0.0503 gallons</u>	<u>x</u>	<u>Tons Hauled</u>
<u>Tree length timber/logs</u>	<u>3.46 gallons</u>	<u>x</u>	<u>Hours unit operated</u>
<u>Carpet cleaning</u>	<u>0.75 gallons</u>	<u>x</u>	<u>Hours unit operated</u>
<u>Concrete Pumping</u>	<u>0.142857 gallons</u>	<u>x</u>	<u>Yards pumped</u>

()

b. Allowances based on percentages:

<u>Allowance Type</u>	<u>Percentage Per Gallon</u>	<u>x</u>	<u>Gallons Consumed</u>
<u>Concrete mixing</u>	<u>30%</u>	<u>x</u>	<u>Gallons consumed</u>
<u>Garbage trucks</u>	<u>25%</u>	<u>x</u>	<u>Gallons consumed</u>

()

05. ~~*Power Take Off (PTO) and Auxiliary Engine Allowances (Allowances)*~~ **Nonstandard Allowances.** PTO allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline powered vehicles. A claimant must request a nonstandard allowance from the State Tax Commission if they want to use an allowance different from those listed in this section. A claimant must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. The State Tax Commission may request additional information or documentation as needed in order to make a determination on he request. (3-20-14)()

~~*a. Standard Allowances for Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle mounted cement mixer or off loading product.*~~ (4-6-05)

~~*b. Standard Allowances for Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the registered motor vehicle. No claim for gasoline is allowed when gasoline is used by the registered motor vehicle's main engine even to operate the motor vehicle's PTO unit.*~~ (3-30-07)

~~*c. Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances:*~~ (4-5-00)

~~*i. Allowances based on unit quantities:*~~

Allowance Type	Allowance Rates	×	Unit Quantities
Gasoline/fuel oil	0.00015-gallons	×	Gallons pumped
Bulk cement	0.1858-gallons	×	Tons pumped
Refrigeration unit/reefer	0.75-gallons	×	Hours-unit operated
Tree length timber/logs	0.0503-gallons	×	Tons Hauled
Tree length timber/logs	3.46-gallons	×	Hours-unit operated
Carpet cleaning	0.75-gallons	×	Hours-unit operated
Concrete Pumping	0.142857-gallons	×	Yards pumped

(4-11-06)

ii. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	×	Gallons Consumed
Concrete mixing	30%	×	Gallons consumed
Garbage compaction	25%	×	Gallons consumed

(3-15-02)

~~06. **Nonstandard Allowances.** A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. The State Tax Commission may request additional information or documentation as needed in order to make a determination on the request.~~ (3-20-14)

~~07. **Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees.** The nontaxable gallons of fuel claimed by non-International Fuel Tax Agreement (IFTA) licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to MPG information.~~ (3-20-14)

~~08. **IFTA Licensees.** An IFTA licensee may qualify for standard or nonstandard PTO and auxiliary engine allowances listed in this rule or authorized by request, by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet.~~ (3-20-14)

~~a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, the IFTA licensee will recompute the new fleet MPG. The new fleet MPG is applied to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the IFTA licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75.~~ (3-20-14)

~~b. A copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how the allowance was calculated must be included as an attachment to the Form 75. All refund~~

~~claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. (3-20-14)~~

~~e. IFTA licensees must use an actual MPG when preparing their original IFTA return to claim any refund. (3-20-14)~~

IDAPA 35 – STATE TAX COMMISSION

35.01.06 – HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0106-1702

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5220(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 63-105(2), 63-3624(a), 63-3612(2)(g), 67-4718, and 67-4917C, 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 October 18, 2017.

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:

Hotel/Motel Room Sales Tax Rule 006 – Lodging Operators And Short-Term Rental Marketplaces. The current proposal is to add this new rule to reference the new statutes created by 2017, HB 216. Also to state in the rules that the sales taxes and any local government taxes apply to this type of rental.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 2, 2017, Idaho Administrative Bulletin, [Vol. 17-8, page 122](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Shaner at (208) 334-7518 or tom.shaner@tax.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 October 25, 2017.

DATED this 1st Day of September, 2017.

Tom Shaner
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Fax: (208) 334-7846

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0106-1702
(Only Those Sections With Amendments Are Shown.)

006. LODGING OPERATORS AND SHORT-TERM RENTAL MARKETPLACES (RULE 006).
Sections, 63-1801 through 63-1804, 63-3612, 63-4711, 67-4718, 67-4917B, Idaho Code

01. In General. These rules apply to the Short-term Rental and Vacation Rental Act, Section 63-1801 through 63-1804, Idaho Code. ()

02. Applicable Taxes. Any state or local government taxes imposed according to Section 63-1804, Idaho Code, will be collected, reported, paid, and administered according to these rules or as further explained by the Tax Commission's rules in IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules." ()

03. Registration. Registration will be in the same manner and in the same form as is required for obtaining a seller's permit for state sales tax. However, a short-term rental marketplace that has not facilitated a lodging transaction in Idaho shall have forty-five (45) days from the completion of their first lodging transaction in Idaho to register to collect room sales tax. ()

007. -- 009. (RESERVED).

IDAPA 35 – STATE TAX COMMISSION

35.01.09 – IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-1702

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 63-105 and 23-1323), Idaho Code, and Section 23-1314, 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 October 18, 2017.

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:

Wine Tax Rule 011 – Sales Subject To Wine Tax. This rule describes when dispositions of wine are subject to the wine tax. The intent of amending the rule is to give instruction on maintenance of inventory for tax purposes.

Wine Tax Rule 015 – Wine Tax Permit Reporting Number. This rule authorizes the issuing of a wine tax permit. The intent of amending the rule is to allow cancellation of inactive permits.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, page 123](#).

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 the undersigned using the contact information below.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone (208) 334-7855
Fax (208) 334-7846
Don.williams@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1701
(Only Those Sections With Amendments Are Shown.)

011. SALES SUBJECT TO WINE TAX (RULE 011).

Sections 23-1314 and 23-1319, Idaho Code

01. **In General.** Section 23-1319, Idaho Code, imposes an excise tax per gallon basis upon all wine sold or disposed of by a distributor in Idaho. (7-1-93)

02. **Imposition.** All of the terms defined in Section 23-1303, Idaho Code, the Idaho County Option Kitchen and Table Wine Act apply to ~~the assessment of the excise taxes provided in Section 23-1319, Idaho Code~~ these rules. (7-1-93)()

a. All wine distributors, as defined in Section ~~s~~ 23-1303 ~~(d) and (g)(c)~~, Idaho Code, and wine direct shippers as defined in Section 23-1309A, Idaho Code are required to collect and to pay the excise taxes imposed by Section 23-1319, Idaho Code. (3-30-07)()

b. Any vintner, winery, producer or manufacturer of wine within Idaho shall be considered a wine importer within the meaning of the definitions provided in Sections 23-1303(e) and (h), Idaho Code, for the purpose of administration of the excise tax as imposed by Section 23-1319, Idaho Code. However, to ensure payment of taxes on wine, any entity holding a winery license shall be considered a distributor to the extent of any dispositions from such winery for the purpose of resale or consumption in, by, or through any retail facilities including, tasting rooms on or near the winery's premises. (7-1-93)

~~e. References to the Act as used in these rules, are to the County Option Kitchen and Table Wine Act, Chapter 13, Title 23, Idaho Code. (7-1-93)~~

~~dc.~~ Ales, strong beer, new beer, or any other alcoholic beverages containing ~~a greater percentage of more than four percent (4%)~~ alcohol by weight ~~than specified in Section 23-1002, Idaho Code, shall be taxed as if they were wine, as defined under Chapter 13, Title 23, Idaho Code~~ are taxed as wine. (3-30-07)()

~~ed.~~ Premixed cocktails having an alcoholic content of fourteen percent (14%) or less by volume shall be taxed as wine. (7-1-93)

~~e.~~ If a winery supplements its inventory, adequate records are required to support any tax paid. The State Tax Commission may presume no tax is paid on wine in the winery's inventory without evidence of the payment of tax. Wineries purchasing wine or grape juice from other wineries to blend and produce wine are not considered supplementing their inventory for the purpose of this rule. ()

03. **Every Disposition is a Sale.** Every disposition of wine by a distributor to a retailer or consumer shall constitute a sale of wine for resale or consumption in this state, whether said sale is made within or without this state, and the distributor shall be liable for the payment of taxes on such sales. Wine direct shippers are liable for payment of wine tax imposed by Chapter 13, Title 23, Idaho Code as well as the sales and use taxes imposed by Chapter 36, Title 63, Idaho Code on all shipments of wine to Idaho residents. Any person making sales or dispositions of wine, whether licensed as a distributor or not, shall be liable for the taxes on such sale or disposition of wine for which no tax under the Act has otherwise been collected. (3-30-07)

04. **All Sales Presumed Taxable.** Every sale or disposition of a distributor's inventory shall be presumed to be a taxable sale, except as such disposition is allowed as an exemption by the Act and these rules. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

015. WINE TAX ~~REPORTING~~ PERMIT ~~NUMBER~~ (RULE 015).
Sections 23-1322 and 23-1323, Idaho Code

01. **Permit ~~Number~~ Required.** Every winery and wine distributor located within this state, ~~every wine distributor~~ and every wine direct shipper is required to obtain a wine tax ~~reporting~~ permit ~~number~~ before engaging in business. Application forms may be obtained from the State Tax Commission. No fee is required to obtain a wine tax ~~number~~ ~~permit~~. (3-30-07)()

02. **Permit ~~Number~~ Is Non-Assignable.** A wine tax ~~reporting~~ permit ~~number~~ is nonassignable. Upon any change of ownership, it shall be the responsibility of the permit holder to immediately give written notification to the State Tax Commission. (3-30-07)()

a. The notice shall set forth the date of closure, date of sale, or date of lease of the business. If a sale or lease, the notice must state the last day of operation and the name of the new owner or lessee. (7-1-93)

b. If this information is not furnished to the State Tax Commission and the new owner or lessee continues operation of the business on the previous owner's wine tax ~~reporting~~ permit ~~number~~ without filing for and obtaining a new permit, the original permit holder may be held responsible for all tax liability incurred during the period that the new owner or lessee operated the business under the previous owner's permit. (3-30-07)()

03. Cancellation of Permit. The State Tax Commission may cancel the permit of a person not actively engaged in activities requiring a permit according to the Idaho County Option Kitchen and Table Wine Act or these rules. ()

a. Notice of cancellation must be given in the manner provided for deficiencies by the Idaho County Option Kitchen and Table Wine Act and these rules. ()

b. A permit held by a person who, for a period of twelve (12) consecutive months, files reports showing no wine activity reportable under the Idaho County Option Kitchen and Table Wine Act or these rules is canceled automatically upon the State Tax Commission providing notice of the cancellation to the last known address of the person to whom the permit was issued. ()

IDAPA 35 – STATE TAX COMMISSION
35.01.12 – IDAHO BEER TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0112-1702
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 63-105 and 23-1051, Idaho Code, and Section 23-1006, 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 October 18, 2017.

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:

Beer Tax Rule 011 – Sales Subject To Beer Tax. This rule describes when dispositions of beer are subject to the beer tax. The intent of amending the rule is to give instruction on maintenance of inventory for tax purposes.

Beer Tax Rule 016 – Beer Tax Permit Reporting Number. This rule authorizes the issuing of a beer tax permit. The intent of amending the rule is to allow cancellation of inactive permits.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 2, 2017 Idaho Administrative Bulletin, [Vol. 17-8, page 124](#).

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 the undersigned using the contact information below.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone (208) 334-7855
Fax (208) 334-7846
Don.williams@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0112-1702
(Only Those Sections With Amendments Are Shown.)

