

IDAHO ADMINISTRATIVE BULLETIN

August 1, 2018 – Vol. 18-8

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IDAHO ADMINISTRATIVE BULLETIN

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PREFACE

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

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking - Proposed Rule” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **13-1** refers to the first Bulletin issued in calendar year **2013**; Bulletin **14-1** refers to the first Bulletin issued in calendar year **2014**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **13-1** refers to January 2013; Volume No. **13-2** refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume **14-1**. The December 2015 Bulletin is cited as Volume **15-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho’s administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of rule.

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 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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2019

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
19-1	January 2019	*November 30, 2018	January 2, 2019	January 23, 2019
19-2	February 2019	January 4, 2019	February 6, 2019	February 27, 2019
19-3	March 2019	February 8, 2019	March 6, 2019	March 27, 2019
19-4	April 2019	March 8, 2019	April 3, 2019	April 24, 2019
19-5	May 2019	April 5, 2019	May 1, 2019	May 22, 2019
19-6	June 2019	May 3, 2019	June 5, 2019	June 26, 2019
19-7	July 2019	June 7, 2019	July 3, 2019	July 24, 2019
19-8	August 2019	July 5, 2019	August 7, 2019	August 28, 2019
19-9	September 2019	August 2, 2019	September 4, 2019	September 25, 2019
19-10	October 2019	**August 30, 2019	October 2, 2019	October 23, 2019
19-11	November 2019	October 4, 2019	November 6, 2019	November 27, 2019
19-12	December 2019	November 1, 2019	December 4, 2019	December 25, 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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AND CORRESPONDING IDAPA NUMBERS**

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IDAPA 42	Wheat Commission

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.02.06 – RULES CONCERNING IDAHO STATE PLUMBING CODE
DOCKET NO. 07-0206-1702
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 54-2606, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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:

Section 603.5.12 of the 2017 Idaho State Plumbing Code (ISPC) requires potable water supply to beverage dispensers or coffee machines to be protected by an air gap or reduced pressure principle backflow prevention assembly. Installation of a reduced pressure principle backflow prevention assembly is not necessary to protect potable water supply to beverage dispensers or coffee machines because beverage dispensers and coffee machines are not considered highly hazardous. Allowing installation of vented backflow preventers instead of reduced pressure principle backflow prevention assemblies on beverage dispensers and coffee machines will result in significant cost savings for consumers installing beverage dispensers or coffee machines.

Due to the difficulty of complying with a restriction on installing cleanouts under the floor, residential builders are increasingly installing large cleanouts above the floor. Plumbers, builders, and home buyers have complained about the aesthetics of large cleanouts installed above the floor.

In 2016, the U.S. Department of Energy changed its method for determining the first hour rating (number of gallons required) of residential water heaters, resulting in revised ratings. Manufacturers were required to display the revised ratings starting in June 2017. Revising the ratings in Table 501.1(1) of the 2017 ISPC to reflect the new method for determining ratings will allow plumbing contractors and inspectors to easily match the ratings on manufacturer displays with the ratings in Table 501.1(1).

This rulemaking revises Section 603.5.12 to require potable water supply to beverage dispensers or coffee machines to be protected by an air gap or vented backflow preventer. This rulemaking also revises Section 707.4 of the 2017 ISPC to allow water closets to act as cleanouts and require installation of exterior, two-way cleanouts. Finally, this rulemaking replaces the first hour ratings currently in Table 501.1(1) with ratings calculated using the U.S. Department of Energy's revised method for determining ratings.

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 October 4, 2017 Idaho Administrative Bulletin, [Vol. 17-10, pages 45-46](#), in the February 7, 2018 Administrative Bulletin, [Vol. 18-2, pages 22-23](#), and in the May 2, 2018 Administrative Bulletin, [Vol. 18-5, pages 45-46](#).

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 603.5.12 of the 2017 Idaho State Plumbing Code (ISPC) requires potable water supply to beverage dispensers or coffee machines to be protected by an air gap or reduced pressure principle backflow prevention assembly. This rulemaking revises Section 603.5.12 to require potable water supply to beverage dispensers or coffee machines to be protected by an air gap or vented backflow preventer.

This rulemaking revises Section 707.4 of the 2017 ISPC to allow water closets to act as cleanouts and require installation of exterior, two-way cleanouts.

This rulemaking replaces the first hour ratings currently in Table 501.1(1) of the 2017 ISPC with ratings calculated using the U.S. Department of Energy's revised method for determining ratings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Nielsen, Plumbing Program Manager, at (208) 332-7112.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 6th day of July 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0206-1702
(Only Those Sections With Amendments Are Shown.)

011. ADOPTION AND INCORPORATION BY REFERENCE OF THE IDAHO STATE PLUMBING CODE.

The Idaho State Plumbing Code published in 2017, including Appendices "A, B, C, D, E, G, I, J, K and L," (herein ISPC) is adopted and incorporated by reference with amendments as prescribed by the Idaho Plumbing Board and contained in this Section. The Idaho State Plumbing Code is modeled after the 2015 Uniform Plumbing Code (UPC). The Idaho State Plumbing Code is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642; 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. It may also be accessed electronically online at <http://dbs.idaho.gov/>. (3-29-17)

01. Section 105.3 Testing of Systems. (3-29-17)

a. Delete and replace the following: Plumbing systems shall be tested and approved in accordance with this code or the Authority Having Jurisdiction. Tests may be conducted in the presence of the Authority Having Jurisdiction or the Authority Having Jurisdiction's duly appointed representative. (3-29-17)

b. No test or inspection shall be required where a plumbing system, or part thereof, is set up for exhibition purposes and has no connection with a water or drainage system. In cases where it would be impractical to provide the required water or air tests, or the presences of the Authority Having Jurisdiction, or for minor installations and repairs, the Authority Having Jurisdiction, in accordance with procedures established thereby, shall be permitted to make such inspection as deemed advisable in accordance with the intent of this code. Joints and connections in the plumbing system shall be gastight and watertight for the pressures required by the test. (3-29-17)

02. Section 218 Definitions. Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. (3-29-17)

03. Section 314.4 Excavations. Add: Where unsuitable or soft material is encountered, excavate to a depth not less than two (2) pipe diameters below the pipe and replace with select backfill. Such backfill shall be sand, fine gravel, or stone and shall provide lateral support for the pipe. Where rock is encountered, the trench shall be excavated to a minimum depth of six (6) inches (152 mm) below the bottom of the pipe. Sand shall be added to provide uniform bedding and support for the pipe. The pipe shall not rest on any rock at any point, including joints. (3-29-17)

04. Section 401.2 Qualities of Fixtures. Replace with the following: Plumbing fixtures shall be constructed of dense, durable, non-absorbent materials and shall have smooth, impervious surfaces, free from unnecessary concealed fouling surfaces. (3-29-17)

05. Section 403.3 Exposed Pipes and Surfaces. Delete. (3-29-17)

06. Section 407.4 Transient Public Lavatories. Self-closing or self-closing metering faucets may be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, train stations, airports, restaurants, convention halls, and rest stops. Installed metered faucets shall deliver a maximum of zero point two six (0.26) gallons (one point zero (1.0) liter) of water per use. (3-29-17)

07. Section 408.5 Finished Curb or Threshold. Delete the last sentences of the first paragraph and replace with the following: The finished floor of the receptor shall slope uniformly from the sides toward the drain not less than one-eighth (1/8) inch per foot (20.8 mm/m), nor more than one-half (1/2) inch per foot (41.8 mm/m). (3-29-17)

08. Section 408.7.5 Tests for Shower Receptors. Delete. (3-29-17)

09. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Delete. (3-29-17)

10. Table 501.1(1) First Hour Rating. Delete Table 501.1(1) and replace with the following:

TABLE 501.1(1) FIRST HOUR RATING¹

<u>Number of Bathrooms</u>	<u>1 to 1.5</u>			<u>2 to 2.5</u>				<u>3 to 3.5</u>			
<u>Number of Bedrooms</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
<u>First Hour Rating,² Gallons</u>	<u>38</u>	<u>49</u>	<u>49</u>	<u>49</u>	<u>62</u>	<u>62</u>	<u>74</u>	<u>62</u>	<u>74</u>	<u>74</u>	<u>74</u>

For SI units: one (1) gallon = 3.785 L
Notes:

¹ The first hour rating is found on the “Energy Guide” label.

² Solar water heaters shall be sized to meet the appropriate first hour rating as shown in the table. ()

101. Section 503.1 Inspection of Chimneys or Vents. Add the following to the end of section 503.1: Water heating appliances using Category 3 or 4 exhaust venting shall be tested in its entirety with five (5) pounds of air for fifteen (15) minutes. Plastic vents shall be constructed using manufacturer’s instructions. (3-29-17)

102. Section 507.2 Seismic Provisions. Delete. (3-29-17)

103. Section 507.13 Installation in Garages. Replace 507.13 with the following: Any plumbing appliance or appurtenance in residential garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit shall be installed so that burners, burner-ignition devices or other sources of ignition are located not less than eighteen (18) inches (450 mm) above the floor unless listed as flammable vapor ignition

resistant. (3-29-17)

134. Table 603.2 Backflow Prevention Devices, Assemblies and Methods. (3-29-17)

a. Delete from the table the entire row related to freeze resistant sanitary yard hydrant devices. (3-29-17)

b. Delete the backflow preventer for Carbonated Beverage Dispensers text from the first column of the table and replace with the following: Backflow preventer for Carbonated Beverage Dispensers (Reduced Pressure Principle Backflow Prevention Assembly). (3-29-17)

145. Section 603.5.7 Outlets with Hose Attachments. Delete and replace with the following: Potable water outlets with hose attachments, other than water heater drains, boiler drains, freeze resistant yard hydrants and clothes washer connections, shall be protected by a nonremovable hose bibb-type backflow preventer, a nonremovable hose bibb-type vacuum breaker, or by an atmospheric vacuum breaker installed not less than six (6) inches (one hundred fifty-two (152) mm) above the highest point of usage located on the discharge side of the last valve. In climates where freezing temperatures occur, a listed self-draining frost-proof hose bibb with an integral backflow preventer or vacuum breaker shall be used. (3-28-18)

156. Section 603.5.12 Beverage Dispensers. Delete and replace with the following: Potable water supply to ~~beverage dispensers~~, carbonated beverage dispensers, ~~or coffee machines~~ shall be protected by an air gap or a Reduced Pressure Principle Backflow Prevention Assembly in accordance with ASSE 1013. For carbonated beverage dispensers, piping material installed downstream of the backflow preventer shall not be affected by carbon dioxide gas. Potable water supply to beverage dispensers and coffee machines shall be protected by an air gap or a vented backflow preventer in accordance with ASSE 1022. (~~3-29-17~~)()

167. Section 603.5.17 Potable Water Outlets and Valves. Delete. (3-29-17)

178. Section 603.5.21 Chemical Dispensers. Add the following new section 603.5.21: The water supply to chemical dispensers shall be protected against backflow. The chemical dispenser shall comply with ASSE 1055 or the water supply shall be protected by one of the following methods: (3-29-17)

a. Air gap; (3-29-17)

b. Atmospheric vacuum breaker (AVB); (3-29-17)

c. Pressure vacuum breaker backflow prevention assembly (PVB); (3-29-17)

d. Spill-resistant pressure vacuum breaker (SVB); or (3-29-17)

e. Reduced-pressure principle backflow prevention assembly (RP). (3-29-17)

189. Section 604.10.1 Tracer Wire. Add the following exception: Where the electrical wiring for the pump is installed in the same trench as the water line, from the point of origin to the structure, a tracer wire shall not be required. (3-28-18)

1920. Section 605.6.2 Mechanical Joints. Add to the end of the section the following: Listed PE (polyethylene), one hundred sixty (160) psi minimum, water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings shall be used. Polyethylene (PE) plastic pipe or tubing and fitting joining methods shall be installed in accordance with the manufacturer's installation instructions. (3-29-17)

201. Section 609.1 Installation. Delete the following sentence: Building supply yard piping shall be not less than twelve (12) inches (305 mm) below the average local frost depth; and replace it with the following: The cover shall be not less than forty-two (42) inches (1068mm) below grade. (3-29-17)

212. Section 609.4 Testing. Testing. Deleting the phrase "Except for plastic piping," at the beginning of

the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer's installation standards. (3-25-13)

~~223.~~ **Section 609.10 Water Hammer.** Does not apply to residential construction. (3-25-13)

~~234.~~ **Section 609.11 Pipe Insulation.** Delete. (3-29-17)

~~245.~~ **Table 610.3 and Appendix Table A 103.1.** Change fixture unit loading value for both public and private for bathtub or combination bath/shower, and clothes washers to two (2) fixture units. (3-29-17)

~~256.~~ **Section 610.2 Pressure Loss.** Add the following: All new one (1) and two (2) family residences built slab on grade or that will have a finished basement at the time of final inspection must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. (3-29-17)

~~267.~~ **Table 611.4 Sizing of Residential Softeners.** Amend Footnote 3 to read: Over four (4) bathroom groups, softeners shall be sized according to the manufacturer's standards. (3-29-17)

~~278.~~ **Section 612.0 Residential Sprinkler System.** Add the following to the end of the first sentence in section 612.1: and the requirements of the Authority Having Jurisdiction (AHJ). (3-29-17)

~~289.~~ **Table 702.1 Drainage Fixture Unit Valves (DFU).** Change fixture unit loading value for clothes washers, domestic for private to two (2) fixture units. (3-29-17)

~~2930.~~ **Section 703.1 Minimum Size.** Add the following at the end of section 703.1: No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar shall be less than two (2) inches in diameter. (3-29-17)

~~301.~~ **Section 704.2 Single Vertical Drainage Pipe.** Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. (3-29-17)

~~312.~~ **Section 704.3 Commercial Sinks.** Delete. (3-29-17)

~~323.~~ **Table 703.2 Maximum Unit Loading and Maximum Length of Drainage and Vent Piping.** Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (3-29-17)

~~334.~~ **Section 705.5.2 Solvent Cement Joints.** Add to the end of the section the following: PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. (3-29-17)

~~345.~~ **Section 707.4 Locations.** ~~Add Delete and replace with~~ the following: Each horizontal drainage pipe shall be provided with a cleanout at its upper terminal, and each run of piping, that is more than one hundred (100) feet (30,480 mm) in total developed length, shall be provided with a cleanout for each one hundred (100) feet (30,480 mm), or fraction thereof, in length of such piping. An additional cleanout shall be provided in a drainage line for each aggregate horizontal change in direction exceeding one hundred thirty-five (135) degrees (2.36 rad). A cleanout shall be installed above the fixture connection fitting, serving each urinal, regardless of the location of the urinal in the building. A clean out shall be installed for double sanitary tees two (2) inches (50 mm) or less in diameter that receive the discharge from fixture connections; ~~the E~~exceptions in Section 707.4 shall not apply. A full-sized accessible cleanout shall be installed in the vertical immediately above the floor or at the base of each waste or soil stack. An approved, full-size, two-way cleanout extending to or above ~~the~~ finished grade line shall be installed at the junction of the building drain and the building sewer. Cleanouts shall be installed at fifty (50) foot intervals ~~## on~~ a horizontal drain lines ~~s~~ two (2) inches or smaller. The following exceptions apply (3-29-17)()

a. Cleanouts shall be permitted to be omitted on a horizontal drain line less than five (5) feet (1524 mm) in length unless such line is serving sinks or urinals. ()

b. Cleanouts shall be permitted to be omitted on a horizontal drainage pipe installed on a slope of

seventy-two (72) degrees (1.26 rad) or less from the vertical angle (one-fifth (1/5) bend). ()

c. Excepting the building drain, its horizontal branches, and urinals, a cleanout shall not be required on a pipe or piping that is above the floor level of the lowest floor of the building. ()

d. If the total developed length of the waste line is less than one hundred (100) feet, a water closet shall be permitted to be substituted for an upper terminal cleanout or a base of stack cleanout. ()

356. Section 710.3(4) Sewage Ejectors and Pumps. Add: Exception (4): One (1) pump shall be permitted for “public use” occupancies provided that such tank receives the discharge of not more than one (1) water closet and ten (10) fixture units (See Section 710.9 Alarms). (3-29-17)

367. Section 710.5 Size Building Drains and Sewers. Add the following exception: In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. (3-29-17)

378. Section 712.1 Media. In the first sentence, delete the phrase “except that plastic pipe shall not be tested with air.” (3-25-13)

389. Section 717.0 Size of Building Sewers. Add the following to the end of section 717.1: Exception: The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines. (3-29-17)

390. Section 723.0 General. Delete the following sentence: “Plastic DWV piping systems shall not be tested by the air test method.” (3-29-17)

401. Section 801.3.3 Food Handling Fixtures. Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm). (3-29-17)

412. Section 805.41 General. Add to the end of the first paragraph the following: Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths (3/4) inch minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths (3/4) inch. (3-29-17)

423. Section 807.3 Domestic Dishwashing Machines. A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. (3-29-17)

434. Section 906.1 Roof Termination. Delete the existing provision and replace with the following: (3-29-17)

a. Roof venting. When conventional roof venting is utilized, each vent pipe or stack shall extend through its flashing and shall terminate vertically not less than six (6) inches (one hundred fifty-two (152) mm) above the roof nor less than one (1) foot (three hundred five (305) mm) from any vertical surface. (4-2-08)

b. Sidewall venting. When sidewall venting is utilized, the vent shall extend flush with the eaves/gable end, shall turn down using a ninety (90) degree ell, and shall terminate as close to the roof peak as possible. The vent end must be properly screened. Sidewall venting is acceptable on new or remodel construction on cabins, log homes, and residential or commercial buildings. (4-2-08)

c. Sidewall venting must meet the intent of Section 906.2 of the ISPC. (3-25-13)

445. **Section 908.1 Vertical Wet Venting.** Add to the end of the section the following: A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 of the ISPC are met. (3-29-17)

456. **Section 909.0 Special Venting for Island Fixtures.** Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). (3-29-17)

- a.** An A.A.V. may be used only in residential buildings. (4-2-08)
- b.** In remodels, an A.A.V. may be used with island fixtures or remotely located sinks such as in bar, kitchen, or laundry tray locations. An A.A.V. shall not be used in bathroom groups. (4-2-08)
- c.** In new construction, an A.A.V. may be used on island fixture sinks. (4-2-08)
- d.** Each A.A.V. may be used to vent only one (1) floor. (4-2-08)
- e.** Each A.A.V. must be readily accessible. (4-2-08)
- f.** The cross-sectional area of venting must remain the same and must meet the largest required building drain. (4-2-08)
- g.** An A.A.V. shall only be installed in accordance with the manufacturer's installation standards as per ASSE 1051. (4-2-08)
- h.** An A.A.V. may not be used in an attic, crawl space, outside installation, or in connection with chemical or acid waste systems. (4-2-08)

467. **Section 1002.3 Change of Direction.** Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. (3-29-17)

478. **Section 1007.0 Trap Seal Protection.** Delete section 1007.1 and replace with the following: Floor drains or similar traps directly connected to the drainage system and subject to infrequent use shall be protected with a trap seal primer or other approved trap seal protection device, except where not deemed necessary for safety or sanitation by the Authority Having Jurisdiction. Trap seal primers shall be accessible for maintenance. (3-29-17)

489. **Section 1016.1 Discharge.** Add the following to the end of section 1016.1: Floor drains installed in residential garages shall be permitted to use the interceptor as the fixture trap. (3-29-17)

4950. **Section 1502.1 General.** Add to this section the following paragraph: Plumbing for a gray water system from any fixture up to, but not to include the exterior irrigation system tank shall be inspected by the Authority Having Jurisdiction. The Idaho Department of Environmental Quality (IDEQ) shall have jurisdiction to inspect and approve the installation of the exterior irrigation system tank and all piping therefrom to the point of disposal in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." Gray water system location and design criteria requirements related to irrigation and leaching shall be determined in accordance with the requirements as established by the IDEQ. (3-29-17)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.05.01 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1907 and 54-1910, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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

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

Under Section 54-1910(a), Idaho Code, a public works contractor licensee must designate an individual qualified by examination (QI). If a QI ceases “to be connected” with the contractor, the contractor must notify the administrator of the Division of Building Safety (Division) “in writing within ten (10) days.” If the contractor provides notice in ten (10) days, the contractor’s license remains in force “for a reasonable length of time, to be determined by rules of the board.” If the contractor does not provide notice in ten (10) days, the contractor’s license is automatically suspended.

There is no rule that defines how long “a reasonable time length of time” is. Further, the Division cannot always determine what constitutes written notice that a QI has ceased to be connected with a contractor or when a QI has ceased to be connected with a contractor.

This proposed rulemaking will define a QI, determine the “reasonable length of time” a contractor’s license will remain in force, and clarify that notice that a contractor’s QI has ceased to be connected with the contractor must be provided on forms prescribed by the administrator.

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 6, 2018 Idaho Administrative Bulletin, **Vol. 18-6, 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ron Whitney, Deputy Administrator, at (208) 332-7150.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 9th day of July 2018.

Ron Whitney, Deputy Administrator
Division of Building Safety
Phone: (208) 332-7150
Fax: (877) 810-2840

1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0501-1801
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

As used in these rules. (7-1-93)

01. Administrator. Refers to the administrator of the Division of Building Safety. (3-20-04)

02. Applicant. Shall mean any person who has filed an application with the administrator. (3-20-04)

03. Board. Refers to the Public Works Contractors License Board which is created within the Idaho Division of Building Safety as set forth in Title 54, Chapter 19, Idaho Code. (3-20-04)

04. Compiled. Refers to a type of financial statement in which the information presented is based solely upon representations by an organization's management. (3-20-04)

05. Estimated Cost. For the purposes of the application of Section 54-1903(i), Idaho Code, the term "estimated cost" shall refer to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved. (3-29-10)

06. Financial Statement. A balance sheet and income statement prepared in accordance with generally accepted accounting principles. (3-20-04)

07. Incidental Work. Shall mean work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. (3-20-04)

08. Independent Audit Report. A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. (3-20-04)

09. Licensee. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. (3-20-04)

10. Petitioner. Shall mean: (7-1-93)

a. Any licensee who has filed with the Board a written request for the change or addition to the types of construction for which he is licensed; (7-1-93)

b. Any applicant or licensee requesting a rehearing in any proceeding or appealing from the final decision or order of the administrator or the Board; (3-20-04)

c. Any interested person requesting the promulgation, amendment or repeal of a rule; or (7-1-93)

d. Any interested person requesting a declaratory ruling on the applicability of the License Act or of any rule or order of the Board. (7-1-93)

11. Qualified Individual. The person qualifying by examination as to the experience and knowledge required by Section 54-1910(a), Idaho Code. ()

142. **Reviewed.** Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

113. INDIVIDUAL QUALIFIED BY EXAMINATION.

01. Written Notice. Written notice, required by Section 54-1910(a), Idaho Code, that the Qualified Individual of a public works contractor has ceased to be connected with the contractor shall be provided to the Administrator on forms prescribed by the Administrator. Such notice must indicate the date the Qualified Individual ceased to be connected with the contractor. ()

02. Reasonable Length of Time. If a public works contractor notifies the Administrator that the contractor's Qualified Individual has ceased to be connected with the contractor, the contractor's license will remain in force for ninety (90) days from the date of the notice. ()

1134. -- 198. (RESERVED)

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 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 54-5005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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:

Heating, ventilation, and air conditioning (HVAC) apprentices must currently complete four (4) years of work experience to take the journeyman examination. Further, in 2006, the Idaho HVAC Board (Board) approved giving apprentices who successfully complete a full-time, one-year training course credit for one (1) year of work experience. The Division of Building Safety stopped giving such credit to apprentices when it discovered that the Board's decision conflicted with a rule requiring that work experience be completed on the job and not in an educational setting.

This rulemaking will allow apprentices to take the journeyman examination before completing four (4) years of work experience. This proposed rulemaking will also allow apprentices who successfully complete a Board-approved, full-time, one-year training course to receive credit for up to one (1) year of work experience.

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 October 4, 2017 Idaho Administrative Bulletin, **Vol. 17-10, pages 47-48**, and in the February 7, 2018 Administrative Bulletin, **Vol. 18-2, 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 John Nielsen, HVAC Program Manager, at (208) 332-7112.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 6th day of July 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0701-1703
(Only Those Sections With Amendments Are Shown.)

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY: REQUIREMENTS.

01. Experience. Demonstrate, to the satisfaction of the board, a minimum of four (4) years' experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman. Notwithstanding the requirement that an HVAC apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified HVAC journeyman, any HVAC apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year HVAC training course may receive credit for up to one (1) year of on-the-job work experience. (4-11-06)()

02. Education. Successfully complete any required apprenticeship training courses. (3-16-04)

03. Examination. Applicants for certification as HVAC journeymen must successfully complete the examination designated by the board. (3-16-04)

a. Each HVAC apprentice who desires to take the HVAC journeyman examination shall complete a Board-approved training course as described in Subsection 025.02 of these rules prior to the date of the examination and provide a certificate of completion with the apprentice's application for examination. There is no minimum work experience requirement to be eligible to take the HVAC journeyman examination. ()

b. The Division shall not issue a certificate of competency to an HVAC apprentice until the apprentice furnishes to the Division proof of satisfaction of the requirements contained in Subsection 023.01 of these rules and successful completion of the journeyman examination. ()

04. Out of State Journeyman Applications. (3-24-17)

a. Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 023.01 and 023.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho HVAC Board shall include satisfactory proof of licensure in such jurisdiction. The applicant shall pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)

b. An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho HVAC Board shall include evidence that demonstrates that the applicant has four (4) years, defined as eight thousand (8,000) hours of HVAC work experience of a nature at least equivalent to that which a HVAC apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which a HVAC apprentice must complete in Idaho. Alternatively, such an applicant may submit sufficient proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of HVAC work experience of a nature at least equivalent to that which a HVAC apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant shall also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)

IDAPA 08 – STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-1254 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 August 15, 2018.

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 20 percent (20%) of the Idaho Standards for Initial Certification of Professional School Personnel, a document incorporated by reference, as well as the corresponding certification and endorsement language within IDAPA. The proposed rule reflects a revised State Board of Education adoption date of the Idaho Standards for Initial Certification of Professional School Personnel and certification and endorsement revisions for school nurse, teacher librarian, teacher leader, gifted and talented, English, online teacher, and literacy. Other amendments include a new definition of clinical experience and supporting definitions, new endorsements for Middle School Social Studies and Middle School Science, and language regarding the use of continuing education units toward certificate renewal by pupil service staff certificate holders who also hold a professional license through the Bureau of Occupational Licenses. Technical corrections include corrections to numeric order, alphabetical order, spelling, punctuation, and/or grammar.

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 February 7, 2018, Idaho Administrative Bulletin, **Volume 18-2, page 26**.

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 Standards for Initial Certification of Professional School Personnel is currently incorporated by reference. Because of the number of pages in the document, republication of the text would be unduly cumbersome and expensive. A complete copy of the proposed changes to the Idaho Standards for Initial Certification of Professional School Personnel can be found at 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 Lisa Colón Durham, Director of Certification and Professional Standards, at (208) 332-6886 or lcolondurham@sde.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 20th Day of June, 2018.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-1801
(Only Those Sections With Amendments Are Shown.)**

004. INCORPORATION BY REFERENCE.

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

01. Idaho Standards for the Initial Certification of Professional School Personnel as approved on ~~August 31, 2017~~ June 20, 2018. Copies of this document can be found on the Office of the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)()

02. Standards for Idaho School Buses and Operations as approved on November 15, 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>. (3-28-18)

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)

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. Clinical Experience. Guided, hands-on, practical applications and demonstrations of professional knowledge of theory to practice, skills, and dispositions through collaborative and facilitated learning in field-based assignments, tasks, activities, and assessments across a variety of settings. Clinical experience includes field experience and clinical practice as defined in this section. ()

04. Clinical Practice. Student teaching or internship opportunities that provide candidates with an intensive and extensive culminating field-based set of responsibilities, assignments, tasks, activities, and assessments that demonstrate candidates' progressive development of the professional knowledge, skills, and dispositions to be effective educators. Clinical practice includes student teaching and internship. ()

035. 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)

046. 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)

07. Field Experience. Early and ongoing practice opportunities to apply content and pedagogical knowledge in Pre-K-12 settings to progressively develop and demonstrate knowledge, skills, and dispositions.()

058. Idaho Student Achievement Standards. Standards of achievement for Idaho's K-12 students. See IDAPA 08.02.03, "Rules Governing Thoroughness." (3-16-04)

069. Individualized Professional Learning Plan. An individualized professional development plan based on the Idaho framework for teaching evaluation as outlined in Section 120 of these rules to include interventions based on the individual's strengths and areas of needed growth. (3-28-18)

107. Institutional Recommendation. Signed form or written verification from an accredited institution with a state board approved educator preparation program stating that an individual has completed the program, received a basic or higher rating in all 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 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. (3-28-18)

11. Internship. Full-time or part-time supervised clinical practice experience in Pre-K-12 settings where candidates progressively develop and demonstrate their knowledge, skills, and dispositions. ()

0812. Local Education Agency (LEA). An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. (3-29-17)

0913. Orientation. School district/school process used to acquaint teachers new to district/school on its policies, procedures and processes. (3-16-04)

104. 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)

~~145.~~ **Pedagogy.** Teaching knowledge and skills. (3-16-04)

~~16.~~ **Practicum.** Full-time or part-time supervised, industry-based experience in an area of intended career technical education teaching field to extend understanding of industry standards, career development opportunities, and application of technical skills. ()

~~127.~~ **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)

~~18.~~ **Student Teaching.** Extensive, substantive, and supervised clinical practice in Pre-K-12 schools for candidates preparing to teach. ()

~~139.~~ **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 Service Staff 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 Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as an occupational therapist or physical therapist may be required, as determined by the local educational agency, to hold the Pupil Service Staff Certificate with respective endorsements for which they qualify. (3-28-18)

a. School Counselor (K-12) Endorsement. To be eligible for a Pupil Service Staff Certificate - School Counselor (K-12) endorsement, a candidate must have satisfied the following requirements. The Pupil Service Staff 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. (3-28-18)

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. (3-28-18)

b. School Counselor – Basic (K-12) Endorsement. (3-28-18)

i. Individuals serving as a school counselor pursuant to Section 33-1212, Idaho Code, shall be granted a Pupil ~~Personnel~~ Services ~~Staff~~ 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. (~~3-28-18~~)()

ii. 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. (3-28-18)

c. 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)

d. 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 professional 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; have two (2) years of full-time (or part-time equivalent) school nursing, community health nursing, or any other area of pediatric, adolescent, or family nursing experience; and have completed ~~nine~~ six (6) semester credit hours from a university or college in ~~at least three (3)~~ any of the following areas: (3-25-16)()

- (1) Health program management; (3-25-16)
- (2) ~~Child and adolescent health issues;~~ Nursing leadership. (3-25-16)()
- (3) ~~Counseling, psychology, or social work; or~~ Pediatric nursing or child development. (3-25-16)()
- (4) ~~Methods of instruction~~ Population of community health. (3-25-16)()
- (5) Health care policy, ethics, or cultural competency. ()
- (6) Research and/or statistics. ()

~~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)~~

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 or experience requirements, or both, and it is not renewable. (3-29-17)()

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)

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)

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.: (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)

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 Service Staff 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. (3-28-18)

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 *Staff* 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. (~~3-28-18~~)()

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 Service Staff 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. (3-28-18)

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 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. Assistant superintendents are required to hold the Superintendent endorsement. Assistant principals or vice-principals are required to hold the School Principal endorsement. Directors of special education are required to hold the Director of Special Education endorsement. 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 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. (3-28-18)

a. School Principal (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate endorsed for School Principal (Pre-K-12), a candidate must have satisfied the following requirements: (3-28-18)

- 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 Standards for School Principals. (3-28-18)
- v. An institutional recommendation is required for a School Principal (Pre-K-12) Endorsement. (3-28-18)
- 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: (3-28-18)
 - 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 Standards for School Principals. (3-28-18)
 - v. An institutional recommendation is required for a School Superintendent Endorsement (Pre-K-12). (3-28-18)
- c. Director of Special Education (Pre-K-12) Endorsement.** To be eligible for an Administrator Certificate endorsed for Director of Special Education (Pre-K-12), a candidate must have satisfied all of the following requirements: (3-28-18)
 - 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 Standards for Initial Certification of Professional School Personnel; (3-28-18)
 - iv. Obtain college or university verification of demonstrated competencies in the following areas, in addition to the competencies in the Idaho Standards for School 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; (3-28-18)

v. Have completed an administrative internship/~~practicum~~ in the area of administration of special education; and (3-28-18) ()

vi. An institutional recommendation is required for Director of Special Education (Pre-K-12) endorsement. (3-28-18)

04. Certification Standards For Career Technical Educators. Teachers of career technical courses or programs in secondary schools must hold an occupational specialist certificate and an endorsement in an appropriate occupational discipline. 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. (3-28-18)

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 technology; business technology education; computer science technology; engineering; family and consumer sciences; marketing technology education; and technology education. Occupational teacher preparation course work must meet the Idaho Standards for the Initial Certification of Professional School Personnel. The occupational teacher education program must provide appropriate content to constitute a major in the identified field. Student teaching shall be in an approved program and include experiences in the major field. Applicants shall have accumulated one thousand (1,000) clock hours of related work experience or 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. (3-28-18)

b. The Career Technical Administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs at the state 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. 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. (3-28-18)

i. Qualify for or hold an Advanced Occupational Specialist certificate or hold an occupational endorsement on a standard instructional certificate; provide evidence of a minimum of four (4) years' teaching, three (3) of which must be in a career technical discipline; hold a master's degree; and complete at least fifteen (15) semester credits of administrative course work. (3-28-18)

(1) Applicants must have completed credits in: education finance, administration and supervision of personnel, legal aspects of education; and conducting evaluations using the statewide framework for teacher evaluations. (3-28-18)

(2) Additional course work 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. (3-28-18)

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. (3-28-18)

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 Service Staff Certificate 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. (3-28-18)

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: (3-28-18)

a. Be at least twenty-two (22) years of age; document 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: (3-28-18)

i. Have six (6) years or twelve thousand (12,000) 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 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 (3-28-18)

ii. Have a baccalaureate degree in the specific occupation or related area, plus two (2) years or four thousand (4,000) 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 (3-28-18)

iii. 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, gainful, related work experience, at least half of which must have been completed in the immediate previous five (5) years. (3-28-18)

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: (3-28-18)

i. 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. (3-28-18)

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. (3-28-18)

c. Standard Occupational Specialist Certificate. (3-28-18)

i. This certificate is issued to individuals who have held a limited occupational specialist certificate and completed one (1) of the pathways for completions. (3-28-18)

ii. The Standard Occupational Specialist 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. Credit equivalency will be based on verification of 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. (3-28-18)

- d. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who: (3-29-17)
 - i. Are eligible for the Standard Occupational Specialist Certificate; (3-28-18)
 - ii. 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 in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); and (3-28-18)
 - iii. Have on file a new professional development plan for the next certification period. (3-28-18)
 - iv. The Advanced Occupational Specialist 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. (3-28-18)

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 background investigation check pursuant to Section 33-130, Idaho Code. (3-28-18)
- 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 09.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: (3-28-18)

i. Each teacher holding a Blended Early Childhood Education/Early Childhood Special Education (Birth - Grade 3) endorsement who is employed by a school district or charter school as a K-3 multi-subject or special education teacher; (3-28-18)

ii. Each teacher holding an All Subjects (K-8) endorsement who is employed by a school district or charter school as a K-6 multi-subject teacher; (3-28-18)

iii. Each teacher holding an 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 (3-28-18)

iv. Each teacher holding an Exceptional Child Generalist endorsement who is employed by a school district or charter school as a special education teacher. (3-28-18)

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. 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 educator 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

approved course must include the following competencies: (3-28-18)

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. (3-28-18)

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. (3-28-18)

(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 from the college of education of competency in a teaching area or field is acceptable in lieu of required credits if such statements 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. (3-28-18)

01. Clinical Experience Requirement. All endorsements require supervised teaching clinical 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. (3-28-18)()

02. Alternative Authorization to Endorsement. Candidates shall meet all requirements of the chosen option for the endorsement as provided herein. (3-28-18)

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 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. (3-28-18)

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. (3-28-18)

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 (3-28-18)

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; career technical student organization leadership; plant science; and occupational teacher preparation pursuant to Subsection 015.05.a.; or (3-28-18)

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

032. 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)

023. 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. (3-28-18)

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: upper division 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 guidelines; cultural diversity; ESL/bilingual methods; linguistics, second language acquisition theory and practice; foundations of ESL/bilingual education, legal foundations of ESL/bilingual education, identification and assessment of English learners, biliteracy; at least one (1) semester credit hour in bilingual ~~practicum or~~ clinical field experience. (3-28-18)()

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)

076. Blended Early Childhood Education/Early Childhood Special Education (Birth - Grade 3). The Blended Early Childhood Education/Early Childhood Special Education (Birth - Grade 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. (3-28-18)

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)

067. Blended Elementary Education/Elementary Special Education (Grade 4 - Grade 6). The Blended Elementary Education/Elementary Special Education (Grade 4 - Grade 6) endorsement allows one to teach in any grade four (4) through grade six (6) education setting, except in a middle school setting. This endorsement may only be issued in conjunction with the Blended Early Childhood Education/Early Childhood Special Education (Birth - Grade 3) endorsement. To be eligible for a Blended Elementary Education/Elementary Special Education (Grade 4 - Grade 6) endorsement, a candidate must have satisfied the following requirements: (3-28-18)

a. Completion of a program of a minimum of twenty (20) semester credit hours in elementary education coursework 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). (3-28-18)

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; or business management; and occupational teacher preparation pursuant to Subsection 015.05.a.; or (3-28-18)

b. Occupational teacher preparation pursuant to Subsections 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 Subsections 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 Instructional Certificate, a candidate must have satisfied the following requirements:~~ (3-28-18)

~~**i.** Education Requirements. Qualify for or hold a Standard 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:~~ (3-28-18)

- ~~(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 Instructional Certificate, a candidate must have satisfied the following requirements:** (3-28-18)~~
- ~~i. *Education Requirements. Qualify for or hold a Standard 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:* (3-28-18)~~
- ~~(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)~~

132. 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: (3-28-18)

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. (3-28-18)

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 Subsections 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/~~ coursework in all of the following areas: grammar, ~~three (3) semester credit hours in~~ American literature, ~~three (3) semester credit hours in English~~ British literature, ~~six (6) semester credit hours in~~ multicultural/world literature, young adult literature, and literary theory. Additionally, a course 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, and a course in secondary English language arts methods are required.~~ (3-29-17)()

06. English as a Second Language (ESL) (K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for ESL Teachers to include all of the following: a modern language other than English; cultural diversity; ESL methods; linguistics; second language acquisition theory and practice; foundations of ESL/bilingual education, legal foundations of ESL/bilingual education, identification and assessment of English learners; and at least one (1) semester credit in ESL ~~practicum or~~ clinical field experience. (3-28-18)()

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 (6-12). (3-28-18)

a. Thirty (30) semester credit hours to include coursework in each of the following areas: child/human development; human/family relations; directed laboratory experience in childcare; apparel and textiles, cultural dress, fashion design and merchandising; nutrition; food preparation, food production, or culinary arts; housing, interior design, or home management; consumer economics or family resource management; introduction to family consumer sciences; career technical student organization leadership; career guidance; and family consumer science methods; and occupational teacher preparation pursuant to Subsection 015.05.a.; or (3-28-18)

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 ~~Teachers of Gifted and Talented Education Teachers Students~~, to include ~~semester credit hours~~ **coursework** in ~~each of~~ the following areas **of gifted and talented education**: foundations, ~~of Gifted and Talented Education~~; creative/ **and** critical thinking, ~~Skills for Gifted and Talented Students~~; social and emotional needs, ~~of Gifted and Talented Students~~; curriculum, instruction, **and** assessment **and identification**, ~~for Gifted and Talented Students~~; differentiated instruction ~~and Programming 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, and clinical practice.~~ (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~~ (210) 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, listening, speaking, viewing, and New Literacies language); development and diversity of literacy learners; literacy in the content area; literature for youth; language development; corrective/diagnostic/remedial reading; and writing Instruction methods; and reading methods. To obtain a Literacy endorsement, applicants must complete the Idaho Comprehensive Literacy Course or the Idaho Comprehensive Literacy Assessment. (~~3-12-14~~)()

024. ENDORSEMENTS M - Z.

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

a. Twenty (20) semester credit hours to include course work in each of the following areas: marketing; management; economics; coordination of cooperative programs; merchandising/retailing; methods of teaching marketing education; and career technical student organization leadership, with remaining credit hours in entrepreneurship; hospitality and tourism; finance; career guidance; or accounting and occupational teacher preparation pursuant to Subsection 015.05.a.; or (3-28-18)

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

~~032.~~ **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)

023. 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)

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 (K-12). To be eligible for an Online-Teacher (K-12) endorsement, a candidate must have satisfied the following requirements: (3-28-18)

a. Meets the state's 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~~ experience. (3-25-16)()

c. Has completed an eight (8) week online ~~teaching internship~~ clinical practice 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. 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)

08. 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)

09. Physics (5-9 or 6-12). Twenty (20) semester credit hours in the area of physics. (3-28-18)

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

11. Science – Middle Level (5-9). Twenty-four (24) semester credit hours in science content coursework including at least eight (8) credits in each of the following: biology, earth science, and physics to include

lab components. Science foundation standards must be met. ()

112. **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)()

13. **Social Studies – Middle Level (5-9).** Twenty (20) Semester credit hours in social studies content coursework including at least five (5) credits in each of the following: history, geography, and American government/political science, or economics. Social studies foundations must be met. ()

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

135. **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)

16. **Teacher Leader.** Teacher leaders 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 facilitate the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs. ()

a. Teacher Leader – Instructional Specialist – Eligibility of Endorsement. To be eligible for a Teacher Leader – Instructional Specialist endorsement on the Standard Instructional Certificate, a candidate must have satisfied the following requirements: ()

i. Education requirement: Hold a Standard Instructional Certificate. Content within coursework to include clinical supervision, instructional leadership, and advanced pedagogical knowledge, and have demonstrated competencies in the following areas: providing feedback on instructional episodes; engaging in reflective dialogue centered on classroom instruction, management, and/or experience; focused goal-setting and facilitation of individual and collective professional growth; understanding the observation cycle; and knowledge and expertise in data management platforms. ()

ii. Experience: Completion of a minimum of three (3) years' full-time certificated teaching experience while under contract in an accredited school setting. ()

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. ()

b. Teacher Leader – Literacy – Eligibility for Endorsement. To be eligible for a Teacher Leader – Literacy endorsement on the Standard Instructional Certificate a candidate must have satisfied the following requirements: ()

i. Education Requirements: Hold a Standard Instructional Certificate and have demonstrated content competencies in the Idaho Literacy Standards. Coursework and content domains required include foundational literacy concepts; fluency, vocabulary development, and comprehension; literacy assessment concepts; and writing process, which are all centered on the following emphases: specialized knowledge of content and instructional methods; data driven decision making to inform instruction; research-based differentiation strategies; and culturally responsive pedagogy for diverse learners. ()

ii. Experience: Completion of a minimum of three (3) years' full-time certificated experience, while under contract in an accredited school setting. ()

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent.

Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. The candidate must meet or exceed the state qualifying score on appropriate state approved literacy content assessment. ()

c. Teacher Leader – Mathematics – Eligibility for Endorsement. To be eligible for a Teacher Leader – Mathematics endorsement on the Standard Instructional Certificate, a candidate must have satisfied the following requirements: ()

i. Education Requirements: Hold a Standard Instructional Certificate and have demonstrated content competencies. Coursework and content domains required include number and operation, geometry, algebraic reasoning, measurement and data analysis, and statistics and probability, which are centered on the following emphases: structural components of mathematics; modeling, justification, proof, and generalization; and specialized mathematical knowledge for teaching. ()

ii. Experience: Completion of a minimum of three (3) years' full-time certificated teaching experience while under contract in an accredited school setting. ()

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. The candidate must meet or exceed the state qualifying score on appropriate state approved math content assessment. ()

d. Teacher Leader – Special Education – Eligibility for Endorsement. To be eligible for a Teacher Leader – Special Education endorsement on the Standard Instructional Certificate, a candidate must have satisfied the following requirements: ()

i. Education Requirements: Hold a Standard Instructional Certificate endorsed Generalist K-12, K-8, or 5-9 and have demonstrated content competencies in the following areas: assessment of learning behaviors; individualization of instructional programs based on educational diagnosis; behavioral and/or classroom management techniques; program implementation and supervision; use of current methods, materials, and resources available and management and operation of special education management platforms; identification and utilization of community or agency resources and support services; counseling, guidance, and management of professional staff; and special education law, including case law. ()

ii. Experience: Completion of a minimum of three (3) years' full-time certificated experience, at least two (2) years of which must be in a special education classroom setting, while under contract in an accredited school setting. ()

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. ()

147. 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 to include (cataloging and classification); school library administration/management; library information technologies; information literacy; and reference and information service. (3-12-14)()

158. Technology Education (6-12). (3-28-18)

a. Twenty (20) semester credit hours to include course work in each of the following areas: communication technology; computer applications; construction technology; electronics technology; manufacturing

technology; power, energy and transportation and other relevant emerging technologies; career technical student organization leadership; principles of engineering design; and occupational teacher preparation pursuant to Subsection 015.05.a; or (3-28-18)

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

169. 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)

170. 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)

181. Visual Impairment (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: (3-28-18)

- 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)

192. World Language (5-9, 6-12 or K-12). Twenty (20) semester credit hours to include a minimum of twelve (12) intermediate or higher credits in a specific world language. Course work must include two (2) or more of the following areas: grammar, conversation, composition, culture, or literature; and course work in foreign language methods. 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: (3-28-18)

- 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 (3-28-18)
- 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) (3-28-18)

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 background investigation check. (3-28-18)

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. All laws and rules governing 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. (3-28-18)

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 Service Staff. The purpose of this alternative authorization is to allow Idaho school districts to request endorsement/certification when a position requiring the Pupil Service Staff 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. (3-28-18)

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 individualized professional learning plan or related to the professional practice of the applicant. (3-28-18)

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)

iv. Credits must be taken during the validity period of the certificate. (3-28-18)

b. Graduate or undergraduate credit will be accepted for recertification. Credit must be transcribed and completed through a college or university accredited by an entity recognized by the State Board of Education. For pupil service staff, continuing education units completed and applied to the renewal of an occupational license issued by the Idaho Bureau of Occupational Licenses will be accepted for recertification. The continuing education units must be recognized by the Idaho Bureau of Occupational Licenses. (3-28-18)()

c. Credits and continuing education units must be taken during the validity period of the certificate. ()

ed. 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. (3-28-18)

d.e. At least fifteen (15) hours of formal instruction must be given for each hour of in-service credit granted. (4-1-97)

e.f. Recertification credits may not be carried over from one (1) recertification period to the next. (4-1-97)

f.g. 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~~ **credits** 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 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. Any such violations may result in disciplinary action. (3-28-18)

d. Pupil Service Staff Certificate holders who hold a professional license through the Idaho Bureau of Occupational Licenses may use continuing education units applied toward the renewal of their professional license toward the renewal of the Pupil Service Staff Certificate. Fifteen (15) continuing education units are equivalent to one (1) semester credit. ()

(BREAK IN CONTINUITY OF SECTIONS)

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

All individuals who are required by the provisions of Section 33-130, Idaho Code, must undergo a background investigation check. (3-28-18)

01. Definitions. (4-9-09)

a. Applicant. An individual completing a background investigation check as identified in Subsection 075.02 of these rules. (3-28-18)

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. (3-28-18)

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). (3-28-18)
- d.** Break-in-Service. A voluntary or involuntary termination in employment, including retirement. (4-9-09)
 - e.** Candidate. An individual attending a postsecondary program. (4-9-09)
 - f.** 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)
 - g.** Employee. A person who is hired for a wage, salary, fee, or payment to perform work for an employer. (3-28-18)
 - 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. (3-28-18)
 - i.** Rejected Fingerprint Cards or Scans. A fingerprint card or scan that has been returned by the Idaho State Police Bureau of Criminal Identification or Federal Bureau of Investigation for poor quality prints. (3-28-18)
 - j.** Unsupervised Contact. Direct contact or interaction with students not under the direct supervision of an LEA employee 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. (3-28-18)
- 02. Individuals Required to Complete a Background Investigation Check.** (3-28-18)
- a.** All applicants for certificates; (3-28-18)
 - b.** Certificated and noncertificated employees; (3-28-18)
 - c.** Substitute teachers; (3-28-18)
 - d.** Contractors who have unsupervised contact with students in a public K-12 setting, including contractors who are providing student services; (3-28-18)
 - e.** Student teachers or any postsecondary candidates who have unsupervised contact with students in a public K-12 setting; (3-28-18)
 - f.** Volunteers who have unsupervised contact with students in a public K-12 setting; (3-28-18)
 - g.** Any individuals who have unsupervised contact with students in a public K-12 setting. (3-28-18)
- 03. Fee.** The SDE shall charge a fee for undergoing a background investigation check pursuant to Section 33-130, Idaho Code. (3-28-18)
- 04. 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, contractor, postsecondary program, or individual. (3-28-18)
 - 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 thirty (30) calendar days. (3-28-18)

d. If the new fingerprint card and rejected fingerprint card are returned after thirty (30) calendar days, a fee, pursuant to Subsection 075.03 of these rules, is required to be paid. (3-28-18)

05. Secured Background Investigation Check Website. The SDE will maintain a background investigation check website listing the background investigation check results 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. (3-28-18)

06. Background Investigation Checks for Certification. (3-28-18)

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

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)

07. Substitute Teachers. Substitute teachers as defined in Section 33-512(15), Idaho Code, must undergo a background investigation check. The SDE shall maintain a statewide substitute teacher list. To remain on the list a substitute teacher shall undergo a background investigation check every five (5) years in accordance with Section 33-512, Idaho Code. (3-28-18)

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 background investigation check must be completed pursuant to Section 33-130, Idaho Code. (3-28-18)

b. When an employee changes employment between LEAs a new background investigation check must be completed pursuant to Section 33-130, Idaho Code. (3-28-18)

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, *practicum*, or other types of candidate training. (~~3-28-18~~)()

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)

IDAPA 08 – STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1801

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 August 15, 2018.

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 (Manual), an incorporated document. Modifications to the Manual are necessary to ensure compliance with IDAPA, Idaho Code, the Individuals with Disabilities Education Act (IDEA), the Every Student Succeeds Act (ESSA), and recent court decisions. Substantive amendments to Manual, approved by the Idaho State Board of Education on June 20, 2018, include: aligning the definition of a Free and Appropriate Public Education to recent United States Supreme Court decisions and language describing the development of a student’s individualized education program; amending the “Visual Impairment Including Blindness” eligibility criteria based on non-exclusionary guidance from the Office of Special Education; updating the eligibility category of “Emotional Disturbance” to “Emotional Behavioral Disorder”; defining significant cognitive impairments and revising alternate assessment participation criteria for clarity as required by ESSA; clarifying that “objectives and benchmarks” are required for students taking alternative assessments; clarifying provisions for transition planning, postsecondary goal setting, and discontinuation of services; revising private school consultations and processes for resolving disputes; making minor language changes in Chapter 4 for “Developmental Delay”; clarifying the Idaho Special Education Results Driven Accountability Monitoring System; revising disciplinary procedures to comply with IDEA; and updating dispute resolution procedures and processes with present standards of practice and IDEA.

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 February 7, 2018, Idaho Administrative Bulletin, [Volume 18-2, page 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: The Idaho Special Education Manual is currently incorporated by reference. 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 August 22, 2018.

DATED this 20th Day of June, 2018.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1801
(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 10, 2017. (3-28-18)
- 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 August 10, 2017. (3-28-18)
- 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 August 10, 2017. (3-28-18)
- 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. (3-28-18)
- m.** Career Technical Education Categories: (3-29-17)
 - i.** Agricultural and Natural Resources, as revised and adopted on August 31, 2017. (3-28-18)
 - ii.** Business and Marketing Education, as revised and adopted on August 31, 2017. (3-28-18)
 - iii.** Engineering and Technology Education, as revised and adopted on August 31, 2017. (3-28-18)
 - iv.** Health Sciences, as adopted on August 31, 2017. (3-28-18)
 - v.** Family and Consumer Sciences, as revised and adopted on August 31, 2017. (3-28-18)
 - vi.** Skilled and Technical Sciences, as revised and adopted on August 31, 2017. (3-28-18)
 - 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 (ELPA) Achievement Standards.** The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)
- 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 August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)
- 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>. (3-28-18)
 - a.** English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-28-18)
 - b.** Mathematics, as adopted by the State Board of Education on August 10, 2017. (3-28-18)

08. The Idaho Alternate Assessment Achievement Standards. Alternate Assessment Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

09. 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)

10. 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)

11. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on ~~August 10, 2017~~ June 20, 2018. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (~~3-28-18~~)()

IDAPA 08 – STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1805

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 33-1617, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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:

When the No Child Left Behind Act (NCLB) was reauthorized to the Every Student Succeeds Act (ESSA) in December 2015, Annual Measureable Achievement Objectives (AMAOs) were made obsolete by a new accountability structure. This rulemaking action removes references to AMAOs.

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 change 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Christina Nava, Director of English Learner and Migrant Education, at cnava@sde.idaho.gov or (208) 332-6876.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or August 22, 2018.

DATED this 20th Day of June, 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1805
(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)

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- f.** Information and Communication Technology, as revised and adopted on August 10, 2017. (3-28-18)
- 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 August 10, 2017. (3-28-18)
- 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. (3-28-18)
- m.** Career Technical Education Categories: (3-29-17)
 - i.** Agricultural and Natural Resources, as revised and adopted on August 31, 2017. (3-28-18)

- ii. Business and Marketing Education, as revised and adopted on August 31, 2017. (3-28-18)
- iii. Engineering and Technology Education, as revised and adopted on August 31, 2017. (3-28-18)
- iv. Health Sciences, as adopted on August 31, 2017. (3-28-18)
- v. Family and Consumer Sciences, as revised and adopted on August 31, 2017. (3-28-18)
- vi. Skilled and Technical Sciences, as revised and adopted on August 31, 2017. (3-28-18)
- 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)~~

043. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

054. 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)

065. The Idaho Extended Content Standards. The Idaho Extended Content Standards 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>. (3-28-18)

076. 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>. (3-28-18)

- a. English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-28-18)
- b. Mathematics, as adopted by the State Board of Education on August 10, 2017. (3-28-18)

087. The Idaho Alternate Assessment Achievement Standards. Alternate Assessment Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

098. 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)

~~**109. 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)~~

140. **The Idaho Special Education Manual.** The Idaho Special Education Manual as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

(BREAK IN CONTINUITY OF SECTIONS)

112. ACCOUNTABILITY.

School district, charter school district and public charter school accountability will be based on multiple measures aimed at providing meaningful data showing progress toward interim and long-term goals set by the State Board of Education for student achievement and school improvement. The state accountability framework will be used to meet both state and federal school accountability requirements and will be broken up by school category and include measures of student academic achievement and school quality as determined by the State Board of Education. (3-29-17)

01. School Category. (3-29-17)

a. Kindergarten through grade eight (K-8): Schools in this category include elementary and middle schools as defined in Subsection 112.05.f. (3-29-17)

b. High Schools, not designated as alternative high schools, as defined in Subsection 112.05.f. (3-29-17)

c. Alternative High Schools. (3-29-17)

02. Academic Measures by School Category. (3-29-17)

a. K-8: (3-29-17)

i. Idaho Standards Achievement Tests (ISAT) Proficiency. (3-29-17)

ii. ISAT growth toward proficiency based on a trajectory model approved by the State Board of Education. (3-29-17)

iii. ISAT proficiency gap closure. (3-29-17)

iv. Idaho statewide reading assessment proficiency. (3-29-17)

v. English Learners achieving English language proficiency. (3-29-17)

vi. English Learners achieving English language growth toward proficiency. (3-29-17)

b. High School: (3-29-17)

i. ISAT proficiency. (3-29-17)

ii. ISAT proficiency gap closure. (3-29-17)

iii. English Learners achieving English language proficiency. (3-29-17)

iv. English Learners achieving English language growth toward proficiency. (3-29-17)

v. Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-29-17)

vi. Five (5) year cohort graduation rate, including students who complete graduation requirements

- prior to the start of the school district or charter schools next fall term. (3-29-17)
- c.** Alternative High School: (3-29-17)
 - i. ISAT proficiency. (3-29-17)
 - ii. English learners achieving English language proficiency. (3-29-17)
 - iii. English learners achieving English language growth towards proficiency. (3-29-17)
 - iv. Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-29-17)
 - v. Five (5) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-29-17)
- 03. School Quality Measures by School Category.** (3-29-17)
- a.** K-8: (3-29-17)
 - i. Students in grade 8 enrolled in pre-algebra or higher. (3-29-17)
 - ii. State satisfaction and engagement survey administered to parents, students, and teachers (effective starting in the 2018-2019 school year). (3-29-17)
 - iii. Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-29-17)
 - b.** High School: (3-29-17)
 - i. College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school apprenticeship programs. (3-29-17)
 - ii. State satisfaction and engagement survey administered to parents, students, and teachers (effective starting in the 2018-2019 school year). (3-29-17)
 - iii. Students in grade 9 enrolled in algebra I or higher. (3-29-17)
 - iv. Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-29-17)
 - c.** Alternative High School: (3-29-17)
 - i. Credit recovery and accumulation. (3-29-17)
 - ii. College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school apprenticeship programs. (3-29-17)
 - iii. State satisfaction and engagement survey administered to parents, students, and teachers (effective starting in the 2018-2019 school year). (3-29-17)
 - iv. Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-29-17)
- 04. Reporting.** Methodologies for reporting measures and determining performance will be set by the

State Board of Education. (3-29-17)

05. Annual Measurable Progress Definitions. For purposes of calculating and reporting progress, the following definitions shall be applied. (3-29-17)

a. ISAT Student Achievement Levels. There are four (4) levels of student achievement for the ISAT: Below Basic, Basic, Proficient, and Advanced. Definitions for these levels of student achievement are adopted by reference in ~~Subsection 004.05~~ of these rules. (4-2-08)()

b. Idaho's English Language Assessment Proficiency Levels. There are six (6) levels of language proficiency for students testing on the Idaho English Language Assessment: Level 1, Level 2, Level 3, Level 4, Level 5, and Level 6. Definitions for these levels of language proficiency are adopted by reference in ~~Subsections 004.02 and 004.04~~ of these rules. (3-29-17)()

c. Annual Measurable Progress. (3-29-17)

i. ISAT Proficiency is defined as the number of students scoring proficient or advanced on the spring on-grade level ISAT. (3-29-17)

ii. The State Department of Education will make determinations for schools and districts each year. Results will be given to the districts at least one (1) month prior to the first day of school. (3-29-17)

iii. The State Board of Education will set long-term goals and measurements of interim progress targets toward those goals. The baseline for determining measurable student progress will be set by the State Board of Education and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. (3-29-17)

d. Full Academic Year (continuous enrollment). (3-20-04)

i. A student who is enrolled continuously in the same public school from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included in the calculation to determine if the school achieved progress in any statewide assessment used for determining proficiency. A student is continuously enrolled if the student has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. (3-29-17)

ii. A student who is enrolled continuously in the school district from the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the school district has achieved AYP. (4-2-08)

iii. A student who is enrolled continuously in a public school within Idaho from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the state has achieved progress in any statewide assessment used for determining proficiency. (3-29-17)

e. Participation Rate. (3-20-04)

i. Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of students in designated subgroups automatically identifies the school as not having achieved measurable progress in ISAT proficiency. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. (3-29-17)

(1) If a school district does not meet the ninety-five percent (95%) participation target for the current year, the participation rate can be calculated by the most current three (3) year average of participation. (4-6-05)

(2) Students who are absent for the entire state-approved testing window because of medical reasons or

are homebound are exempt from taking the ISAT if such circumstances prohibit them from participating. Students who drop out, withdraw, or are expelled prior to the beginning of the final makeup portion of the test window are considered exited from the school. (4-7-11)

ii. For groups of ten (10) or more students, absences for the state assessment may not exceed five percent (5%) of the current enrollment or two (2) students, whichever is greater. Groups of less than ten (10) students will not have a participation determination. (3-20-04)

f. Schools. As used in this section, schools refers to any school within a school district or charter school district and public charter schools. (3-29-17)

i. An elementary school includes a grade configuration of grades Kindergarten (K) through six (6) inclusive, or any combination thereof. (3-20-04)

ii. A middle school is a school that does not meet the definition of an elementary school and contains grade eight (8) but does not contain grade twelve (12). (4-6-05)

iii. A high school is any school that contains grade twelve (12). (3-20-04)

iv. An alternative high school is any school that contains grade twelve (12) and meets the requirements of Section 110 of these rules. (3-29-17)

v. The accountability of public schools without grades assessed by this system (i.e., K-2 schools) will be based on the third grade test scores of the students who previously attended that feeder school. (3-20-04)

vi. A “new school” for purposes of accountability is a wholly new entity receiving annual measurable progress determinations for the first time, or a school with a significant student population change as a result of schools being combined or geographic boundaries changing, or a result of successful school restructuring sanctioned by the Office of the State Board of Education. (3-29-17)

g. Subgroups. Scores on the ISAT must be disaggregated and reported by the following subgroups: (3-20-04)

i. Race/Ethnicity - Black/African American, Asian, Native Hawaiian/Pacific Islander, White, Hispanic/Latino Ethnicity, American Indian/Alaska Native. (3-20-04)

ii. Economically disadvantaged - identified through the free and reduced lunch program. (3-20-04)

iii. Students with disabilities - individuals who are eligible to receive special education services through the Individuals with Disabilities Education Act (IDEA). (3-20-04)

iv. Limited English Proficient - individuals who do not score proficient on the state-approved language proficiency test and meet one (1) of the following criteria: (4-11-15)

(1) Individuals whose native language is a language other than English; or (4-6-05)

(2) Individuals who come from environments where a language other than English is dominant; or (4-6-05)

(3) Individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. (4-6-05)

h. Graduation Rate. The graduation rate will be based on the rate of the cohort of students entering grade nine (9) during the same academic year and attending or exiting the school within a four (4) year or five (5)

year period as applicable to the measure being determined. In determining the graduation cohort the school year shall include the students who complete graduation requirements prior to the start of the school district or charter schools next fall term. School districts may only report students as having graduated if the student has met, at a minimum, the state graduation requirements, pursuant to Section 105, and will not be returning to the school in following years to complete required academic course work. The State Board of Education will establish a target for graduation. All high schools must meet the target or make sufficient progress toward the target each year, as determined by the State Board of Education. The graduation rate will be disaggregated by the subgroups listed in Subsection 112.05.g.

(3-29-17)

i. Additional Academic Indicator. The State Board of Education will establish a target for all additional academic and school quality measures. All schools must maintain or make progress toward the additional academic and school quality measure target each year. The additional academic and school quality measure targets will be disaggregated by the subpopulations listed in Subsection 112.05.g.

(3-29-17)

~~**06. Annual Measurable Achievement Objectives (AMAOs).** Local school districts are responsible for ensuring district progress of Limited English Proficient (LEP) students in their acquisition of English. Progress and proficiency are measured by Idaho's English language assessment and determined based on three (3) AMAOs:~~

~~(3-29-17)~~

~~**a.** Annual increases in the percent or number of LEP students making progress in acquiring English language proficiency;~~

~~(4-2-08)~~

~~**b.** Annual increases in the percent or number of LEP students attaining English language proficiency by the end of the school year; and~~

~~(4-2-08)~~

~~**c.** Each school district must make Adequate Yearly Progress for LEP students on the spring ISAT.~~

~~(4-2-08)~~

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

10.01.01 – RULES OF PROCEDURE

DOCKET NO. 10-0101-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

**PUBLIC HEARING ON PROPOSED RULE
Wednesday, August 22, 2018 – 10:00 a.m.**

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

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

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

The amendments will implement the provisions of Senate Bill 1252 that relate to repealing examination failure requirements, allowing for early testing for professional examinations, and adding a new category for discontinued certificates of authorization.

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 fiscal impact to the general fund. There is minor (less than \$10,000) reduction in dedicated funds. No fiscal impact is expected because of Senate Bill 1252 as the timing of when a person takes an examination will not unduly influence when they are eligible for licensure as a 4-year experience time period governs when they will be eligible for licensure, not the examination. The discontinuance of a certificate may have a minor impact on revenue estimated as renewal or late fees will not accumulate when this option is selected.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, **Volume No. 18-6, page number 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: N/A

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 28th day of June, 2018.