011. SALES SUBJECT TO BEER TAX (RULE 011).
Sections 23-1003, 23-1006, 23-1008, and 23-1048, Idaho Code

01. **In General.** Idaho imposes an excise tax upon barrels or fractional amounts of barrels as provided by Section 23-1008, Idaho Code, sold by wholesalers for use or consumption within Idaho. (7-1-93)

02. **Imposition.** All of the terms defined in ~~Section 23-1001, Idaho Code, et seq., the Beer Act~~ apply to ~~the assessment of the tax provided in Section 23-1008, Idaho Code~~ these rules. (7-1-93)()

a. All beer wholesalers, as defined in Section 23-1001(~~gk~~), Idaho Code, are required to collect and to pay the tax imposed by Section 23-1008, Idaho Code. (7-1-93)()

b. Any brewer, brewery, producer or manufacturer of beer within Idaho shall be considered a beer dealer within the meaning of the definitions provided in Section 23-1001(d), Idaho Code, for the purpose of administration of the tax as imposed by Section 23-1008, Idaho Code. However, to ensure payment of taxes on beer, any entity holding a brewery license shall be considered a wholesaler to the extent of any dispositions from such brewery for the purpose of resale or consumption in, by or through any retail facilities including, but not limited to, tasting rooms on or near the brewery's premises. (7-1-93)

~~e. References to the Act as used in these rules are to Chapter 10, Title 23, Idaho Code.~~ (7-1-93)

~~dc.~~ Ales, strong beer, new beer, or any other alcoholic beverages containing ~~a greater percentage of more than four percent (4%) alcohol by weight than specified in Section 23-1002, Idaho Code, shall be taxed as if they were wine, as defined under Chapter 13, Title 23, Idaho Code~~ are taxed as wine. (7-1-93)()

d. If a brewery supplements its inventory, adequate records are required to support any tax paid. The State Tax Commission may presume no tax is paid on beer in the brewery's inventory without evidence of the payment of tax. ()

03. **Every Disposition Is a Sale.** Every disposition of beer by a wholesaler to a retailer or consumer shall constitute a sale of beer for use in this state, whether said sale is made within or without this state, and the wholesaler shall be liable for the payment of taxes on such sales. Any person making sales or dispositions of beer, whether licensed as a wholesaler or not, shall be liable for the tax on such sale or disposition of beer for which no tax under the Act has otherwise been collected. (7-1-93)

04. **All Sales Presumed Taxable.** Every sale or disposition of a wholesaler's inventory shall be presumed to be a taxable sale, except as such disposition is allowed as an exemption by the Act and these rules. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

016. BEER TAX ~~REPORTING~~ PERMIT ~~NUMBER~~ (RULE 016).

01. **Permit ~~Number~~ Required.** Every brewery and beer wholesaler located within this state ~~and every beer wholesaler~~ is required to obtain a beer tax ~~reporting~~ permit ~~number~~ before engaging in business. Application forms may be obtained from the State Tax Commission. No fee is required to obtain a beer tax ~~number~~ permit. (7-1-93)()

02. Permit ~~Number~~ Is Non-Assignable. A beer tax ~~reporting~~ permit ~~number~~ is nonassignable. Upon any change of ownership, it shall be the responsibility of the permit holder to immediately give written notification to the State Tax Commission. (7-1-93)()

a. The notice shall set forth the date of closure, date of sale, or date of lease of the business. If a sale or lease, the notice must state the last day of operation and the name of the new owner or lessee. (7-1-93)

b. If this information is not furnished to the State Tax Commission and the new owner or lessee continues operation of the business on the previous owner's beer tax ~~reporting~~ permit ~~number~~ without filing for and obtaining a new permit, the original permit holder may be held responsible for all tax liability incurred during the period that the new owner or lessee operated the business under the previous owner's permit. (7-1-93)()

03. Cancellation of Permit. The State Tax Commission may cancel the permit of a person not actively engaged in activities requiring a permit according to the Beer Act or these rules. ()

a. Notice of cancellation must be given in the manner provided for deficiencies by the Beer Act and these rules. ()

b. A permit held by a person who, for a period of twelve (12) consecutive months, files reports showing no beer activity reportable under the Beer Act or these rules is canceled automatically upon the State Tax Commission providing notice of the cancellation of the last known address of the person to whom the permit was issued. ()

IDAPA 35 – STATE TAX COMMISSION

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-1701

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 63-105 and 63-3039, 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 October 18, 2017.

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:

Rules 326, 327 and 328 are being promulgated to provide guidance for the appeals process. These rules will establish definitions, provide restrictions, exceptions, permitted communications and procedures for a taxpayer to participate in communications between the appeals unit and the originating division and others during the redetermination process.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 7, 2017, Idaho Administrative Bulletin, [Vol. 17-6, pages 67-69](#).

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 Cynthia Adrian at (208) 334-7670.

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 Wednesday, October 25, 2017.

DATED this 1st day of September, 2017.

Cynthia Adrian
Tax Policy Specialist
Idaho State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7670

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0201-1701
(Only Those Sections With Amendments Are Shown.)

326. COMMUNICATIONS BETWEEN THE APPEALS UNIT AND THE ORIGINATING DIVISION AND OTHERS DURING THE REDETERMINATION: DEFINITIONS (RULE 326).

Section 63-3045, Idaho Code

For purposes of Rules 327 and 328, the following definitions apply: ()

01. Appeals Unit. Appeals unit means the unit created within the State Tax Commission with the responsibility for performing the independent administrative redetermination provided for in Section 63-3045, Idaho Code. ()

02. Appeals Officer. Appeals officer means the staff of the appeals unit performing the redetermination. ()

03. Originating Division. Originating division means the division within the State Tax Commission that issued the notice of deficiency determination or other determination under dispute. ()

04. Petitioner. Petitioner means the taxpayer or the taxpayer's authorized representative. ()

05. Unable to Participate. Unable to participate means the petitioner had expressed intent to participate in the discussion with the originating division but did not participate and did not provide adequate notice to the appeals officer to reschedule the discussion. ()

327. COMMUNICATIONS BETWEEN THE APPEALS UNIT AND THE ORIGINATING DIVISION AND OTHERS DURING THE REDETERMINATION: RESTRICTIONS, EXCEPTIONS, AND PERMITTED COMMUNICATIONS (RULE 327).

Section 63-3045, Idaho Code

01. In General. Section 63-3045, Idaho Code, does not adopt the formal ex parte restrictions on communications that would apply in a judicial proceeding or under Section 67-5253, Idaho Code. However, the State Tax Commission will apply the following procedures as part of its redetermination process. The provisions contained within this rule do not create substantive rights affecting the taxpayer's tax liability, or the State Tax Commission's ability to determine, assess, or collect the tax liability (including statutory interest and any penalties, if applicable). ()

02. Restrictions on Certain Communications. An appeals officer may engage in discussions relating to the petitioner's petition with employees of the originating division, including the strengths and weaknesses of the issues, new issues, and the parties' positions, only after having provided the petitioner the opportunity to participate in the discussions. ()

03. Exceptions. The limitation on communications contained within Subsection 327.02 of this rule does not apply to communications with or by: ()

a. A Commissioner of the State Tax Commission; ()

b. An employee of a State Tax Commission outside of the originating division; ()

c. An employee of the Idaho office of Attorney General; ()

d. An employee of another state agency that the State Tax Commission has entered into an exchange agreement with; ()

e. An employee of the Internal Revenue Service; or ()

f. An employee of the Multi State Tax Commission. ()

04. Permitted Communications. Communications with the originating division that do not require an appeals officer to first provide the petitioner with an opportunity to participate in the communication include: ()

a. Any matters that are ministerial, administrative, or procedural including routine account inquiries, transcript requests, and other similar inquiries because they do not involve more than a limited amount of dialogue or interaction between appeals and the originating division. ()

b. Communications in which the petitioner is given an opportunity to participate and is unresponsive, declines, or is unable to participate in a discussion between an appeals officer and the originating division. ()

c. Assisting an appeals officer in locating or indexing documents within the originating division's audit file that were relied upon by the originating division when it issued its notice of deficiency determination. ()

d. Requesting verification of calculations that an appeals officer may utilize as part of a settlement or decision. ()

e. Obtaining a response from the originating division when the petitioner provides new information or makes new legal arguments during the redetermination. The originating division's response must be in writing and a copy of the written response provided to the petitioner. ()

f. Requesting confirmation of calculations that the petitioner has provided during the redetermination process. ()

g. Requesting verification that information provided by the petitioner during the redetermination is the same or different from what was previously submitted to the originating division. ()

h. A settlement meeting conducted in accordance with Rule 501 of these rules. ()

328. OPPORTUNITY TO PARTICIPATE; NOTICE TO PETITIONER (RULE 328).

01. Notification and Participation. If an appeals officer believes a discussion with staff from the originating division is warranted to review matters restricted by Subsection 327.02 of these rules, an appeals officer shall provide petitioner reasonable notice of the time and date of any discussion. Such notice may be provided to the petitioner by telephone, mail or electronic form and pursuant to Section 63-4003, Idaho Code. An appeals officer shall make a reasonable effort to accommodate the petitioner's schedule but will not unduly delay the discussion. The petitioner may participate by telephone or in-person at the State Tax Commission office in Boise, Idaho, and any discussion will be held during normal business hours. ()

02. Additional Petitioner Participation Information. Any discussion held under this rule that includes petitioner participation is not an informal hearing under Rule 325 of these rules and does not start the one hundred and eighty (180) day period for issuing a final decision. ()

329. -- 399. (RESERVED)

IDAPA 35 – STATE TAX COMMISSION

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-1703

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 63-105 and 63-3039, 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 October 18, 2017.

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:

Rule 310 is being amended to add the interest rate for calendar year 2018 and the Revenue Ruling where the federal rate for the calculation can be found.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were of a simple nature.

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 Cynthia Adrian at (208) 334-7670.

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 Wednesday, October 25, 2017.

DATED this 1st day of September, 2017.

Cynthia Adrian
Tax Policy Specialist
Idaho State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7670

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0201-1703
(Only Those Sections With Amendments Are Shown.)

310. INTEREST RATES (RULE 310).
 Sections 63-3045 and 63-3073, Idaho Code

01. In General. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year is determined in accordance with Section 63-3045, Idaho Code. The rates starting with the rate applicable at July 1, 1981, and the Internal Revenue Service Revenue Rulings, if applicable for the calculation of the rate, are listed in Subsection 310.02 of this rule. These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code.
 (4-6-05)

02. Idaho Interest Rates and Applicable Revenue Rulings.

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
July 1, 1981, through December 31, 1993	12% simple interest	Not Applicable
Calendar Year 1994	7% simple interest	Revenue Ruling 93-64
Calendar Year 1995	9% simple interest	Revenue Ruling 94-61
Calendar Year 1996	8% simple interest	Revenue Ruling 95-67
Calendar Year 1997	9% simple interest	Revenue Ruling 96-49
Calendar Year 1998	8% simple interest	Revenue Ruling 97-41
Calendar Year 1999	7% simple interest	Revenue Ruling 98-50
Calendar Year 2000	8% simple interest	Revenue Ruling 99-41
Calendar Year 2001	8% simple interest	Revenue Ruling 2000-45
Calendar Year 2002	7% simple interest	Revenue Ruling 2001-49
Calendar Year 2003	5% simple interest	Revenue Ruling 2002-61
Calendar Year 2004	6% simple interest	Revenue Ruling 2003-107
Calendar Year 2005	6% simple interest	Revenue Ruling 2004-69
Calendar Year 2006	6% simple interest	Revenue Ruling 2005-57
Calendar Year 2007	7% simple interest	Revenue Ruling 2006-44
Calendar Year 2008	7% simple interest	Revenue Ruling 2007-57
Calendar Year 2009	5% simple interest	Revenue Ruling 2008-46
Calendar Year 2010	5% simple interest	Revenue Ruling 2009-29
Calendar Year 2011	4% simple interest	Revenue Ruling 2010-20
Calendar Year 2012	4% simple interest	Revenue Ruling 2011-20
Calendar Year 2013	3% simple interest	Revenue Ruling 2012-24

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
Calendar Year 2014	4% simple interest	Revenue Ruling 2013-18
Calendar Year 2015	4% simple interest	Revenue Ruling 2014-22
Calendar Year 2016	4% simple interest	Revenue Ruling 2015-19
Calendar Year 2017	3% simple interest	Revenue Ruling 2016-20
<u>Calendar Year 2018</u>	<u>4% simple interest</u>	<u>Revenue Ruling 2017-17</u>

~~(3-29-17)~~ ()

IDAPA 42 – IDAHO WHEAT COMMISSION
42.01.01 – RULES OF THE IDAHO WHEAT COMMISSION
DOCKET NO. 42-0101-1701
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 22-3309, 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 October 18, 2017.

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

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

The changes are necessary to clarify how the first purchaser of wheat reports compliance with the statute and the amount of wheat tax collected. The changes are also necessary to allow the Commission to properly conduct any referendum among Idaho wheat growers when deemed necessary by the Commission pursuant to Section 22-3309(3)(i), Idaho Code. The rulemaking clarifies that the first purchaser of wheat shall complete and return the Report of Tax, or equivalent, to the Commission office at the end of each production year (July 1 - June 30). The report shall include the name and address of the grower and seller.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, page 70](#).

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 Blaine Jacobson, Executive Director, at (208) 334-2353 or at blaine@idahowheat.org.

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 October 25, 2017.

DATED this 30th day of August, 2017.

Blaine Jacobson, Executive Director
Idaho Wheat Commission
821 W. State St.
P. O. Box 82720
Boise, ID 83720-0099
Phone: (208) 334-2353
Fax: (208) 334-2505

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 42-0101-1701
(Only Those Sections With Amendments Are Shown.)

301. INVOICES AND RECORDS.

01. Invoices. Section 22-3316, Idaho Code, provides for invoices to be delivered to the grower for each purchase. The Wheat Commission is not providing a special form for this purpose and suggests that buyers use the final settlement vouchers of accounts of sale commonly used in Idaho. The amount of the Idaho state wheat tax deducted must be shown on each settlement voucher. (7-1-93)

02. Vouchers. Buyers are not required to send the Commission copies of their settlement vouchers issued to individual growers but should keep copies available for examination by representatives of the Commission at a later date. Where it is not the practice to issue settlement vouchers of accounts of sale, buyers should be sure that they have accurate records of all wheat bought from growers and the amount of wheat bought from each grower. (7-1-93)

03. Delivery of Documents to Commission. The first purchaser of wheat shall complete and return the Report of Tax, or equivalent, to the Commission office at the end of each production year (July 1 through June 30). The report shall be due on the same date as the final quarter wheat tax as specified in Section 22-3315(1), Idaho Code, and shall include the following: ()

a. Name or names of the grower and seller; and ()

b. Address or addresses of the grower and seller. ()

IDAPA 47 – DIVISION OF VOCATIONAL REHABILITATION

47.01.01 – RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION

DOCKET NO. 47-0101-1701

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 33-221 and 33-2303, Idaho Code, and the Rehabilitation Act of 1973 and all subsequent amendments and the Workforce Innovation and Opportunity Act.

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 October 18, 2017.