Keith Simila, P.E., Executive Director
1510 Watertower Street
Meridian, Idaho 83642

Telephone: (208) 373-7210
Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 10-0101-1801
(Only Those Sections With Amendments Are Shown.)

016. APPLICATION FOR LICENSURE OR CERTIFICATION.

01. Forms. Application forms for licensure as a professional engineer, or professional land surveyor, certification as an engineer intern, land surveyor intern or certificates of authorization to practice or offer to practice engineering or land surveying by a business entity may be obtained from the office of the Executive Director of the Board of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Completion of Application. Applications shall be made on such forms as may be prescribed by the Board. All forms, references, transcripts and other written materials shall be in English pursuant to Section 72-121, Idaho Code. An application that is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth its address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. (4-11-15)

03. Dates of Submittal of Applications and Experience Examination Cutoff Date. Submittal of applications for licensure or intern certification must occur after passing the required national examinations. Examinations may be given in various formats and different submittal registration dates apply depending on the examination format. ~~For examinations administered once or twice a year in the Spring and Fall, there is an examination assignment cutoff date that varies depending on the actual date of the examination.~~ (3-25-16)()

a. For national examinations administered in a computer-based or paper format ~~during testing windows, there is no once or twice per year the registration requirements, including the deadline and testing windows, are established by the National Council of Examiners for Engineering and Surveying (NCEES) for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during the current testing window, if open on the date of the letter notifying of assignment, or during the next two (2) available testing windows. Failure to test during these periods will void the assignment.~~ (3-25-16)()

b. For national examinations administered continuously in a computer-based format, there is no deadline for ~~submittal of the application and the applicant, if assigned to the exam, will be allowed to test during a nine (9) month period beginning on the date of the letter notifying of assignment. Failure to test during this period will void the assignment~~ registering with NCEES. The registration requirements, including the testing windows, are established by NCEES. (3-25-16)()

c. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application for licensure will be considered as valid. ~~Experience anticipated between the date of the application submittal and the date of the examination or issuance of license or certificate will not be considered.~~ (3-25-16)()

d. Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering or the Fundamentals of Surveying examination and providing evidence of graduation with educational credentials required by Subsection 017.02~~3~~ of this chapter. (3-25-16)()

04. Residency Requirement. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for assignment to professional examinations for initial licensure or certification as an intern. The board will accept as proof of Idaho residency a valid Idaho issued driver's license, a utility bill issued within the last sixty (60) days with an Idaho address in the name of the applicant, a statement from a financial institution issued within the last sixty (60) days to the applicant at an Idaho address, proof of current voter registration in Idaho, or current Idaho vehicle registration in the name of the applicant. The board will

accept as proof of full-time employment in the state of Idaho an affidavit from the Idaho employer stating employment status. The Board will accept a valid student identification card as proof of enrollment at an Idaho university or college. (3-25-16)

05. Confidentiality of References. All information received from references named by the applicant shall be held in confidence by the Board except as provided by Section 74-113, Idaho Code. Neither members of the Board nor relatives of the applicant by blood or marriage shall be named or accepted as references. (5-8-09)

06. Minimum Standards -- References. An applicant may not be admitted to the examination until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors. It shall be the responsibility of each applicant to furnish references with the forms prescribed by the Board. (3-29-12)

07. Minimum Boundary Survey Experience. The board shall require a minimum of two (2) years boundary survey experience as a condition of professional land surveyor licensure. (3-25-16)

017. EXAMINATIONS AND EDUCATION.

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

02. Use of NCEES Examinations. National examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) may be used by the Board. Applicants registering for a national professional examination must have first passed the fundamentals examination unless exempted per Subsection 017.11 of this chapter. ()

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

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor of science programs accredited by the Canadian Engineering Accrediting Board, or those bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-28-18)()

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

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-

based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-25-16)

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

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

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

c. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for ~~assignment to the examination for~~ licensure as a professional land surveyor: (3-29-17)()

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; (3-29-17)

ii. Sixteen (16) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this

area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; (3-29-17)

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. (3-29-17)

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

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

04. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination shall be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by the Board. (3-28-18)

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

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

07. Three Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of three (3) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying, and the third is the Idaho specific professional land surveying examination. All examinations are required for professional land surveyor licensure. The examination shall be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by the Board. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. Having passed the Principles and Practice of Surveying examination, applicants will be required to pass the Idaho

specific professional land surveying examination, which tests for knowledge of the laws and rules of Idaho, and the legal and technical aspects of land surveying in Idaho. (3-28-18)

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

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

10. Grading. ~~Each~~ Unless otherwise provided in 54-1219, or 54-1223 Idaho Code, each land surveyor intern, engineer intern, professional land surveyor and professional engineer applicant must ~~normally~~ attain a sealed passing score of seventy (70) or above on the entire examination or modules as determined by the Board, before being awarded certification or licensure. ~~Examinees on the Principles and Practice of Land Surveying examination must normally attain a sealed score of seventy (70) or above on each module of the examination~~ Passing scores on national examinations are established by the National Council of Examiners for Engineering and Surveying. A passing score on the Idaho specific ethics questionnaire is eighty (80), a passing score on the law and rules module of the Idaho specific land surveying examination is ninety (90), and a passing score on the public land surveying module of the Idaho specific land surveying examination is seventy-five (75). (3-29-10)()

11. Use of NCEES Examinations. ~~Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the Idaho specific professional land surveyor shall be the examination as determined by the Board.~~ Exemption – Examination on the Fundamentals of Engineering. The Board may exempt an exceptional individual who has twelve (12) or more years of appropriate engineering experience from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(2), Idaho Code. The Board will exempt an individual who has an earned bachelor’s degree and an earned doctoral degree from an approved engineering program from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(3), Idaho Code. (3-25-16)()

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

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

018. REEXAMINATIONS.

The reexamination policy for each failed national examination will be established by NCEES. Reexamination for failed Idaho specific examinations will be allowed until a passing score is attained, but the Board may, in addition, require oral or other examinations. ()

01. Allowing Reexamination Upon First Failure. ~~An applicant failing a professional examination on the first attempt, and having requested reexamination as permitted by law, shall be reassigned to the examination for which a failing grade was received.~~ (3-25-16)

02. Allowing Reexamination Upon Two or More Failures. ~~An applicant who has failed a professional examination twice or more may be assigned by the Board to reexamination upon written request and evidence of having met the requirements set forth in Section 54-1214, Idaho Code.~~ (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

020. DISCONTINUED, RETIRED, AND EXPIRED LICENSES AND CERTIFICATES.

01. Reinstatement – Disciplinary. Licensees who choose to convert their license to retired status as part of a disciplinary action, or in lieu of discipline, or in lieu of compliance with continuing professional development requirements, may be reinstated upon written request. The board will consider the reinstatement request at a hearing or may waive the hearing for minor violations. (3-25-16)

02. Reinstatement – Nondisciplinary. Licensees who chose to convert their license to retired status not as part of a disciplinary action or who want to reinstate an expired license may request reinstatement in writing. Reinstatement may require a hearing by the board. (3-25-16)

03. Continuing Professional Development. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in IDAPA 10.01.04, “Rules of Continuing Professional Development,” as a condition of reinstatement. (3-25-16)

04. Practice Not Permitted. Discontinued, Retired, or expired status does not permit a licensee or certificate holder to engage in the practice of professional engineering or professional land surveying. (3-25-16)()

05. Designation. Licensees who chose retired status shall represent themselves with the title of Professional Engineer Retired or Professional Land Surveyor Retired or similar designation. (3-25-16)

06. Fee for Renewal. The fee for renewing a retired license shall be as established by the Board. (3-25-16)

07. Fee for Reinstatement of Retired License. The fee for reinstatement of a retired license to active practice shall be as required for renewals in Section 54-1216, Idaho Code. (3-25-16)

08. Fee for Reinstatement of Expired License. The fee for reinstatement of an expired license or certificate to active practice shall be as required for delayed renewals in Section 54-1216, Idaho Code. (3-25-16)

09. Eligibility. Unless otherwise approved by the Board, only unexpired licensees are eligible to convert to retired status. (3-25-16)

10. Discontinued Certificate of Authorization. Business entities no longer providing engineering or land surveying services in Idaho may request their certificates be discontinued. Reinstatement of a discontinued certificate may be requested by submitting a new application with the Board. ()

11. Fee for Reinstatement of Discontinued Certificate of Authorization. The fee for reinstatement of a discontinued certificate will be as required for applications in Section 54-1213, Idaho Code. ()

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

10.01.02 – RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

**PUBLIC HEARING ON PROPOSED RULE
Wednesday, August 22, 2018 – 10:00 a.m.**

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

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

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

The amendments will implement a requirement for professional land surveyors to notify affected adjacent landowners and the Board prior to setting a monument that represents a material discrepancy with another monument for the same property corner and potentially clouding the title of private land.

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 fiscal impact to the general fund or the dedicated fund because the rule establishes obligations of licensed professional land surveyors to appropriately regard the public in their actions. The amendment does not increase the cost of the Board.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, **Volume number 18-6, page 42.**

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 28th day of June, 2018.

Keith Simila, P.E., Executive Director
1510 Watertower Street
Meridian, Idaho 83642

Telephone: (208) 373-7210
Fax: (208) 373-7213
Email: keith.simila@ipels.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 10-0102-1801
(Only Those Sections With Amendments Are Shown.)

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Licensees and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (5-8-09)

02. Standard of Care. Each Licensee and Certificate Holder shall exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (3-29-10)

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (5-8-09)

04. Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy shall respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer shall notify the Licensee or Certificate Holder in writing, who shall have another twenty (20) days to respond. Failure to respond (with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer ~~may~~ **must** notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. A Licensee or Certificate Holder shall be exempt from this requirement if their client is an attorney and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure shall apply. (3-29-12)()

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development." (5-8-09)

06. Obligation to Affected Landowners. Land surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227, Idaho Code. Per Subsection 005.04 above, land surveyors also have a duty to notify other licensees of a material discrepancy prior to setting monuments that represent a material discrepancy with a prior survey. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. ()

IDAPA 12 – DEPARTMENT OF FINANCE

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

DOCKET NO. 12-0108-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 30-14-605 and 30-14-608, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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 59 (12.01.08.059) is being eliminated as it provided for the implementation of a federal securities issuer exemption that no longer exists.

Rule 103 (12.01.08.103) is being amended to address recent changes in uniform securities examinations as adopted by both federal and state securities regulators.

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 for this rule as it is simple in nature and negotiation would be ineffective.

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 Jim Burns at (208) 332-8080, jim.burns@finance.idaho.gov, or securitiesrules@finance.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 3rd day of July, 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0108-1801
(Only Those Sections With Amendments Are Shown.)

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

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

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

~~a. Is subject to any of the disqualifications under 17 CFR 230.262, as in effect on August 24, 2005; (3-29-17)~~

~~b. Is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involved in an aspect of a business involving securities, commodities, investments, franchises, insurance, banking or finance; (3-29-17)~~

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

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

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

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

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

~~c. The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under Subsection 059.02 of this rule. (3-29-17)~~

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

~~a. One (1) copy of the SEC filed electronic Form D; (3-29-17)~~

~~b. Copy of the private placement memorandum. (3-29-17)~~

~~c. Each notice shall be filed with the Department no later than ten (10) business days prior to effecting a sale in Idaho. (3-24-05)~~

~~05. **Amendments.** During the period of the offering, the issuer shall take steps necessary to insure that all material information contained in the notice filing remains current and accurate. (3-24-05)~~

~~06. **Nonaccredited Investors.** In all sales to nonaccredited investors in this state, one (1) of the following conditions must be satisfied or the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry, shall believe that one (1) of the following conditions is satisfied: (3-24-05)~~

~~a. The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to the purchaser's other security holdings, financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent (10%) of the investor's net worth, it is suitable. (3-24-05)~~

~~b. The purchaser either alone or with her purchaser representative(s) has such knowledge and experience in financial and business matters that she is or they are capable of evaluating the merits and risks of the prospective investment. (3-24-05)~~

~~07. **Due Diligence.** Nothing in this rule is intended to relieve registered securities broker-dealers or agents from the due diligence, suitability, or know your customer standards or any other requirements of law otherwise applicable to such registered person. (3-24-05)~~

~~08. **Disclosure.** Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the Act. (3-24-05)~~

~~09. **Denial, Suspension, Revocation, Condition or Limitation of Exemption.** Any issuer relying on the exemption under Regulation D, Rule 505 may be subject to the enforcement remedies provided in Section 30-14-204, Idaho Code, if it fails to satisfactorily address issues raised by the Department in comment letters or otherwise. (3-24-05)~~

~~10. **Issuer Agent Registration.** Pursuant to Section 30-14-402(b)(9), Idaho Code, an individual who represents an issuer who effects transactions that are exempt securities under 17 CFR 230.505 and exempt from Section 30-14-301, Idaho Code, is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. In addition, if such person is registered as a broker-dealer or agent in another state or with FINRA, or affiliated with a broker-dealer registered in another state, with the SEC or FINRA, then such person must also be similarly registered in Idaho. (3-29-17)~~

(BREAK IN CONTINUITY OF SECTIONS)

103. EXAMINATION REQUIREMENTS (RULE 103).

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

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

i. The applicable FINRA examinations; and (3-29-17)()

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

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

i. The Series 65; or (3-24-05)

ii. The Series 66 ~~and, the~~ Series 7, ~~and the Securities Industry Essentials~~ examinations. ~~(3-24-05)~~()

c. Specialized agent of a broker-dealer, issuer agent and qualifying officer for non-FINRA broker-dealer application. Specialized agents of broker-dealers, issuer agents and qualifying officers for non-FINRA broker-dealers application are required to take and pass: (3-29-17)

i. The applicable FINRA examination; and (3-29-17)

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

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

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

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

a. Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.; (3-24-05)

b. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania; (3-24-05)

c. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; (3-24-05)

d. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; (3-24-05)

e. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.; or (3-24-05)

f. Such other professional designation as the Administrator may by rule or order recognize. (3-24-05)

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

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-1802AAP

NOTICE OF AMENDED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by amended proclamation the 2018 Chinook Salmon Spring Fishing Season, establishing seasons and limits for fishing in Idaho, as follows:

I. Seasons – Chinook Salmon. Previously approved Chinook Salmon Seasons are unaffected by the current proclamation unless noted below.

A. Fishing Areas. The following area, closed to fishing by Order of the Director on June 15, 2018, will reopen to Chinook Salmon fishing on July 7, 2018:

- Mainstem Clearwater River Section 2- from the Cherrylane Bridge upstream to the Orofino Bridge.

The following areas close by Order of the Director to Chinook Salmon fishing at the end of fishing as follows:

- N. Fork Clearwater on July 1, 2018; and
- Lower Salmon River from Twin Bridges to Shorts Creek on June 24, 2018.

B. Fishing Days. Fishing for Chinook Salmon in Mainstem Clearwater River Section 2 is allowed four (4) days per week, Thursday, Friday, Saturday and Sunday.

C. Fishing Hours. Fishing for Chinook Salmon in Mainstem Clearwater River Section 2 is permitted from 4:30 AM to 9:00 PM Pacific Daylight Time.

II. Limits. Previously approved limits and rules are unaffected by the current proclamation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the amended proclamation, contact Kathleen Trever at (208) 334-3715.

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-1803AP

NOTICE OF AMENDED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by amended proclamation the 2018 Chinook Salmon Summer Fishing Season, establishing seasons and limits for fishing in Idaho, as follows:

I. Seasons – Chinook Salmon. Previously approved Chinook Salmon Summer Fishing Seasons are unaffected by the current proclamation unless noted below.

A. Fishing Areas. The following area opens to Chinook Salmon fishing on July 7, 2018:

- Upper Salmon River from the posted boundary at the Colston Corner boat ramp (~6.5 miles downstream of Ellis, ID), upstream to the posted boundary approximately fifty (50) yards above the mouth of the Pahsimeroi River in Ellis.

The following areas close by Order of the Director to Chinook Salmon fishing at the end of fishing as follows:

- Lochsa River on July 1, 2018;
- South Fork Salmon River on July 5, 2018; and
- Upper Salmon River from the Highway 93 bridge located 0.3 miles south of the junction of Highway 93 and Highway 75 (near Challis), and the posted boundary approximately one hundred (100) yards downstream of the weir at Sawtooth Fish Hatchery on July 7, 2018.

B. Fishing Days. Fishing for Chinook Salmon in the open portion of the Upper Salmon River is seven (7) days per week.

C. Fishing Hours. Fishing for Chinook Salmon in the open portion of the Upper Salmon River is permitted from 5:30 AM to 10:00 PM Mountain Daylight Time.

D. Closing Dates. Areas will be closed by Closure Order signed by the Director of the Idaho Department of Fish and Game.

II. Limits and Rules. Previously approved limits and rules are unaffected by the current proclamation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the amended proclamation, contact Kathleen Trever at (208) 334-3715.

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-1804P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that the agency has adopted by proclamation the 2018 Chinook Salmon Fishing Season for the Boise River, establishing seasons and limits for fishing in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact Kathleen Trever at (208) 334-3715.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1809

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2018.

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 56-202(b) and 56-264, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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:

Rules Governing Uniformity, IDAPA 08.02.02, updated the paraprofessional definition, and included language that stated that individuals not meeting the outlined requirements, would be considered a school or classroom aide. This change impacted school professionals by requiring a higher credential to provide services in school settings than is required for providers of the same service outside of the school setting (in the community). PCS paraprofessional provider qualifications are being updated for school-based services to align with community paraprofessional PCS provider qualifications.

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

These changes allow schools to meet the same requirements as the community providers, remove the additional requirements for services provided in school settings, and will help to ensure that children are getting the services they need while at school.

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:

This is a technical change to the rule, changing the requirements to be a PCS provider in school settings to match the requirements for service providers outside of the school setting. This will not change the current process or provider types. There is no anticipated fiscal impact to state general funds, or any other funds as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a technical change to the rule. This will not change the current process or provider types that are currently used today.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Angie Williams, (208) 287-1169 or e-mail: Angie.Williams@dhw.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 August 22, 2018.

DATED this 29th day of June, 2018.

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
dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0309-1809
(Only Those Sections With Amendments Are Shown.)**

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

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (7-1-13)

01. Behavioral Intervention. Behavioral intervention must be provided by or under the supervision of a professional. (7-1-13)

a. A behavioral intervention professional must meet the following: (7-1-13)

i. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, “Rules Governing Uniformity,” Section 028; or (7-1-13)

ii. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, “Rules Governing Uniformity,” Section 019; or (7-1-13)

iii. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, “Rules Governing Uniformity,” Section 029; or (7-1-13)

iv. Habilitative intervention professional who meets the requirements defined in IDAPA 16.03.10 “Medicaid Enhanced Plan Benefits,” Section 685; or (7-1-13)

v. Individuals employed by a school as certified Intensive Behavioral Intervention (IBI) professionals prior to July 1, 2013, are qualified to provide behavioral intervention; and (7-1-13)

vi. Must be able to provide documentation of one (1) year’s supervised experience working with children with developmental disabilities. This can be achieved by previous work experience gained through paid employment, university practicum experience, or internship. It can also be achieved by increased on-the-job supervision experience gained during employment at a school district or charter school. (7-1-13)

b. A paraprofessional under the direction of a qualified behavioral intervention professional, must meet the following: (7-1-13)

i. Must be at least eighteen (18) years of age; (7-1-13)

ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; and (7-1-16)

iii. Must meet the paraprofessional requirements under the Elementary and Secondary Education Act of 1965, as amended, Title 1, Part A, Section 1119. (7-1-13)

c. A paraprofessional delivering behavioral intervention services must be under the supervision of a behavioral intervention professional or behavioral consultation provider. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the behavioral intervention service. (7-1-13)

02. Behavioral Consultation. Behavioral consultation must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and who meets one (1) of the following: (7-1-13)

a. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028. (7-1-13)

b. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019. (7-1-13)

c. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity" Section 029. (7-1-13)

d. An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 027, excluding a licensed registered nurse or audiologist. (7-1-13)

e. An occupational therapist who is qualified and registered to practice in Idaho. (7-1-13)

f. Therapeutic consultation professional who meets the requirements defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 685. (7-1-13)

03. Medical Equipment and Supplies. See Subsection 853.03 of these rules. (3-20-14)

04. Nursing Services. Nursing services must be provided by a licensed registered nurse (RN) or by a licensed practical nurse (LPN) licensed to practice in Idaho. (7-1-13)

05. Occupational Therapy and Evaluation. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

06. Personal Care Services. Personal care services must be provided by or under the direction of a registered nurse licensed by the State of Idaho. (7-1-13)

a. Providers of PCS must have at least one (1) of the following qualifications: (7-1-13)

i. Licensed Registered Nurse (RN). A person currently licensed by the Idaho State Board of Nursing as a licensed registered nurse; (7-1-13)

ii. Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; (7-1-16)

iii. Certified Nursing Assistant (CNA). A person currently certified by the State of Idaho; or (7-1-16)

iv. Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services *and meets the paraprofessional requirements under the Elementary and Secondary Education Act of 1965, as amended, Title 1, Part A, Section 1119.* The assistant must be at least age

eighteen (18) years of age. ~~Medically oriented services may be delegated to an aide in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." The licensed registered nurse may require a CNA if, in their professional judgment, the student's medical condition warrants a CNA.~~ (7-1-16)(8-1-18)T

b. The licensed registered nurse (RN) must review or complete, or both, the PCS assessment and develop or review, or both, the written plan of care annually. Oversight provided by the RN must include all of the following: (7-1-16)

i. Development of the written PCS plan of care; (7-1-13)

ii. Review of the treatment given by the personal assistant through a review of the student's PCS service detail reports as maintained by the provider; and (7-1-16)

iii. Reevaluation of the plan of care as necessary, but at least annually. (7-1-13)

c. The RN must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (7-1-16)

07. Physical Therapy and Evaluation. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

08. Psychological Evaluation. A psychological evaluation must be provided by a: (7-1-13)

a. Licensed psychiatrist; (7-1-13)

b. Licensed physician; (7-1-13)

c. Licensed psychologist; (7-1-13)

d. Psychologist extender registered with the Bureau of Occupational Licenses; or (7-1-13)

e. Endorsed or certified school psychologist. (7-1-16)

09. Psychotherapy. Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: (7-1-13)

a. Psychiatrist, M.D.; (7-1-13)

b. Physician, M.D.; (7-1-13)

c. Licensed psychologist; (7-1-13)

d. Licensed clinical social worker; (7-1-13)

e. Licensed clinical professional counselor; (7-1-13)

f. Licensed marriage and family therapist; (7-1-13)

g. Certified psychiatric nurse (R.N.), as described in Subsection 707.13 of these rules; (7-1-13)

h. Licensed professional counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (7-1-13)

i. Licensed masters social worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (7-1-13)

j. Licensed associate marriage and family therapist whose provision of psychotherapy is supervised as described in IDAPA 24.15.01, “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists”; or (7-1-13)

k. Psychologist extender, registered with the Bureau of Occupational Licenses, whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, “Rules of the Idaho State Board of Psychologist Examiners.” (7-1-13)

10. Community Based Rehabilitation Services (CBRS). CBRS providers must be one of the following: (7-1-16)

a. Licensed physician, licensed practitioner of the healing arts; (7-1-16)

b. Advanced practice registered nurse; (7-1-16)

c. Licensed psychologist; (7-1-13)

d. Licensed clinical professional counselor or professional counselor; (7-1-13)

e. Licensed marriage and family therapist; (7-1-16)

f. Licensed masters social worker, licensed clinical social worker, or licensed social worker; (7-1-13)

g. Psychologist extender registered with the Bureau of Occupational Licenses; (7-1-13)

h. Licensed registered nurse (RN); (7-1-13)

i. Licensed occupational therapist; (7-1-13)

j. Endorsed or certified school psychologist; (7-1-16)

k. Community Based Rehabilitation Services specialist. A CBRS specialist is: (7-1-16)

i. An individual who has a Bachelor’s degree and holds a current PRA credential; or (3-20-14)

ii. An individual who has a Bachelor’s degree or higher and was hired on or after November 1, 2010, to work as a CBRS specialist to deliver Medicaid-reimbursable mental health services. This individual may continue to do so for a period not to exceed thirty (30) months from the initial date of hire. The individual must show documentation that they are working towards this certification. In order to continue as a CBRS specialist beyond a total period of thirty (30) months from the date of hire, the worker must have completed a certificate program or earned a certification in psychiatric rehabilitation based upon the primary population with whom he works in accordance with the requirements set by the PRA. (7-1-16)

iii. Credential required for CBRS specialists. (7-1-16)

(1) Applicants who intend to work primarily with adults, age eighteen (18) or older, must become a Certified Psychiatric Rehabilitation Practitioner in accordance with the PRA requirements. (3-20-14)

(a) Applicants must be under the supervision of a licensed behavioral health professional, a physician, nurse, or a endorsed/certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision to review treatment provided to student participants on an ongoing basis. The frequency of the 1:1 supervision must occur at least on a monthly basis. (7-1-16)

(b) CBRS supervision can be conducted using telehealth when it is equally effective as direct on-site supervision. (7-1-16)

(2) Applicants who work primarily with adults, but also intend to work with participants under the age

of eighteen (18), must have training addressing children's developmental milestones, or have evidence of classroom hours in equivalent courses. The worker's supervisor must determine the scope and amount of training the worker needs in order to work competently with children assigned to the worker's caseload. (3-20-14)

(a) Applicants must be under the supervision of a licensed behavioral health professional staff, a physician, nurse, or a endorsed/certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision to review treatment provided to student participants on an ongoing basis. The frequency of the 1:1 supervision must occur at least on a monthly basis. (7-1-16)

(b) CBRS supervision can be conducted using telehealth when it is equally effective as direct on-site supervision. (7-1-16)

(3) Applicants who intend to work primarily with children under the age of eighteen (18) must obtain a certificate in children's psychiatric rehabilitation in accordance with the PRA requirements. (3-20-14)

(4) Applicants who primarily work with children, but who also intend to work with participants eighteen (18) years of age or older, must have training or have evidence of classroom hours addressing adult issues in psychiatric rehabilitation. The worker's supervisor must determine the scope and amount of training the worker needs in order to competently work with adults assigned to the worker's caseload. (3-20-14)

11. Speech/Audiological Therapy and Evaluation. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

12. Social History and Evaluation. Social history and evaluation must be provided by a licensed registered nurse (RN), psychologist, M.D, school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho. (7-1-13)

13. Transportation. Transportation must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. (7-1-13)

14. Therapy Paraprofessionals. The schools may use paraprofessionals to provide occupational therapy, physical therapy, and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist as defined by the appropriate licensure and certification rules. The portions of the treatment plan that can be delegated to the paraprofessional must be identified in the IEP or transitional IFSP. (7-1-16)

a. Occupational Therapy (OT). Refer to IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," for qualifications, supervision, and service requirements. (7-1-16)

b. Physical Therapy (PT). Refer to IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," for qualifications, supervision and service requirements. (7-1-16)

c. Speech-Language Pathology (SLP). Refer to IDAPA 24.23.01, "Rule of the Speech and Hearing Services Licensure Board," and the American Speech-Language-Hearing Association (ASHA) guidelines for qualifications, supervision and service requirements for speech-language pathology. The guidelines have been incorporated by reference in Section 004 of these rules. (7-1-16)

i. Supervision must be provided by an SLP professional as defined in Section 734 of this chapter of rules. (7-1-16)

ii. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the SLP service. (7-1-16)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1801

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2018.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b) and 56-264, Idaho Code; also House Bill 260 (2011), now codified as Sections 56-260 through 56-266, Idaho Code.

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

PUBLIC HEARING Tuesday, August 14, 2018 1:30 p.m. (MDT)	PUBLIC HEARING Wednesday, August 15, 2018 1:00 p.m. (MDT)	PUBLIC HEARING Thursday, August 16, 2018 9:00 a.m. (PDT)
Medicaid Central Office 3232 Elder Street Conf. Rooms D East & West Boise, ID 83705	DHW Region 6 Office 150 Shoup Avenue 2nd Floor Large Conf. Room Idaho Falls, ID 83402	DHW Region 2 Office 1118 F Street 3rd Floor Conf. Room Lewiston, ID 83501

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:

Idaho House Bill 260 (2011) included legislative direction for the Department to develop a plan for Medicaid managed care for high-cost populations, including dual eligibles. Idaho Medicaid has offered a voluntary, integrated Medicare-Medicaid Coordinated Plan (MMCP) to Idaho’s dual eligibles since 2014. With the addition of another health plan to the market, dual eligibles will have two health plans to select from for the MMCP.

This rule change is needed to allow Medicaid to enroll those dual eligibles who have not elected to enroll in the coordinated MMCP into a Medicaid Managed Long-Term Services and Supports program, which will administer and coordinate Medicaid benefits. (NOTE: Medicaid will concurrently seek 1915(b) Waiver authority from the Centers for Medicare and Medicaid Services (CMS) to develop a mandatory enrollment structure.)

This rule change adds a new section of rules to this chapter that includes language pertaining to Idaho’s existing managed care structures (behavioral health benefits and dental benefits, respectively). The new section will also indicate that dual eligibles (except for Tribal members and other populations exempt under federal requirements) will be mandatorily enrolled into a Medicaid Managed Long-Term Services and Supports plan that will administer and coordinate their Medicaid benefits in counties where there are two or more participating health plans. Participants will have an election period during which they can select the plan of their choice. Individuals that have not selected a plan by a specified deadline will be randomly assigned to one plan or the other by the Division of Medicaid.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit to the public.

This temporary rule will provide for phased-in mandatory enrollment into a Medicaid managed care service delivery system for individuals with Medicare Parts A and B and Enhanced Medicaid (“dual eligibles”) in counties where there are two or more participating health plans. Managed care for dual eligibles provides an improved system of service delivery over Medicaid fee-for-service.

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:

The anticipated fiscal impact is limited to the cost of system changes, which is currently projected at \$930,000, based on the high-level design estimate from the Department's Medicaid Management Information Systems (MMIS) vendor, Molina Medicaid Solutions. Medicaid is currently working to submit an Advance Planning Document (APD) to CMS to request federal financial participation (FFP) to offset the costs of these automation changes. If approved, the enhanced federal financial participation rate is 90% and the remaining 10% would be utilized from state general funds, meaning \$837,000 federal monies and \$93,000 state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 2, 2018, Idaho Administrative Bulletin, **Vol. 18-5, pages 67 and 68.**

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 temporary and proposed rule, contact Ali Fernández at (208) 287-1179.

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 Wednesday, August 22, 2018.

DATED this 29th day of June, 2018.

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
dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0310-1801
(Only Those Sections With Amendments Are Shown.)**

076. ~~089.~~ *(RESERVED)* MANAGED CARE FOR DUALS: DEFINITIONS.

For the purposes of the managed care service delivery system for dual eligible beneficiaries described in Sections 076 through 079 of these rules, the following definitions apply: (10-1-18)T

01. Dual Eligible. A participant who is eligible for medical assistance under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)." The participant's Medicaid eligibility must not be based solely on the requirements found under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," Section 802, "Women Diagnosed With Breast or Cervical Cancer." In addition, the participant must be eligible for and enrolled in both Medicare Part A and Medicare Part B, and must not have Medicare eligibility due to End-Stage Renal Disease (ESRD). (10-1-18)T

02. Health Plan. A health insurance company responsible for administering Medicaid benefits to dual eligible participants under a provider agreement with the Department. (10-1-18)T

03. Idaho Medicaid Plus. A managed care program designed to administer Medicaid benefits for dual eligible participants administered under a provider agreement between the Department and participating health plans. (10-1-18)T

04. Medicare/Medicaid Coordinated Plan. A managed care program as defined in IDAPA 16.03.17, “Medicare/Medicaid Coordinated Plan Benefits.” (10-1-18)T

05. Passive Enrollment. An enrollment process in which a participant is assigned to a participating health plan in a managed care service delivery structure unless the participant actively opts out of the enrollment process. (10-1-18)T

077. MANAGED CARE FOR DUALS: PROGRAM AUTHORITY AND IMPLEMENTATION.

01. Program Authority. Idaho Medicaid Plus is a managed care program for dual eligible participants administered with approval from the Centers for Medicare and Medicaid Services (CMS). The Idaho Medicaid Plus program allows for a health plan to administer Medicaid benefits to dual eligible participants. (10-1-18)T

02. Implementation. Idaho Medicaid Plus will be implemented using a phased-in approach. (10-1-18)T

a. Idaho Medicaid Plus will be implemented in a pilot county upon approval from CMS and after the Department determines that participating health plans have passed a readiness review for implementation.(10-1-18)T

b. Implementation in additional counties will occur in a phased-in manner upon successful implementation in the pilot county as determined by the Department. Phased-in implementation in any and all additional counties will be subject to Department approval. (10-1-18)T

c. Participating health plans must meet established performance benchmarks prior to Idaho Medicaid Plus implementation in each successive geographic service area. (10-1-18)T

078. MANAGED CARE FOR DUALS: PARTICIPANT ELIGIBILITY AND ENROLLMENT.
Idaho Medicaid Plus will be made available to dual eligible participants over age twenty-one (21) who reside in a county with at least one (1) participating health plan. (10-1-18)T

01. Excluded Populations. Idaho Medicaid Plus is not available to the following populations: (10-1-18)T

a. Dual eligible participants that have elected to enroll in the Medicare Medicaid Coordinated Plan as defined in IDAPA 16.03.17, “Medicare Medicaid Coordinated Plan Benefits.” (10-1-18)T

b. Individuals who have Medicare eligibility related to End-Stage Renal Disease. (10-1-18)T

c. Individuals enrolled in the Adult Developmental Disabilities 1915(c) waiver program as defined in Section 702 of these rules. (10-1-18)T

02. Optional Populations. Tribal members and pregnant women who are dual eligible participants can elect to voluntarily enroll in Idaho Medicaid Plus if it is available in their county of residence. These participants retain the right to disenroll from Idaho Medicaid Plus at any time. (10-1-18)T

03. Mandatory Enrollment. Dual eligible participants that are not members of an excluded population and reside in a county with two (2) or more participating health plans must select a health plan to administer their Idaho Medicaid Plus program. Mandatory enrollment procedures will occur in accordance with 42 CFR 438 Subpart B. (10-1-18)T

04. Passive Enrollment. Dual eligible participants that are not members of an excluded population and reside in a county with only one (1) participating health plan will be enrolled into that health plan to administer their Idaho Medicaid Plus program unless they opt out by contacting the Department using the instructions on the enrollment notice. These dual eligible participants may opt out of Idaho Medicaid Plus at any time. (10-1-18)T

079. MANAGED CARE FOR DUALS: COVERED SERVICES.

01. Coverage and Limitations. (10-1-18)T

a. Idaho Medicaid Plus covered services include Medicaid benefits as described in this chapter and IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” (10-1-18)T

b. Services for adults with developmental disabilities as described in Sections 511, 580, and 703 of these rules are excluded from Idaho Medicaid Plus. (10-1-18)T

c. Services administered under the managed care or brokerage contracts as described in Section 080 of these rules, and IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Sections 870 through 872 are excluded from Idaho Medicaid Plus. (10-1-18)T

02. Provider Reimbursement. Idaho Medicaid Plus participating health plans are required to reimburse network providers, at minimum, the established Medicaid fee schedule rates published on the Medicaid provider webpage and developed in accordance with Idaho Code and Department rule. (10-1-18)T

080. -- 089. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION

DOCKET NO. 20-0401-1701

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 Title 38, Chapter 1, including section 38-132, Idaho Code, and Title 38, Chapter 4, including section 38-402, Idaho Code.

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

PUBLIC HEARINGS ON PROPOSED RULE		
Tuesday, August 7, 2018 5:00 p.m. (MDT)	Wednesday, August 8, 2018 5:00 p.m. (PDT)	Thursday, August 9, 2018 5:00 p.m. (PDT)
Hunt Lodge - Holiday Inn 210 N. 3rd Street McCall, ID 83638	Helgeson Place Hotel Suites 125 Johnson Ave. Orofino, ID 83544	IDL Mica Supervisory Area Office 3528 W. Industrial Loop Coeur d'Alene, ID 83815

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 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 IDAPA 20.04.01, “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 entered into negotiated rulemaking to develop fire protection standards specific to forest operations. At the conclusion of negotiated rulemaking, the Department determined a need to enter into proposed rulemaking to amend the fire protection requirements for following sections: Spark Arresters; Fire Tools and Fire Extinguishers; and Fire Crews. In addition, the Department will introduce new fire protection requirements for forest operation activities involving cable logging operations and the use of metal tracked harvesters to include on-site water supply, fire watch service and operation area fire prevention practices.

FEE SUMMARY: There are no imposed fees or charges to the public associated with the administration of the proposed rule.

FISCAL IMPACT: No fiscal impact to the state general fund is anticipated 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 October 4, 2017 Idaho Administrative Bulletin, [Vol 17-10, page 334](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The Department will adopt the spark arrester standards established by the 2012 San Dimas Technology & Development Center (SDTDC) publications titled Spark Arrester Guide – General Purpose and Locomotive (GP/ Loco), Spark Arrester Guide – Multiposition Small Engine (MSE) and Spark Arrester Guide – Off Highway Vehicles (OHV) as the fire protection

standard for internal combustion engines operating within the forest environment. Due to the length of these publications, incorporating the full text of these documents into the rule would impose a significant financial burden to the Department for rule publication purposes. Electronic copy of these publications are available for review at the following website: https://www.fs.fed.us/t-d/programs/fire/spark_arrester_guides/index.htm.

Printed copies or bound copies may be viewed at any Idaho Department of Lands District Office or requested through SDTDC, 444 E. Bonita Ave., San Dimas, CA 91773.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact JT Wensman, Bureau Chief – Fire Management (208) 769-1525. Materials pertaining to the proposed 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/20.04.01/index.html>.

Submission of written comments regarding this proposed 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 August 22, 2018.

DATED this 1st day of August, 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0401-1701
(Only Those Sections With Amendments Are Shown.)

000. AUTHORITY.

~~These rules are adopted pursuant to the rulemaking authority granted in~~ This chapter is adopted under the legal authority of Sections 38-115, 38-132, 38-402, 58-104(6), 58-105, and 67-5201 et seq., Idaho Code. (10-28-91)()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.04.01, “Rules Pertaining to Forest Fire Protection.” ()

02. Scope. These rules govern requirements pertaining to forest fire protection. ()

002. WRITTEN INTERPRETATION.

The Idaho Department of Lands maintains written interpretations of its rules that may include, but not be limited to, written procedures manuals and operations manuals, Attorney General’s formal and informal opinions, and other written guidance that pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General’s opinions, and other written interpretations, if applicable, are available for public inspection and copying at the main office of the Idaho Department of Lands. ()

003. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the BOARD shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, (the Administrative Procedure Act) and IDAPA 20.01.01.000, et seq., "Rules of Practice and Procedure Before the State Board of Land Commissioners." ()

004. INCORPORATION BY REFERENCE.

01. Incorporated Document. IDAPA 20.04.01 adopts and incorporates by reference the full text of the following documents published by the San Dimas Technology & Development Center (SDTDC). ()

a. Spark Arrester Guide – General Purpose and Locomotive (GP/Loco), Volume 1, September 2012, 1251 1809-SDTDC. ()

b. Spark Arrester Guide – Multiposition Small Engine (MSE), Volume 2, August 2012, 1251 1808-SDTDC. ()

c. Spark Arrester Guide – Off- Highway Vehicles (OHV), Volume 3, April 2012, 1251 1805-SDTDC. ()

02. Printed and Bound Copies. Printed copies or bound copies may be viewed at any District Office or requested through SDTDC, 444 E. Bonita Ave, San Dimas, 91773. ()

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Idaho Department of Lands is in Boise, Idaho. The office is located at 300 North 6th Street, Suite 103, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, ID 83720-0050. The telephone number is 208-334-0200. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the provisions the Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Block. A piece of logging equipment where steel rope or cable is actively turning the block's pulley and used as part of a cable logging/yarding system for the specific purposes of establishing tail hold anchor points, intermediate support of main lines, or carriage haul-back capability for the purposes of yarding or hauling of logs to a log landing for transportation to a mill or processing facility. ()

02. Cable or Cable Assisted Logging. A harvest system for felling or yarding of forest product materials consisting of the use of a cable assisted harvester or the use of a yarder, spar tree, or intermediate support with motorized or non-motorized carriage to transport logs to the landing for further processing purposes. ()

03. Closed Fire Season. The period from May 10 to October 20, inclusive, of each year or as designated by the Director due to conditions of unusual fire danger pursuant to Section 38-115, Idaho Code. ()

014. Department. The Idaho Department of Lands ~~located at 300 North 6th Street, Suite 103, Boise, ID, P.O. Box 83720, Boise, ID 83720-0050.~~ (10-28-91) ()

025. Director. The director of the Idaho Department of Lands or his authorized representative. (10-28-91)

036. District. A designated forest protective district. (10-28-91)

047. Fire Warden. A duly appointed fire warden or deputy. (10-28-91)

~~058~~. **Forest Land.** Any land which has upon it sufficient brush or flammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or removal of forest products, to constitute a fire menace to life (including animal) or property. (10-28-91)

~~09~~. **Forest Operation.** An activity or service conducted on forest lands involving any of the operations as described below where a Certificate of Compliance is required pursuant to Section 38-122, Idaho Code. ()

~~a~~. The harvesting of trees using equipment that includes, but is not limited to, felling, bucking, yarding, delimiting, and decking operations; ()

~~b~~. Thinning or mastication operations for stand improvement, stand density management or fuel reduction purposes; ()

~~c~~. Road construction or reconstruction of existing roads including installation or improvement of bridges, culverts or structures; and ()

~~d~~. Slash management including chipping, grinding, or other mechanized reduction activities. ()

~~10~~. **Metal-Tracked Harvester.** Any machine with metal tracks used to fall, bunch or process trees into forest products at the stump. ()

~~11~~. **Operator.** A person who conducts a forest operation. ()

~~12~~. **Operating Area.** That area where a forest operation is taking place. ()

~~0613~~. **Person.** Includes any person or persons, and any corporation, firm or other entity. (10-28-91)

~~0714~~. **Range Land.** Any land that is not cultivated and that has upon it native grasses or other forage plants making it best suited for grazing of domestic and wild animals and which land is adjacent to or intermingled with forest land. (10-28-91)

~~0815~~. **Slash.** Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or to the clearing of land that are four (4) inches and under in diameter. (10-28-91)

~~0916~~. **State.** State of Idaho. (10-28-91)

~~011~~ -- ~~0219~~. (RESERVED)

~~020~~. **VARIANCE.** If conditions or activities require the application of practices that differ from those prescribed in these rules, the Operator must obtain a variance prior to employing any of those differing practices. ()

~~01~~. **Obtaining a Variance.** In order to obtain a variance, the Operator must submit a written request for a variance to the local Fire Warden. The request shall include the following: ()

~~a~~. A description of the specific Operating Area where the variance is being requested; ()

~~b~~. The particular conditions that necessitate a variance; ()

~~c~~. A detailed description of the alternative practice; and ()

~~d~~. A detailed description of how the alternate practice, if applied, will provide fire protection that is equal to or greater than the fire protection provided by the standards set forth in these rules. ()

~~02~~. **Department Response to Request for Variance.** Within five (5) business days from receipt of the variance request, the Department shall evaluate the request and notify the Operator in writing of the Department's determination to allow or disallow the variance request. ()

021. -- 029. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

080. SPARK ARRESTERS.

01. Requirements. The steam or internal combustion engines referred to in Section 38-121, Idaho Code, shall be equipped with properly installed, maintained, and effectively working spark arresters ~~as categorized below:~~ that comply with the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide"(s). (10-28-91)()

~~**a. Railroad Locomotives.** The spark arrester must be eighty percent (80%) efficient in retention or destruction of all carbon particles twenty three thousandths (.023) inch in diameter or larger for twenty to one hundred percent (20%-100%) of the locomotive engine's exhaust flow rate. The total manifold exhaust leg-back pressure cannot exceed three (3) inches of mercury. (10-28-91)~~

~~**b. Portable Power Saws.** The spark arrester shall meet the standards set forth in the Society of Automotive Engineers (SAE) Recommended Practice J335b, "Multi-position Small Engine Exhaust System Fire Ignition Suppression." and be listed in the most recent "Spark Arrester Guide" as having been approved as meeting above standard. Copies of the "Spark Arrester Guide" may be viewed at offices of the Department. (10-28-91)~~

~~**c. Other Engines.** The spark arrester shall meet the standards set forth in the publication of the USDA Forest Service, entitled "Standard 5100-1a for Spark Arresters of Internal Combustion Engines," as amended under date of July 1970, and be listed in the most recent "Spark Arrester Guide" as having been approved as meeting above standard. Copies of the "Spark Arrester Guide" may be viewed at offices of the Department. (10-28-91)~~

02. Exemptions. The following are exempt from the requirements of the rule: (10-28-91)

a. Turbo-charged internal combustion engines in which one hundred percent (100%) of the exhaust gases pass through the turbo-charger. (10-28-91)

b. Engines of passenger-carrying vehicles and light trucks, equipped with baffle-type muffler and tailpipe through which all exhaust gasses pass, that are kept in good repair. (10-28-91)

c. Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle. (10-28-91)

d. Engines of water pumping equipment used in firefighting. (10-28-91)

e. Engines of helicopters and other aircraft. (10-28-91)

(BREAK IN CONTINUITY OF SECTIONS)

100. FIRE TOOLS AND FIRE EXTINGUISHERS.

During closed fire season the following fire tool requirements shall apply: (10-28-91)

01. Basic Fire Cache. Every ~~person or entity~~ Operator engaged in any ~~activity in forests of the state~~ Forest Operation on Forest Lands shall have available for firefighting purposes ~~one (1) basic fire cache for each ten (10) persons so engaged. A basic fire cache shall consist of two (2) axes, five (5) shovels, three (3) pulaski tools, and two (2) water buckets, all in good condition and located at a point immediately accessible for firefighting purposes. The fire cache tools shall be contained in a closed box marked "FOR FIRE USE ONLY." the number of tools and tool boxes set forth in Table 1. A Forest Operation having more than ten (10) people must use multiples of any of the~~

columns in the table to arrive at a tool distribution equal to or in excess of the number of people in the Forest Operation.

TABLE 1			
<u>People in Operation</u>	<u>2 - 5</u>	<u>6 - 8</u>	<u>9 - 10</u>
<u>Tool Box</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>Shovels</u>	<u>2</u>	<u>4</u>	<u>5</u>
<u>Pulaskis</u>	<u>2</u>	<u>4</u>	<u>4</u>
<u>5 gallon pump cans or bladder bags</u>	<u>1</u>	<u>1</u>	<u>2</u>

(10-28-91)()

a. The tool boxes required by this rule shall be clearly marked “FOR FIRE USE ONLY”; and ()

b. The tools required by Subsection 100.01 shall be in a location immediately accessible for firefighting purposes, maintained in a serviceable condition and be fully functional at the time of deployment. ()

02. Warming Fires or Campfires. Except when in designated developed campgrounds or when traveling as a pedestrian, all persons or parties igniting warming fires or campfires shall be equipped with the following: (10-28-91)

a. One (1) serviceable shovel at least twenty-four (24) inches in overall length with six (6) inch or wider blade. (10-28-91)

b. One (1) water container, capacity one (1) gallon or more ~~(motorcycle crash helmets qualify).~~ (10-28-91)()

~~**03. Motorcycles, Trailbikes.** The above fire tool requirements in section 02(a) and 02(b) apply to all operators of motorcycles, trail bikes, all-terrain vehicles, and similar type motorized vehicles, and persons traveling with pack animals. (10-28-91)~~

043. Power Equipment. Each unit of mobile or stationary power equipment other than portable power saws, trail bikes, motorcycles, all-terrain vehicles and similar type vehicles operating on forest lands of the state shall be equipped with a minimum of one (1) chemical fire extinguisher rated by the Underwriters Laboratory as not less than 4-BC. (10-28-91)

054. Portable Power Saw. Any person using a portable power saw on forest land in the state shall have the following immediately available for the prevention and suppression of fire: (10-28-91)

a. A fully charged operable fire extinguisher of at least eight (8) ounce minimum capacity. (10-28-91)

b. A serviceable round-pointed size zero (0) or larger shovel. (10-28-91)

101. -- 109. (RESERVED)

110. FIRE CREWS.

~~*On all activities on forest lands of the state, When engaged in a Forest Operation on Forest Lands during closed fire season, the person responsible for same the Forest Operation shall designate a fire crew and a fire foreman, with powers to act for his their employer, to take immediate initial action within the scope of their knowledge, skills and abilities and make a reasonable effort to suppress any fire starting on the activity area. Any or all personnel shall be at all times in readiness and immediately shall go to any fire which originates on the operation, with or without instructions Operating Area without compromising the safety of the crew.* (10-28-91)()~~

(BREAK IN CONTINUITY OF SECTIONS)

121. -- 129. (RESERVED)

130. WATER SUPPLY AND EQUIPMENT.

Every Operator conducting a Forest Operation using a cable logging system or a metal tracked harvester during the period of July 1st through September 30th annually shall provide the following water supply and fire suppression equipment in the Operating Area. ()

01. Water Supply. ()

a. The water supply must consist of a self-propelled motor vehicle or trailer equipped with a water tank containing not less than two hundred (200) gallons of water. ()

b. Trailers used for this purpose shall be equipped with a functional hitch attachment and have a serviceable tow vehicle immediately available to provide for timely fire suppression response. ()

02. Water Delivery. ()

a. Water pump. The size and capacity of the water pump must be sufficient to provide a discharge of not less than twenty (20) gallons per minute when pumping through fifty (50) feet of hose of not less than three quarter (3/4) inch inside diameter with an adjustable nozzle at pump level. ()

b. Hose and nozzle. The Operator must have at least five hundred (500) feet of serviceable hose of not less than three quarter (3/4) inch inside diameter and a nozzle. ()

03. Readiness. ()

a. All hose, motor vehicles, trailers, tanks, nozzles and pumps shall be kept ready for immediate use during active operations, including fire watch service as set forth in Section 140 of these rules. ()

b. The water supply, pump, a minimum of two hundred (200) feet of hose packaged in a suitable manner for immediate deployment, and the nozzle shall be maintained as a connected, operating unit ready for immediate use. ()

04. Water Supply and Equipment Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the water supply and equipment requirements of Section 130. ()

131. -- 139. (RESERVED)

140. FIRE WATCH SERVICE.

Every Operator engaged in a Forest Operation within a Stage 2 proclamation area shall provide Fire Watch Service in the Operating Area. ()

01. Duties and Requirements. Fire Watch Service shall consist of at least one (1) person who shall: ()

a. Constantly be on duty for three (3) hours after all power-operated equipment has been shut down for the day. ()

b. Visually observe the Operating Area where activity occurred during the day. ()

c. Have adequate equipment for transportation and communications to summon fire-fighting assistance in a timely manner; and ()

d. Immediately respond to any fire in the Operating Area to initiate such fire suppression actions to suppress the fire within the scope of their knowledge, skills and abilities. ()

02. Fire Watch Service Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the fire watch service requirements of Section 140. ()

141. -- 149. (RESERVED)

150. OPERATION AREA FIRE PREVENTION.

To prevent the spread of fire on or from an Operating Area, every Operator conducting a Forest Operation during the period of July 1st through September 30th, annually, shall comply with the following precautions: ()

01. Cable or Cable Assisted Logging. The following practices and equipment are required by the operator when conducting a cable logging operation on forest land. ()

a. Clear the ground of all flammable debris for not less than ten (10) feet slope distance from the point directly below any block. ()

b. Prevent moving lines from rubbing on rock or woody material in such a way to cause sparks or sufficient heat that may cause fuel ignition. ()

c. Provide a water supply that complies with the capacity, pump, hose, nozzle and readiness requirements set forth in Section 130 of these rules. ()

d. Provide at each Block: ()

i. One (1) pump equipped can or bladder containing not less than five (5) gallons of water; and()

ii. One (1) round pointed size zero (0) or larger shovel in a serviceable condition. ()

151. -- 999. (RESERVED)

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION**

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

**24.02.01 – RULES OF THE BOARD OF BARBER EXAMINERS
24.04.01 – RULES OF THE IDAHO BOARD OF COSMETOLOGY**

DOCKET NO. 24-0000-1800

**NOTICE OF LEGISLATIVE ACTION ABOLISHING THE BOARD OF BARBER EXAMINERS
AND THE BOARD OF COSMETOLOGY AND ESTABLISHING THE BARBER AND
COSMETOLOGY SERVICES LICENSING BOARD – SENATE BILL NO. 1324**

EFFECTIVE DATE: The effective date of this action is July 1, 2018.

AUTHORITY: In compliance with Sections 67-5202, 67-5203, and 67-5204, Idaho Code, notice is hereby given by the Administrative Rules Coordinator that the 64th Idaho Legislature in the Second Regular Session – 2018, passed Senate Bill 1324 and that said bill was signed into law by Governor C.L. “Butch” Otter, Session Law Chapter 228, thereby combining the Board of Barber Examiners and the Board of Cosmetology and creating the Barber and Cosmetology Services Licensing Board.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the notice and the legislative action:

Senate Bill 1324 (Session Law Chapter 228) repealed existing law (Idaho Code Title 54, Chapter 5, Barbers, and Title 54, Chapter 8, Cosmeticians) and abolished the Board of Barber Examiners and the Board of Cosmetology and created a single Board, the Barber and Cosmetology Services Licensing Board, hereby designated as IDAPA 24.28.01, under the Bureau of Occupational Licenses. The repeal of the laws establishing the Board of Barber Examiners and the Board of Cosmetology and authorizing the adoption of rules by these Boards renders the rules to be of no force and effect. The enactment of SB 1324 effectively repeals IDAPA 24.02.01 and 24.04.01 and these rules are hereby declared null and void and of no force and effect and have been removed from the Administrative Code.

This bill establishing the new board ensures the protection of the public by providing safety and disinfection training for all licensees and certificate holders, and it provides more flexibility to individuals entering the profession by allowing them to select a more focused area of preparation and practice.

This notice, in accordance with Section 67-5203, Idaho Code, complies with the Legislative intent of Senate Bill 1324 by providing notice that the affected chapters of rules, IDAPA 24.02.01 and IDAPA 24.04.01, have been repealed and removed from the Idaho Administrative Code and are null and void and of no force and effect.

Concurrently with the publication of this notice, the Bureau of Occupational Licenses is promulgating temporary rules adopted by the Barber and Cosmetology Services Licensing Board, and these temporary rules are being published in this Bulletin under Docket No. 24-2801-1801, to implement the Senate Bill 1324. The temporary rule is effective July 2, 2018.

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact Dennis Stevenson, Administrative Rules Coordinator at (208) 332-1820.

DATED this 9th day of July, 2018.

Dennis Stevenson
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Department of Administration
State of Idaho
P.O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS
DOCKET NO. 24-0101-1801
NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2018.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-312, 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 August 15, 2018.

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

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

In 2018, the Legislature passed House Bill 458 which modernizes and reorders the provisions of Chapter 3, Title 54, Idaho Code. Amendments to rule will facilitate the implementation of House Bill 458, eliminate unnecessary language and sections, and remove a 30-day application deadline. These changes will make it easier for licensees and those seeking licensure to review rules.

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:

On July 1, 2018 House Bill 458 will become effective. This temporary/proposed rule is necessary to implement those changes.

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

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

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

This rule removes the July 2015 NCARB Certification Guidelines from incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jennifer Carr at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 20th Day of June, 2018.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
Phone: (208) 334-3233
Fax: (208) 334-3945

700 W. State Street
P.O. Box 83720
Boise, ID 83720-006565

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 24-0101-1101
(Only Those Sections With Amendments Are Shown.)**

000. LEGAL AUTHORITY (RULE 0).

These rules are hereby prescribed and established pursuant to the authority vested in the Board of Architectural Examiners by the provisions of Section 54-31208, Idaho Code. ~~(7-1-93)~~(7-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE (RULE 4).

~~The document titled NCARB Certification Guidelines, dated July 2015, referenced in Subsection 250.01, is herein incorporated by reference.~~ The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, Dated July 2014, referenced in Section 750, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board website. ~~(3-29-17)~~(7-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (RULE 10).

- 01. AXP.** Architectural Experience Program. (3-29-17)
- 02. Board.** The Board of Architectural Examiners ~~as prescribed in Section 54-312, Idaho Code.~~ ~~(7-1-93)~~(7-1-18)T
- 03. Bureau.** The Bureau of Occupational Licenses ~~as prescribed in Sections 54-605 and 67-2602, Idaho Code.~~ ~~(3-15-02)~~(7-1-18)T
- 04. Direct Supervision.** Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. (3-27-13)
- 05. NAAB.** National Architectural Accrediting Board. (3-29-17)
- 06. NCARB.** National Council of Architectural Registration Board. (3-29-17)
- 07. Responsible Control.** Responsible control means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation. (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

150. PROCEDURES AND DUTIES (RULE 150).

01. Meetings. The Board shall meet at least four (4) times annually at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman or at the request of two (2) Board members, and all members shall be notified in writing, thereof. ~~(7-1-98)~~(7-1-18)T

02. Voting. A quorum shall be four Board members. A majority vote of Board members present shall be considered the action of the Board as a whole. Any motion before the Board shall fail on a tie vote. (7-1-97)

151. -- 19974. (RESERVED)

175. APPLICANT PAST CRIME REVIEW (RULE 175).

01. Review Authority. In reviewing an Applicant for licensure who has been convicted of a felony or misdemeanor as set forth in section 54-314(1)(d) Idaho Code, the Board may utilize the follow process and factors to determine the applicant's suitability for licensure: (7-1-18)T

02. Exemption Review. The exemption review shall consist of a review of any documents relating to the crime and any supplemental information provided by the applicant bearing upon his suitability for registration. The Board may, at its discretion, grant an interview of the applicant. (7-1-18)T

a. During the review, the Board shall consider the following factors or evidence: (7-1-18)T

i. The severity or nature of the crime; (7-1-18)T

ii. The period of time that has passed since the crime under review; (7-1-18)T

iii. The number or pattern of crimes or other similar incidents; (7-1-18)T

iv. The circumstances surrounding the crime that would help determine the risk of repetition; (7-1-18)T

v. The relationship of the crime to the practice of architecture; and (7-1-18)T

vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (7-1-18)T

b. The applicant shall bear the burden of establishing their current suitability for licensure. (7-1-18)T

176. -- 199. (RESERVED)

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 Application Fee. Applicants for licensing ~~by examination~~ must submit a twenty-five dollar (\$25) processing application fee. There is no additional fee for an initial license. ~~(7-1-98)~~(7-1-18)T

02. Annual License Renewal Fee. Annual license renewal fee - Fifty dollars (\$50). (3-22-18)

03. Endorsement License Fee. Endorsement license fee - Fifty dollars (\$50). (3-22-18)

04. Temporary License Fee. Temporary license fee – Fifty dollars (\$50). (3-22-18)

Code. **05. License Reinstatement Fee.** License reinstatement fee is as provided in Section 67-2614, Idaho (3-22-18)

06. No Refund of Fees. No refund of fees shall be made. (3-22-18)

201. -- 249. (RESERVED)

250. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION (RULE 250).

01. AREccredited Degree Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the Architectural Experience Program (AXP) requirements. ~~(3-29-17)~~(7-1-18)T

02. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience may include that necessary for completion of the AXP. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the AXP. (3-29-17)

251. – 299. (RESERVED)

300. APPLICATION (RULE 300).

01. Licensure by Examination. (7-1-93)

a. Application for licensure by examination shall be made on the uniform application form adopted by the Board ~~and furnished to the applicant by the Bureau.~~ ~~(4-7-11)~~(7-1-18)T

b. Applicants shall furnish all information required by the uniform application form and shall include the following: (3-15-02)

i. Certified ~~If applying based upon an accredited degree:~~ Furnish certification of graduation and a certified transcript of all subjects and grades received for all college courses taken. ~~(7-1-93)~~(7-1-18)T

ii. ~~If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed.~~ ~~(7-1-93)~~

iii. If applying based upon experience in lieu of an accredited degree: Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. ~~(7-1-93)~~(7-1-18)T

iv. ~~iii.~~ A recent passport photograph taken within the previous year for identification purposes shall be submitted by all applicants. ~~(3-30-01)~~(7-1-18)T

v. ~~In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited.~~ ~~(7-1-93)~~

c. Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. (3-15-02)

d. ~~To be considered by the Board, properly completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet~~ Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. ~~(3-15-02)~~(7-1-18)T

02. Licensure by Endorsement -- Blue Cover. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (3-29-17)

03. Licensure by Endorsement -- Equivalency. (7-1-97)

a. Applicants for licensure by endorsement must 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 fee(s) and supporting documentation. (3-29-17)

b. Applicants shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (3-29-17)

c. Applicants shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

~~**351. MISCELLANEOUS REQUIREMENTS FOR EXAMINATION (RULE 351).**~~

~~**01. Personal Interviews.** Personal interviews may be administered at the option of the Board. (7-1-93)~~

~~352~~**1. -- 374. (RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

~~**400. MISCELLANEOUS REQUIREMENTS**~~ **FIRM NAME (RULE 400).**

~~**01. Practice of Architecture.** Idaho Law prohibits the practice of architecture by any unlicensed person or firm for any reason. (7-1-93)~~

~~**02. Corporations.** Corporations organized to do general business in the state of Idaho may not practice architecture in the state of Idaho. (7-1-93)~~

~~**03. Firm Names.** Firm names incorporating the use of names of unlicensed individuals are considered in violation of Section 54-310~~5~~, Idaho Code. A firm may continue to utilize the name of a retired or deceased formerly licensed architect so long as their unlicensed status is clearly disclosed. (3-27-13)(7-1-18)T~~

~~401. -- 409. (RESERVED)~~

410. USE OF AN ARCHITECT'S SEAL (RULE 410).

An architect's seal may be placed on all technical submissions prepared personally by the architect or prepared under the architect's responsible control or as otherwise allowed under the provisions of Section 54-308~~4~~, Idaho Code. Nothing in this rule shall limit an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect. ~~(3-27-13)(7-1-18)T~~

~~411. -- 449. (RESERVED)~~

450. CONTINUING EDUCATION (RULE 450).

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-20-04)

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal. (3-29-17)

a. Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (3-29-17)

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. (3-20-04)

c. A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. (3-29-12)

d. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. (3-20-04)

02. Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and be germane to the practice of architecture. Courses may include the following subject areas: (3-29-17)

a. Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. (3-29-12)

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. (3-29-12)

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. (3-29-12)

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. (3-29-12)

e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. (3-29-12)

f. Preservation, which includes historical, reuse, and adaptation. (3-29-12)

g. Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. (3-29-12)

h. Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. (3-29-12)

i. Construction documents, which includes drawings, specifications, and delivery methods. (3-29-12)

j. Construction contract administration, which includes contracts, bidding, contract negotiations. (3-29-12)

03. Approved Credit. Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: (3-20-04)

a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or (3-20-04)

b. Providers approved by the National Council of Architectural Registration Board (NCARB); or (3-20-04)

c. Providers approved by the American Institute of Architects (AIA); or (3-20-04)

d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. (3-20-04)

04. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of five (5) years and provided to the Board upon request of the Board or its agent. (3-29-12)

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-20-04)

06. Exemptions. A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: (3-20-04)

a. ~~Has served honorably on active duty in the military service (exceeding ninety (90) consecutive days)~~ Meets the military exemption set forth in Section 67-2602A, Idaho Code. (3-20-04)(7-1-18)T

b. Is a government employee working as an architect and assigned to duty outside the United States. (3-20-04)

c. 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 architect 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. (3-20-04)

451. —499. (RESERVED)

500. AFFILIATION (RULE 500).

01. ~~Board Is an Active Member of the Western Conference of the Architectural Registration Boards.~~ ~~This Board by approved resolution and payment of the proper fees by the proper authority is an active member of the Western Conference of the Architectural Registration Boards. The Board shall designate one or more delegates from the Board to attend the annual meeting of the Western Conference and approve payment of the expenses of the delegate or delegates by the state of Idaho in accordance with the law.~~ (7-1-93)

02. ~~Administration of Construction Contracts.~~ ~~Under Section 54-309, paragraph 1-c, "Practice of Architecture," Section 54-305, paragraph 1-f, Grounds for Discipline, the words "Administration of Construction Contracts," in accordance with current knowledge and usage in the profession means "Administration of the Contract" as defined in the relevant Contract for Construction or Owner-Architect Agreement as published by the American Institute of Architects.~~ (4-5-00)

~~501. -- 549. (RESERVED)~~

~~550. INTERPRETATIONS (RULE 550).~~

~~The following interpretation of laws relating to architecture in Idaho Code are hereby made by the Board. (7-1-93)~~

~~01. **Reference to Building.** Under Section 54-309, reference to any building wherein the safeguarding of life, health, and property is concerned means any building which public or private sector of population may use or any building into which the public or private sector of the population is invited either as spectators, visitor, student, guest, or employee, or any building where the private or public sector of the population conducts business. (7-1-93)~~

~~02. **Professional Standards.** Under Section 54-305, an architect shall be completely objective and truthful in all professional reports, statements, or testimony and shall include therein all relevant and pertinent information known to him. (7-1-93)~~

~~551. -- 699. (RESERVED)~~

~~700. **RULES OF PROCEDURE UNDER THE ADMINISTRATIVE PROCEDURE ACT (RULE 700).**~~

~~All procedures available under the Board of Architects shall be those adopted by the Bureau of Occupational Licenses. (7-1-93)~~

~~701. -- 749. (RESERVED)~~

750. CODE OF ETHICS (RULE 750).

01. Rules of Conduct. The NCARB Rules of Conduct are hereby adopted as the Code of Ethics for all Idaho licensed architects. (3-15-02)

~~02. **Violation of the Code of Ethics.** The Board will take action against a licensee under Section 54-305(1)(h), Idaho Code, who is found in violation of the Code of Ethics. (7-1-93)~~

~~751. **COSTS AND FEES IN DISCIPLINARY PROCEEDING (RULE 751).**~~

~~The Board may order a licensed architect to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-305(1), Idaho Code. (3-18-99)~~

~~752.1. -- 999. (RESERVED)~~

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.15.01 – RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-1801

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2018.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-3404(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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:

On July 1, 2018 House Bill 350 became effective, and this temporary/proposed rule is necessary to implement the new law. House Bill 350 amended the qualifications for licensure of Marriage and Family Therapists and Associate Marriage and Family Therapists to allow the Board to establish education requirements in rule. These rules reduce the costs and barriers to licensure by creating additional pathways to obtain an Associate Marriage and Family Therapist license. It also allows an individual to work under supervision while completing requirements for a Marriage and Family Therapist license. These rules accept the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) graduate programs as meeting all education requirements, which eliminates the need for many current applicants to take additional coursework and improves portability from other states. Finally, these rules increase flexibility to complete both practicum and supervised experience hours, which reduces tuition and supervision costs for applicants.