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:

Proposed amendments make technical amendment and improvements to this section and amends the Division of Vocational Rehabilitation's Field Services Policy Manual, incorporated by reference, to further align the program's policies with the Rehabilitation Act of 1973, P.L. 93-112, as amended by the Workforce Innovation and Opportunity Act (WIOA) of 2014, P.L. 113-128. Furthermore, the Division is proposing substantive changes specifically to the Supported Employment and Transition Services policies to be in alignment with WIOA. WIOA requires Vocational Rehabilitation to provide pre-employment transition services to students and youth with disabilities as well as extended services to youth with disabilities who do not immediately have funding for such services, up to a specified period of time.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 80](#).

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 Idaho Division of Vocational Rehabilitation Field Service Manual is incorporated by reference due to the size and complexity of the manual.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.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 October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent, Chief Planning & Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Tel: (208) 332-1582 / Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 47-0101-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

01. General. Unless provided otherwise, any reference in these rules to any document identified in Subsection 004 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. (3-30-01)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (3-30-01)

a. All federal publications through the [Rehabilitation Services Administration](#). (2-17-09)

b. Idaho Division of Vocational Rehabilitation Field Services Policy Manual, approved August 1~~7~~⁰, 201~~6~~⁷, available for review on the website at <http://www.vr.idaho.gov/>. (~~3-29-17~~)()

c. Workforce Innovation and Opportunity Act (WIOA), Public Law 113-128. (3-29-17)

d. Federal Register, Department of Education, 34 CFR Parts 361, 363, and 397. (3-29-17)

e. The Rehabilitation Act of 1973, as amended. (2-17-09)

03. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available at the Central Office, Idaho Division of Vocational Rehabilitation, 650 W. State Street, Room 150, Boise, Idaho 83720, (208) 334-3390 or through access to the internet URL addresses outlined in Subsection 004.02. (2-17-09)

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL SCHOOLS

DOCKET NO. 55-0103-1701

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 33-2205, 33-2211 and 33-1002G.

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 October 18, 2017.

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

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

The purpose of the proposed amendments is to make technical corrections, such as alphabetizing the definition section, adding definitions to terms that were used and not defined and updating terminology. Additional amendments remove redundant language that is already contained in Section 33-1002G, Idaho Code, and provide additional clarification of career technical school program requirements and career technical school added cost unity funding eligibility requirements.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, Page 38](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rulemaking does not incorporate any documents by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 55-0103-1701
(Only Those Sections With Amendments Are Shown.)

005. DEFINITIONS.

01. Administrator. A designated school administrator, holding a career technical administrator certificate pursuant to IDAPA 08.02.02, "Rules Governing Uniformity," Section 015, and who oversees and monitors the career technical school programs and is responsible for ensuring the school meets all applicable federal, state, and local school district regulations, rules, and policies. ()

~~02.~~ **Attendance Zones.** For purposes of Section 33-1002G, Idaho Code, each high school is classified as an attendance zone. The attendance zone requirement can be met by having students from at least two (2) high school zones within a district or at least two (2) high school zones in different districts participate in the career technical school. A minimum of fifteen percent (15%) of the total student body must reside in attendance zones apart from the attendance zone of the majority of students. Cooperative Service Agencies must meet the fifteen percent (15%) attendance criteria on a program-by-program basis. (3-30-01)

~~02. Dual Credit.~~ Pursuant to Section 33-5109, Idaho Code, dual credit may be granted for Advanced Placement, College Level Examination Program, or Tech Prep class offerings that are approved through an accredited institution of higher education. This does not have to be a one (1) credit for one (1) credit articulation. Competencies from multiple classes can count toward postsecondary credit/credits. (3-30-01)

03. Capstone Course. A culminating course that requires students to demonstrate the knowledge and skills learned throughout their program of study. ()

04. Career Technical Schools. Schools designed to provide high-end, state-of-the-art technical programs that foster quality technical education ~~at the secondary level~~ through intermediate and capstone courses. Programs and services are directly related to the preparation of high school students for employment in current or emerging occupations that require other than a baccalaureate or advanced degree. These schools are closely linked to postsecondary education, thereby avoiding redundancy and maintaining rigor. They are also closely linked to current business and industry standards to ensure relevance and quality. (3-30-01)()

~~035.~~ **Field Experience.** Paid or unpaid work experience such as business/industry internship, clinical experience, supervised occupational experience, job placement, school-based enterprise, or similar work experience setting. The field experience must be of sufficient duration and depth to add to the technical competencies of the student. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

101. CAREER TECHNICAL SCHOOL GENERAL APPROVAL CRITERIA.

For approval, applying career technical school's ~~districts/consortiums~~ must meet at least four (4) of the five (5) criteria listed in Section 33-1002G, Idaho Code. Approval criteria: (3-30-01)()

- 01. **High School Attendance Zones.** Two (2) or more high school attendance zones. (3-30-01)
- 02. **Dual Credit.** (3-30-01)
- 03. **Field Experience.** (3-30-01)
- 04. **Funded as a Separate School.** (3-30-01)

05. Separate Site or Cooperative Service Agency. Located at a separate site or approved by the State Board of Education as a cooperative service agency. (3-30-01)

102. CAREER TECHNICAL COMPONENT CRITERIA.

01. Program Criteria. Career technical schools are intended to deliver high-end technical education programs that go beyond the scope of traditional career technical education. The lab should be appropriately designed for the type of program and the number of students enrolled. The program should have state-of-the-art equipment, current technology and strong links to business and industry. (3-30-01)

02. Career Technical School Program. Each program of a career technical school shall: (3-30-01)

- ~~a. Be based on industry standards that are measurable using a competency-based evaluation system. (3-30-01)~~
- ~~b. Demonstrate a responsiveness to students' needs and to labor market needs. (3-30-01)~~
- ~~c. Contain a sequence of instruction that follows a set of industry competencies. (3-30-01)~~
- ~~d. Reinforce basic and advanced academic skills. (3-30-01)~~
- ~~e. Have at least one (1) dual credit technical course or be approved for postsecondary credit as part of a Tech Prep agreement. (3-30-01)~~
- ~~f. Promote access and equity for all students and school personnel. (3-30-01)~~
- ~~g. Incorporate active input from an appropriately qualified business/industry technical advisory committee. (3-30-01)~~
- a. Deliver a sequence of career technical education courses that culminate in a capstone course. ()**
- b. Meet all of the required technical competency credit standards established by the state board of education. ()**
- c. Develop and maintain business and industry partnerships in addition to the technical advisory committee. ()**
- ~~h. Ensure that all programs implement instructional delivery methods that use current teaching and industry technologies integrate advances in industry technologies. (3-30-01)()~~
- i. Employ instructors who hold career technical certification to teach the occupation and who also hold a related industry-based credential, or equivalent credential, as approved by the division of career technical education. (3-30-01)()**
- f. Be delivered over a term of not less than five semesters, or the equivalent instructional hours. Semester and trimester equivalencies will be approved by the division of career technical education. ()**
- g. Enroll students from at least two (2) high schools. No single high school will comprise more than eighty-five percent (85%) of the total enrolled career technical school students. In the event a student enrolled in the career technical school is not enrolled in a high school, that student will be reported separately, based on the high school attendance zone where the student resides. ()**
- ~~h. Promote the development of leadership, interpersonal and other cross-functional workplace skills through career technical student organizations or other appropriate means. (3-30-01)()~~
- ~~k. Ensure that the instructional setting is appropriate and effective regarding: (3-30-01)~~

- ~~i. Student teacher ratios. (3-30-01)~~
- ~~ii. Number of lab work stations. (3-30-01)~~
- ~~iii. Number of quality work experience sites. (3-30-01)~~
- ~~iv. Safety. (3-30-01)~~
- ~~v. Work experience agreements. (3-30-01)~~
- ~~vi. Facility maintenance. (3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

104. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUNDING AND ELIGIBILITY.

Section 33-1002G, Idaho Code, provides school districts an opportunity to establish career technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of career technical schools. The funds are appropriated to the State Board for Career Technical Education to be expended by the Division of Career Technical Education. Funding is based on the average daily attendance (ADA) of students enrolled in the career technical school. If any approved program within a career technical school does not enroll students from more than one (1) high school during the reporting period, the enrolled students may not be counted as part of the school's average daily attendance for that reporting period. If the overall enrollment exceeds more than eighty-five percent (85%) of students from any single high school during the school year, the division of career technical education may withhold all or part of the career technical school's funding. (3-30-01)()

105. CAREER TECHNICAL SCHOOL AVERAGE DAILY ATTENDANCE.

The Division of Career Technical Education shall use the enrollment ~~reports sent to the State Department of Education~~ and attendance submitted to the division of career technical education by the school district to calculate career technical school average daily attendance (ADA) in accordance with applicable laws and rules (Section 33-1002, Idaho Code). Students in attendance at a qualifying career technical school shall be reported as aggregate hours and/or aggregate attendance. The aggregate hours and aggregate attendance will be combined to calculate the ADA for the career technical school. (3-30-01)()

01. Aggregate Hours. The daily hours of all students enrolled in approved intermediate and capstone courses who attend less than two and one-half (2.5) hours per day shall be added together and reported as weekly aggregate hours. (3-30-01)()

02. Aggregate Attendance. Students attending enrolled in approved intermediate and capstone courses who attend more than two and one-half (2.5) hours per day are to be reported as aggregate attendance. (3-30-01)()

106. CAREER TECHNICAL SCHOOL ADDED COST UNIT CALCULATION.

The Division of Career Technical Education shall use the career technical school average daily attendance (ADA) as the basis for added cost unit funding. (3-30-01)

01. State Support Unit Value. The added cost support unit value shall be based on state salary-based apportionment, state paid employee benefits (less state unemployment), base support, and safe environment distribution factors found in the Public School Support Program. (3-30-01)

02. Support Unit Divisor. Added cost support units for career technical schools shall be calculated by using the secondary support unit attendance divisor of eighteen and one-half (18.5) as shown in Section 33-1002(6), Idaho Code. (3-30-01)

03. Added Cost Support Factor. The added cost support factor for career technical schools shall be calculated by multiplying point thirty-three (.33) times the added cost support units generated in the career technical

school. (3-30-01)

04. Estimated ~~Reimbursement~~ Distribution. The estimated ~~reimbursement~~ distribution shall be calculated by multiplying the state support unit value by the added cost support factor. ~~(3-30-01)~~()

107. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUND DISTRIBUTION.

Once the career technical appropriation is made, the per unit value will be determined by dividing the total units into the appropriation. (3-30-01)

01. Payment Distribution. Added cost support unit funds shall be distributed by the Division of Career Technical Education in two (2) payments: (3-30-01)

a. Seventy percent (70%) of the total estimated funds for which ~~a~~ career technical schools ~~are is~~ eligible shall be distributed each year following receipt of first-period ~~enrollment~~ attendance data from the ~~Department of Education~~ approved career technical schools. Funding will not be distributed until reports have been received and approved by the division of career technical education from each approved schools. ~~(3-30-01)~~()

b. Based on actual support units generated during the year, the balance shall be distributed each year by July 15th. (3-30-01)

~~**02. Reduced Funding.** In the event that the legislature does not appropriate enough funds to cover at least ninety percent (90%) of the calculated per unit value, preference will be given to existing schools and funding will not be reduced to less than ninety percent (90%) of the previous year's level. (3-30-01)~~

~~**03. Adjusted Distribution.** In the event that program growth exceeds the amount of the requested appropriation on a given year, the distribution of funds to each career technical school will be based on the projected ADA from the Annual Application or the actual ADA from the enrollment reports, whichever is smallest. (3-30-01)~~

108. ACCOUNTABILITY.

01. Assessment Process. The Division of Career Technical Education shall develop an assessment process that includes measures and standards for career technical school programs. (3-30-01)

02. Reporting. No later than October 15 of each year, career technical schools will submit a report to the division of career technical education, detailing their enrollment at the program level by high school. ()

~~**03. Administrator Responsibility.** The administrator of each career technical school shall be responsible to provide ~~a complete report for each program on the measures and standards at the end of each fiscal year~~ onsite administration of the career technical school. The administrator will submit all required career technical school reports requested by the division of career technical education. ~~(3-30-01)~~()~~

034. Accreditation. Each career technical school shall be accredited following Department of Education guidelines. This accreditation shall be appropriate for the individual type of career technical school that is developed. (3-30-01)

045. School Improvement Plan. The administration, faculty and staff at each career technical school shall be responsible to develop and implement a local school improvement plan based on the assessment process developed by the division of career technical education. ~~(3-30-01)~~()

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.04 – RULES GOVERNING IDAHO QUALITY PROGRAM STANDARDS INCENTIVE GRANTS AND AGRICULTURAL EDUCATION PROGRAM START-UP GRANTS

DOCKET NO. 55-0104-1701

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1629, 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 October 18, 2017.

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:

Proposed amendments will create a “carry forward” function within the incentive grant that will allow qualified teachers priority consideration for a subsequent grant cycle, in the event that a qualified teacher does not receive funds in the year they are eligible. In years that the number of qualified teachers exceeds available funds, those teachers would be placed at the top of the consideration list the following year. The second amendment expands the window of time that a new program is eligible for the start-up grant from one year to three years of program approval. Additional amendments will change the disbursement of grant funds structure, rather than using a reimbursement process, districts will receive their entire grant award in October of each year and then file an annual report with the Division of Career Technical Education documenting the appropriate use of funds at the end of the award cycle.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, Page 39](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rulemaking does not incorporate any documents by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 55-0104-1701
(Only Those Sections With Amendments Are Shown.)