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:

On July 1, 2018 House Bill 350 became effective. This temporary/proposed rule is necessary to implement the new law.

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

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jennifer Carr at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 6th Day of July, 2018.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 24-1501-1801
(Only Those Sections With Amendments Are Shown.)**

010. DEFINITIONS (RULE 10).

01. Board. The Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists as prescribed in Section 54-3401, Idaho Code. (3-13-02)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-3404 and 67-2602, Idaho Code. (3-13-02)

~~**03. Registered Intern.** A registered intern shall be defined as a person who is obtaining required supervised experience for licensure in a course of study provided by an institution of higher education or a person who is in a private practice setting acting under direct supervision. (3-29-12)~~

043. Accredited University or College. An accredited university or college shall be a college or university accredited by ~~one (1) of the following:~~ a regional accrediting agency as identified by the U.S. Department of Education. (3-29-12)(7-1-18)T

~~**a.** The Middle States Association of Colleges and Schools; (3-29-12)~~

~~**b.** The New England Association of Schools and Colleges; (3-29-12)~~

~~**c.** The North Central Association of Colleges and Schools or the Higher Learning Commission; (3-29-12)~~

~~**d.** The Northwest Association of Schools and of Colleges and Universities; (3-29-12)~~

~~**e.** The Southern Association of Colleges and Schools; or (3-29-12)~~

~~**f.** The Western Association of Schools and Colleges. (3-29-12)~~

04. Practicum. The term practicum includes a practicum, internship, or a combination, taken as part of the graduate level program. (7-1-18)T

05. Supplemental Practicum Hours. Supplemental practicum hours are hours of direct client contact that are supervised by a registered marriage and family therapist supervisor at a ratio of one (1) hour of supervision for every ten (10) hours of direct client contact. (7-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

230. QUALIFICATIONS FOR ASSOCIATE MARRIAGE AND FAMILY THERAPIST (RULE 230).

The following requirements must be met for associate marriage and family therapist licensure: (4-9-09)

01. Graduate Degree. Possess a graduate degree as outlined in Subsection 54-3405B(1), Idaho Code. 238.01 of these rules or a master's degree or higher in marriage and family therapy or a related field from an accredited university or college, provided that the graduate program meets one of the following: ~~(4-9-09)~~(7-1-18)T

a. Accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or (7-1-18)T

b. Accredited by the Council for Accreditation of Counseling and Related Educational Programs- Marriage, Couple, and Family Counseling (CACREP-MCFC); or (7-1-18)T

c. The program includes, at a minimum, twenty-seven (27) semester credits or thirty-six (36) quarter credits of the graduate level coursework set forth in Subsection 238.01.b of these rules. (7-1-18)T

02. Practicum. ~~Must meet the requirements as outlined in Section 54-3405B(2), Idaho Code.~~ Completion of a supervised practicum in no less than a twelve (12) month period as part of the graduate program. The practicum must consist of at least three hundred (300) hours of direct client contact, of which at least one hundred fifty (150) hours must be with couples, families and other systems, provided that the Board may grant a license to an applicant who completed a practicum with fewer than the required hours and completed one (1) supplemental practicum hour for every hour in which the practicum was deficient. Supplemental practicum hours must be completed as: ~~(4-9-09)~~(7-1-18)T

a. A Registered Intern under Section 245 of these rules; or (7-1-18)T

b. Supervised practice in another jurisdiction that is sufficient to be considered substantially similar to the supplemental practicum hour requirements of these rules; or (7-1-18)T

c. A combination of Paragraph 02.a and 02.b of this subsection. (7-1-18)T

03. Examination. Successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or another recognized competency examination in marriage and family therapy that is approved by the Board. ~~(4-9-09)~~(7-1-18)T

231. (RESERVED)

232. ASSOCIATE MARRIAGE AND FAMILY THERAPIST PRACTICE (RULE 232).

A licensed associate marriage and family therapist shall only practice under supervision in compliance with the requirements and limitation of Subsection 238.03~~4~~ of these rules. ~~(4-9-09)~~(7-1-18)T

233. -- 237. (RESERVED)

238. MARRIAGE AND FAMILY THERAPISTS (RULE 238).

The following requirements must be met for marriage and family therapist licensure: (3-13-02)

01. Graduate Degree. Possess a graduate master's degree as outlined in Section 54-3405C(1), Idaho Code. or higher in marriage and family therapy or a related field from an accredited university or college provided that the program is either: ~~(3-13-02)~~(7-1-18)T

a. Accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or (7-1-18)T

b. A program of at least sixty (60) semester hours or ninety (90) quarter hours in length and that includes at a minimum: (7-1-18)T

i. Marriage and family studies – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling; family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems; (7-1-18)T

ii. Marriage and family therapy – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes the practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction; (7-1-18)T

iii. Biopsychosocial health and development across the lifespan – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes individual development and transitions across the life span; family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability; human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution; (7-1-18)T

iv. Psychological and mental health competency – Six (6) semester credit hours or eight (8) quarter credit hours: includes psychopathology, including etiology, assessment, evaluation and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multiaxial diagnosis; standard mental health diagnostic assessment methods and instruments, including standardized tests; and psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples, families, and other systems and relational groups; (7-1-18)T

v. Professional ethics and identity – Three (3) semester credit hours or four (4) quarter credit hours: includes professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines; ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and the interface between therapist responsibility and the professional, social and political context of treatment; (7-1-18)T

vi. Research – Three (3) semester credit hours or four (4) quarter credit hours: includes research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research. (7-1-18)T

02. **Foreign Educated Applicants.** Applicants with a graduate degree from a foreign country may be required to submit a certification from a credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or approved by the Board. The service must certify that the graduate degree is equivalent to a graduate degree from the United States. All costs for the certification are the responsibility of the applicant. All information submitted to the Board must be submitted with an English translation. (7-1-18)T

023. **Practicum.** *Must meet the requirements as outlined in Section 54-3405C(2), Idaho Code* Completion of a supervised practicum, including any supplemental practicum hours, which meets the requirements of

Subsection 230.02 of these rules.

~~(3-13-02)~~(7-1-18)T

034. Supervised Marriage and Family Therapy Experience. *Must meet the three thousand (3,000) hour requirement as outlined in Section 54-3405C(3), Idaho Code. Effective July 1, 2004, a Idaho Marriage and Family Therapist must be registered with the Board to provide post graduate supervision for those pursuing marriage and family therapist licensure in Idaho. Completion of at least three thousand (3,000) hours of graduate or post-graduate supervised experience in marriage and family therapy that meets the following requirements:*

~~(3-29-12)~~(7-1-18)T

a. A minimum of two thousand (2,000) post~~graduate~~-~~master's~~ direct client contact hours, *in no less than a two (2) year time period shall over a period of not less than two (2) years, which must* include a minimum of one thousand (1,000) direct client contact hours with couples, ~~and~~ families, ~~and other systems~~; and~~(4-4-13)~~(7-1-18)T

b. A minimum of ~~T~~two hundred (200) hours of post-master's supervision. ~~(4-4-13)~~(7-1-18)T

c. Other hours must support development as a marriage and family therapist, and may include: additional hours of supervision, additional practicum hours above the three hundred (300) hours required in Subsection 230.02 of these rules, writing clinical reports, writing case notes, case consultation, coordination of care, administering tests, and attending workshops, training sessions, and conferences. (7-1-18)T

~~ed.~~ *Effective July 1, 2014 a*A minimum of one hundred (100) hours post-~~graduate~~master's supervision must be obtained from a registered marriage and family therapist supervisor. The remaining one hundred (100) hours of supervision may also be obtained from a licensed clinical professional counselor registered as a supervisor with the Board, licensed psychologist, licensed clinical social worker registered as a supervisor with the Board of Social Work Examiners, or licensed psychiatrist who documents: ~~(3-29-12)~~(7-1-18)T

i. A minimum of five (5) years of experience providing marriage and family therapy; and (3-20-04)

ii. Fifteen (15) contact hours of education in supervisor training; and (3-20-04)

iii. Has not been the subject of any disciplinary action for five (5) years immediately prior to providing supervision. (3-20-04)

~~de.~~ No more than one hundred (100) hours of group supervision shall be allowed. Group supervision shall be defined as up to six (6) supervisees and one (1) supervisor; and (3-29-12)

~~ef.~~ Individual supervision is defined as up to two (2) supervisees per supervisor; and (3-13-02)

~~fg.~~ Supervision must employ observation of client contact such as the use of audio technologies or video technologies or co-therapy, or live supervision; and (3-29-12)

~~gh.~~ In accordance with the adopted Codes of Ethics prohibiting dual relationships, a supervisor shall not act as an applicant's personal Professional Counselor/Therapist. (3-13-02)

~~hi.~~ The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

~~ij.~~ Supervision obtained in another *state jurisdiction or from a supervisor in another jurisdiction* must conform with the *state jurisdiction's* requirements provided they are substantially equivalent to Idaho's requirements. ~~(3-29-12)~~(7-1-18)T

045. Examination. (3-13-02)

a. The Board requires successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or another recognized competency examination in marriage and family therapy that is approved by the Board. ~~(3-13-02)~~(7-1-18)T

b. The examination will be conducted at a time and place specified by the Board. (3-13-02)

c. Successful passage of the examination is defined by the Board as achievement of the passing score set by the AMFTRB or the examining entity for examination being administered. Reexamination shall consist of the entire examination. ~~(3-13-02)~~(7-1-18)T

239. MARRIAGE AND FAMILY THERAPIST SUPERVISOR REQUIREMENTS (RULE 239).

~~Effective July 1, 2004, I~~Licensed marriage and family therapists in Idaho shall be registered with the board to provide supervision for those individuals pursuing licensure in the state of Idaho as a marriage and family therapist.

~~(3-20-04)~~(7-1-18)T

01. Requirements for Registration. (3-20-04)

a. Possess two (2) years experience as a licensed marriage and family therapist and document at least two thousand (2,000) hours of direct client contact with couples, ~~and~~ families, and other systems. ~~(3-20-04)~~(7-1-18)T

b. Document fifteen (15) contact hours of education in supervisor training as approved by the Board. (3-20-04)

c. Have not been subject to discipline for five (5) years prior to registration. (3-20-04)

02. Registration. A marriage and family therapist shall fully complete the application form as established by the board and submit the designated fee as adopted by board rule. (3-20-04)

a. Upon receipt of a completed application verifying compliance with the requirements for registration as a supervisor, the applicant shall be registered as a supervisor. The applicant shall include a copy of the informed consent form used to ensure clients are aware of the roles of the supervisor and supervisee. (3-25-16)

b. A supervisor's registration shall be valid only so long as the supervisor's marriage and family therapist license remains current and in good standing, is not disciplined, and is renewed as provided in these rules. (3-25-16)

03. Supervision. (3-20-04)

a. A registered marriage and family therapist supervisor shall provide supervision in conformance with the guidelines for supervisors adopted by the American Association for Marriage and Family Therapists and the guidelines set forth in the AAMFT Code of Ethics. (3-25-16)

b. Unless the primary work role of an individual is as a clinical supervisor a registered marriage and family therapist shall not supervise more than six (6) supervisees, either in one-to-one or group supervision, at any time regardless of the modality (individual, dyad, or group) of supervision. (3-29-12)

c. Supervision shall be provided in a face-to-face setting. Face-to-face setting may include a secure live electronic connection between the supervisor and supervisee. (3-25-16)

04. Renewal. Subject to the conditions in Paragraph 239.04.c. of this rule, a supervisor's registration is valid for a term of five (5) years. To renew a supervisor registration, the registered supervisor must submit to the Board a complete application for registration renewal prior to the expiration of the current registration on forms approved by the Board and meet the following requirements: (3-25-16)

a. Hold an active Idaho marriage and family therapist license which has not been subject to discipline and is current and in good standing; and (3-25-16)

b. Document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous five (5) years. (3-25-16)

c. For supervisors registered prior to the effective date of Subsection 239.04 of this rule, the following

renewal requirements and conditions apply: (3-25-16)

- i. A registered supervisor who has been registered for at least five (5) years prior to July 1, 2016 must submit a complete application for registration renewal and meet the renewal requirements by July 1, 2018. (3-25-16)
- ii. A registered supervisor who has been registered for less than five (5) years prior to July 1, 2016 must submit a complete application for registration renewal and meet the renewal requirements by July 1, 2020. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

245. REGISTERED INTERNS (RULE 245).

~~An individual pursuing Idaho licensure as a Professional Counselor may register with the Board as an Intern. An individual pursuing Idaho licensure as a Marriage and Family Therapist shall be a Licensed Associate Marriage and Family Therapist or Licensed Professional Counselor, or register prior to commencement of supervised experience with the Board as an Intern in compliance with Section 54-3402, Idaho Code. If the Marriage and Family Therapist applicant's supervised experience was obtained out of state, such applicant must meet the requirements of Rule 238.03, except that applicant's supervisor need not be registered with the Board.~~ The Board may issue a registration to allow an intern to engage in the practice of counseling or marriage and family therapy while completing either the supervised experience or supplemental practicum hours required for licensure. A registered intern may only practice under the direct supervision of a person registered as a supervisor with the Board or otherwise approved to provide supervision under this chapter. (3-29-12)(7-1-18)T

01. Requirements for Registration. An applicant must submit a completed application on a form approved by the Board together with the required fee and meet the following requirements: (4-2-03)(7-1-18)T

- a. Possess a graduate degree in counseling, marriage and family therapy, or a closely related field from an accredited university or college. (4-2-03)
- b. ~~Be actively pursuing postgraduate supervised experience.~~ (4-2-03)
- c. Designate a supervisor who is registered with the board as a supervisor as set forth in these rules or who is otherwise approved to provide marriage and family therapy supervision as defined in Section 54-3405C, Idaho Code, and who shall be responsible to provide supervision set forth in Section 238 of these rules. (3-29-12)(7-1-18)T

02. Registration Supervision. ~~An individual applying for registration as a Counselor Intern or Marriage and Family Therapist Intern shall fully complete the application form as established by the Board and submit the designated fee as adopted by Board rule~~ The designated supervisor is responsible to provide supervision and ensure that a Registered Intern is competent to practice such counseling or marriage and family therapy as may be provided. (4-2-03)(7-1-18)T

03. Practice. (4-2-03)

~~a. A Registered Intern may only practice counseling or marriage and family therapy under the direct supervision of a Counselor Supervisor, registered with the Board or Marriage and Family Therapist Supervisor, registered with the Board who shall be responsible to ensure that a Registered Intern is competent to practice such counseling or marriage and family therapy as may be provided.~~ (3-29-12)

b03. Designation of Intern Status. Only a Registered Intern may use the title Registered Counselor Intern or Registered Marriage and Family Therapist Intern. Registered interns must explicitly state that they are interns in their documentation and advertising, such as business cards, informed consent forms, and other disclosures. (3-29-12)(7-1-18)T

~~c04. Expiration.~~ An individual shall not practice as an intern for more than four (4) years from the original date of registration, unless good cause is demonstrated to the board. (4-2-03)(7-1-18)T

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.28.01 – RULES OF THE BARBER AND COSMETOLOGY SERVICES LICENSING BOARD

DOCKET NO. 24-2801-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 2, 2018.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-5807(1)(h), Idaho Code.

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

Senate Bill 1324, which passed during the 2018 Legislative Session, combined the Boards of Barber Examiners and Cosmetology. On July 1, 2018 Senate Bill 1324 became effective, and the new Barber and Cosmetology Services Licensing Board is adopting a temporary rule to implement the new law. These rules are based upon public protection, portability of licenses, and eliminating barriers to licensure and employment.

The temporary rule reduces the minimum hours of instruction required for a cosmetology, barber-stylist, and electrology license; creates a new certificate for individuals who only want to practice make-up artistry; specifies what services a licensee may perform outside a licensed establishment; allows transfer of instructional hours between professions; allows employees of retail styling equipment dealers to do limited demonstration on potential customers; and modernizes safety and disinfection requirements.

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:

On July 1, 2018 Senate Bill 1324 became effective. The Barber and Cosmetology Services Licensing Board adopted a temporary rule to implement the new law.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Fees are established in accordance with Section 54-5822, Idaho Code, as follows: Original license fee for individual licenses: \$25; original license fee for instructors: \$30; original license fee for establishments: \$20; original license fee for schools: \$300; original license or registration fee for facilities: \$20; renewal fee for individual licenses: \$25; renewal fee for instructors: \$30; renewal fee for establishments: \$20; renewal fee for schools: \$85; renewal fee for facilities: \$20; registration fee for apprentice: \$25; certificate for makeup artist: \$25; and license by endorsement fee: \$35.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Jennifer Carr at (208) 334-3233.

DATED this 6th day of July, 2018.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 24-2801-1801
(New Chapter)

IDAPA 24
TITLE 28
CHAPTER 01

24.28.01 – RULES OF THE BARBER AND COSMETOLOGY SERVICES LICENSING BOARD

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Barber and Cosmetology Services Licensing Board by the provisions of Section 54-5806, Idaho Code. (7-2-18)T

001. TITLE AND SCOPE.

01. Title. The rules shall be cited as IDAPA 24.28.01, “Rules of the Barber and Cosmetology Services Licensing Board.” (7-2-18)T

02. Scope. These rules implement the purposes and intent of Chapter 58, Title 54, Idaho Code to regulate the professions of barbering and cosmetology in the interest of the public health, safety, and welfare. (7-2-18)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Board may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-2-18)T

003. ADMINISTRATIVE APPEAL.

Administrative appeals shall be governed by the Administrative Procedure Act, Chapter 52, Title 67, Idaho Code and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (7-2-18)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. (7-2-18)T

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

01. Location and Contact Information. The office of the Barber and Cosmetology Services Licensing Board is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702, P.O. Box 83720, Boise, Idaho 83720-0063. The telephone number of the Board is (208) 334-3233 and the fax number is (208) 334-3945. The Board’s email address is bcb@ibol.idaho.gov. The Board’s official website can be found at <http://www.ibol.idaho.gov>. (7-2-18)T

02. Office Hours. The office is open between the hours of 8:00 a.m. and 5:00 p.m. Mountain Time each day except Saturdays, Sundays, and holidays. (7-2-18)T

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein are subject to and in compliance with the Idaho Public Records Act, Chapter 1, Title 74,

Idaho Code. The records associated with the Board are subject to the provisions of the Public Records Act. (7-2-18)T

007. OPEN MEETINGS.

This Board operates pursuant to the Idaho Open Meetings Law, Chapter 2, Title 74, Idaho Code. (7-2-18)T

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. Barber and Cosmetology Services Licensing Board. (7-2-18)T

02. Bureau. Idaho Bureau of Occupational Licenses. (7-2-18)T

03. Clean. Removal of visible or surface debris, washing with soap and water, detergent or chemical “cleaner.” Cleaning reduces the number and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning prepares non-porous items for disinfection, but cleaning does not make multi-use items safe for use. (7-2-18)T

04. Clinical Services or Clinical Work. Performing hands-on acts or techniques within the scope of practice of a profession regulated by the Board. (7-2-18)T

05. Disinfect. The process of making a non-porous item safe for use. Disinfecting requires the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. Ultraviolet (UV) light is not acceptable for disinfection. (7-2-18)T

06. Disinfectant. Disinfectant registered by the United States Environmental Protection Agency (EPA) and is bactericidal, virucidal and fungicidal with effectiveness against staphylococcus aureus (including methicillin-resistant staphylococcus aureus (MRSA)), human immunodeficiency virus (HIV) and hepatitis B (HEPB). This includes EPA registered Sodium Hypochlorite 5.25% or higher (household bleach) with instructions for disinfection, diluted as instructed on the label and observing the five (5) minute contact time listed on the manufacturer’s label. Bleach must be active (not expired) with a manufacture date of less than six (6) months prior to use. (7-2-18)T

07. Establishment. Establishment means a place licensed under Chapter 58, Title 54, Idaho Code, other than a licensed school or licensed facility, where barber-styling, cosmetology, or electrology is practiced. (7-2-18)T

08. Facility. A retail cosmetics dealer, a retail thermal styling equipment dealer, or a makeover or glamour photography business. (7-2-18)T

09. First-Aid Kit. First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze. (7-2-18)T

10. Makeup. Makeup means makeup, cosmetics, or any pigment product that is used to cover, camouflage, or decorate the skin. (7-2-18)T

11. Patron. Patron means any person who receives the services of anyone licensed or otherwise regulated by the provisions of Chapter 58, Title 54, Idaho Code. (7-2-18)T

12. Record of Instruction. The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, by the instructor. (7-2-18)T

13. Single-Use. Any non-electrical item that cannot be properly cleaned and disinfected is considered single-use. This includes, but is not limited to, pumice stones, buffing blocks, wooden cuticle pushers, cotton balls, pads or swabs, toe separators and flip flops, and all nail files or emery boards that are not made entirely of metal, glass, or crystal. (7-2-18)T

14. Sterilize. The eradication of all microbial life through the use of heat, steam or chemical sterilants. Items to be sterilized must be cleaned prior to sterilization. (7-2-18)T

15. Sterilant. Autoclaves or dry heat sterilizers approved by the United States Food and Drug Administration and spore tested through an independent lab at least once every thirty (30) days. Sterilants must be used only as instructed by the manufacturer. Spore testing results and maintenance records for the most recent twelve (12) months must be kept onsite at the establishment. (7-2-18)T

011. UPDATE OF RECORDS.

Applicants and licensees are responsible for keeping their records updated with the Bureau. All changes including name changes and change of address must be submitted in writing to the Bureau within thirty (30) days. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including notification of renewal and notices related to disciplinary actions. (7-2-18)T

012. -- 099. (RESERVED)

100. ORGANIZATION AND OPERATIONS OF THE BOARD.

01. Meetings. The Board shall meet at least annually and at other such times and places as designated by the Chairman, upon the request of the governor, or upon the written request of a majority of the members of the Board. (7-2-18)T

a. A minimum of four (4) Board members shall constitute a quorum and shall be required for the transaction of business, provided at least one (1) board member of the relevant profession is present when any board action is taken that affects the profession, its licensees, or its applicants. A majority vote of the quorum present at a meeting shall be considered the action of the Board as a whole. (7-2-18)T

b. The Chairman shall be a voting member. (7-2-18)T

02. Organization. At the first meeting of each fiscal year, the Board shall elect from its members a Chairman, who shall assume the duty of the office immediately upon such selection. (7-2-18)T

a. The Chairman shall preside at all meetings when present, appoint all committees with the consent of the Board, and otherwise perform all duties pertaining to the office of Chairman. (7-2-18)T

b. The Bureau shall act as an agent of the Board and shall be the official keeper of all records of the Board. The Bureau shall provide such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (7-2-18)T

200. APPLICATION.

01. Filing an Application. Applicants for licensure shall submit a complete application, verified under oath, to the Board at its official address. The application shall be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (7-2-18)T

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. (7-2-18)T

03. Applications Must Be Complete. Applications shall not be considered complete until all required information, documents, and fees are received by the Board. (7-2-18)T

04. Application Deadline Date. Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. (7-2-18)T

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 good cause is demonstrated to the Board. (7-2-18)T

250. FEES.

Fees are established in accordance with Section 54-5822, Idaho Code, as follows: (7-2-18)T

01. Fees. (7-2-18)T

a. Original License Fee for Individual Licenses. The fee for an original license as a barber, barber-stylist, cosmetologist, electrologist, esthetician, haircutter, or nail technician is twenty-five dollars (\$25). (7-2-18)T

b. Original License Fee for Instructors. The fee for an original instructor license is thirty dollars (\$30). (7-2-18)T

c. Original License Fee for Establishments. The fee for an original license as a primary establishment or contiguous establishment is twenty dollars (\$20). (7-2-18)T

d. Original License Fee for Schools. The fee for an original license as a barber or cosmetology school is three hundred dollars (\$300). (7-2-18)T

e. Original License or Registration Fee for Facilities. The fee for an original license as a retail cosmetics dealer or makeover or glamour photography business or an original registration as a retail thermal styling equipment dealer is twenty dollars (\$20). (7-2-18)T

f. Annual Renewal Fee for Individual Licenses. The annual renewal fee for a license as a barber, barber-stylist, cosmetologist, electrologist, esthetician, haircutter, or nail technician is twenty-five dollars (\$25). (7-2-18)T

g. Annual Renewal Fee for Instructors. The annual renewal fee for a license as an instructor is thirty dollars (\$30). (7-2-18)T

h. Annual Renewal Fee for Establishments. The annual renewal fee for a license as a primary establishment or a contiguous establishment is twenty dollars (\$20). (7-2-18)T

i. Annual Renewal Fee for Schools. The annual renewal fee for a license as a barber or cosmetology school is eighty-five dollars (\$85). (7-2-18)T

j. Annual Renewal Fee for Facilities. The annual renewal fee for a license as a retail cosmetics dealer or makeover or glamour photography business or a registration as a retail thermal styling equipment dealer is twenty dollars (\$20). (7-2-18)T

k. Registration Fee for Apprentice. The fee for a registration as an apprentice is twenty-five dollars (\$25). (7-2-18)T

l. Certificate for Makeup Artist. The fee for a certificate as a makeup artist is twenty-five dollars (\$25). (7-2-18)T

02. License by Endorsement Fee. The fee for licensure by endorsement is thirty-five dollars (\$35). (7-2-18)T

03. Duplicate License Fee. The fee for a duplicate license is ten dollars (\$10). (7-2-18)T

04. Reinstatement Fee. Reinstatement fee is as provided in Section 67-2614, Idaho Code. (7-2-18)T

05. Examination Fee. The fee for those examinations administered by a third party administrator shall be that fee determined by the administrator and shall be paid directly to the administrator by the applicant. (7-2-18)T

06. Refund of Fees. All fees are non-refundable. (7-2-18)T

300. QUALIFICATIONS FOR ALL LICENSES OR CERTIFICATES FOR INDIVIDUALS.

In addition to other qualifications set forth in these rules, each applicant for licensure or certification must meet the following general qualifications: (7-2-18)T

- 01. Age.** Be at least sixteen and one-half (16 ½) years of age. (7-2-18)T
- 02. Education.** Successful completion of at least two (2) years of high school or have attained an equivalent education as determined by the Board as evidenced by: (7-2-18)T
 - a.** High school transcripts, a copy of a high school diploma, or a letter written on high school stationery, signed by an officer of the high school, indicating that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade; or (7-2-18)T
 - b.** Documents establishing admission to or graduation from an associates, bachelors, or graduate degree program from an accredited college or university; or (7-2-18)T
 - c.** Successful passage of the General Educational Development (G.E.D.) Test; or (7-2-18)T
 - d.** Any test approved by the Department of Education to establish education equivalency shall be approved by the Board when an applicant receives a score approved by the Department of Education as meeting the equivalency requirement; or (7-2-18)T
 - e.** Other proof of satisfactory completion of the tenth grade with eligibility to commence the eleventh grade. (7-2-18)T

03. Good Moral Character. (7-2-18)T

- a.** An applicant must certify that he/she has not been found guilty, been convicted, or received a withheld judgment or suspended sentence for a felony or a crime involving moral turpitude. If the applicant has been found guilty, been convicted, or 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 312 of these rules. (7-2-18)T
- b.** An applicant must certify that he/she or his/her license 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 his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 312 of these rules. (7-2-18)T

301. QUALIFICATIONS FOR ORIGINAL BARBER LICENSE.

The Board may grant a license to an applicant for licensure as a barber who completes an application as set forth in Section 200 of these rules, pays the required fee, and who meets the following general, education, experience, and examination qualifications: (7-2-18)T

- 01. General.** Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T
- 02. Education.** Successful completion and graduation from a program of barbering consisting of not less than nine hundred (900) hours of instruction in a licensed barber school, or the following equivalent instruction: (7-2-18)T
 - a.** A currently licensed cosmetologist shall be given credit of eight hundred (800) hours toward the required nine hundred (900) hours for a barber course. The remaining hours of instruction must be from a licensed barber school and must at a minimum include the following: (7-2-18)T
 - i.** Barber theory, including male haircuts; and (7-2-18)T
 - ii.** Shaving. (7-2-18)T
 - b.** For a currently licensed barber in another state, territory, possession or country, and who does not

meet the qualifications for licensure by endorsement, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barbering. (7-2-18)T

03. Examination. Successful passage of a barber examination approved by the Board. (7-2-18)T

302. QUALIFICATIONS FOR ORIGINAL BARBER-STYLIST LICENSE.

The Board may grant a license to an applicant for licensure as a barber-stylist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Education. Successful completion and graduation from a program of barber-styling consisting of not less than one thousand five hundred (1,500) hours of instruction in a licensed barber school, or the following equivalent instruction: (7-2-18)T

a. A currently licensed cosmetologist shall be given credit of one thousand four hundred (1,400) hours toward the required one thousand five hundred (1,500) hours for a barber-stylist course. The remaining hours of instruction must be from a licensed barber school and must at a minimum include the following: (7-2-18)T

i. Barber theory, including male haircuts; and (7-2-18)T

ii. Shaving. (7-2-18)T

b. For a currently licensed barber-stylist in another state, territory, possession or country, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barber-styling. (7-2-18)T

03. Examination. Successful passage of a barber-stylist examination approved by the Board. (7-2-18)T

303. QUALIFICATIONS FOR ORIGINAL COSMETOLOGIST LICENSE.

The Board may grant a license to an applicant for licensure as a cosmetologist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Education. Successful completion and graduation from a program of cosmetology consisting of not less than one thousand six hundred (1,600) hours of instruction in a licensed cosmetology school or completed at least three thousand two hundred (3,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (7-2-18)T

a. A currently licensed barber-stylist shall be given credit of one thousand three hundred (1,300) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The remaining hours of instruction must be from a licensed cosmetology school and must at a minimum include the following: (7-2-18)T

i. Nail technology; (7-2-18)T

ii. Esthetics; and (7-2-18)T

iii. Cosmetology theory, including female hairstyling. (7-2-18)T

b. A currently licensed barber shall be given credit of nine hundred (900) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The remaining hours of instruction must be from a licensed cosmetology school covering the following areas: (7-2-18)T

i. Working on the hair with chemicals; (7-2-18)T

- ii. Nail technology; (7-2-18)T
- iii. Esthetics; and (7-2-18)T
- iv. Cosmetology theory, including female hairstyling. (7-2-18)T

c. A currently licensed esthetician, haircutter, or nail technician shall be given credit of two hundred (200) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course or four hundred (400) hours toward the required three thousand two hundred (3,200) hours as a cosmetology apprentice. (7-2-18)T

d. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for a cosmetology course, or a licensed instructor may credit up to one hundred (100) hours toward the required apprenticeship hours. (7-2-18)T

e. For an esthetician, haircutter, or nail technician student, a licensed cosmetology school may credit eighty percent (80%) of accumulated hours, but no more than two hundred (200) hours, toward the required instructional hours for a cosmetology course. (7-2-18)T

f. For a currently licensed cosmetologist in another state, territory, possession or country, one hundred (100) hours of instruction or two hundred (200) hours as an apprentice may be credited for each six-month period of practical experience in cosmetology. (7-2-18)T

03. Examination. Successful passage of the cosmetology examination approved by the Board. (7-2-18)T

304. QUALIFICATIONS FOR ORIGINAL ELECTROLOGIST LICENSE.

The Board may grant a license to an applicant for licensure as an electrologist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Education. Successful completion and graduation from a program of electrology consisting of not less than six hundred (600) hours of instruction in a licensed cosmetology school approved to teach electrology or successful completion at least one thousand two hundred (1,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules. For a currently licensed electrologist in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in electrology. (7-2-18)T

03. Examination. Successful passage of the electrologist examination conducted or approved by the Board. (7-2-18)T

305. QUALIFICATIONS FOR ORIGINAL ESTHETICIAN LICENSE.

The Board may grant a license to an applicant for licensure as an esthetician who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Education. Successful completion and graduation from a program of esthetics consisting of not less than six hundred (600) hours of instruction in a licensed cosmetology school or successful completion of at least one thousand two hundred (1,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (7-2-18)T

a. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for an esthetics course or, a licensed instructor may credit

up to one hundred (100) hours toward the required apprenticeship hours. (7-2-18)T

b. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for an esthetics course for a cosmetology student. (7-2-18)T

c. For a currently licensed esthetician in another state, territory, possession or country, sixty (60) hours of instruction or one hundred twenty (120) hours as an apprentice may be given for each six-month period of practical experience in esthetics. (7-2-18)T

03. Examination. Successful passage of the esthetician examination approved by the Board. (7-2-18)T

306. QUALIFICATIONS FOR ORIGINAL HAIRCUTTER LICENSE.

The Board may grant a license to an applicant for licensure as a haircutter who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Education. Successful completion of and graduation from a program of haircutting consisting of not less than nine hundred (900) hours of instruction in a licensed cosmetology school or the following equivalent instruction: (7-2-18)T

a. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for a haircutter course for a cosmetology student. (7-2-18)T

b. For a currently licensed haircutter in another state, territory, possession or country, ninety (90) hours of instruction or one hundred twenty (120) hours as an apprentice may be credited for each six-month period of practical experience in haircutting, hair design, or cosmetology. (7-2-18)T

307. QUALIFICATIONS FOR ORIGINAL NAIL TECHNICIAN LICENSE.

The Board may grant a license to an applicant for licensure as a nail technician who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Education. Successful completion and graduation from a program of nail technology consisting of not less than four hundred (400) hours of instruction in a cosmetology school approved by the Board or completed at least eight hundred (800) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (7-2-18)T

a. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for a nail technology course for a cosmetology student. (7-2-18)T

b. For a currently licensed nail technician in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in nail technology. (7-2-18)T

03. Examination. Successful passage of the nail technician examination approved by the Board. (7-2-18)T

308. QUALIFICATIONS FOR MAKEUP ARTIST CERTIFICATE.

The Board may grant a certificate to an applicant for certification as a makeup artist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general and education/training requirements: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Education/Training. Successful completion of instruction of not less than one hundred (100) hours in makeup artistry, which must include instruction and practical experience in safety and infection control. Hours may be classroom instruction, training, practical experience, or a combination. Instruction may be received from one or more of the following sources: (7-2-18)T

- a. A cosmetology school licensed in this state or another state, territory, possession, or country; (7-2-18)T
- b. A cosmetology or esthetics instructor licensed in this state or another state, territory or possession; (7-2-18)T
- c. A retail cosmetics dealer licensed in this state or another state, territory or possession; (7-2-18)T
- d. Other source of instruction that includes: (7-2-18)T
 - i. Knowledgeable and experienced instructor with a record of safe practices; (7-2-18)T
 - ii. Instruction in client safety and safe product selection; and (7-2-18)T
 - iii. Hands-on practice and training in infection control. (7-2-18)T
- e. Any combination of the sources listed in Subsections 308.02.a-d of these rules. (7-2-18)T

03. Documentation of Education/Training. An applicant may present proof of education/training in makeup artistry in the following ways: (7-2-18)T

- a. A current cosmetology or esthetician license from another state, territory, possession or country. (7-2-18)T
- b. Transcripts or records of instruction. (7-2-18)T
- c. Documentation of work history and training as an employee for a retail cosmetics dealer licensed in this state or another state, territory or possession. (7-2-18)T
- d. Membership in the International Alliance of Theatrical Stage Employees Make-Up Artists and Hair Stylists Guild or other similar organization whose membership requirements meet or exceed the requirements of these rules. (7-2-18)T
- e. Documentation of other training/experience must include: (7-2-18)T
 - i. Identity and qualifications of the person delivering the instruction/training; (7-2-18)T
 - ii. Method of instruction/training and amount of hands-on training provided; and (7-2-18)T
 - iii. Subject matters covered, particularly pertaining to topics listed in Subsection 308.02.d. of these rules. (7-2-18)T

04. Additional Education/Training. The Board may require an applicant who does not have a documented record of sufficient training in safety and infection control to obtain additional training or other demonstration of competency in that area. (7-2-18)T

309. QUALIFICATIONS FOR ORIGINAL BARBER OR BARBER-STYLIST INSTRUCTOR LICENSE.

The Board may grant a license to an applicant for licensure as a barber instructor or barber-stylist instructor who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following licensure, education, experience, and examination qualifications: (7-2-18)T

01. Licensure. Hold a current barber license for a barber instructor applicant or hold a current barber-stylist or cosmetologist license for a barber-stylist instructor applicant. (7-2-18)T

02. Education and Experience. At least five (5) years of experience as a licensed barber for a barber instructor applicant or as a licensed barber-stylist for a barber-stylist instructor applicant or have satisfactorily completed: (7-2-18)T

a. A minimum six (6) month course of barber instructing for a barber instructor applicant or barber-stylist instructing for a barber-stylist instructor applicant as a student in a licensed barber school, provided that the course consist of no less than one thousand (1,000) hours; or (7-2-18)T

b. A minimum three (3) month course of barber instructing for a barber instructor applicant or barber-stylist instructing for a barber-stylist instructor applicant as a student in a licensed barber school, if the applicant has at least two (2) years of experience as a licensed barber for a barber instructor applicant or as a barber-stylist for a barber-stylist instructor applicant, provided that the course consist of no less than five hundred (500) hours; or (7-2-18)T

c. Hold a cosmetology instructor license in this state. (7-2-18)T

03. Examination. Successful passage of the instructor examination approved by the Board. (7-2-18)T

310. QUALIFICATIONS FOR ORIGINAL COSMETOLOGY INSTRUCTOR LICENSE.

The Board may grant a license to an applicant for licensure as an instructor of cosmetology, electrology, esthetics, or nail technology who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following licensure, education, experience, and examination qualifications: (7-2-18)T

01. General. Meet the requirements prescribed in Section 300 of these rules. (7-2-18)T

02. Licensure. Hold a current license as a cosmetologist, electrologist, esthetician, or nail technician. (7-2-18)T

03. Education. Earned twelve (12) college credit hours or the equivalent. Credit hours must be obtained from the Education Department, Speech Communications Department or from the Psychology/Sociology Department and other credit at the discretion of the Board. Equivalency is determined as: (7-2-18)T

a. Completion of teaching seminars focusing on cosmetology, nail technology, esthetics, or electrology approved by the Board. Fourteen (14) clock hours is equivalent to one (1) semester college credit hour in an approved seminar. Verification of satisfactory completion must be submitted to the Board for its approval. (7-2-18)T

b. Verified satisfactory teaching as a qualified instructor from another state for one (1) of the previous three (3) years immediately prior to application. (7-2-18)T

04. Experience. At least five (5) years of experience as a licensed cosmetologist, electrologist, esthetician, or nail technician, which must be immediately preceding the application, or have satisfactorily completed: (7-2-18)T

a. A minimum six (6) month course of cosmetology instructing as a student in a licensed cosmetology school, provided that the course consist of no less than one thousand (1,000) hours; or (7-2-18)T

b. A minimum three (3) month course of cosmetology instructing as a student in a licensed cosmetology school, if the applicant has at least two (2) years of experience as a licensed cosmetologist, electrologist, esthetician, or nail technician, provided that the course consist of no less than five hundred (500) hours; or (7-2-18)T

c. Hold a barber or barber-stylist instructor license in this state. (7-2-18)T

03. Examination. Successful passage of the instructor examination approved by the Board. (7-2-18)T

311. APPROVED EXAMINATION.

Approved examinations shall be the written and practical examination provided by the National Interstate Council of State Boards of Cosmetology (NIC) for the discipline for which licensure is sought. A passing score must be obtained on both the written and practical examination. A passing score will be determined by NIC. (7-2-18)T

312. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.

An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or crime involving moral turpitude, or has been subject to discipline in another state, territory or country must submit with his/her application a written statement and any supplemental information establishing his/her current suitability for licensure. (7-2-18)T

01. Consideration of Factors and Evidence. The Board shall consider the following factors or evidence: (7-2-18)T

- a.** The severity or nature of the crime or discipline; (7-2-18)T
- b.** The period of time that has passed since the crime or discipline under review; (7-2-18)T
- c.** The number or pattern of crimes or discipline or other similar incidents; (7-2-18)T
- d.** The circumstances surrounding the crime or discipline that would help determine the risk of repetition; (7-2-18)T
- e.** The relationship of the crime or discipline to the practice of barbering or cosmetology; (7-2-18)T
- 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 (7-2-18)T
- g.** Any other information regarding rehabilitation or mitigating circumstances. (7-2-18)T

02. Interview. The board may, at its discretion, grant an interview of the applicant. (7-2-18)T

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing his/her current suitability for licensure. (7-2-18)T

313. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.

The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 of these rules and meets the following requirements: (7-2-18)T

01. General Requirements. The applicant must: (7-2-18)T

- a.** Be at least eighteen (18) years of age; (7-2-18)T
- b.** Meet the education requirements set forth in Subsection 300.02 of these rules; and (7-2-18)T
- c.** Meet the good moral character requirements set forth in Subsection 300.03 of these rules. (7-2-18)T

02. Hold a Current License and Have Experience. The applicant must be the holder of a current active license or certificate of qualification in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity in another state, territory, possession, or foreign country. The certification of licensure must be received by the Board from the issuing agency; and (7-2-18)T

- a.** Must show that the state, territory, possession, or foreign country has licensing requirements

substantially equivalent to or higher than those required for new applicants in Idaho; or (7-2-18)T

b. Document at least one (1) year of actual practice under certification or licensure in the three (3) years immediately prior to application in the profession for which a license is being sought. (7-2-18)T

314. -- 324. (RESERVED)

325. LICENSURE AND OPERATION OF PRIMARY AND CONTIGUOUS ESTABLISHMENTS.

Except as otherwise provided in statute and these rules, a licensed individual must practice within a licensed establishment. An establishment may be licensed as a primary establishment or a contiguous establishment that operates within a primary establishment. (7-2-18)T

01. Primary Establishment License. A primary establishment license may be issued and annually renewed only under the following conditions: (7-2-18)T

a. Application for establishment license shall be made on forms furnished by the Board and shall include plans and specifications complying with the Board's safety and disinfection requirements. The fully completed application form, with the required fees, must be submitted to the Board and a license issued prior to the opening or operation of any barber or cosmetology primary establishment; and (7-2-18)T

b. There is a clearly defined and designated working floor space of adequate dimension to allow the safe and sanitary practice of any one (1) or combination of defined practices of cosmetology or barber-styling for all individual stations that may be in operation in addition to any restroom and access areas; and (7-2-18)T

c. There is an approved hot and cold running water source and drainage system that is available to any contiguous establishment or other establishment or facility that may exist; and must be within the perimeters of the licensed establishment and separate from the toilet facilities; and (7-2-18)T

d. There are restroom facilities conveniently located and accessible from within the building in which the primary establishment is located and which shall be accessible from the primary area and to all areas designated for the operation of contiguous establishments. Restroom facilities shall contain an approved hot and cold running water source and approved drainage system. The water source shall be in addition to the work area facilities; and (7-2-18)T

e. Any areas designated by the primary establishment for the operation of contiguous establishments shall be clearly defined and fixed, and shall provide adequate dimension to allow the safe and sanitary practice of any one or a combination of the defined practices of cosmetology or barber-styling for all stations that may be operated in that area. (7-2-18)T

f. The holder of the primary establishment license is responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the designated licensed area of the primary establishment, including areas that are cooperatively or jointly used as "common areas" such as shampoo bowls, restrooms, entrance or reception areas. (7-2-18)T

02. Contiguous Establishment License. A contiguous establishment license may be issued and annually renewed only under the following conditions: (7-2-18)T

a. Application for establishment license shall be made on forms furnished by the Board. The fully completed application form, with the required fees, must be submitted to the Board and a license issued prior to the opening or operation of any barber or cosmetology contiguous establishment; and (7-2-18)T

b. The contiguous establishment is associated with a currently licensed primary establishment and a holder of the primary establishment license; and (7-2-18)T

c. The contiguous establishment shall only operate in the contiguous establishment designated areas within the associated primary establishment. (7-2-18)T

d. The holder of the contiguous establishment license will be responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the contiguous designated area where it operates. (7-2-18)T

03. Businesses Other Than a Licensed Establishment or Facility. Businesses other than one licensed under Chapter 58, Title 54, Idaho Code, and living quarters shall be separate and apart. Home establishments must provide a separate outside entrance directly into the establishment and substantial partitions or walls shall extend from the floor to not less than seven (7) feet high, separating the establishment from adjoining rooms used for business or domestic purposes. All doors to an establishment from adjacent rooms shall be closed. (7-2-18)T

04. Conditions for Issuance. No primary establishment license may be issued which includes or overlaps all or any portion of an existing establishment license. (7-2-18)T

326. ESTABLISHMENT CHANGES IN OWNERSHIP OR LOCATION.

Whenever a change of ownership or fixed location of an establishment occurs, an original license fee must be paid and compliance with all rules concerning a new establishment must be met before a new license will be issued. Establishment licenses are not transferable. (7-2-18)T

01. Board Must Be Informed of All Changes. The Board must be informed in writing of any and all changes of ownership and location of establishments. (7-2-18)T

02. Deletion of an Owner. Deletion of an owner in a multiple ownership may be effected by filing a written statement with the Board signed by the person withdrawing and the remaining owner(s). (7-2-18)T

03. Transfer of Ownership. If the transfer involves change of corporate structure or deleting one (1) or more owners, a written notarized statement signed by all former owners as registered with the Board shall be accepted. (7-2-18)T

04. Addition of an Owner. Addition of an owner to a multiple ownership constitutes a change in ownership and the requirements for a new establishment apply. (7-2-18)T

05. Out of Business. Whenever any establishment ceases operation at the licensed location, the owner(s) or authorized agent of the establishment shall notify the Board by submitting: (7-2-18)T

a. A signed letter advising that the establishment is out of business; or (7-2-18)T

b. The establishment license bearing the signature of the owner(s) or authorized agent and marked out-of-business; or (7-2-18)T

c. For a contiguous establishment license, a signed statement by the associated primary establishment advising that the contiguous establishment is out of business. (7-2-18)T

06. License Status. A new primary establishment license will not be issued for any location that is currently licensed as a primary establishment at the time of application. (7-2-18)T

327. RETAIL COSMETICS DEALER LICENSE.

The Board may grant a retail cosmetic dealer license to allow the application of cosmetic products to customers' faces in connection with the sale of the products. An applicant for a retail cosmetic dealer license must complete an application as set forth in Section 200 of these rules, pay the required fee, and meet the following requirements: (7-2-18)T

01. Requirements. All retail cosmetic dealers shall provide an area within the business premises for disinfection and storage of equipment and supplies necessary to perform any cosmetic application services provided. The business premises must have: (7-2-18)T

a. Access to hot and cold running water; (7-2-18)T

- b. Access to restroom facilities; (7-2-18)T
- c. Disinfectants, as defined in these rules; (7-2-18)T
- d. Single-use samples, wipes, spatulas or other dispensing techniques designed to prevent contamination of the cosmetic product; and (7-2-18)T
- e. First-aid kit. (7-2-18)T

02. Change in Ownership or Location. Licenses are not transferable. Whenever a change of ownership or location of a facility occurs, a new application for a facility license must be submitted together with the required fee to the Board, and all the facility requirements must be met. (7-2-18)T

03. Cessation of Operation. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the facility license shall be submitted to the Bureau. (7-2-18)T

328. RETAIL THERMAL STYLING EQUIPMENT DEALER REGISTRATION.

The Board may grant a registration as a retail thermal styling equipment dealer to an applicant who completes an application as set forth in Section 200 of these rules, pay the required fee, and meet the following requirements: (7-2-18)T

01. Training. The dealer is responsible to train all employees on the proper and safe use of the thermal styling equipment and all disinfection related to the demonstration of the equipment prior to permitting an employee's use of the equipment on customers. (7-2-18)T

02. Requirements. All retail thermal styling equipment dealers shall provide the equipment and supplies necessary to perform any demonstration of the thermal styling equipment. The area where the demonstration is being performed must have: (7-2-18)T

- a. Disinfectants, as defined in these rules; and (7-2-18)T
- b. First-aid kit. (7-2-18)T

03. Change in Ownership or Location. Registrations are not transferable. Whenever a change of ownership or location of a facility occurs, a new application for a registration must be submitted together with the required fee to the Board, and all the facility requirements must be met. (7-2-18)T

04. Cessation of Operation. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the registration shall be submitted to the Bureau. (7-2-18)T

329. -- 399. (RESERVED)

400. RENEWAL OR EXPIRATION OF LICENSE.

A licensee must renew his/her/its license annually as set forth in Section 67-2614, Idaho Code, and may reinstate his/her/its license within five (5) years after expiration as provided in Section 67-2614, Idaho Code. (7-2-18)T

401. -- 499. (RESERVED)

500. BARBER AND COSMETOLOGY SCHOOL REQUIREMENTS.

The Board may grant a license to an applicant for licensure to operate a barber or cosmetology school who completes an application as set forth in Section 200 of these rules, pays the required fee, and who meets the following requirements: (7-2-18)T

- 01. Premises.** The premises of a barber or cosmetology school must: (7-2-18)T

a. Possess sufficient apparatus and equipment for the proper and full teaching of all subjects or its curriculum. Each barber chair in each barber school shall be of such construction that it may be readily cleaned and it shall be mechanically workable and in good working order. Space between barber chairs and the workstand or wall shall be adequate so that no student will be hampered in the performance of his/her work. (7-2-18)T

b. Provide adequate space, ventilation, lighting, and facilities to safely accommodate all students, instructors, and customers. (7-2-18)T

c. Have classroom and training areas equipped with sufficient seating capacity and work stations for all enrolled students. (7-2-18)T

d. Provide a restroom with a sink with hot and cold running water and approved drainage system. (7-2-18)T

02. Faculty or Instructors. A school must be under the direct, personal supervision at all times of a licensed cosmetology instructor if a cosmetology school or a licensed barber or barber-stylist instructor if a barber school and must employ and maintain a licensed instructor for every twenty (20) students or fraction thereof, with an instructor trainee counting as an instructor for the purposes of the student-instructor ratio. (7-2-18)T

a. An instructor shall teach only those subject areas for which the instructor is licensed. (7-2-18)T

b. Instructors must devote their time during school or class hours to instructing students rather than engaging in occupational practice. (7-2-18)T

03. Operations. A barber or cosmetology school must: (7-2-18)T

a. Maintain regular class and instruction hours, establish grades and hold monthly examinations. This information will be transferred to the record of instruction; (7-2-18)T

b. Prescribe a school term for training in all aspects of the practice being taught; and (7-2-18)T

c. Offer school hours for the purpose of instruction on at least five (5) days per week. (7-2-18)T

04. Curriculum. A school must submit a curriculum and course catalog that covers the subjects, as set forth in Section 54-5815(1)(g), Idaho Code, relating to the profession for which the school is seeking approval to teach. Any proposed changes to a curriculum or catalog must be approved by the Board. The submission must identify what specific changes are being made to the curriculum. (7-2-18)T

05. Clinical Work. Each school shall advertise to the public that it is a school and that all work is done by students. The clinic area shall not have connecting entrances to establishments or businesses other than barber or cosmetology schools. (7-2-18)T

a. Students shall not be permitted to render any clinical service to patrons until students have completed at least five percent (5%) of the required hours of instruction. (7-2-18)T

b. All clinical work shall be performed under the supervision of a licensed instructor. (7-2-18)T

c. Clinical work shall be recorded on the record of instruction for each month. (7-2-18)T

06. Student Records To be Maintained by the School. A school must maintain the following records for each enrolled student: (7-2-18)T

a. Proof of age showing student is no less than sixteen and one-half (16 ½) years of age; (7-2-18)T

b. Proof of showing student has satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education as evidenced in a manner identified in Subsection 300.02 of these rules; (7-2-18)T

- c. Daily attendance record for each student; (7-2-18)T
 - d. Record of instruction for each student showing the classroom hours, the clinical hours, and operations done for each month in which the student is enrolled; and (7-2-18)T
 - e. When a student's course of instruction has been completed or terminated, the completed operations, and number of hours of instruction are to be recorded by the school on the record of instruction form. This form is to be provided to the student and maintained by the school for five (5) years from completion or termination. (7-2-18)T
- 07. Change in Ownership or Location.** (7-2-18)T
- a. Licenses are not transferable. (7-2-18)T
 - b. A new application must be submitted to the Board and a license issued for a new or additional location or a change of ownership of an existing school. (7-2-18)T
- 08. Cessation of School.** When a school ceases to operate as a school, the school must provide each enrolled student his/her records of instruction at or before the cessation of operations. (7-2-18)T
- 501. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY.**
The Board may grant a license to an applicant to operate an electrology school to an applicant who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following requirements: (7-2-18)T
- 01. Premises.** Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. (7-2-18)T
- 02. Required Equipment.** Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. (7-2-18)T
- a. Work stations equal to seventy-five percent (75%) of total enrollment; (7-2-18)T
 - b. Two (2) brands of machines, one (1) of which has three (3) method capability: Galvanic, Thermolysis, and Blend; (7-2-18)T
 - c. Two (2) treatment tables and adjustable technician chairs; (7-2-18)T
 - d. Two (2) swing arm lamps with magnifying lens; (7-2-18)T
 - e. Two (2) magnifying glasses; (7-2-18)T
 - f. Tweezers; (7-2-18)T
 - g. One (1) basin with approved water source; (7-2-18)T
 - h. Necessary sanitation equipment for implements; and (7-2-18)T
 - i. Closed storage cabinet. (7-2-18)T
- 03. Student Supplies.** Each student is to be issued a basic kit containing two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clips, and one (1) sharps container. (7-2-18)T
- 04. Faculty or Instructors.** A school must be under the direct, personal supervision at all times of one (1) licensed electrologist instructor for every six (6) students or portion thereof being trained therein. (7-2-18)T

05. Curriculum. A school must submit a curriculum and course catalog that covers the subjects relating to electrology as set forth in Section 54-5815(1)(g)(iv), Idaho Code. Any changes to a curriculum or catalog must be approved by the Board prior to implementing the proposed changes. The submission must identify what specific changes are being made to the curriculum. (7-2-18)T

06. Clinical Work. A cosmetology school approved to teach electrology must meet the same requirements regarding clinical work as a school of cosmetology as set forth in Subsection 500.05 of these rules. (7-2-18)T

07. Student Records To be Maintained by the School. Records required of cosmetology schools approved to teach electrology shall be maintained in accordance with the records required for schools of cosmetology as set forth in Subsection 500.06 of these rules. (7-2-18)T

08. Change in Ownership or Location. (7-2-18)T

a. Licenses are not transferable. (7-2-18)T

b. A new application must be submitted to the Board and a license issued for a new or additional location or a change of ownership of an existing school. (7-2-18)T

09. Cessation of School. When a school ceases to operate as a school, the school must provide each enrolled student his/her records of instruction at or before the cessation of operations. (7-2-18)T

502. EDUCATIONAL PROGRAM STANDARDS FOR COURSES OF INSTRUCTION.

A licensed school must maintain the following educational program standards for each course of instruction for which it is approved to teach. (7-2-18)T

01. Barber. Coursework must include courses in the following content areas: (7-2-18)T

a. Haircut; (7-2-18)T

b. Blow dry (does not include haircut); (7-2-18)T

c. Shampoo; (7-2-18)T

d. Shave or Beard Trim; (7-2-18)T

e. Facial or Massage; (7-2-18)T

f. Hair or Scalp Treatment; (7-2-18)T

g. Curling Iron; and (7-2-18)T

h. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (7-2-18)T

02. Barber-Stylist. Coursework must include courses in the following content areas: (7-2-18)T

a. Haircut; (7-2-18)T

b. Style/blow dry (does not include haircut); (7-2-18)T

c. Shampoo; (7-2-18)T

d. Permanent Wave; (7-2-18)T

e. Shave or Beard Trim; (7-2-18)T

- f. Facial or Massage; (7-2-18)T
- g. Color/Bleach/Rinse; (7-2-18)T
- h. Hair or Scalp Treatment; (7-2-18)T
- i. Curling Iron; and (7-2-18)T
- j. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (7-2-18)T

03. Cosmetology. A record of the operations completed by each student shall be maintained and include the following: (7-2-18)T

- a. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (7-2-18)T
- b. Scalp Treatments; (7-2-18)T
- c. Permanent Waves (All Methods); (7-2-18)T
- d. Haircutting/shaping which shall include scissor and razor/clipper; (7-2-18)T
- e. Bleaching; (7-2-18)T
- f. Tinting; (7-2-18)T
- g. Semi Permanent/Temporary Color; (7-2-18)T
- h. Frosting/Highlights; (7-2-18)T
- i. Facials which shall include plain, makeup and arches; (7-2-18)T
- j. Manicures which shall include plain and oil; (7-2-18)T
- k. Pedicures; (7-2-18)T
- l. Artificial Nails; and (7-2-18)T
- m. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (7-2-18)T

04. Esthetics. The recorded operations completed by each student shall be maintained and include the following: (7-2-18)T

- a. Massage and manipulation application of lotions, creams, tonics, solutions, skin care masks, and similar cosmetic preparations and their effects on the skin and body; (7-2-18)T
- b. Cleansing, steaming, exfoliation, and extraction procedures; (7-2-18)T
- c. Cosmetics and makeup application; (7-2-18)T
- d. Machine Application: use of mechanical or electrical equipment; (7-2-18)T
- e. Bacteriology, disinfection and sterilization, and safety precautions; (7-2-18)T

- f. Human anatomy, physiology and histology of skin care; (7-2-18)T
 - g. Follicle growth cycle and hair removal procedures; (7-2-18)T
 - h. Skin analysis, conditions, disorders, and diseases; and (7-2-18)T
 - i. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (7-2-18)T
- 05. Nail Technology.** The recorded operations completed by each student shall be maintained and include the following: (7-2-18)T
- a. Form nails; (7-2-18)T
 - b. Finished tips; (7-2-18)T
 - c. Wraps and mends; (7-2-18)T
 - d. Basic manicures and pedicures; and (7-2-18)T
 - e. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (7-2-18)T
- 06. Haircutter.** The recorded operations completed by each student shall be maintained and include the following: (7-2-18)T
- a. Haircutting and Hair shaping; (7-2-18)T
 - b. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (7-2-18)T
 - c. Use of cutting implements; (7-2-18)T
 - d. Basic shampooing and conditioning; and (7-2-18)T
 - e. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (7-2-18)T
- 07. Electrology.** The recorded operations completed by each student shall be maintained and include the following: (7-2-18)T
- a. Bacteriology, disinfection and sterilization, safety precautions, anatomy, and physiology; (7-2-18)T
 - b. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment; (7-2-18)T
 - c. Electrolysis which shall include the use and study of galvanic current; (7-2-18)T
 - d. Thermolysis, including the use and study of high frequency current, automatic and manual; (7-2-18)T
 - e. A combination of high frequency and galvanic currents; (7-2-18)T
 - f. The study and cause of hypertrichosis; and (7-2-18)T
 - g. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (7-2-18)T

- 08. Instructor.** The recorded operations completed by each student shall be maintained and include the following: (7-2-18)T
- a.** Lesson planning; (7-2-18)T
 - b.** Audio-Visual aid preparation; (7-2-18)T
 - c.** Theory class; (7-2-18)T
 - d.** Practical demonstrations; (7-2-18)T
 - e.** Testing and evaluation theory; (7-2-18)T
 - f.** Testing and evaluation; and (7-2-18)T
 - g.** Clinic floor supervision. (7-2-18)T

503. -- 549. (RESERVED)

550. APPRENTICE REGISTRATION AND APPRENTICESHIPS.

The Board may issue a registration as an apprentice to allow a person to engage in the practice of cosmetology, nail technology, esthetics, electrology, or makeup artistry while completing the required instructional hours for a license or certificate. An apprentice may only practice under direct supervision as provided below. (7-2-18)T

01. Application and Qualifications. An applicant must submit a completed application on a form approved by the Board, pay the required fee, and meet the following qualifications: (7-2-18)T

- a.** Be at least sixteen and one-half (16 ½) years of age; (7-2-18)T
- b.** Have successfully completed at least two (2) years of high school or have attained an equivalent education as determined by the board as evidenced in a manner identified in Subsection 300.02 of these rules; (7-2-18)T
- c.** Have certification from the establishment that the applicant is enrolled as an apprentice in the establishment; (7-2-18)T
- d.** Identify the names and license numbers of the licensed cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which the applicant will serve as an apprentice; and (7-2-18)T
- e.** Identify the name(s) and license number(s) of the licensed cosmetology, electrology, esthetics, or nail technology instructor who will instruct the applicant during the apprenticeship. (7-2-18)T

02. Instruction. The instructor for any apprenticeship must submit to the Board a curriculum for the entire course of apprenticeship instruction. The Board must approve the curriculum prior to the beginning of instruction. The curriculum must cover the subjects relating to the profession for which the apprentice is pursuing licensure as set forth in Section 54-5815(1)(g), Idaho Code. (7-2-18)T

03. Supervision. There must be at least one (1) licensed instructor and one (1) separate supervising licensee for each apprentice in the establishment at all times when an apprentice is being trained, except that an electrology apprentice may be supervised solely by the electrology instructor. (7-2-18)T

- a.** The instructor must be licensed to teach the profession for which the registrant is pursuing licensure and the supervising licensee must be licensed to practice the profession for which the apprentice is pursuing licensure. (7-2-18)T

b. An instructor may not train more than three (3) currently registered apprentices, except that an electrology instructor may not train more than one (1) currently registered electrology apprentice. (7-2-18)T

c. An establishment may not have more than six (6) currently registered apprentices, unless otherwise approved by the Board. (7-2-18)T

d. An establishment or an instructor under current discipline may not supervise an apprentice. (7-2-18)T

e. An apprentice shall not be permitted to render any clinical service to patrons until the apprentice has completed at least five percent (5%) of the required hours of instruction. (7-2-18)T

04. Recordkeeping. Establishments employing an apprentice shall keep a daily work record of the attendance of the apprentice and a record of the types of instruction given and the work performed by the apprentice as set forth below. (7-2-18)T

a. An apprentice must be given monthly progress records, and the monthly record shall be signed and dated by the apprentice and the instructor. The establishment shall maintain the records for a period of five (5) years following completion or termination of the apprentice instruction. (7-2-18)T

b. When an apprentice's course of instruction has been completed or terminated, the completed operations and number of hours of instruction are to be recorded by the establishment on the Record of Instruction Form. The instructor must submit the Record of Instruction to the Board within fourteen (14) days of the completion of the apprenticeship. The establishment must maintain a copy of the Record of Instruction for a period of five (5) years from completion or termination date. (7-2-18)T

c. Attendance, instruction, and work records must be kept in the establishment in which the apprentice is employed. (7-2-18)T

d. Apprenticeship records are subject to inspection by the Board at any time. (7-2-18)T