100. INCENTIVE GRANT.

01. Eligibility Requirements. Eligible applicants must meet quality program and instructor requirements as approved by the board. Applicants may re-apply each year regardless of whether they have received a previous grant award. (4-11-15)

a. An agricultural and natural resources program in any grade nine (9) through twelve (12) must first meet the minimum program-specific quality program standards as approved by the board. (4-11-15)

b. Programs will be rated on a scale consisting of “non-existent,” “below basic,” “basic,” “qualified,” “distinguished,” and “exemplary.” Eligibility requires that the program must meet each of the program quality indicators at the level of “basic” or higher. Programs must also have an overall average rating of no less than “distinguished” for all program-specific quality standards. This average will be calculated using the quality indicators within each standard. Programs that do not meet the minimum quality standards requirements in one (1) year may be found eligible in subsequent year. Programs will be assessed by the division. (4-11-15)

c. Instructors must teach in an agricultural and natural resources program that meets the quality program standards and must also meet the instructor-specific quality program standard as approved by the board. (4-11-15)

d. Instructors will be rated on a scale consisting of “non-existent,” “below basic,” “basic,” “qualified,” “distinguished,” and “exemplary.” Eligibility requires that the instructor must meet each of the program quality indicators at the level of “basic” or higher. Instructors must also have an average rating of no less than “distinguished” for all instructor-specific quality indicators. Instructors that do not meet the minimum quality standards requirements in one (1) year may be found eligible in subsequent year. All instructors of agricultural and natural resources programs in grades nine (9) through twelve (12) are eligible to apply for the grant. (4-11-15)

e. Payments to districts will be adjusted according to the percent of time an instructor teaches within an approved agricultural and natural resources program. (4-11-15)

f. Should the division request additional information from a school district regarding a grant application, districts must respond to the request within the time period indicated. Failure to respond will result in the cancellation of the application and/or the forfeiture of the grant. (4-11-15)

02. Application Process. The application process consists of a formal application and assessment. (4-11-15)

a. To be considered for the grant, a school district must first complete and submit a formal application and supporting documentation on behalf of an instructor for an approved program according to the timeline established by the administrator. Applications may be submitted electronically to the division. In the event of a mailed application, applications must be postmarked no later than the timeline specified by the division. Instructors may not apply on their own behalf. (4-11-15)

b. Following the receipt of an application, the division will conduct an assessment of the program and instructor to ensure they both meet the minimum eligibility requirements, as outlined in the quality program standards. At the administrator’s discretion, the division may partner with additional subject-matter experts to assist in the evaluation. Assessments will be conducted each school year the instructor and program participate in the grant program. Districts will only be eligible to apply for the grant during the academic year the program received an assessment. Prior assessments cannot be used for subsequent grant applications. (4-11-15)

03. Selection of Grant Recipients. Grants will be awarded annually based on the availability of grant

funds and the number of qualified applicants. Grants will be awarded to applicants based on ranking in accordance with the following criteria: (4-11-15)

of: a. Applicants will be ranked according to their overall score. Scores will be calculated using the sum (4-11-15)

i. The average score of the program quality indicators; and (4-11-15)

ii. The average score of the instructor-specific program quality indicators. (4-11-15)

04. Incentive Grant Award. (4-11-15)

a. Announcement of the grant award will be made following administrator approval through the distribution of a funding authorization letter. Prior to the distribution of the letter, the division will verify that the grant recipient continues to teach at the same school, in the same agricultural and natural resources program, and at the same FTE level as indicated on the formal application. (4-11-15)

b. The total number of recipients will vary by year in accordance with the availability of funds and the qualifications of the applicant pool. Awards will be in the amount of ten thousand dollars (\$10,000) until available funds are exhausted or all qualified recipients have been awarded the grant. In the event that funds are exhausted and a qualified teacher does not receive the grant in the year he or she applies, that teacher will receive priority consideration for the grant the following year. If the teacher(s) reapplies and continues to meet the minimum qualifications the following year, he or she will be eligible to receive the grant regardless of where he or she ranks. Once the prioritized teacher(s) has been awarded funds, the remaining teachers will be ranked and funds will be awarded until the remaining funds have been exhausted. This cycle of prioritization may continue for multiple years; once a qualified teacher receives funds, he or she automatically moves back into the pool of teachers whose applications will be ranked in the following application cycle. Grants may be less than ten thousand dollars (\$10,000) when certain conditions exist: (4-11-15)()

i. Tied ranking. In the event of a tie, and in those instances where the number of qualified applicants exceeds the available funds, grants will be awarded evenly among those recipients with a tied score. (4-11-15)

ii. Less than full-time employment in an approved program. Grants will be awarded using FTE to calculate the percent of time an instructor spends teaching within an approved agricultural and natural resources program. In the event an instructor teaches in an approved program in less than a full-time capacity, grants will be pro-rated according to the percent of time the instructor spends teaching in the approved program. (4-11-15)

c. Grants are awarded on an annual basis and are not renewable or transferable. (4-11-15)

d. The use of grant funds must be in accordance with division guidelines and must be clearly linked to the agricultural and natural resources program identified on the formal application. (4-11-15)

e. Grant funds may be used to improve the agricultural and natural resources program, including but not limited to: (4-11-15)

i. Offset travel and registration fees associated with educational workshops and/or professional training on behalf of the instructor; (4-11-15)

ii. Purchase or repair equipment; or (4-11-15)

iii. Purchase educational supplies/curricula. (4-11-15)

f. Grant funds may not be used to: (4-11-15)

i. Cover the costs of either salaries or benefits, including extended contracts; (4-11-15)

ii. Offset expenses associated with the FFA organization or other student organizations; or (4-11-15)

- iii. Supplant other district funding sources, e.g. routine facility maintenance or improvements. (4-11-15)

101. -- 199. (RESERVED)

200. START-UP GRANT.

01. Eligibility Requirements. A school district may apply for a start-up grant for a newly-approved agricultural and natural resources program or to re-establish an agricultural and natural resources program in any grade nine (9) through twelve (12) when specific eligibility requirements are met. Districts are ~~only~~ eligible to apply for the grant ~~in the~~ within the first three (3) fiscal years their program is approved or re-established. If a district applies for the grant but does not receive it, the district may reapply the following year(s). However, the district may only receive the grant once and may not apply beyond the three-year window. (~~4-11-15~~)()

a. To start a new program, districts are required to first complete a request for new secondary program of study form for a new agricultural and natural resources program in one (1) of the specified grades. The new agricultural and natural resources program must then be approved by the division prior to application for the grant. Expansions of existing programs, including the addition of new career pathways or additional staff, do not qualify as a new program. (4-11-15)

b. To re-start a program, districts are required to first complete a Request for New Secondary Program of Study form to re-establish an agricultural and natural resources program in any grade nine (9) through twelve (12). The re-established agricultural and natural resources program must then be approved by the division prior to application for the grant. The re-established program must have been inactive for at least two (2) academic years to qualify for the grant. (4-11-15)

02. Application Process. A school district may submit an application for a new or re-established program. Completed applications, which must be authorized by the district superintendent, must be submitted to the division according to the timeline established by the administrator. In the event of a mailed application, the application must be postmarked no later than the timeline specified in the request. (~~4-11-15~~)()

a. Applications must include all required information outlined in the grant application, including specific documents detailing the district's proposed budget and long-term strategy for sustaining the program. (4-11-15)

b. Communication with state officials. Should the division request additional information from a district regarding a grant application, districts must respond to the request within the time period indicated. Failure to respond will result in the cancellation of the application and/or the forfeiture of the grant. (4-11-15)

03. Selection of Grant Recipients. Grants will be awarded annually by the division based on the availability of grant funds and the number of qualified programs. Grants will be awarded to districts based on ranking and priority that considers factors including but not limited to: the strength of the budget proposal, sustainability potential of the proposed program, and the history of prior grant awards. (4-11-15)

04. Start-up Grant Award. Announcement of the grant award will be made following administrator approval through the distribution of a funding authorization letter. The total number of recipients will not exceed four awards annually, and may vary by year in accordance with the availability of funds and the qualifications of the applicant pool. Awards will be in the amount of twenty-five thousand dollars (\$25,000) until available funds are exhausted or all qualified recipients have been awarded the grant. (4-11-15)

a. Grants are awarded on a one-time basis and are not renewable or transferable. If a district is awarded the grant for a new program, the program is ineligible for future awards should the program terminate and then be re-established. (4-11-15)

b. Use of grant funds must be in accordance with division guidelines and must be clearly linked to the agricultural and natural resources program identified on the formal application. If a district fails to spend the entire

award amount, those funds may not be carried forward to the next fiscal year. (4-11-15)

c. Grant funds may be used to improve the agricultural and natural resources program, including but not limited to: (4-11-15)

i. Offset travel and registration fees associated with educational workshops and/or professional training on behalf of the instructor; (4-11-15)

ii. Purchase or repair equipment; (4-11-15)

iii. Purchase educational supplies/curricula; or (4-11-15)

iv. Start-up costs, up to one thousand dollars (\$1,000,) associated with establishing a new chapter of FFA or other relevant student organization. (4-11-15)

d. Grant funds may not be used to: (4-11-15)

i. Cover the costs of salaries and/or benefits, including extended contracts; (4-11-15)

ii. Offset ongoing expenses associated with the FFA organization or other student organizations; or (4-11-15)

iii. Supplant other district funding sources, e.g. routine facility maintenance or improvements. (4-11-15)

201. -- 299. (RESERVED)

300. PAYMENTS.

Payment of grant funds will be made to the district using a reimbursement process once the final award determinations are made. For grants awarded under Section 100, funds will be made to the district on behalf of the instructor. To receive reimbursement for eligible expenses, school districts must submit a reimbursement request no later than July 15 each year for the preceding school year, but may request reimbursement as costs are incurred. No later than June 30 of the fiscal year the grant was received, the district must submit a detailed expenditure report to the Division. Each report is subject to review and verification by the Division and must detail that all expenditures were allowable under the grant and that all funds were spent within the fiscal year. Any unspent grant funds must be returned to the Division. (4-11-15)()

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD
57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD
DOCKET NO. 57-0101-1701
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 18-8314, 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 October 18, 2017.

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

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

IDAPA 57.01.01, “Rules of the Sexual Offender Management Board,” will be modified to eliminate the following documents that are incorporated by reference: “Association for the Treatment of Sexual Abusers Professional Code of Ethics,” 2001 revision, and “Association for the Treatment of Sexual Abusers Practice Guidelines for the Assessment, Treatment and Management of Male Adult Sexual Abusers,” 2014 revision. References to “ATSA” will also be eliminated from administrative rule language. Similarly, references to the Association for the Treatment of Sexual Abusers and “ATSA” will be removed from the SOMB’s Standards and Guidelines for Adult Sexual Offender Management Practices and the Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders which are incorporated by reference into IDAPA 57.

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

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

The SOMB does not anticipate any fiscal impact to the state general fund from the Rule changes resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, formal negotiated rulemaking was not conducted as the change is simple in nature. This rulemaking eliminates references and incorporated by reference documents related to the Association for the Treatment of Sexual Abusers.

However, the agency directly notified the impacted SOMB-certified psychosexual evaluators, sexual offender treatment providers and post-conviction sex offender polygraph examiners soliciting and reviewing feedback on emerging concerns prior to the decision to go forward with this rulemaking.

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 Sexual Offender Management Board is legislatively mandated to establish standards, qualification and certification procedures for post-conviction psychosexual evaluations/evaluators; sexual offender treatment and the providers who offer these services; and post-conviction sexual offender polygraph examiners. Rulemaking authority was granted to the board to carry out these provisions.

The practice standards and certification qualifications established by the agency pursuant to Section 18-8314, Idaho Code, are compiled into documents entitled “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices;” and “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders;” which are both incorporated by reference into this rulemaking to give them the force and effect of law. These documents are not being reprinted in this chapter of rules due to their length and format as well as the cost for republication. They can be found on the agency’s website: <http://somb.idaho.gov>.

Previously incorporated by reference materials – “Association for the Treatment of Sexual Abusers Professional Code of Ethics,” 2001 revision; and “Association for the Treatment of Sexual Abusers Practice Guidelines for the Assessment, Treatment and Management of Male Adult Sexual Abusers,” 2014 are being eliminated in the proposed rulemaking. While the Association for the Treatment of Sexual Abusers remains a highly regarded international organization among the sexual offender management community, trending philosophical changes in methodologies utilized in the treatment and management of both adults and juveniles who have been convicted of committing sexual offenses seem to be trending away from standards compatible with Idaho practices. The SOMB does not view these trends as being beneficial to the safety and security of the citizens of Idaho, the criminal justice system or potential liabilities to the providers who are certified by this board. While certificate holders are not required by the standards and guidelines of the SOMB to be members of ATSA, the SOMB’s standards require certificate holders to adhere to ATSA’s standards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Volle at (208) 658-2002.

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 October 25, 2017.

DATED this 29th day of August, 2017.

Nancy Volle, Program Manager
Sexual Offender Management Board
1299 N. Orchard Street, Ste. 110
Boise, ID 83706
Phone: (208) 658-2002
E-mail: somb@idoc.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 57-0101-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (3-20-14)

~~01. “Association for the Treatment of Sexual Abusers Professional Code of Ethics,” 2001 revision, is herein incorporated by reference and is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005, Website <http://www.atsa.com/>. (3-20-14)~~

~~02. “Association for the Treatment of Sexual Abusers Practice Guidelines for the Assessment, Treatment and Management of Male Adult Sexual Abusers,” 2014 edition, is herein incorporated by reference and is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005, website <http://www.atsa.com/>. (4-11-15)~~

031. “Bylaws and Constitution of the American Association of Police Polygraphists,” effective May, 2010, is herein incorporated by reference and is available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068, website <http://www.policepolygraph.org/>. (3-20-14)

042. “Bylaws of the American Polygraph Association,” effective September 2015, is herein incorporated by reference and is available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website <http://www.polygraph.org/>. (3-24-17)

~~053.~~ “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices,” December 2016~~7~~ revision, is herein incorporated by reference and is available from the Board’s office and on the Board website, <http://somb.idaho.gov/>. ~~(3-24-17)()~~

~~064.~~ “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders,” December 2016~~7~~ revision, is herein incorporated by reference and is available from the Board's office and on the Board's website, <http://somb.idaho.gov/>. ~~(3-24-17)()~~

~~075.~~ The Sexual Offender Management Board's “Required Format for Juvenile Psychosexual Evaluation Reports,” December 2016 revision, is herein incorporated by reference and is available from the Board's office and on the Board's website, <http://somb.idaho.gov/>. (3-24-17)

~~086.~~ The Sexual Offender Management Board’s “Required Format for Adult Psychosexual Evaluation Reports,” December 2016 revision, is herein incorporated by reference and is available from the Board’s office and on the Board’s website, <http://somb.idaho.gov/>. (3-24-17)

(BREAK IN CONTINUITY OF SECTIONS)

011. ABBREVIATIONS.

- ~~01.~~ APA. The American Polygraph Association. (3-24-17)
- ~~02.~~ ~~ATSA. The Association for the Treatment of Sexual Abusers.~~ ~~(3-20-14)~~
- ~~032.~~ DSM. The “Diagnostic and Statistical Manual of Mental Disorders,” published by the American Psychiatric Association. (3-20-14)
- ~~043.~~ IDOC. The Idaho Department of Correction. (3-20-14)
- ~~054.~~ IDJC. The Idaho Department of Juvenile Corrections. (4-11-15)
- ~~065.~~ PCSOT. “Post conviction sexual offender testing” is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post convicted sexual offenders. (3-24-17)
- ~~076.~~ SOCB. The Sexual Offender Classification Board. (3-20-14)
- ~~087.~~ SOMB. The Sexual Offender Management Board. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

300. STANDARDS FOR PROFESSIONAL CONDUCT AND CLIENT RELATIONS.

01. General Considerations for Certified Evaluators and Certified Treatment Providers. Each person who is certified by the Board to conduct or assist with the conduct of psychosexual evaluations or provide sexual offender treatment shall: (3-20-14)

a. Adhere to the ethical principles and codes, and all practice standards and guidelines for the person’s respective discipline and area of professional licensure; (3-20-14)

~~**b.** Adhere to the ATSA treatment philosophy, the ATSA Professional Code of Ethics, and the ATSA Practice Guidelines, as referenced in Section 004 of these rules;~~ ~~(4-11-15)~~

eb. Be knowledgeable of statutes and scientific data relevant to specialized sexual offender evaluation and sexual offender treatment; (3-20-14)

ec. Be familiar with the statutory requirements for assessments and reports for the courts, pursuant to Section 18-8316, Idaho Code; (3-20-14)

ed. Be committed to community protection and safety; (3-20-14)

ee. Provide services in a manner that ensures humane and ethical treatment of clients; (3-20-14)

ef. Conduct testing in accordance with the person's licensing body, qualifications and experience, and in a manner that ensures the integrity of testing data; (3-20-14)

eg. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; and (3-20-14)

eh. Have no sexual relationships with any client. (3-20-14)

02. General Considerations for Certified Post Conviction Sexual Offender Polygraph Examiners.
Each person who is certified by the Board to conduct post conviction sexual offender polygraph examinations shall: (3-20-14)

a. Adhere to the ethical principles and codes, and all practice standards and guidelines for the person's discipline, area of professional practice, or licensure as promulgated by any applicable regulatory board or licensing authority; (3-20-14)

b. Adhere to the standards and guidelines specific to post conviction sexual offender testing as promulgated by the APA; (3-24-17)

c. Adhere to the ethical principles and codes, and all practice standards and guidelines for the administration of polygraph examinations generally, as promulgated by the APA or the American Association of Police Polygraphists, as referenced in Section 004 of these rules; (3-24-17)

~~**d.** Adhere to the current practice standards and guidelines pertaining to post conviction sexual offender polygraphs within the context of sexual offender management as established by the ATSA, as referenced in Section 004 of these rules; (3-24-17)~~

ed. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; (4-11-15)

ee. Have no sexual relationships with any client; (3-24-17)

ef. Take factors such as age, mental capacity and co-occurring mental health concerns into consideration when utilizing polygraphy with juvenile offenders; (4-11-15)

eg. Be committed to community protection and safety; and (3-24-17)

eh. Provide services in a manner that ensures humane and ethical treatment of clients. (3-24-17)

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.06 – RULES GOVERNING PROCEDURES FOR THE OVERSIGHT, IMPLEMENTATION, ENFORCEMENT, AND MODIFICATION OF INDIGENT DEFENSE STANDARDS

DOCKET NO. 61-0106-1701 (NEW CHAPTER)

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 19-850(1)(a)(vi).

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

PUBLIC HEARINGS	
Wednesday, October 11, 2017 4:00 p.m. (MDT) The Grove Hotel The Riverfork Room, 3rd Floor 245 South Capitol Blvd. Boise, ID 83702	Thursday, October 12, 2017 6:00 p.m. (MDT) Canyon County Administration Building 1st Floor Public Meeting Room 111 N. 11th Avenue Caldwell, ID 83605
Tuesday, October 17, 2017 6:00 p.m. (MDT) Residence Inn 635 West Broadway Idaho Falls, ID 83402	Tuesday, October 17, 2017 6:00 p.m. (PDT) Red Lion Hotel Lewiston Port 1 Room 621 21st Street Lewiston, ID 83501
Wednesday, October 18, 2017 6:00 p.m. (MDT) Holiday Inn Express & Suites Scout Mountain Room 200 Via Venitio Pocatello, ID 83201	Wednesday, October 18, 2017 6:00 p.m. (PDT) Best Western Plus Idaho Room 506 W. Appelway Coeur d’Alene, ID 83814
Thursday, October 19, 2017 - 6:00 p.m. (MDT) Hilton Garden Inn I.B. Perrine Room 1741 Harrison Street North Twin Falls, ID 83301	

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 Public Defense Commission has been directed to create procedures for the oversight, implementation, enforcement and modification of indigent defense standards. The PDC intends on focusing on the portion of this rule

that provides for the oversight and enforcement of the standards. The Public Defense Commission must ensure compliance through these two mechanisms so that the representation of indigent persons in Idaho is constitutionally sound.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year 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 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, page 52](#).

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 Kimberly Simmons, Executive Director, at (208) 332-1735 or Kimberly.Simmons@pdc.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 November 3, 2017. Written comments will also be accepted during the scheduled public hearings.

DATED this 1st day of September, 2017.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 61-0106-1701
(New Chapter)**

**IDAPA 61
TITLE 01
CHAPTER 06**

**61.01.06 – RULES GOVERNING PROCEDURES FOR THE OVERSIGHT, IMPLEMENTATION,
ENFORCEMENT, AND MODIFICATION OF INDIGENT DEFENSE STANDARDS**

000. LEGAL AUTHORITY.

Section 19-850(1)(a)(vi), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules regarding procedures for the oversight, implementation, enforcement and modification of indigent defense

standards so that the right to counsel of indigent persons is constitutionally delivered to all indigent persons in Idaho. Additionally, Section 19-850(1)(c), Idaho Code, directs the PDC to review indigent defense providers and defending attorneys to evaluate compliance with indigent defense standards and the terms of state indigent defense grants. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 61, Title 01, Chapter 06, “Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards.” ()

02. Scope. These rules establish the procedures by which the PDC will oversee, implement, enforce and modify indigent defense standards. ()

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. ()

003. ADMINISTRATIVE APPEALS.

The PDC’s determination to create procedures for the oversight, implementation, enforcement, and modification of Indigent Defense Standards is an exercise of its duty to responsibly and prudently implement a system to improve the delivery of trial-level indigent defense services. 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.” ()

004. INCORPORATION BY REFERENCE.

IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions” is incorporated into this Chapter. ()

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESSES – TELEPHONE – INTERNET WEBSITE.

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. The PDC’s official website is: <https://pdc.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007 – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions.” for definitions of the terms and abbreviations used in this Rule. ()

011. – 019. (RESERVED)

020. OVERSIGHT PROGRAM.

The PDC shall oversee compliance with Indigent Defense Standards by Idaho’s counties and defending attorneys. PDC staff shall act as advisors to the PDC, to oversee and monitor the public defense delivery systems provided by the counties to assure compliance with Indigent Defense Standards. ()

021. PARTICIPANTS AND ROLES.

01. The PDC. It is the responsibility of the PDC to oversee compliance with Indigent Defense Standards. The PDC is required to develop and adopt such standards to establish an indigent defense delivery system in Idaho that meets constitutional requirements. Other responsibilities of the PDC include, but are not limited to the

following: ()

- a. Assess county and defending attorney compliance with Indigent Defense Standards; and ()
- b. File compliance report with state. ()

02. PDC Staff. PDC staff shall: ()

- a. Review Indigent Defense Providers, defending attorneys and counties for compliance; ()
- b. Identify and investigate reports of non-compliance; ()
- c. Prepare and assist in the implementation of corrective action plans; ()
- d. Report to the PDC with respect to oversight activities; ()
- e. Review Indigent Defense Grant Applications and prepare recommendations for PDC; ()
- f. Review Annual Reports and prepare recommendations for PDC; ()
- g. At the request of county commissioners or indigent defense providers, review and assist with the creation of county indigent defense budgets; and ()
- h. Prepare recommendations to the PDC based upon review of the above. ()

03. Indigent Defense Providers and Defending Attorneys. Indigent Defense Providers and defending attorneys are subject to the oversight program described herein. It is the responsibility of indigent defense providers and defending attorneys to cooperate and participate in compliance review. See Section 19-862A(1), Idaho Code. Other responsibilities of indigent defense providers and defending attorneys include but are not limited to the following: ()

- a. Participate meaningfully in the PDC review process; ()
- b. Report to the PDC all deficiencies with compliance as soon as reasonably practicable; ()
- c. Report to the PDC all barriers to compliance despite efforts to comply; and ()
- d. Assist PDC staff with the collection of records, documents, and data related to the provision of indigent defense. ()

04. Counties. Counties, through each board of county commissioners, and other county staff necessary for the administration of indigent defense services, including but not limited to elected county clerks, are subject to the oversight program described herein. It is the responsibility of counties to cooperate and participate in compliance review. See Section 19-862A(1), Idaho Code. Other responsibilities of the counties include but are not limited to: ()

- a. Anticipate review and be prepared to enable reviewer to issue a report within thirty (30) days of the review date; ()
- b. Report to the PDC all deficiencies with compliance as soon as reasonably practicable; ()
- c. Report to the PDC all barriers to compliance despite efforts to comply; and ()
- d. Assist PDC staff with the collection of records, documents, and data related to the provision of indigent defense. ()

022. MINIMUM STANDARDS.

The minimum standards for review are contained in IDAPA 61.01.01 through IDAPA 61.01.08 and all documents incorporated by reference. ()

023. OVERSIGHT PROGRAM MANAGEMENT.

At a minimum, the oversight program must determine if indigent defense standards are being met, determine if deficiencies are being identified in a timely manner, and determine if deficiencies are being cured in a timely manner or by a schedule implemented by the PDC. ()

01. Applicability of Oversight Program. The PDC shall monitor the provision of indigent defense services in Idaho. Pursuant to Section 19-850(1)(a), Idaho Code, the PDC has the duty and authority to monitor the following entities: counties, indigent defense providers and defending attorneys, and other stakeholders, as allowed by law. Such monitoring shall include, but is not limited to a review of indigent defense contracts, Compliance Proposals, indigent defense budgets, annual reports of defending attorneys, court proceedings, court and defending attorney meeting facilities, defending attorney compliance with membership in the Idaho State Bar and “Standards for Defending Attorneys,” current edition, to ensure compliance with Indigent Defense Standards. ()

a. The PDC delegates such duty and authority to PDC staff, however, the ultimate assessment of compliance is the responsibility of the PDC. ()

02. Ongoing Coordination with Counties, Indigent Defense Providers, and Defending Attorneys. PDC staff will conduct meetings and correspond with counties, indigent defense providers, defending attorneys and other indigent defense stakeholders as needed. PDC staff will conduct formal status meetings with counties once each quarter (every three months) and defending attorneys once a year (every twelve months). More frequent meetings may be conducted if needed. ()

a. If a defending attorney is an employee of an institutional public defender office, a formal status meeting with the chief public defender of that office satisfies the formal status meeting requirement as to that defending attorney. ()

b. Meetings and correspondence are intended to ensure ongoing communications between the PDC and Stakeholders to ensure the best possible Indigent Defense Delivery System is in place to meet constitutional requirements. ()