05. Termination of Registration. A registration as an apprentice is valid from the date of issuance until the apprentice is no longer enrolled as an apprentice in the establishment identified on the apprentice's application. (7-2-18)T

a. When an apprentice discontinues a course of study, the establishment must complete a Record of Instruction Form with the total number of hours worked and the types of instruction given to the apprentice. The Record of Instruction Form must be submitted to the Board within thirty (30) days of the discontinuance of the apprenticeship. If an apprentice discontinues a course of instruction and does not transfer to another salon within sixty (60) days, the apprentice registration is automatically canceled and is to be submitted to the Board along with the Record of Instruction. (7-2-18)T

b. When an establishment where apprentices are being trained ceases operation as an establishment, the establishment must submit the records of instruction for each apprentice to the Board within thirty (30) days. (7-2-18)T

c. An apprentice who has discontinued a course of study must apply for and be granted a new registration under Subsection 550.01 of these rules, prior to resuming instruction. (7-2-18)T

06. Out of State Apprenticeship. An applicant who has received instruction as an apprentice in another state must file with the Board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or instructor(s) in the state in which the instruction was obtained. (7-2-18)T

551. -- 699. (RESERVED)

700. SCOPE OF PRACTICE.

All licensees shall practice in a competent manner consistent with their level of education, training, and experience. (7-2-18)T

701. -- 709. (RESERVED)

710. PRACTICE OUTSIDE OF A LICENSED ESTABLISHMENT.

All licensees and certificants must practice in a place or establishment that is licensed for such practice, except as provided for in Section 54-5804, Idaho Code, or when the services provided by the licensee or certificant are limited to the following: (7-2-18)T

01. Hair Styling. Arranging, styling, dressing of the hair. Trimming of the hair may be performed when it is incidental to the arranging, styling, or dressing of the hair, including facial hair such as beards, mustaches, and eyebrows. (7-2-18)T

02. Coloring. Wash out topical color, tinted powder, spray or chalk to temporarily camouflage the hair.

03. Extensions. Application of extensions with non-permanent adhesive or thread, such as clip in hair, halos, wig and toupees. (7-2-18)T

04. Temporary Hair Removal. Tweezing of hairs on the face and neck. (7-2-18)T

05. Cleansing. Cleansing of the face for the limited purpose of removing makeup and debris and cosmetic preparations for the application of makeup. (7-2-18)T

06. Nail Services. Application of nail polish by painting without the use of a lamp or light, removal of polish that is incidental to the painting of the nail, and shaping of the nail with a single-use emery board. (7-2-18)T

07. Makeup Application. Application of makeup. (7-2-18)T

08. Safety and Disinfection. All licensees and certificants must comply with the safety and disinfection rules applicable to the services being performed, regardless of the location where the services are performed. (7-2-18)T

711. -- 799. (RESERVED)

800. UNPROFESSIONAL CONDUCT.

A licensee shall not engage in unprofessional conduct in the course of his/her practice. Unprofessional conduct is conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes, but is not limited to, the following: (7-2-18)T

01. Use of MMA. Use of Methyl Methacrylate acid (MMA). (7-2-18)T

02. Use of Skin Cutting Instruments. Use of skin cutting instruments, including razor-type callus shavers, credo blades, microplane, or other rasps or graters designed to remove corns or calluses by cutting below the skin surface. The presence of such instruments creates a presumption of the instrument's use. (7-2-18)T

03. Use of UV Sterilizers. Use of ultraviolet (UV) sterilizers for disinfection. This does not prohibit the use of ultraviolet dryers or lamps used to dry or cure nail products. (7-2-18)T

04. Use of Roll-on Wax. Use of roll-on wax, except that single-use roll-on wax cartridges are acceptable when they are disposed of immediately after use. (7-2-18)T

05. Double-Dipping Prohibited. Placing an item or instrument that has been used on a person into a wax pot or other container that holds wax, a compound, solution, or other cosmetic preparation that will be used for more one (1) than patron. This prohibited practice is commonly referred to as double-dipping. (7-2-18)T

06. Single-use or Porous Items. Use of single-use or porous items on more than one (1) patron. The presence of used single-use or porous items, which have not been disposed of, creates a presumption of the item's use or intended use on more than one patron. (7-2-18)T

07. Apprentices. Failure to adequately supervise, instruct, or train an apprentice. (7-2-18)T

08. Inspections and Investigations. Interference with an inspection or investigation conducted by or on behalf of the Board. (7-2-18)T

09. Disease Transmission Prevention. Performing a service on a patron who has an open sore or a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically-approved measures to prevent transmission of the disease. (7-2-18)T

10. Practicing Outside Scope of Training. Performing services or using machines or devices outside the licensee's area of training, expertise, competence, or scope of practice for the license held. (7-2-18)T

801. -- 849. (RESERVED)

850. INSPECTION OF ESTABLISHMENTS, SCHOOLS AND FACILITIES.

All establishments, schools, and facilities shall be subject to inspection by the Board or its agents during business hours without notice to ensure the safe operation of each establishment, school, or facility and to ensure continued compliance with Chapter 58, Title 54, Idaho Code, and these rules. (7-2-18)T

01. Form. The Board may adopt a form which identifies those general items that will be inspected and a level of compliance necessary for issuance or renewal of a license and for which a failure to meet that level is grounds for discipline. Violations of the Chapter 58, Title 54, Idaho Code, or these rules that are not listed on the form but that are found during inspection are also grounds for discipline. (7-2-18)T

02. Classification Card. Following an inspection, each establishment, school, and facility, except for retail thermal styling equipment dealers, will receive classification as follows: 100% - 90% = "A"; 89% - 80% = "B"; 79% and below = "C." The "C" classification denotes an unacceptable level of compliance and a reinspection is required. (7-2-18)T

03. Reinspection. A facility or establishment not found to be at an acceptable level of compliance must make improvements within thirty (30) days. The Board may allow an establishment, school, or facility to continue to operate during that period. The Board may take action prior to any reinspection when the circumstances represent an immediate danger to the public health, safety, or welfare. (7-2-18)T

851. SAFETY AND DISINFECTION FOR ESTABLISHMENTS AND SCHOOLS.

All establishments and schools must take every precaution to prevent the transfer of disease-causing pathogens between people and comply with Chapter 58, Title 54, Idaho Code. At a minimum the establishment or school must meet the following requirements: (7-2-18)T

01. Premises. Establishments and schools must be separated from living areas by substantial walls and/or closable doors. All establishments and schools must be maintained in an orderly manner and shall be heated, lighted, and ventilated so as to be safe and comfortable to the operators and patrons. Floors, walls, ceilings, furniture, and all other fixtures shall be kept clean and in good repair at all times. (7-2-18)T

02. Instrument Cleaning. All instruments used by operators shall be thoroughly cleaned after each use and prior to disinfection. (7-2-18)T

03. Instrument Disinfection or Sterilization. All instruments used by operators shall be disinfected or sterilized after cleaning and prior to use on each patron, with a disinfectant or sterilant as defined in these rules. All disinfectant must be mixed and changed according to the manufacturers' instructions. Disinfection methods such as immersion, sprays, and wipes may be used. Contact time listed on the disinfectant's label must be adhered to in all circumstances. Items or surfaces must remain completely immersed in disinfectant, or visibly wet if using sprays or wipes, for the full amount of contact time. (7-2-18)T

04. Single-Use and Porous Instruments. Instruments that are intended for single use or that are porous shall be immediately disposed of in a waste container after each use on a patron or given to the patron to take home for personal use, provided that the instruments may not be brought back to the establishment for future use. (7-2-18)T

05. Towels. Clean towels shall be used for each patron. Towels and linens that have been used must be placed in a container that is covered and has vented sides to reduce the growth of pathogens, and the container must be disinfected on a weekly basis with a disinfectant and as directed on the disinfectant manufacturer's label. Towels and linens may be laundered commercially or washed on-site. When done on-site, laundry must be dried until hot to the touch. A clean paper or cloth neckband shall be used to provide a barrier to infection which shall be maintained between each patron's neck and all multi-use capes. Paper towels and paper neckstrips shall be disposed of after one (1) use. (7-2-18)T

06. Storage of Equipment. All towels, linens, and instruments, except for electrical instruments, shall be stored in clean, closed cabinets, drawers, or containers after they are cleaned and disinfected. All electrical instruments must be stored in a clean place, such as a hook, stand, or on a clean towel after they are cleaned and disinfected and may not be stored in cabinets, drawers, or containers that contain clean or disinfected items. All items that have been used must be kept in a closed, covered container with solid sides that is clearly identified as containing used items. Containers for used items must be disinfected on a daily basis. (7-2-18)T

07. Dispensers. All solutions and compounds shall be clearly labeled, maintained, and dispensed in a manner to prevent contamination of the unused portion. All single-use applicators used to dispense a solution or compound shall be disposed of in a waste container after one (1) use. (7-2-18)T

08. Waxes and Waxing Services. Paraffins, waxes and all other solutions or compounds shall be covered and maintained free of any foreign contaminants. Only disinfected or unused, single-use items may be placed into a container that holds wax or paraffins. Waxes and paraffins must be dispensed for use on a patron in the following manner: (7-2-18)T

a. Wax may be removed from a multi-use wax pot for use on a patron by one of the following methods: (7-2-18)T

i. Single-use spatula disposed of after a single dip/application; (7-2-18)T

ii. Disinfected plastic spatulas with one disinfected spatula used for each dip into the wax pot; or (7-2-18)T

iii. Placement of all wax needed for entire service in a single-use, disposable cup or a container that can be properly cleaned and disinfected, such as a stainless steel bowl. The cup, any remaining wax, and all single-use applicators must be immediately disposed of at the conclusion of the service. This is the only instance in which a single applicator may be used for an entire service. (7-2-18)T

b. Paraffin wax must be portioned out for each patron in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply. All portions used on a patron must be disposed of immediately following use. (7-2-18)T

09. Makeup Services. All makeup and makeup services must follow the requirements in Section 852 of these rules. (7-2-18)T

10. Nail Services. A licensee must comply with the following disinfection procedures between every patron: (7-2-18)T

a. All pedicure bowls, basins or tubs must be cleaned and disinfected prior to each use as follows: (7-2-18)T

i. Empty pedicure bowl. (7-2-18)T

- ii. Remove all removable parts, including screens, foot plates, impellers and fans. (7-2-18)T
 - iii. Clean removable parts with soap or detergent and water, rinse, and immerse parts in disinfectant following manufacturer's directions for proper contact time. (7-2-18)T
 - iv. Scrub bowl with soap or detergent and rinse with clean water. (7-2-18)T
 - v. Replace removable cleaned and disinfected parts. (7-2-18)T
 - vi. Fill bowl and add disinfectant to achieve proper concentration. (7-2-18)T
 - vii. Allow disinfectant solution to sit, or run through system for bowls with circulating water for the manufacturer's recommended contact time. (7-2-18)T
 - viii. Drain the tub, rinse and air dry or wipe dry with clean paper towel. (7-2-18)T
- b.** Metal drill bits may be soaked in acetone to remove nail product. When removed from the acetone, they must be cleaned using soap, water, and a brush, and then rinsed prior to immersion in disinfectant. Drill bits must remain in disinfectant for full contact time. (7-2-18)T

11. Water Supply and Hand Washing. Water supplies shall be from an approved source. Sufficient basins with hot and cold running water, approved drainage systems, soap and single-use towels shall be conveniently located within the work area. Operators and students shall wash their hands with running water and soap prior to providing service to any patron. When hand washing is not practicable, hand sanitizer of at least seventy percent (70%) alcohol may be used. (7-2-18)T

12. Restroom Facilities. Clean, adequate and convenient restroom facilities, located and accessible from within the building where the shop or school is located, shall be available for use by operators and patrons. A basin with hot and cold running water, approved drainage systems, soap and single-use towels shall be provided within said facilities. All operators and students must wash their hands with running water and soap and then dry their hands with a single-use towel after using the restroom. (7-2-18)T

13. Safety. Clearly identifiable first-aid kit must be readily accessible on the premises. No animals are allowed in shops or schools except service dogs trained to do work or perform tasks for persons with disabilities. The definition of service animals and disabilities shall be as set forth in U.S. Department of Justice Regulations at 28 C.F.R. Section 36.104 effective August 11, 2016. (7-2-18)T

14. Licenses and Classification Cards. All establishments and schools must be licensed prior to their operation and must be under the direct supervision of a licensed operator. A current establishment and/or school license, valid operator license(s), a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each establishment or school for the information of operators, Board agents, and the public. (7-2-18)T

852. SAFETY AND DISINFECTION FOR RETAIL COSMETICS DEALER FACILITIES AND MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESSES.

All retail cosmetic dealers and makeover or glamour photography businesses must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer or business must meet the following requirements: (7-2-18)T

01. Cake, Loose or Liquid Makeup. All makeup that comes in a cake, loose, or liquid form, must be transferred to a palette with a disinfected or single-use spatula for use with a single customer and in a manner to prevent any contamination. Any excess make-up must be disposed of immediately following use on or by a customer. (7-2-18)T

02. Makeup Pencils. Make-up pencils that require a sharpener must be sharpened prior to each use. Sharpeners must be cleaned and disinfected in accordance with Subsections 851.02 and 851.03 of these rules.

Eyeliner that does not require a sharpener must have a portion transferred to a palette with a disinfected or single-use spatula for use on a single customer. (7-2-18)T

03. Mascara. Single-use applicators must be used in the application of mascara. (7-2-18)T

04. Brushes and Implements. All implements and applicators, including brushes, that are used on customers or made available to be used by customers must be stored, cleaned, and disinfected or disposed of in accordance with Section 851 of these rules. (7-2-18)T

05. Displays. All make-up should be covered when not in use. When make-up displays are accessible to the public, single-use applicators for all make-up must be readily available. (7-2-18)T

06. Water Supply and Restroom Facilities. The facility or business must meet the requirements in Subsections 851.11 and 851.12 of these rules. (7-2-18)T

07. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. (7-2-18)T

08. Licenses and Classification Card. All retail cosmetics dealers and glamour or makeover photography businesses must be licensed prior to their operation. A current license, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. (7-2-18)T

853. SAFETY AND DISINFECTION FOR RETAIL THERMAL STYLING DEALER FACILITIES.

All retail thermal styling equipment dealers must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer must meet the following requirements: (7-2-18)T

01. Cleaning, Disinfection, and Storage. All implements and electrical equipment used on a customer must be cleaned, disinfected, and stored in accordance with Subsections 851.02, 851.03, 851.04, and 851.06 of these rules. (7-2-18)T

02. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. (7-2-18)T

03. Registration and Classification Card. All retail thermal styling equipment dealers must be registered prior to their operation. A current registration, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. (7-2-18)T

854. -- 999. (RESERVED)

IDAPA 34 – OFFICE OF THE SECRETARY OF STATE

34.06.02 – RULES GOVERNING THE ELECTRONIC RECORDING OF PLATS, RECORDS OF SURVEY, AND CORNER RECORDS

DOCKET NO. 34-0602-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-903(9) and 67-906(1)(c), Idaho Code.

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

PUBLIC HEARING ON PROPOSED RULE
Wednesday, August 22, 2018 – 10:00 a.m.

**Idaho Board of Professional Engineers
& Land Surveyors Office
1510 E. Watertower Street, Ste. 110
Meridian, ID 83642**

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 will implement consistent standards for electronically filing and recording plats, records of survey and corner records in county courthouses.

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 fiscal impact to the general fund. The rule change will not increase costs to any state agency or the general funds of the state of Idaho because the rule relates to the method of recording legal documents in a courthouse in a more efficient and cost-effective manner.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, **Volume 18-6, page 108**.

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 Keith Simila at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 28th day of June, 2018.

Chad Houck, Deputy Secretary of State
Telephone (208) 332-2862
Fax (208) 334-2282
Email: chouck@sos.idaho.gov

P.O. Box 83720
Boise, ID 83720-0080

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 34-0602-1801
(New Chapter)

IDAPA 34
TITLE 06
CHAPTER 02

34.06.02 – RULES GOVERNING THE ELECTRONIC RECORDING OF PLATS,
RECORDS OF SURVEY AND CORNER RECORDS

000. LEGAL AUTHORITY.

In accordance with Section 67-903(9), Section 50-1304, 55-1606, and 55-1906 Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute electronic filing or recording of land surveying drawings and forms not inconsistent with the Uniform Real Property Electronic Recording Act enacted as Title 31, Chapter 29, Idaho Code and IDAPA 36.06.01 Rules Governing the Electronic Recording of Real Property. ()

001. TITLE AND SCOPE.

01. Title. These rules will be cited as IDAPA 34.06.02, “Rules Governing the Electronic Recording of Plats, Records of Survey and Corner Records,” IDAPA 34, Title 06, Chapter 02. ()

02. Scope. These rules will govern the electronic filing, recording and retrieval of plats, records of survey and corner filing and perpetuation forms - known as corner records in the county recording offices under Title 50, Chapter 13, and Title 55, Chapters 16 and 19, Idaho Code. Only documents signed and sealed by a licensed professional land surveyor may be submitted for electronic filing or recording as governed by this chapter. Additional signatures and approvals are required by the county for plats as described in Title 50, Chapter 13, Idaho Code. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, documents relating to the interpretation of these rules, and to the documentation of compliance with this chapter, are available for public inspection and copying at the Office of the Secretary of State or the Office of the Board of Licensure for Professional Engineers and Land Surveyors. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the electronic filing, recording or retrieval requirements. ()

004. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Document. The meaning will be the same as provided in Section 31-2902, Idaho Code. ()

02. Electronic Document. The meaning will be the same as provided in Section 31-2902, Idaho Code. ()

03. Electronic Recording. The delivery and return of an electronic document for the purpose of recording that document with the participating recorder. ()

04. Electronic Signature. The meaning will be the same as provided in 31-2902(4), Idaho Code. ()

05. Participating Recorder. A county recorder who has elected to accept Electronic Documents for filing, recording or retrieval. ()

06. CAD (Computer-Aided Drafting). Software used to create drawings in vector format. ()

07. DWG (Drawing). A proprietary binary file format used for storing two- and three-dimensional design data and metadata. It is the native format for several CAD packages including DraftSight, AutoCAD™, IntelliCAD™ (and its variants), Caddie™ and Open Design Alliance compliant applications. ()

08. DXF (Drawing eXchange Format). A file extension for a graphic image format typically used with AutoCAD™. ()

09. PDF (Portable Document Format). The meaning shall be the same as provided in IDAPA 34.06.01, Rules Governing the Electronic Recording of Real Property. ()

10. TIFF (Tag Image File Format). The meaning shall be the same as provided in IDAPA 34.06.01, “Rules Governing the Electronic Recording of Real Property.” ()

11. Submitter. A professionally licensed land surveyor or a person designated by a professionally licensed land surveyor who requests that an electronic document be filed or recorded. ()

011. ELECTRONIC FILING AND RECORDING.

In addition to the following, electronic documents will conform to IDAPA 34.06.01, Rules Governing the Electronic Recording of Real Property. ()

01. Plats And Records Of Survey. Plats and records of survey, which utilizes scanned ink-signed documents or documents that have been created and signed electronically for the purposes of electronic recording must include a PDF or TIF(F) electronic file in the format accepted by the participating recorder. The digital file must also comply to the following standards: ()

a. Finished size 18 x 27 as required by 50-1304 or 55-1905, Idaho Code; ()

b. 2-COLOR BLACK/WHITE (1BPPP); ()

c. TIF(F) electronic files and/or scanned images will have a 400 DPI minimum resolution; ()

d. Include an image of the land surveyor's seal and an electronic signature; ()

e. Multiple sheets may be combined into one electronic file, if accepted by the participating recorder. ()

02. Corner Record And Filing Forms. Corner record and filing forms – known as corner records, which utilize scanned ink-signed documents or documents that have been created and signed electronically for the purposes of electronic recording must include a PDF or TIF(F) electronic file in the format accepted by the participating recorder. The digital file will be compliant with the requirements of IDAPA 10.01.03, “Rules for Corner Perpetuation and Filing,” and must also comply with the following minimum standards: ()

a. Finished size 8.5 x 14; ()

b. 2-COLOR BLACK/WHITE (1BPPP); ()

- c. TIF(F) and/or scanned images must have a 400 DPI minimum resolution; ()
- d. Include an image of the land surveyor's seal and an electronic signature; ()
- e. Multiple sheets may be combined into one electronic file if accepted by the participating recorder. Only one file is allowed for each corner record. ()

012. RETRIEVED FILES.

01. Plats and Records Of Survey Retrieval. The files retrieved must be legible at the size reproduced under Subsection 011.01 of this chapter. ()

02. Corner Record Retrieval. The files retrieved must be legible at the size reproduced under Subsection 011.02 of this chapter. ()

013. PARTICIPATING RECORDER.

01. Documents Accepted. A participating recorder may elect to accept electronic documents containing electronic signatures that the participating recorder has the technology to support. Participating recorders may accept corner records, records of survey, or plats or any combination of the three. ()

02. Authentication. Land surveyors must use electronic signatures that are authenticated by a third-party security certificate. A participating recorder has no additional responsibility to independently authenticate electronic signatures. ()

014. MINIMUM STANDARDS.

01. Forms. Forms for corner records must comply with the requirements of IDAPA 10.01.03 and are available from the Board of Licensure for Professional Engineers and Land Surveyors. ()

02. Corner Records. Minimum standards for corner records are as required in Title 55 Chapter 16, Idaho Code. ()

03. Records of Survey. Minimum standards for records of survey are as required in Title 55 Chapter 19, Idaho Code. ()

04. Plats. Minimum standards for plats are as required in Title 50, Chapter 13, Idaho Code. ()

05. Compliance. Corner records, records of survey, or plats must comply with the requirements of this chapter and the minimum standards prior to electronically filing or recording. ()

015. -- 999. (RESERVED)

IDAPA 35 – STATE TAX COMMISSION
35.01.01 – INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-1801
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 August 15, 2018

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 015 – The changes to this rule clarify how the Tax Commission applies Federal retroactive provisions and clarify that uncodified provisions of federal law are included when calculating Idaho taxable income.

RULE 017 – This new rule tells taxpayers how to report federal section 965 deemed repatriation income on the Idaho return.

RULE 075 – Rule 075 is being amended to add the tax brackets for calendar year 2018 and remove the information for calendar year 2013 so only five years of historical data is retained in the rule.

RULE 108 – Rule 108 is being amended consistent with 2018 HB515. This change adds the statement that the addition to taxable income for a nonqualified withdrawal from a college savings plan is limited to contributions previously exempt from Idaho income tax and earnings generated from the program as long as the earnings aren't already included in federal adjusted gross income.

RULE 185 – Rule 185 is being amended consistent with 2018 HB453. This change increases the amount of the income tax deduction for adoption expenses from \$3,000 to \$10,000.

RULE 253 – Rule 253 is being amended consistent with 2018 HB515. This change adds the statement that the addition to taxable income for a nonqualified withdrawal from a college savings plan is limited to contributions previously exempt from Idaho income tax and earnings generated from the program as long as the earnings aren't already included in federal adjusted gross income.

RULE 263 – Rule 263 is being amended to add the amount of guaranteed payments that are sourced as compensation for services for calendar year 2018.

RULE 300 – We've added a section to this rule to list the corporate tax rates for 2001 through 2018.

RULES 745-748 – Rules 745-748 are being deleted since the statute is expired (Credit for Qualifying New Employees).

RULES 755-759 – Rules 755-759 are being deleted since the statute is expired (Hire One Act).

RULES 760 & 763 – Rules 760 & 763 are being deleted since the statute is expired (Incentive Investment Tax Credit).

RULES 765-767 – Rules 765-767 are being deleted since the statute is expired (Biofuel Infrastructure Investment Tax Credit).

RULES 790, 791 & 793 – Rules 790, 791 & 793 are being amended to delete the references to the incentive investment tax credit since the statute is expired.

RULE 799 – Rule 799 is being amended to delete sections for statutes that no longer exist and add the new Idaho child tax credit.

RULE 830 – Changes the date the withholding reconciliation return must be filed from the last day of February to the last day of January.

RULES 890 and 891 – Rules 890 and 891 are being amended consistent with 2018 HB382. This change modifies the time period that a taxpayer has to notify the Tax Commission of a change in federal taxable income or in tax paid to another state.

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 rules are 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian, (208) 334-7670. For general questions, contact Kimberlee Stratton, (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 6th day of July, 2018.

Cynthia Adrian, Tax Policy Specialist
State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7844

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0101-1801
(Only Those Sections With Amendments Are Shown.)

015. INTERNAL REVENUE CODE (RULE 015).
Section 63-3004, Idaho Code

01. Interpretations. Interpretations of the Internal Revenue Code may be found in various sources. These sources include decisions of the Tax Court, Congressional Committee Reports, General Counsel Memoranda, Decisions of the Federal and State Courts on federal income tax issues and Treasury Regulations. These interpretations are adopted by this reference to the extent that they are not in conflict with or inconsistent with the

Idaho Code or administrative rules.

(3-20-97)

02. Internal Revenue Code Definition. The definition of the term “Internal Revenue Code,” as defined in Section 63-3004, Idaho Code, includes all uncodified provisions in federal law that relate to provisions of the Internal Revenue Code and also includes any other provision of federal law that is used to determine federal taxable income. ()

03. Retroactive Amendments. For the purpose of determining federal taxable income, any retroactive amendments to the Internal Revenue Code that are enacted on or before the date found in Section 63-3004(a), Idaho Code, are applied retroactively to the extent allowed under federal law. ()

024. Tax Commission Granted Discretion in Determining Correctness of Tax Return. Discretion granted to the Secretary of the Treasury to determine or reallocate items of income or adjustments to income, deductions, expenses, credits or other subjects of taxation by the Internal Revenue Code may also be exercised by the Tax Commission and its authorized agents, employees and deputies to enforce and administer the Idaho Income Tax Act and these rules. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

017. TREATMENT OF THE SECTION 965 OF THE INTERNAL REVENUE CODE INCREASE IN SUBPART F INCOME AND RELATED EXCLUSIONS (RULE 017).

Subpart F income as defined in Section 952, Internal Revenue Code, is gross income under Section 951(a), Internal Revenue Code, and included in a taxpayer’s taxable income under the Internal Revenue Code. Idaho taxpayers must include the Section 965, Internal Revenue Code, increase in their subpart F income (Section 965(a) reduced by Section 965(b), Internal Revenue Code), when computing their Idaho taxable income regardless of how such income is reported to the Internal Revenue Service on the federal income tax form. ()

01-78. -- 024. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).
Section 63-3024, Idaho Code

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate for the latest five (5) years are identified in Subsection 075.03 of this rule. The Idaho income tax brackets are adjusted for inflation. The maximum tax rate as listed for the applicable taxable year in Subsection 075.03 of this rule applies in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-7-11)

02. Tax Computation. (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household is twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (4-7-11)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax is computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount is multiplied by two (2). (4-7-11)

03. Tables Identifying the Idaho Tax Rates and Income Tax Brackets. (3-20-04)

a. For taxable years beginning in 2013:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,409	\$0	+	1.6% of taxable income
\$1,409	\$2,818	\$22.54	+	3.6% of the amount over \$1,409
\$2,818	\$4,227	\$73.26	+	4.1% of the amount over \$2,818
\$4,227	\$5,636	\$131.03	+	5.1% of the amount over \$4,227
\$5,636	\$7,045	\$202.89	+	6.1% of the amount over \$5,636
\$7,045	\$10,568	\$288.84	+	7.1% of the amount over \$7,045
\$10,568 or more		\$538.94	+	7.4% of the amount over \$10,568

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2013.

(3-20-14)

b. For taxable years beginning in 2014:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,429	\$0	+	1.6% of taxable income
\$1,429	\$2,858	\$22.86	+	3.6% of the amount over \$1,429
\$2,858	\$4,287	\$74.30	+	4.1% of the amount over \$2,858
\$4,287	\$5,716	\$132.89	+	5.1% of the amount over \$4,287
\$5,716	\$7,145	\$205.77	+	6.1% of the amount over \$5,716
\$7,145	\$10,718	\$292.94	+	7.1% of the amount over \$7,145
\$10,718 or more		\$546.59	+	7.4% of the amount over \$10,718

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2014.

(4-11-15)

eb. For taxable years beginning in 2015:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,452	\$0	+	1.6% of taxable income
\$1,452	\$2,904	\$23.23	+	3.6% of the amount over \$1,452
\$2,904	\$4,356	\$75.50	+	4.1% of the amount over \$2,904
\$4,356	\$5,808	\$135.03	+	5.1% of the amount over \$4,356

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$5,808	\$7,260	\$209.08	+	6.1% of the amount over \$5,808
\$7,260	\$10,890	\$297.65	+	7.1% of the amount over \$7,260
\$10,890 or more		\$555.38	+	7.4% of the amount over \$10,890

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.

(3-25-16)

dc. For taxable years beginning in 2016:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,454	\$0	+	1.6% of taxable income
\$1,454	\$2,908	\$23.26	+	3.6% of the amount over \$1,454
\$2,908	\$4,362	\$75.60	+	4.1% of the amount over \$2,908
\$4,362	\$5,816	\$135.21	+	5.1% of the amount over \$4,362
\$5,816	\$7,270	\$209.36	+	6.1% of the amount over \$5,816
\$7,270	\$10,905	\$298.05	+	7.1% of the amount over \$7,270
\$10,905 or more		\$556.14	+	7.4% of the amount over \$10,905

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2016.

(3-29-17)

ed. For taxable years beginning in 2017:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,472	\$0	+	1.6% of taxable income
\$1,472	\$2,945	\$23.56	+	3.6% of the amount over \$1,472
\$2,945	\$4,417	\$76.57	+	4.1% of the amount over \$2,945
\$4,417	\$5,890	\$136.94	+	5.1% of the amount over \$4,417
\$5,890	\$7,362	\$212.03	+	6.1% of the amount over \$5,890
\$7,362	\$11,043	\$301.85	+	7.1% of the amount over \$7,362
\$11,043 or more		\$563.21	+	7.4% of the amount over \$11,043

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2017.

(3-28-18)

e. For taxable years beginning in 2018:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,504	\$0	+	1.125% of taxable income
\$1,504	\$3,008	\$16.92	+	3.125% of the amount over \$1,504
\$3,008	\$4,451	\$63.91	+	3.625% of the amount over \$3,008
\$4,511	\$6,015	\$118.42	+	4.625% of the amount over \$4,511
\$6,015	\$7,519	\$187.97	+	5.625% of the amount over \$6,015
\$7,519	\$11,279	\$272.56	+	6.625% of the amount over \$7,519
\$11,279 or more		\$521.63	+	6.925% of the amount over \$11,279

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2018.

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(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (RULE 108).

Section 63-3022, Idaho Code

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, an individual must add the taxable amount of a lump sum distribution excluded from taxable income. (4-7-11)

02. Withdrawals from an Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, an account holder must add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (4-7-11)

03. Withdrawals from an Idaho College Savings Program. (4-2-08)

a. As provided in Section 63-3022(o), Idaho Code, an account owner must add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ~~(3-20-04)~~()

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007 to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

04. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, an eligible educator as defined in Section 62, Internal Revenue Code, must add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. (4-4-13)

05. State and Local Sales Tax. As provided in Section 63-3022(j), Idaho Code, an individual must add the amount of state and local general sales taxes deducted as an itemized deduction. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

185. ADOPTION EXPENSES (RULE 185).

Section 63-3022I, Idaho Code

01. In General. Subject to the limitations of Subsection 185.02, adoptive parents may deduct from taxable income legal and medical expenses related to the adoption of a child. Travel expenses related to the adoption may not be deducted. (3-20-97)

02. Maximum Deduction. The deduction allowed for a successful adoption is limited to a maximum of deduction for each adopted child. For taxable years beginning before 2018, the maximum deduction is three thousand dollars (\$3,000). For taxable years beginning after 2017, the maximum deduction is ten thousand dollars (\$10,000) regardless of whether the deduction is claimed in one (1) or more years. If a taxpayer adopts more than one (1) child, he is allowed a deduction not to exceed three thousand dollars (\$3,000) for the adoption of each child. (3-20-97)()

a. Examples: ()

i. A taxpayer spent five thousand dollars (\$5,000) in 2017 and four thousand dollars (\$4,000) in 2018 to adopt a child. He can deduct three thousand dollars (\$3,000) in 2017 and four thousand dollars (\$4,000) in 2018. ()

ii. A taxpayer spent five thousand dollars (\$5,000) in 2017 and fifteen thousand dollars (\$15,000) in 2018 to adopt a child. He can deduct three thousand dollars (\$3,000) in 2017 and seven thousand dollars (\$7,000) in 2018. ()

03. Ineligible Expenses. (3-20-97)

a. The costs associated with an unsuccessful attempt to adopt a child do not qualify for the deduction. (3-20-97)

b. A deduction is not allowed for expenses incurred in violation of state or federal law or for a surrogate parenting arrangement. (3-20-97)

04. Year Deduction Allowed. The deduction is allowed in the taxable year the expense is paid. A taxpayer shall file an amended return if he claimed any adoption expenses related to an unsuccessful attempt to adopt in a previous taxable year. (3-20-97)

05. Financial Assistance. Eligible expenses shall be reduced by amounts received as financial aid for the adoption, or from a grant pursuant to a federal, state, or local program. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

253. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADDITIONS REQUIRED IN COMPUTING IDAHO ADJUSTED INCOME.