03. PDC Staff Reporting to PDC. PDC staff must make regular reports to the PDC. All reports must be submitted electronically using a reporting system specified by the executive director, as approved by the PDC. The objective of these reporting requirements is to provide the PDC with information regarding the provision of the state of Idaho’s Indigent Defense Delivery Systems. ()

a. Periodic Reviews. ()

i. Initial Review. PDC staff shall conduct an initial review of each Indigent Defense Delivery System. Subsequent initial reviews shall occur upon a policy change that modifies the method of delivery in a county. An initial review should be submitted to the PDC within ninety (90) days of the implementation of this rule or when a change in delivery method is instituted, and must include: ()

- (1) A description of the review process; ()
- (2) A list of documents reviewed; ()
- (3) Persons interviewed, observations made, and facilities inspected; ()
- (4) Completed compliance checklists; ()
- (5) Findings of Non-compliance if any; and ()
- (6) Findings of Compliance with Recommendations, if any. ()

ii. Other periodic reviews. If significant compliance issues arise within a county or upon request of the PDC, PDC staff shall conduct a review. A periodic review report should be submitted to the PDC within thirty (30) days of notice of the deficiency or of request and must include: ()

- (1) Date the PDC became aware of the deficiency, or date request was made by the PDC for the review; ()
- (2) Parties contacted during the review; ()
- (3) Reason the review was conducted; ()
- (4) Steps taken to resolve the issue; ()
- (5) The Corrective Action Plan, if one was created; ()
- (6) Date of next review or follow-up. ()

b. Annual Reviews. Before April 15 of each year, PDC staff must submit to the PDC a report for each county that must include: ()

i. A summary of oversight activities for the immediately preceding compliance period, including a description of the provision of indigent defense services; ()

ii. A summary of compliance successes, deficiencies and issues; ()

iii. Review of implementation of prior year's Compliance Proposal; and ()

iv. Any changes to the provision of indigent defense services during the immediately preceding compliance period. ()

c. Ongoing Consultation with the PDC. PDC staff shall consult with the PDC regarding appropriate handling of issues within counties that have remained unresolved after the review process or with counties which have not complied with or have disregarded Indigent Defense Standards. At a minimum, PDC staff shall notify the PDC within ten (10) business days of compliance issues that affect the provision of indigent defense services. ()

i. PDC staff must ensure that an effective process is in place to identify and record compliance issues. PDC staff should assess the implementation of this identification in an ongoing manner and during oversight review. The executive director will informally assess this identification in the ongoing review of reports provided to the PDC. ()

04. PDC Reporting to Executive and Legislative Branches. PDC provides annual reports to the governor of the state of Idaho and the Idaho Legislature. These presentations include updates on the provision of indigent defense delivery in Idaho and makes recommendations for legislation on indigent defense system issues. See Section 19-850(1)(b), Idaho Code. ()

05. PDC Reporting to Counties. The PDC will provide ongoing feedback to counties through PDC staff regarding information collected during reviews, compliance issues or concerns discussed by the PDC, or other relevant items related to county provision of indigent defense services. All reports created by PDC staff and submitted as the result of a review shall also be issued to an authorized official of the county that is the subject of the report. ()

06. PDC Reporting to Indigent Defense Providers and Defending Attorneys. The PDC will provide ongoing feedback to indigent defense providers and defending attorneys individually or through communication via the public defense roster. Such feedback could include, but is not limited to, information collected during reviews, compliance issues or concerns discussed by the PDC, or other relevant items related to the provision of indigent defense services. All reports created by PDC staff and submitted as the result of a review shall also be issued to the subject(s) of the report. ()

07. Indigent Defense Providers and Defending Attorneys Reporting to PDC Staff. On an ongoing basis, indigent defense providers and defending attorneys shall report to PDC staff any compliance issues or observed deficiencies that relate to Indigent Defense Standards. PDC staff shall review such reports and may forward such reports to the PDC. The ultimate assessment of compliance is the responsibility of the PDC. Additionally, indigent defense providers and defending attorneys shall follow requirements of Section 025: Corrective Actions and Compliance Verification. ()

08. Counties Reporting to PDC Staff. On an ongoing basis, counties shall report to PDC staff any compliance issues or observed deficiencies that relate to indigent defense standards. PDC staff shall review such reports and may forward such reports to the PDC. The ultimate assessment of compliance is the responsibility of the PDC. Additionally, counties shall follow requirements of Section 025: Corrective Actions and Compliance Verification. ()

09. Other Stakeholders Reporting to PDC Staff. The PDC and PDC staff will seek and accept reports of compliance issues or observed deficiencies from stakeholders, though the PDC has no authority to mandate such reporting. Stakeholders may report whether or not a county, indigent defense provider or defending attorney are in compliance with Indigent Defense Standards. PDC staff shall review such reports and may pass such reports on to the PDC. The ultimate assessment of compliance is the responsibility of the PDC. ()

024. PROCEDURES FOR OVERSIGHT PROGRAM.

The procedure outlined below applies to all oversight activities performed by PDC staff. On-site review will generally be structured as follows: ()

01. Time and Place. PDC staff will work with stakeholders to identify a convenient period of time for on-site oversight activities. ()

02. Notification. PDC staff will notify the subject of a review at least thirty (30) days before the review is to take place. ()

03. Extension. PDC staff may grant an extension for the conduct of a review, provided the PDC is notified by the party being reviewed within fifteen (15) days of the original notification date of the compliance review. ()

04. Items Subject to Review. PDC staff will request and review the most recent Compliance Proposals, Indigent Defense Grant applications, indigent defense contracts, indigent defense budgets, annual reports, and other items relevant to the provision of indigent defense and compliance with indigent defense standards. ()

05. Items Subject to Observation. PDC staff will conduct field observation of courtroom activities and facilities available to and used by indigent defense providers, defending attorneys, and their staff in the course of the representation of indigent defendants. In this section, “staff” refers to non-attorneys employed or contracted by an indigent defense provider or defending attorney as such employment or contract relates to the provision of indigent defense services. ()

06. Persons Subject to Interview. PDC staff will interview county officials, indigent defense providers, defending attorneys and other stakeholders who are involved in the administration of Indigent Defense Services or could be in positions to observe compliance with Indigent Defense Standards. ()

07. Timing of Report. PDC staff will issue a report within thirty (30) days of completion of oversight review or by April 15 of each year if an annual review. ()

025. CORRECTIVE ACTIONS AND COMPLIANCE VERIFICATION.

Corrective Action Plans and Compliance Verification forms are to address how Indigent Defense Standards are to be met and how any deficiencies will be cured. ()

01. Corrective Action Plans. Upon report of non-compliance by PDC staff or PDC designation of non-compliance, a county or defending attorney shall describe a proposed corrective action to be taken. The plan

shall be submitted to the PDC electronically using a reporting system specified by the executive director, as approved by the PDC. ()

a. County Response. Within sixty (60) days of the date of a report issued by PDC staff, the county shall respond in writing to each finding of non-compliance or finding of compliance with recommendation. The county shall describe a corrective action to be taken by the county. The county may request from the PDC an extension of up to sixty (60) days in which to describe a corrective action and submit it to the PDC. ()

b. Indigent Defense Provider and Defending Attorney Response. Within sixty (60) days of the date of a report issued by a PDC Staff member, the subject indigent defense provider or defending attorney shall respond in writing to each finding of non-compliance or finding of compliance with recommendation. The attorney shall describe a corrective action to be taken. The attorney may request from the PDC an extension of up to sixty (60) days in which to describe a corrective action and submit it to the PDC. ()

c. Follow-up Reviews. PDC staff shall conduct follow-up reviews of counties, indigent defense providers and defending attorneys when a report included findings of non-compliance. The follow-up review shall occur within a reasonable time, but not more than sixty (60) days following receipt of a response to the report. Such reviews shall occur monthly until complete implementation of the corrective action has occurred. PDC staff shall provide monthly updates to the PDC regarding the subject of the report. Monthly updates by PDC staff to the PDC must include all issues that have not yet been corrected. ()

d. Annual Follow-up Review. If implementation of a Corrective Action Plan will take longer than three hundred sixty-five (365) days, PDC staff shall provide a formal yearly report regarding the status of the corrective actions to the PDC and the subject of the report. Within thirty (30) days of the date of the annual follow-up review, the subject of the report shall respond in writing to each continued finding of non-compliance and describe the proposed corrective action to be taken. ()

02. Compliance Verification. If in any given fiscal year, a county does not apply for an Indigent Defense Grant, the county shall submit a compliance verification form. See IDAPA 61.01.04 for further guidance. ()

026. ENFORCEMENT.

Pursuant to Section 19-862A(1), Idaho Code, all counties, indigent defense providers and defending attorneys shall cooperate and participate with the PDC in the review of their indigent defense services. ()

01. Failure to Submit to a Review. If a county, indigent defense provider or defending attorney fails to cooperate with a review by PDC staff, the following actions will be taken: ()

a. Review by the PDC executive director as described in Subsection 023.03.a. and Section 024 of this chapter. ()

b. Continued failure to submit to a review will result in a certified letter designating a deficiency and the PDC may take action under Section 19-862A, Idaho Code, as allowed by law. ()

02. Failure to Respond to Report. If a county, indigent defense provider, or defending attorney fails to respond to a report within the required time, then a certified letter will be sent to the subject of the report designating a deficiency. Such deficiency will be deemed a finding of non-compliance and the PDC may take action under Section 19-862A, Idaho Code, as allowed by law. ()

03. County Non-compliance. If a county fails to take steps to correct a Finding of Non-compliance, the PDC may act pursuant to Section 19-862A, Idaho Code, as allowed by law. ()

04. Defending Attorney Non-compliance. If a defending attorney fails to take steps to correct a Finding of Non-compliance, the following actions will be taken: ()

a. The county or counties for which the defending attorney provides indigent defense services will be notified via certified letter as to the non-compliance. ()

b. The defending attorney will be removed from the public defense roster. The defending attorney may re-apply for inclusion on the public defense roster after the Finding of Non-Compliance is corrected. The defending attorney may still provide indigent defense services during this time. ()

c. If the defending attorney continues to be deemed non-compliant after a period of six (6) months, the defending attorney will be prohibited from accepting any additional indigent defense cases in any county in which said attorney has been deemed non-compliant. Such prohibition shall remain in place until the PDC makes a finding that the defending attorney is compliant. ()

05. Designation of a Deficiency. The designation of a deficiency is a formal designation made by the PDC indicating a county or defending attorney's unwillingness to comply with these rules as required by law. The PDC will maintain a list of designated deficiencies that will be made available upon request. When a deficiency exists for a period of more than six (6) months or persists through the IDG application process without a compliance proposal that sufficiently addresses such deficiency, the party responsible for the deficiency will be determined to have willfully and materially failed to comply. The PDC will take action under Section 19-862A, Idaho Code. ()

06. Final Determination of Non-compliance. The PDC is ultimately responsible for the determination that a county or defending attorney has willfully and materially failed to comply with Indigent Defense Standards. Pursuant to Section 19-862A, Idaho Code, the PDC may upon review of PDC staff reports, stakeholder reports, Indigent Defense Grant applications, Compliance Verification reports, information received relevant to the provision of indigent defense services, or observation by PDC staff or the PDC, deem a county or defending attorney has willfully and materially failed to comply. Upon such determination, the PDC will take action under Section 19-862A, Idaho Code, as allowed by law. ()

027 – 999. (RESERVED)

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.07 – RULES GOVERNING STANDARDS FOR DEFENDING ATTORNEYS THAT UTILIZE IDAHO’S PRINCIPLES OF AN INDIGENT DEFENSE DELIVERY SYSTEM

DOCKET NO. 61-0107-1701

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 19-850(1)(a)(vii).

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

PUBLIC HEARINGS	
Wednesday, October 11, 2017 4:00 p.m. (MDT) The Grove Hotel The Riverfork Room, 3rd Floor 245 South Capitol Blvd. Boise, ID 83702	Thursday, October 12, 2017 6:00 p.m. (MDT) Canyon County Administration Building 1st Floor Public Meeting Room 111 N. 11th Avenue Caldwell, ID 83605
Tuesday, October 17, 2017 6:00 p.m. (MDT) Residence Inn 635 West Broadway Idaho Falls, ID 83402	Tuesday, October 17, 2017 6:00 p.m. (PDT) Red Lion Hotel Lewiston Port 1 Room 621 21st Street Lewiston, ID 83501
Wednesday, October 18, 2017 6:00 p.m. (MDT) Holiday Inn Express & Suites Scout Mountain Room 200 Via Venitio Pocatello, ID 83201	Wednesday, October 18, 2017 6:00 p.m. (PDT) Best Western Plus Idaho Room 506 W. Appelway Coeur d’Alene, ID 83814
Thursday, October 19, 2017 - 6:00 p.m. (MDT) Hilton Garden Inn I.B. Perrine Room 1741 Harrison Street North Twin Falls, ID 83301	

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 amendment to this rule will create standards for defending attorneys who represent indigent defendants in capital cases and standards related to investigation and the use of experts. Standards related to capital counsel will be derived from Idaho’s Principles of an Indigent Defense Delivery System (IPIDDS) principle number 5, Idaho Code

19-850(1)(a)(vii)(5), and take into account ABA's Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, revised edition, February 2003. Defending attorneys will be required to conform to such performance standards if handling capital cases. Standards related to investigation and the use of experts are supported by IPIDDS as a whole, Idaho Code 19-850(1)(a). All defending attorneys will be required to conform to investigation standards.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year 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 5, 2017 Idaho Administrative Bulletin, [Vol. 17-4, page 53](#).

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 incorporated documents (incorporated into Chapter 61.01.08, a rule in negotiation scheduled for publication on September 6, 2017) are the primary reference for defending attorneys and other stakeholders regarding the standards for defending attorneys established by the PDC based upon nationally recognized guidelines. A separate document is necessary for ease of reference, analysis and accessibility. Further, this document will be amended to include additional standards as created and established, increasing the length substantially. The republication of the text would be unduly cumbersome and expensive.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kimberly Simmons, Executive Director, at (208) 332-1735 or Kimberly.Simmons@pdc.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 November 3, 2017. Written comments will also be accepted during the scheduled public hearings.

DATED this 1st day of September, 2017.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 61-0107-1701
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

~~The following documents are incorporated by reference into these rules:~~ [IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions"](#) is incorporated into this Chapter. ~~(5-1-17)()~~

~~01. Idaho's Principles of an Indigent Defense Delivery System. "Idaho's Principles of an Indigent Defense Delivery System," edition 2016, is herein incorporated by reference and is available from the PDC's office and on the PDC website: <https://pdc.idaho.gov/wp-content/uploads/sites/11/2017/01/Idahos-Principles-of-PD-System.pdf>. (5-1-17)~~

~~02. Standards For Defending Attorneys. "Standards For Defending Attorneys," edition 2016, is herein incorporated by reference and is available from the PDC's office and on the PDC website: <https://pdc.idaho.gov/wp-content/uploads/sites/11/2017/01/Standards-for-Defending-Attorneys-FINAL.pdf>. (5-1-17)~~

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

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 operation. The PDC's telephone number is (208) 332-1735 and the facsimile number is (208) 364-6147. The PDC's official website is: <https://pdc.idaho.gov>. (5-1-17)()

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (5-1-17)

007 -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions" for definitions of the terms and abbreviations used in this Rule. ()

~~01. Case. (5-1-17)~~

~~a. A case consists of all related charges from a single incident, transaction or occurrence filed within a single case number, handled by one (1) defending attorney. A probation violation or motion for contempt is counted as a separate case. (5-1-17)~~

~~b. A felony case is counted as follows: (5-1-17)~~

~~i. A case filed as a felony is counted as one (1) felony, whether it is dismissed, remanded, pled, or tried to completion. (5-1-17)~~

~~ii. A case filed as a felony that is remanded to magistrate court is counted once as a felony assuming vertical representation occurs. (5-1-17)~~

~~iii. A case filed as a misdemeanor that is subsequently amended to a felony is counted once as a felony, assuming vertical representation occurs. (5-1-17)~~

~~e. Post judgment motions, such as those requesting early termination of probation or a reduction in sentence pursuant to Idaho Criminal Rule 35, are not counted as a case. (5-1-17)~~

~~d. If two (2) or more cases are consolidated prior to significant representation being undertaken on each individual case, then the consolidated case is counted as one case. If significant representation has occurred prior to consolidation, the cases in which such representation has occurred shall be counted as separate cases. (5-1-17)~~

~~02. Caseload. The number of cases, as defined in this chapter, assigned to a defending attorney in a fiscal year. (5-1-17)~~

~~03. 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. (5-1-17)~~

~~04. **Established Standards.** The "Standards For Defending Attorneys" as referenced in Section 004 of these rules and established pursuant to Section 19-850(1)(a), Idaho Code. (5-1-17)~~

~~05. **Fiscal Year.** As referred to in this chapter, fiscal year refers to a county fiscal year beginning on October 1 and ending on September 30 of the following calendar year. (5-1-17)~~

~~06. **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 actions 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. (5-1-17)~~

~~07. **Workload.** The term workload recognizes that a caseload generally consists of a mix of case types that require differing amounts of time and resources. As used in this section, workload takes that fact into consideration. (5-1-17)~~

~~011. **ABBREVIATIONS:**~~

~~01. **PDC.** The State Public Defense Commission. (5-1-17)~~

~~02. **IPIDDS.** Idaho's Principles of an Indigent Defense Delivery System. (5-1-17)~~

~~0121. – 019. (RESERVED)~~

020. PUBLIC DEFENSE ROSTERS.

01. Public Defense 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 indigent defense providers, defending attorneys and non-attorney staff under their regular employ or supervision who are compliant with current Indigent Defense Standards. (5-1-17)()

a. Maintenance of Public Defense Roster. The public defense 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 November of each year or whenever there is a change requiring an update. (5-1-17)()

b. Public Defense Roster Contents. The public defense roster will include the name of each compliant defending attorney or non-attorney staff, their Idaho State Bar Number, and professional contact information, including email address, physical address, and telephone number. (5-1-17)()

c. Availability of Public Defense Roster. The roster ~~will be made~~ is available from the PDC office upon request. (5-1-17)()

02. Application for Public Defense 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, or who has become compliant after a period of non-compliance with Indigent Defense Standards, may apply to the PDC for inclusion on the Public Defense Roster. (5-1-17)()

~~03a.~~ **a.** Approval. Inclusion on the Public Defense Roster must be approved by the Executive Director. (5-1-17)

03. Membership Benefits. Membership on the public defense roster ensures access to PDC trainings and scholarships as outlined in IDAPA 61.01.01. ()

04. Capital Counsel Roster Membership. The PDC will create and maintain a roster of all qualified capital defending attorneys. Inclusion on the capital counsel roster requires compliance with Standards for Defending Attorneys and current Indigent Defense Standards. ()

a. Maintenance of Capital Counsel Roster. The capital counsel roster will be updated in November of each year, but may be updated more frequently in order to accurately reflect changes made throughout the year. ()

b. Capital Counsel Roster Contents. The capital counsel roster will include the name of each qualified capital counsel who meets the Standards for Defending Attorneys: Capital Counsel Qualifications and Roster, their Idaho State Bar number and professional contact information including email address, physical address, and telephone number. ()

05. Application for Capital Counsel Roster Inclusion. Any defending attorney who represents indigent defendants at public expense in defense of a capital crime shall apply for inclusion on the capital counsel roster. ()

a. Approval. The PDC must approve inclusion on the capital counsel roster. ()

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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 proposed rule public hearing request deadline is October 18, 2017, unless otherwise posted.

The proposed rule written comment submission deadline is October 25, 2017, unless otherwise posted.

(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.

*(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 – DEPARTMENT OF AGRICULTURE

PO Box 790 State St., Boise, ID 83701

02-0414-1702, Rules Governing Dairy Byproduct. Incorporates by reference the Phosphorus Index to ensure a more accurate and reliable standard for measuring soil phosphorus.

IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

PO Box 83720, Boise, ID 83720-0285

05-0102-1701, Rules and Standards for Secure Juvenile Detention Centers. Clarifies definitions; updates procedures; reorganizes and updates several sections; adds law enforcement officers to any list of allowed confidential visitors.

IDAPA 08 – STATE BOARD OF EDUCATION AND DEPARTMENT OF EDUCATION

PO Box 83720, Boise, ID 83720-0037

08-0111-1701, Registration of Post-Secondary Educational Institutions and Proprietary Schools. Clarifies that the Board does not review courses or courses of study and that individuals providing training for a profession regulated by another state agency or Board must attest that the courses meet the licensing or certification requirements of the regulating agency or Board; specifies that appeal requests must be in writing.

08-0113-1701, Rules Governing the Opportunity Scholarship Program. (Temp & Prop) Updates the SAT score to realign the indicator with the ACT score to allow for a more equitable distribution of scholarship awards; clarifies the verification of a student's expected family contribution; updates college entrance exam requirements scores used to determine academic eligibility for scholarship applicants with a GED score and no high school grade point average.

08.02.02 – Rules Governing Uniformity

08-0202-1701, Updates the Idaho Standards for the Initial Certification of Professional School Personnel; the certificates and endorsements reviewed and amended include English language endorsements; adds 3 new Pupil Personnel Services endorsements; renewal requirements include math in-service program; addresses reinstatement of expired certificate; amends background checks provisions; updates definitions.

08-0202-1702, Updates the Standards for Idaho School Buses and Operations that are incorporated by reference.

08-0202-1703, Update reference to the Northwest Accreditation Commission that part of AdvancEd; removes a reference to private and parochial schools; adds a reference to Residential Schools certified by the Board.

08-0202-1705, (Temp & Prop) Redefines "institutional recommendation" to differentiate usage; makes "professional learning plan" consistent terminology; amends educator evaluation requirements.

08-0202-1707, Authorizes reimbursement of allowable transportation costs for the purposes of transporting students

as part of structured college or university visits.

08-0202-1708, Provides for 3 levels of occupational specialist certificates and the requirement for each.

08.02.03 – Rules Governing Thoroughness

08-0203-1703, Adds the Idaho Content Standards Core Content Connectors to the Extended Idaho Content Standards that are incorporated by reference.

08-0203-1704, Adopts the August 2017 amendments to the Idaho Special Education Manual that is incorporated by reference.

08-0203-1705, Adopts most recent revisions to the Idaho Content Standards for Science, Driver Education, and Information and Communication Technology.

08-0203-1707, Defines the term “diploma” as it relates to graduation from high school and clarifies the school districts may determine the format of the diploma they issue and gives school districts discretion on graduation requirements used for students who previously attended.

08-0203-1709, Incorporates by reference new content standards for secondary students that address college and career readiness; adds flexibility to the senior project graduation requirements to allow activities specific to college and career preparation.

08-0203-1710, Would put career technical content standards on par with academic standards, including agriculture and natural resources, business and marketing, engineering and technology, health sciences, and skilled and technical sciences; updates the previously approved Early Childhood Education Standards.

08-0203-1712, Amends the data elements collected as part of the statewide longitudinal data system to include grade point average.

08-0204-1701, Rules Governing Public Charter Schools. (Temp & Prop) Creates a single application process that applies to all charter school petitioners, removes obsolete and duplicate provisions specified in Idaho Code.

08-0301-0701, Rules of the Public Charter School Commission. (Temp & Prop) Removes petition submission provision from rule and makes technical corrections.

08-0401-0701, Rules of the Idaho Digital Learning Academy. Aligns accreditation requirement language with terminology used elsewhere in Idaho Code and rule; updates provisions related to student work and ethical conduct.

08-0501-1701, Rules Governing Seed and Plant Certification. Amends the Idaho Grain Certification Standards “Land Requirements” and the Potato Certification Standards.

IDAPA 12 – DEPARTMENT OF FINANCE

PO Box 83720, Boise, ID 83720-0031

12-0110-1701, Rules Pursuant to the Idaho Residential Mortgage Practices Act. Updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X).

IDAPA 13 – DEPARTMENT OF FISH AND GAME

P.O. Box 25, Boise, ID 83707

13.01.04 - Rules Governing Licensing.

13-0104-1701, Puts certain use limitations on special big game hunt tags; creates an application and draw process when eligible applications exceed the number of tags; designates 1 disabled veteran special big game tag to the Idaho Division of Veterans Services to sponsor a resident applicant.

13-0104-1702, Includes all of Controlled Hunt Area 11 for the bighorn sheep auction and lottery tags.

13-0104-1703, Creates an outfitter allocation of big game tags for an unlimited controlled hunt when a nonresident big game tag limitation is established.

13-0106-1701, Rules Governing Classification and Protection of Wildlife. Reclassifies Red Squirrel from a Protected Nongame Species to an Upland Game Animal to allow a harvest season to be set.

13.01.08 – Rules Governing the Taking of Big Game Animals in the State of Idaho

13-0108-1704, Allows the Commission the flexibility to proportionally limit the number of non-outfitted, nonresident big game tags allocated in an unlimited controlled hunt.

13-0108-1705, (Temp & Prop) Rescinds requirement to pay the tag fee at the time of application for a moose, bighorn sheep, or mountain goat controlled hunt tag; creates a purchase deadline for first draw tags and a second draw process for unclaimed and leftover tags.

13-0108-1706, Deletes reference to the Supertag drawing for hunters complying with Mandatory Report requirements; makes changes to the mandatory hunter orientation process for controlled archery-only hunts that require hunter orientation; removes duplicate language regarding Mandatory Reports and update the rule to reflect current reporting procedures; deletes the mandatory requirement that successful wolf hunters must report wolf harvest with a telephone report.

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

16-0202-1701, *Rules of the Idaho Emergency Medical Services (EMS) Physician Commission*. Updates the standards manual incorporated by reference to the latest version.

16.03.01 – Eligibility for Health Care Assistance for Families and Children

***16-0301-1701**, (*PH) Creates the Youth Empowerment Services (YES) Medicaid program for youth diagnosed with Severe Emotional Disturbance (SED) and establishes eligibility criteria and provided services.

16-0301-1702, Clarifies certain areas of eligibility for specialized populations.

16-0305-1701, *Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)*. Clarifies that only the AABD population receiving SSI are eligible for the Cash Assistance program; asset transfers and annuities are being aligned with federal regulations and guidance; increases the Personal Needs Allowance and Personal Needs Supplement amount for individuals living in a nursing home facilities; amends the Basic Needs Allowance calculation explanation for RALFs and CFHs.

16-0308-1701, *Rules Governing the Temporary Assistance for Families in Idaho (TAFI) Program*. A child's Supplemental Security Income (SSI) is excluded when their families apply for and receive TAFI benefits; redefines "dependent child" as a child under the age of 18.

16.03.09 – Medicaid Basic Plan Benefits

***16-0309-1702**, (*PH) Allows Department flexibility to adjust requirements for authorizations and coverage to ensure that access to mental health services is consistent with the requirements in Federal Code.

***16-0309-1703**, (*PH) Moves early intervention service requirements to another chapter and updates provisions to support program eligibility, service coverage, limitations, provider and reimbursement services.

***16-0309-1704**, (*PH) Implements a new assessment tool to replace the SIB-R assessment tool.

16.03.10 – Medicaid Enhanced Plan Benefits

***16-0310-1702**, (*PH) Allows Department flexibility to adjust requirements for authorizations and coverage to ensure that access to mental health services is consistent with the requirements in Federal Code.

***16-0310-1703**, (*PH) Moves early intervention service requirements to another chapter and updates provisions to support program eligibility, service coverage, limitations, provider and reimbursement services.

***16-0310-1706**, (*PH) Creates the Youth Empowerment Services (YES) Medicaid program for youth diagnosed with Severe Emotional Disturbance (SED) and establishes eligibility criteria and provided services.

***16-0310-1707**, (*PH) Implements a new assessment tool to replace the SIB-R assessment tool.

16-0318-1701, *Medicaid Cost-Sharing*. As part of the cost-sharing requirements, a monthly premium is being charged to YES participants whose family income is above Title XIX income limits.

16-0507-1701, *The Investigation and Enforcement of Fraud, Abuse, and Misconduct*. Amends percentage of total ownership interest a person or entity may have in an entity; per federal regulation, allows Department to suspend payment without first notifying a Medicaid provider under certain circumstances.

16-0612-1701, Rules Governing the Idaho Child Care Program (ICCP). Implements new health and safety requirements for child care providers around safe sleep for infants; streamlines and clarifies eligibility determination processes for determining eligibility, and updating terms and references needed to meet federal and state requirements.

16-0737-1701, Children's Mental Health Services. Adds grievances and expedited hearings to appeals process for YES related services; removes reimbursement amounts for foster care and references IDAPA 16.06.01, "Child and Family Services," that provide payments to alternate care providers.

**IDAPA 22 – IDAHO STATE BOARD OF MEDICINE
1755 Westgate Drive, Suite 140, Boise, Idaho 83704**

***22-0113-1701, Rules for the Licensure of Dietitians.** (*PH) Updates Dietitians' scope of practice, definitions, and organizational titles, and add the option for licensure by endorsement.

**IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
PO Box 83720, Boise, ID 83720-0063**

24-0101-1701, Rules of the Board of Architectural Examiners. Reduces the annual license renewal and endorsement license fees; establishes a temporary license fee.

24-0301-1701, Rules of the State Board of Chiropractic Physicians. Establishes fees for clinical nutrition certification and practice, instructions for certification application, recertification, cancellation and reissuance, standards of practice, rules for obtaining and administering nutrition prescription drug products, and a clinical nutrition formulary.

24-0601-1701, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants. Reduces initial licensure fee and active and inactive license renewal fees.

24-0701-1701, Rules of the Idaho State Board of Landscape Architects. Reduces application fee, examination fee, and original and annual license fees.

24-0801-1701, Rules of the State Board of Morticians. Establishes terms, procedures, and fees necessary to maintain an inactive license for morticians and funeral directors.

24-1201-1701, Rules of the Idaho State Board of Psychologist Examiners. Ensures temporary licensees hold a Board-issued certification of prescriptive authority before issuing a prescription; shortens the length of face-to-face supervision time required for category III service extenders; refines definition of telepsychology; clarifies the informed consent provisions.

24-1301-1701, Rules Governing the Physical Therapy Licensure Board. Establishes the number of hours of continuing education (CE) required for reinstatement of a physical therapy license.

24-1801-1701, Rules of the Real Estate Appraiser Board. Allows the Board to collect and pass-through fees to the federal government for appraisal management companies; updates the incorporation by reference of the "Uniform Standards of Professional Appraisal Practice (USPAP)" to the 2018-2019 edition.

24.23.01 - Rules of the Speech, Hearing and Communication Services Licensure Board

24-2301-1701, Clarifies that the practice of audiology does not include the operation of automated newborn hearing screening machines; increases flexibility for licensees in completing continuing education (CE) by moving from a one-year to a three-year CE cycle.

24-2301-1702, Implements the provisions of the Speech and Hearing Services Practices Act by including sign language interpreting to rule; adds definitions, application and licensure requirements and qualifications and adds fees for licensure; provides for out-of-state licenses, examinations, certifications and provisional permits; adds a code of ethics.

24-2401-1701, Rules of the Genetic Counselors Licensing Board. Reduces the application, original license, annual renewal license, provisional license, and license by endorsement fees.

24-2501-1701, Rules of the Idaho Driving Businesses Licensure Board. Reduces the initial application processing fee, original instructor license and renewal fees, instructor apprentice permit fee. And original business license and renewal fees.

**IDAPA 27 – IDAHO BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067**

27-0101-1701, Rules of the Idaho State Board of Pharmacy. Repeal of chapter. (Chapter is being rewritten into multiple new chapters.)

27-0101-1702, Rules of Procedure. Establishes general provisions for the Board to be used in all Board rule chapters; outlines criteria for obtaining a waiver or variance; authorizes the Board to inspect and investigate; adds the following definitions and abbreviations: ‘ACCME,’ ‘CLIA-Waived Test,’ ‘Clinical Guidelines,’ ‘CPE Monitor,’ and ‘Student Technician’; and address acts that constitute unprofessional conduct and includes provisions related to ‘Standard of Care’ and ‘Unnecessary Services or Products.’

27-0102-1701, Rules Governing Licensure and Registration. Establishes requirements for licensure and registration for individuals and facilities and includes general requirements, board fees, fee schedule, pharmacist licensure and registration, pharmacist intern registration, technician registration, practitioner controlled substance registration, and drug outlet licensure and registration; eliminates several licensure and registration categories; consolidates pharmacist and distributor controlled substance registration into the main licenses for each; changes annual renewal deadlines for individuals and facilities; streamlines continuing education requirements; externs and interns are now “pharmacist interns”; caps “technician-in-training period to 2 years; allows for a temporary license for drug outlets; floor plans must no longer be submitted and approved prior to remodel; streamlines process for permanently closing a pharmacy.

27-0103-1701, Rules Governing Pharmacy Practice. Regulates the practice of pharmacy and addresses the following: professional practice standards, drug outlet practice standards, filling and dispensing prescription drugs, recordkeeping and reporting requirements, and prescription drug monitoring program requirements; additionally, removes specific requirements related to fixtures, books, equipment, or staffing patterns that drug outlets must have; addresses issue of public safety by broadening offsite pharmacy service rules; clarifies which drug outlets must have a person-in-charge; removes certain technology standards; emergency refill authorizations for non-controlled substances are specified; and removes requirement that all employment changes must be reported by the PIC.

27-0104-1701, Rules Governing Pharmacist Prescriptive Authority. Specifies the products pharmacists may prescribe. This chapter implements House Bill 191, which passed in the 2017 Idaho Legislature. House Bill 191 amended Section 54-1704, Idaho Code, and provided the Board of Pharmacy with rulemaking authority to designate drugs, drug categories, and devices that pharmacists may prescribe, provided certain conditions are met. In addition, existing rules related to collaborative pharmacy practice and statewide protocol agreements are organized into this chapter.

27-0105-1701, Rules Governing Drug Compounding. Establishes rules related to drug compounding, sterile product preparation, hazardous drug preparation, outsourcing facilities, and labeling of distributed compounded drug products.

27-0106-1701, Rules Governing DME, Manufacturing, and Distribution. Regulates durable medical equipment (DME), manufacturing, and distribution; removes the transaction restriction on non-prescription drugs, which coincides with the removal of registration of non-pharmacy retail outlets; and amend the restriction on delivering drugs only to “the premises listed on the authorized receiving person’s license or registration” to “the registered address” to reflect recent changes in what is on a state license and registration.

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

PO Box 83720, Boise, ID 83720-0074

31-1101-1701, Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission. Updates the incorporation by reference of the Federal Natural Gas Safety Regulations to the 2017 version.

IDAPA 35 – IDAHO STATE TAX COMMISSION**PO Box 36, Boise, ID 83722-0410****35.01.03 – Property Tax Administrative Rules.**

35-0103-1701, Defines “abstract” as a document summarizing taxable (net taxable value) and market value for assessment purposes (full market value) by secondary categories. Also, outlines the signature requirements. Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%. Address levy setting when there is refinancing of bonded debt.

35-0103-1704, Addresses the use of aerial photographs and other digital imaging technology tools; deletes the Idaho Supreme Court Brandon Bay case cross reference concerning section 42 properties.

35-0103-1706, Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%.

35-0103-1707, Sets out methods to value park model recreational vehicles as defined in HB156. Confirms the requirement to value park model recreational vehicles using any available standard indices of retail value. If an index is not available the procedures outline in Rule 217 must be used.

35-0103-1709, Updates the incorporation by reference of the Official Railroad Equipment Register to the 2018 edition; adds a flotation cost factor of 0.2% to the discount rate; removes obsolete link.

35-0105-1701, Idaho Motor Fuels Tax Administrative Rules. Clarifies documents required to be kept to support refund claims; clarifies the procedures used when calculating refund claims when using tax-paid special fuels in intrastate motor vehicles, auxiliary equipment and power take-off equipment.

35-0106-1702, Hotel/Motel Room and Campground Sales Tax Administrative Rules. Subjects lodging operators and short-term rental marketplaces to the sales tax and any local government taxes that apply to this type of rental.

35-0109-1702, Idaho County Option Kitchen and Table Wine Tax Administrative Rules. Describes when dispositions of wine are subject to the wine tax; authorizes the issuing of a wine tax permit to allow cancellation of inactive permits.

35-0112-1702, Idaho Beer Tax Administrative Rules. Describes when dispositions of beer are subject to the beer tax; authorizes the issuing of a beer tax permit to allow cancellation of inactive permits.

35-02.01 - Tax Commission Administration and Enforcement Rules

35-0201-1701, Provides guidance on the appeals process; establishes definitions; provides restrictions, exceptions, permitted communications and procedures for a taxpayer to participate in communications between the appeals unit and the originating division and others during the redetermination process.

35-0201-1703, Adds the interest rate for calendar year 2018 and the Revenue Ruling where the federal rate for the calculation can be found.

IDAPA 42 – IDAHO WHEAT COMMISSION**PO Box 83720, Boise, ID 83720-0099**

42-0101-1701, Rules of the Idaho Wheat Commission. Clarifies that the first purchaser of wheat completes and returns the Report of Tax, or equivalent, to the Commission office at the end of each production year (July 1 - June 30). The report shall include the name and address of the grower and seller.

IDAPA 47 – DIVISION OF VOCATIONAL REHABILITATION**PO Box 83720, Boise, ID 83720-0037**

47-0101-1701, Rules of the Idaho Division of Vocational Rehabilitation. Updates the Division’s Field Services Policy Manual to the 2017 edition that is incorporated by reference.

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION**PO Box 83720, Boise, ID 83720-0037**

55-0103-1701, Rules of Career Technical Schools. Updates the definition section; clarifies the career technical school program requirements and career technical school added cost unity funding eligibility requirements; changes attendance reporting and other accountability requirements.

55-0104-1701, Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-Up Grants.

**IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD
1299 N Orchard St. Ste, 110, Boise, ID 83706**

57-0101-1701, Rules of the Sexual Offender Management Board. Removes documents that are incorporated by reference; adds statement to the Notice and Consent forms for adult and juvenile Psychosexual Evaluations to provide authorization for release of psychosexual evaluations to the SOMB for quality assurance purposes.

**IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION
816 West Bannock St., Suite 201, Boise, ID 83702**

61-0106-1701, Rules Governing Procedures for the Oversight, Implementation, Enforcement and Modification of Indigent Defense Standard. Establishes procedures for the oversight, implementation, enforcement and modification of indigent defense standards.

61-0107-1701, Rules Governing Standards for Defending Attorneys that Utilize Idaho’s Principles of an Indigent Defense Delivery System. Establishes standards for defending attorneys who represent indigent defendants in capital cases and standards related to investigation and the use of experts.

NOTICE OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKING

IDAPA 07 – DIVISION OF BUILDING SAFETY

07-0206-1701, Rules Concerning Idaho State Plumbing Code (see Bulletin for scheduled meeting dates)

07-0701-1703, Rules Governing Installation of Heating, Ventilation, Air Conditioning Systems (see Bulletin for scheduled meeting dates)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20-0401-1701, Rules Pertaining to Forest Fire Protection (see Bulletin for meeting schedule information)

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26-0110-1701 Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation

26-0120-1701, Rules Governing the Administration of Park and Recreation Areas and Facilities

26-0123-1701, Rules Governing Filming Within Idaho State Parks

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IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0109-1704P, Rules Governing the Taking of Game Birds in the State of Idaho

Please refer to the Idaho Administrative Bulletin, [October 4, 2017, Volume 17-10](#), for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

Office of the Administrative Rules Coordinator, Dept. of Administration,
PO Box 83720, Boise, ID 83720-0306
Phone: 208-332-1820; Fax: 332-1896; Email: rulescoordinator@adm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*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.

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

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

March 29, 2017 — October 4, 2017

(eff. PLR) - Final Effective Date Is Pending Legislative Review

(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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- 02-0617-1701** Adoption of Temporary Rule, Bulletin Vol. 17-3 (eff. 2-8-17)T
- 02-0617-1701** Notice of Rescission of Temporary Rule, Bulletin Vol. 17-5 (Rescission effective 4-17-17)

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- 02-0641-1701** Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 17-7
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