Section 63-3026A(6), Idaho Code. The following items must be added to Idaho adjusted gross income in computing the Idaho adjusted income of nonresident and part-year resident individuals. (4-7-11)

01. Interest and Dividends Not Taxable Pursuant to the Internal Revenue Code. (3-20-97)

a. Part-Year Residents. Interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho must be added. However, interest received from

obligations of the state of Idaho or any political subdivision of Idaho is exempt from Idaho income tax and is not added. (4-7-11)

b. Nonresidents. Interest and dividend income reportable from a pass-through entity that was transacting business in Idaho must be added to the extent the income was apportioned or allocated as Idaho income. See Rule 263 of these rules for multistate apportionment rules. (4-7-11)

02. Net Operating Loss Deduction. The amount of the net operating loss deduction included in Idaho adjusted gross income must be added. (4-7-11)

03. Capital Loss. Capital losses included in Idaho adjusted gross income must be added if the loss was incurred while not residing in and not domiciled in Idaho, or if the loss relates to an activity not taxable by Idaho at the time the loss was incurred. (4-7-11)

04. Lump Sum Distributions. Part-year residents must add the taxable amount of a lump sum distribution deducted in calculating taxable income received while residing in or domiciled in Idaho. This includes both the ordinary income portion and the amount eligible for the capital gain election. (4-7-11)

05. Idaho Medical Savings Account. An account holder must add the amount of any nonqualified withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. (4-7-11)

06. Idaho College Savings Program. (4-7-11)

a. An account owner must add the amount of a nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's Idaho adjusted gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (4-7-11)()

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007, to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

07. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. An individual must add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. This addition does not apply to depreciation computed on property acquired after 2007 or before 2010. (2-27-12)

08. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, the amount of out-of-pocket classroom expenses deducted pursuant to Section 62, Internal Revenue Code, must be added. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).
Section 63-3026A(3), Idaho Code

01. In General. The taxable amount of a shareholder's pro rata share or a partner's distributive share of

business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. (3-20-97)

02. Nonbusiness Income. Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. (3-20-97)

03. Pass-Through Items. Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: (3-20-97)

- a. Ordinary income or loss from trade or business activities; (3-20-97)
- b. Net income or loss from rental real estate activities; (3-20-97)
- c. Net income or loss from other rental activities; (3-20-97)
- d. Interest income; (3-20-97)
- e. Dividends; (3-20-97)
- f. Royalties; (3-20-97)
- g. Capital gain or loss; (3-20-97)
- h. Other portfolio income or loss; (3-20-97)
- i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. (3-20-97)

04. Guaranteed Payments Treated As Compensation. (3-20-14)

a. Guaranteed payments to an individual partner up to the amount shown in paragraph 263.04.b. in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. (3-20-14)

b. The amount of guaranteed payments that are sourced as compensation for services is as follows:

TAX YEAR	AMOUNT
<u>2018</u>	<u>\$263,000</u>
2017	\$257,500
2016	\$254,250
2015	\$254,000
2014	\$250,000
2013	\$250,000

(3-28-18)()

(BREAK IN CONTINUITY OF SECTIONS)

300. TAX ON CORPORATIONS (RULE 300).
Sections 63-3025 and 63-3025A, Idaho Code

01. Excise Tax. A corporation excluded from the tax on corporate income imposed by Section 63-3025, Idaho Code, is subject to the excise tax imposed by Section 63-3025A, Idaho Code. If a corporation is subject to the excise tax imposed by Section 63-3025A, Idaho Code, it is not subject to the tax on corporate income imposed by Section 63-3025, Idaho Code. (3-20-97)

02. Minimum Tax. A name-holder or inactive corporation that is authorized to do business in Idaho shall pay the minimum tax of twenty dollars (\$20) even though the corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. See Subsection 300.03. (3-20-97)

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. A corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. (3-20-97)

04. Protection Under Public Law 86-272. A corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. (3-30-07)

05. Corporate Income Tax Rates.

PERIOD	TAX RATE
<u>2018 and after</u>	<u>6.925%</u>
<u>2012-2017</u>	<u>7.4%</u>
<u>2001-2011</u>	<u>7.6%</u>

()

(BREAK IN CONTINUITY OF SECTIONS)

~~731. -- 744. (RESERVED)~~

~~745. CREDIT FOR QUALIFYING NEW EMPLOYEES: REVENUE-PRODUCING ENTERPRISE (RULE 745).
Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2009 and before April 15, 2011. (4-4-13)~~

~~01. In General. A revenue-producing enterprise is defined in Section 63-3022H, Idaho Code, and Rule 172 of these rules. (4-7-11)~~

~~02. Multiple Activities. If a taxpayer's trade or business includes both a revenue-producing enterprise and other activities, the taxpayer must calculate qualifying new employees based on that portion of the Idaho business that qualifies as a revenue-producing enterprise. (3-30-07)~~

~~03. Seasonal or New Business. An individual employed in a seasonal or new business that was in operation during the taxable year for less than nine (9) months does not qualify as a new employee. (3-30-01)~~

~~04. Unitary Taxpayers. The activities of a taxpayer that qualify as a revenue-producing enterprise are determined separately for each corporation that is a member of the unitary group. (4-7-11)~~

~~746. CREDIT FOR QUALIFYING NEW EMPLOYEES: CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (RULE 746).~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2004 and before April 15, 2011. (4-4-13)~~

~~**01. In General.** An employer may be able to earn either a one thousand dollar (\$1,000) credit or a five hundred dollar (\$500) credit for a qualifying new employee. However, the employer cannot earn both credits for the same employee. The applicable credit rate depends on whether the new employee meets certain wage and benefit criteria. If the new employee does not meet the criteria for either credit rate, the employer may not claim the credit for such new employee. (4-7-11)~~

~~**02. Qualifying for the One Thousand Dollar (\$1,000) Credit.** (4-6-05)~~

~~**a.** The new employee must meet both of the following criteria to qualify for the one thousand dollar (\$1,000) credit: (4-6-05)~~

~~i. He must have received annual earnings at an average rate of fifteen dollars and fifty cents (\$15.50) or more per hour worked; and (4-6-05)~~

~~ii. He must have been eligible to receive employer provided coverage under an accident or health plan described in Section 105, Internal Revenue Code. (4-6-05)~~

~~**b.** The new employee does not have to be employed in a revenue-producing enterprise to qualify for the one thousand dollar (\$1,000) credit. (4-6-05)~~

~~**03. Qualifying for the Five Hundred Dollar (\$500) Credit.** If a new employee does not meet the criteria for the one thousand dollar (\$1,000) credit, the employer may be eligible to claim the five hundred dollar (\$500) credit. To qualify for the five hundred dollar (\$500) credit, the new employee must have been employed in a revenue-producing enterprise as defined in Section 63-3029E, Idaho Code. (4-6-05)~~

~~**04. Calculating Number of Employees.** (3-30-01)~~

~~**a.** Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: (3-20-04)~~

~~i. The employee must have been subject to Idaho income tax withholding. (3-20-04)~~

~~ii. The employee must have been employed by the employer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. (4-6-05)~~

~~iii. The employee must have been performing such duties for the employer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify. (4-6-05)~~

~~iv. The employee must have been covered for Idaho unemployment insurance purposes. (3-20-04)~~

~~**b.** Idaho Department of Labor Reports. The employer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. (4-6-05)~~

~~**c.** Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. (3-30-01)~~

~~**05. Calculating the Number of New Employees.** (3-30-01)~~

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: (3-30-01)

i. The number of employees for the prior taxable year; or (3-30-01)

ii. The average of the number of employees for the three (3) prior taxable years. (3-30-01)

b. In determining who qualifies to be included in the number of employees, the law applicable to the year in which the credit is being earned must be used in calculating the number of employees for the prior years. The computations of the number of employees for the prior taxable year and average for the three (3) prior taxable years must be made consistent with the computations and law applicable for the taxable year in which the credit is earned. (4-7-11)

i. For example, an employer may qualify as a revenue-producing enterprise under the law applicable to 2010, but did not qualify as a revenue-producing enterprise under the law applicable to the prior years. For purposes of calculating the five hundred dollar (\$500) credit earned in 2010, the number of employees for the prior years must be calculated using the law applicable to 2010. (4-7-11)

ii. The employer must include in the number of employees for the prior years employees who qualify under the current law, even though the employer was unable to include these employees as qualifying employees in the prior years and did not earn the credit in the prior years. (4-7-11)

c. The number of new employees must be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (4-6-05)

d. The employer must determine the number of new employees who qualify for the one thousand dollar (\$1,000) credit and the number who qualify for the five hundred dollar (\$500) credit. If the new employees do not meet the criteria set forth in Sections 63-3029E and 63-3029F, Idaho Code, and this rule, the employer may not earn the credit. For example, if a new employee has an average wage rate of ten dollars (\$10) and the employer's business does not qualify as a revenue-producing enterprise, the new employee does not qualify for either the one thousand dollar (\$1,000) credit or the five hundred dollar (\$500) credit. (4-7-11)

06. Computing the Credit Earned. The credit earned is the lesser of the amounts determined in Paragraphs 746.06.a. and 746.06.b. of this rule. (4-6-05)

a. The number of new employees who qualify for the five hundred dollars (\$500) credit multiplied by five hundred dollars (\$500), plus the number of new employees who qualify for the one thousand dollar (\$1,000) credit multiplied by one thousand dollars (\$1,000); or (4-6-05)

b. The net income of the trade or business, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%). (4-6-05)

07. Limitations. In the year the credit for qualifying new employees is earned or claimed: (3-20-04)

a. This credit and all other credits may not exceed fifty percent (50%) of the taxpayer's income tax for that year after deducting the credit for taxes paid to other states. The credit for taxes paid to other states is not subject to this limitation. (4-6-05)

b. See Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits. (4-6-05)

08. Carryover. (2-27-12)

a. To claim the carryover, the employer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the employer is not required to recapture the credit claimed in previous taxable

~~years. However, the employer must recompute the credit based on the reduced employment level to determine the correct amount of carryover. (2-27-12)~~

~~b. The credit may be carried forward only to taxable years beginning prior to January 1, 2011. If there is any credit remaining after application to taxable years beginning prior to January 1, 2011, any further benefit from the credit is lost. (2-27-12)~~

~~09. **Pass-Through Entities.** See Rule 785 of these rules for pass-through entities and the calculation of credits. (3-15-02)~~

~~10. **Unitary Taxpayers.** (3-30-01)~~

~~a. A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. (3-30-01)~~

~~b. Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits. (4-6-05)~~

~~**747. CREDIT FOR QUALIFYING NEW EMPLOYEES: NET INCOME OF A TRADE OR BUSINESS (RULE 747).**~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2004 and before April 15, 2011. (4-4-13)~~

~~01. **Net Income From the Taxpayer's Trade or Business.** If a taxpayer is claiming the credit under Section 63-3029F, Idaho Code, the net income of the taxpayer's trade or business will be calculated as follows: (4-4-13)~~

~~a. **Proprietorships.** The amount of income from Idaho activities that is reported as net profit or net loss on Schedule C or Schedule F. (3-30-01)~~

~~b. **C Corporations.** The amount of Idaho taxable income, reported on Idaho Form 41, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (3-30-01)~~

~~c. **S Corporations.** The amount of Idaho taxable income reported on Idaho Form 41S, modified as follows: the deduction for income reported by shareholders on their Idaho income tax returns must be added back, the addition for compensation or income attributable to individual shareholders who do not report this income on Idaho income tax returns must be deducted, and any nonbusiness income and expenses allocable to Idaho must be excluded. (4-4-13)~~

~~d. **Partnerships.** The amount of Idaho taxable income reported on Idaho Form 65, modified as follows: the deduction for income reported by partners on their Idaho income tax returns must be added back, the addition for compensation or income attributable to individual partners who do not report this income on Idaho income tax returns must be deducted, and any nonbusiness income and expenses allocable to Idaho must be excluded. (4-4-13)~~

~~02. **Unitary Taxpayers.** Each corporation included in a unitary combined group must use its Idaho taxable income as determined pursuant to Section 63-3027, Idaho Code, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (4-4-13)~~

~~**748. CREDIT FOR QUALIFYING NEW EMPLOYEES: RECORD-KEEPING REQUIREMENTS (RULE 748).**~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2001 and before April 15, 2011. (4-4-13)~~

~~01. **Information Required.** Each taxpayer must retain and make available, on request, records to document the credit earned or claimed. The records must include all of the following: (5-3-03)~~

- ~~a. The Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor; (5-3-03)~~
- ~~b. Payroll records and reports documenting length of employment and hours worked; (5-3-03)~~
- ~~c. The computation of the number of qualifying new employees; (3-30-01)~~
- ~~d. The qualification as a revenue-producing enterprise; (3-30-01)~~
- ~~e. The computation of the credit; (3-30-01)~~
- ~~f. The computation of net income; (3-30-01)~~
- ~~g. The continued maintenance of adequate employment levels into carryover years; and (3-30-01)~~
- ~~h. The computation of any carryovers. (3-30-01)~~
- ~~02. **Failure to Maintain Adequate Records.** Failure to maintain any of the records required by this rule may result in the disallowance of the credit. (3-15-02)~~
- ~~731. -- 749. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

~~755. **HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: IN GENERAL (RULE 755).** Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~01. **In General.** For taxable years beginning on and after January 1, 2011, and before 2014, the Hire One Act allows an employer who is subject to the Idaho income tax to earn a credit for a qualifying new employee. Because an employee must be hired on or after April 15, 2011, to qualify, the credit generally cannot be earned in a taxable year that begins prior to January 15, 2011. (2-27-12)~~

~~02. **Qualifying Employer.** A qualifying employer is a rated employer under the Idaho Employment Security Law, but does not include a governmental agency or nonprofit entity. For purposes of Section 63-3029F, Idaho Code, and Rules 755 through 759 of these rules, a nonprofit entity includes any entity that is exempt from the Idaho income tax under Section 63-3025B, Idaho Code, including those entities that are exempt except for paying income tax on unrelated business income. (2-27-12)~~

~~03. **Pass-Through Entities.** The credit earned by a pass-through entity is refunded to the pass-through entity, rather than passed through to the owner. (2-27-12)~~

~~04. **Unitary Corporations.** Each corporation in a unitary group must separately calculate the amount of the Hire One Act credit based on its own employees and may not include the employees of other corporations included in the combined group. (2-27-12)~~

~~05. **Employer-Provided Health Care Benefits.** For purposes of administering the Hire One Act and Rules 755 through 759 of these rules, “employer-provided” and “health care benefits” are defined as provided in Rule 756 of these rules. (2-27-12)~~

~~06. **Seasonal or New Business.** An individual employed in a seasonal or new business that was in operation for less than nine (9) consecutive months cannot qualify as a new employee. (2-27-12)~~

~~07. **Carryover.** Because the credit is a refundable credit, no carryover is allowed. Credit not claimed within the time allowed under Section 63-3072, Idaho Code, for claiming a refund is lost. (2-27-12)~~

~~756. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: EMPLOYER-PROVIDED HEALTH CARE BENEFITS (RULE 756).~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~01. Employer-Provided. "Employer-provided" means an individual's employer must pay the following percentages of the cost of an employee's premium for health care benefits as defined in Subsection 756.02 of this rule: (2-27-12)~~

~~a. At least eighty percent (80%) of the cost of the employee's premium if such employee had single coverage. (2-27-12)~~

~~b. At least seventy percent (70%) of the cost of the employee's premium if such employee had family coverage. (2-27-12)~~

~~02. Health Care Benefits. "Health care benefits" means coverage offered through a group health plan for employees that includes hospital, medical and surgical expense coverage set forth as follows: (2-27-12)~~

~~a. An accident and sickness insurance policy that provides hospital, medical and surgical expense coverage, to an aggregate maximum of not less than five hundred thousand dollars (\$500,000); (2-27-12)~~

~~b. Coinsurance percentage per year per covered person not to exceed fifty percent (50%) of covered charges, provided that the coinsurance out-of-pocket maximum combined with any deductibles does not exceed four percent (4%) of the aggregate maximum limit under the policy for each covered person; (2-27-12)~~

~~c. A deductible stated on a per person, per family, per illness, per benefit period, per year basis, or a combination of these bases not to exceed four percent (4%) of the aggregate maximum limit under the policy for each covered person for at least: (2-27-12)~~

~~i. Daily hospital room and board expenses subject only to limitations based on average daily cost of the semiprivate room rate in the area where the insured resides; (2-27-12)~~

~~ii. Miscellaneous hospital services; (2-27-12)~~

~~iii. Surgical services; (2-27-12)~~

~~iv. Anesthesia services; (2-27-12)~~

~~v. In-hospital medical services; and (2-27-12)~~

~~vi. Out-of-hospital care, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, diagnostic x-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician. (2-27-12)~~

~~d. Additional benefits. Health care benefits must also provide not fewer than three (3) of the following additional benefits: (2-27-12)~~

~~i. In-hospital private duty registered nurse services; (2-27-12)~~

~~ii. Convalescent nursing home care; (2-27-12)~~

~~iii. Diagnosis and treatment by a radiologist or physiotherapist; (2-27-12)~~

~~iv. Rental of special medical equipment, as defined by the insurer in the policy; (2-27-12)~~

~~v. Artificial limbs or eyes, casts, splints, trusses or braces; (2-27-12)~~

- vi. ~~Treatment for functional nervous disorders, and mental and emotional disorders; or~~ (2-27-12)
- vii. ~~Out-of-hospital prescription drugs and medications.~~ (2-27-12)

~~**03. Non-Qualifying Health Care Benefits.** Health care benefits do not include limited benefit policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits-only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance or nonrenewable short-term coverage issued for a period of twelve (12) months or less. (2-27-12)~~

~~**04. Waiting Period.** To qualify as employer-provided health care benefits, the health care benefits plan may not have a waiting period of more than two (2) months from the date of an employee's first day of employment. The Hire One Act credit cannot be earned on a new employee who is covered by a plan with a waiting period longer than two (2) months from the employee's first day of employment. (2-27-12)~~

~~**757. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: DETERMINATION OF QUALIFYING NEW EMPLOYEES (RULE 757.)**~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~**01. Calculating Average Employment for a Taxable Year.** (2-27-12)~~

~~**a.** Number of Qualifying Employees. Only employees who meet the qualifications set forth in Section 63-3029F(2)(a), Idaho Code, are included when computing the average employment for a taxable year. Such requirements include the following: (2-27-12)~~

- i. ~~The employee must have been subject to Idaho income tax withholding. (2-27-12)~~
- ii. ~~The employee must have been covered for Idaho unemployment insurance purposes. (2-27-12)~~
- iii. ~~The employee must have been employed by the employer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. (2-27-12)~~
- iv. ~~The employee must have been performing such duties for the employer for a minimum of nine (9) consecutive months, with at least part of that time performed in the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) consecutive months does not qualify. (2-27-12)~~
- v. ~~The employee must not have been transferred from a related taxpayer. (2-27-12)~~

~~**b.** Idaho Department of Labor Reports. The employer must begin with its Idaho Department of Labor reports to determine the number of employees for each month of the taxable year. However, an employee listed in these reports does not automatically qualify to be included in the calculation of the number of employees. The employer must determine how many employees included in these reports meet the qualifications under Section 63-3029F, Idaho Code, and Paragraph 757.01.a. of this rule. Only those qualifying employees are included in the monthly total. (2-27-12)~~

~~**c.** Calculation. The number of qualifying employees for each month are added together and the total is divided by the number of months of operation for the taxable year. This is the employer's average employment for the taxable year. (2-27-12)~~

~~**02. Calculating the Number of Qualifying New Employees.** (2-27-12)~~

~~**a.** The number of qualifying new employees is the increase in the employer's average employment of qualifying employees for the taxable year over the greater number of the following: (2-27-12)~~

- i. ~~The employer's average employment of qualifying employees for the prior taxable year; or (2-27-12)~~

- ii. ~~The employer's average employment of qualifying employees for the three (3) prior taxable years. (2-27-12)~~
- ~~b. The number of qualifying new employees must be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (2-27-12)~~
- ~~03. Identification of New Employees. The employer must identify the specific new employees. The new employees are those qualifying employees who were last hired by the employer based on the date the employee first performed services for the employer. (2-27-12)~~
- ~~04. Eligible New Employee. The new employee must meet the qualifications listed in Paragraphs 757.04.a. through 757.04.c. of this rule in order to be an eligible new employee. (2-27-12)~~
- ~~a. Average Annual Earnings. The new employee must have earned annual wages at a rate averaging at least:~~
- ~~i. Twelve dollars (\$12) per hour worked if the employee was employed in a county with an unemployment rate of ten percent (10%) or more as of the date the new employee was hired; or (2-27-12)~~
- ~~ii. Fifteen dollars (\$15) per hour worked if the employee was employed in a county with an unemployment rate below ten percent (10%) as of the date the new employee was hired. (2-27-12)~~
- ~~b. The new employee must have been hired on or after April 15, 2011. (2-27-12)~~
- ~~c. The new employee must have received employer-provided health care benefits as defined in Rule 756 of these rules. (2-27-12)~~
- ~~05. Computation of Average Annual Earnings. Average annual earnings is computed as follows:~~
- ~~a. For hourly employees, the gross wages paid by the employer is divided by the number of hours worked for the taxable year. (2-27-12)~~
- ~~b. For salaried employees, the gross wages paid is divided by two thousand eighty (2,080) hours if employed on a full time basis for the entire taxable year. If a salaried employee is regularly scheduled to work more or less than forty (40) hours per week, the computation must be adjusted accordingly to determine the hourly rate. For example, if an employee is regularly assigned to work a thirty-two (32) hour week and worked for the employer the entire taxable year, the gross wages actually paid must be divided by one thousand six hundred sixty-four (1,664). The total hours must not be reduced for days taken off, such as for vacation, sick leave, or personal days, if such days off were paid. If the employee's annual salary is adjusted for days taken off that are not paid, the number of hours should be adjusted in a consistent manner. (2-27-12)~~
- ~~c. If the new employee is determined to be eligible for the credit, the credit is computed as provided in Rule 758 of these rules. (2-27-12)~~
- ~~758. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: CALCULATION OF CREDIT (RULE 758).
Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~
- ~~01. Computation of Credit. The credit for an eligible new employee is calculated by multiplying the gross salary paid to the eligible new employee for the initial twelve (12) months of employment by the applicable credit rate. The credit is not allowed for new employees who were part of a trade or business the employer acquired from another taxpayer, or of an employer who operates in a place of business the same or a substantially identical trade or business as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer in either situation would have qualified. (2-27-12)~~

- ~~02. **Gross Salary.** Gross salary does not include: (2-27-12)~~
- ~~a. Nontaxable fringe benefits; (2-27-12)~~
 - ~~b. Tips paid by customers of the employer. (2-27-12)~~
 - ~~c. Wages that are subsidized through another taxpayer or program, including any federal or state grant. (2-27-12)~~
- ~~03. **Credit Rate.** The applicable credit rate is determined based on the employer's rating from the Idaho Department of Labor for unemployment purposes that applies to the calendar year in which the taxable year begins. For example, the rating received by an employer in December 2011 will apply to taxable years beginning in 2012. The credit rate is six percent (6%) for a positive-rated employer, four percent (4%) for a standard-rated employer, and two percent (2%) for a deficit-rated employer. (2-27-12)~~
- ~~04. **Employed in a County.** To be employed in a county, at least some of the employee's service must be performed in that county. An employee is employed in a county if: (2-27-12)~~
- ~~a. The employee's service is performed entirely within the county; (2-27-12)~~
 - ~~b. The employee's service is performed both in and outside the county, but the service performed outside the county is incidental to the employee's service in the county; or (2-27-12)~~
 - ~~c. Some of the service is performed in the county and:
i. The base of operations is located in the county or; (2-27-12)
ii. If there is no base of operations, the place from which the service is directed or controlled is in the county; or (2-27-12)
iii. The base of operations or the place from which the service is directed or controlled is not in any county in which some part of the service is performed, but the individual's residence is in the county. (2-27-12)~~
- ~~759. **HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: RECORD-KEEPING REQUIREMENTS (RULE 759).**
Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~
- ~~01. **Information Required to be Included With Idaho Return.** An employer must include with the Idaho income tax return on which the Hire One Act credit is claimed a copy of the taxable wage rate notice issued by the Department of Labor for that income tax year. Notices that cannot be included with an electronically filed return must be separately mailed to the Tax Commission. No credit may be allowed if this notice is not included with the Idaho income tax return or mailed separately to the Tax Commission. (2-27-12)~~
- ~~02. **Information Required to be Retained By Employer.** An employer claiming the Hire One Act credit must retain and make available, on request, records to document the credit claimed. The records must include all of the following: (2-27-12)~~
- ~~a. The Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor; (2-27-12)~~
 - ~~b. Payroll records and reports documenting start and end of employment dates, if applicable, and hours worked by employee; (2-27-12)~~
 - ~~c. The computation of the number of qualifying employees including a listing of all such employees by name and social security number; (2-27-12)~~
 - ~~d. Records verifying gross salary paid and county employed in for the employees identified as the new~~

- employees; (2-27-12)
- ~~e. Records documenting a new employee's coverage under the employer-provided health care benefits; and (2-27-12)~~
- ~~f. Documentation from the Department of Labor verifying the employer's tax rate. (2-27-12)~~
- ~~03. **Failure to Maintain Adequate Records.** Failure to maintain any of the records required by this rule may result in the disallowance of the credit. (2-27-12)~~

760. IDAHO INCENTIVE INVESTMENT TAX CREDIT: IN GENERAL (RULE 760).
Section 63-3029J, Idaho Code

- ~~01. **Credit Allowed.** The incentive investment tax credit allowed by Section 63-3029J, Idaho Code, applies to investments made during the taxable year that begins in 2001. The investment must also meet the requirements of Section 63-3029B, Idaho Code, and related rules as to what constitutes qualified investment. (3-15-02)~~
- ~~02. **Limitations.** The incentive investment tax credit allowable in any taxable year shall be limited as follows: (3-15-02)~~
- ~~a. The incentive investment tax credit claimed during a taxable year may not exceed the lesser of: (3-15-02)~~
- ~~i. Five hundred thousand dollars (\$500,000); or (3-15-02)~~
- ~~ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the incentive investment tax credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-15-02)~~
- ~~b. **Credit for Qualifying New Employees.** If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the incentive investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (3-15-02)~~
- ~~c. **Unitary Taxpayers.** Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-15-02)~~
- ~~d. **Transferred Credit.** Limitations apply to each transferee as if the transferee had earned the credit. (3-15-02)~~
- ~~03. **Carryovers.** (3-15-02)~~
- ~~a. The carryover period for the incentive investment tax credit is fourteen (14) years. (3-15-02)~~
- ~~b. See Rule 793 of these rules for the rules regarding the carryover of transferred credit. (3-15-02)~~
- ~~04. **Taxpayers Entitled to the Credit.** Rule 711 of these rules shall apply to the incentive investment tax credit except that limitations referenced in Subsection 711.01 shall be those limitations as provided in Section 63-3029J, Idaho Code. (3-15-02)~~
- ~~05. **Pass-Through Entities.** The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. (3-15-02)~~

~~761.—762. (RESERVED)~~

~~763. IDAHO INCENTIVE INVESTMENT TAX CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 763).~~

~~Section 63-3029J, Idaho Code~~

~~01. Information Required. Each taxpayer who earns the incentive investment tax credit shall be subject to the record-keeping requirements set forth in Rule 716 of these rules. In addition, the taxpayer shall maintain records to identify the location and utilization by Idaho county for each item of property. (3-15-02)~~

~~02. Credit Transferred. A taxpayer that transfers the incentive investment tax credit shall continue to be subject to the record-keeping requirements of this rule and Rule 716 of these rules, for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. (3-15-02)~~

~~764. (RESERVED)~~

~~765. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT: IN GENERAL (RULE 765).~~

~~Section 63-3029M, Idaho Code~~

~~01. Credit Allowed. The biofuel infrastructure investment tax credit allowed by Section 63-3029M, Idaho Code, may be earned during taxable years beginning on and after January 1, 2007, and before December 31, 2011. It applies to qualified investment placed in service after July 1, 2007. (4-2-08)~~

~~a. Qualified investment placed in service on or before July 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on May 15, 2007, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service after July 1, 2007. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (4-2-08)~~

~~b. Qualified investment placed in service after July 1, 2007, during a taxable year beginning before January 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on August 1, 2007, during a taxable year that begins on October 1, 2006, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service in a taxable year beginning on or after January 1, 2007, and before December 31, 2011. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (4-2-08)~~

~~02. Qualified Investment. For purposes of the biofuel infrastructure investment tax credit, qualified investment includes the following: (4-2-08)~~

~~a. New fueling infrastructure dedicated to the purpose of selling or offering for sale biofuel. New fueling infrastructure shall mean investment in fueling infrastructure that: (4-2-08)~~

~~i. Is constructed or erected by the taxpayer; or (4-2-08)~~

~~ii. Is acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition shall not qualify as new infrastructure. (4-2-08)~~

~~b. Costs to upgrade existing fueling infrastructure that was previously incompatible to enable it to offer biofuel. Such costs include expenses related to the cleaning of existing fuel storage tanks, trucks, or other equipment for the purpose of providing biofuels. (4-2-08)~~

~~c. Fueling infrastructure means necessary tanks, piping, pumps, pump stands, hoses, monitors, (4-2-08)~~

~~blending equipment, meters, rack injection systems, or any other equipment and the costs to install the equipment that is necessary for a fuel distributor or a retail fuel outlet to offer biofuel for sale. (4-2-08)~~

~~**03. Reduction to Qualified Investment for Biofuel Infrastructure Grants.** Each taxpayer who receives a biofuel infrastructure grant as allowed by Section 42-1806, Idaho Code, shall reduce the amount of qualified investment computed under Section 63-3029M, Idaho Code, by the amount of the biofuel infrastructure grant received during the taxable year. (3-29-10)~~

~~**04. Limitations.** Regardless of whether the biofuel infrastructure investment tax credit available in a taxable year results from a carryover earned in prior years, credit earned in the current year, or both, the biofuel infrastructure investment tax credit allowable in any taxable year shall be limited as follows: (4-2-08)~~

~~**a. Tax liability.** The biofuel infrastructure investment tax credit claimed during a taxable year may not exceed the lesser of: (4-2-08)~~

~~i. Fifty percent (50%) of the tax; or (4-2-08)~~

~~ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the biofuel infrastructure investment tax credit. See Rule 799 of these rules for the priority order for nonrefundable credits. (4-2-08)~~

~~**b. Credit for Qualifying New Employees.** If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the biofuel infrastructure investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (4-2-08)~~

~~**c. Unitary Taxpayers.** Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (4-2-08)~~

~~**05. Carryovers.** The carryover period for the biofuel infrastructure investment tax credit is five (5) years. (4-2-08)~~

~~**06. Taxpayers Entitled to the Credit.** The biofuel infrastructure investment tax credit is allowed to fuel distributors and retail fuel dealers. Rule 711 of these rules shall apply to the biofuel infrastructure investment tax credit, except that limitations referenced in Subsection 711.01 of these rules shall be those limitations as provided in Section 63-3029M, Idaho Code. (4-2-08)~~

~~**07. Pass-Through Entities.** The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. (4-2-08)~~

~~**08. Coordination With Investment Tax Credit and Property Tax Exemption in Lieu of the Investment Tax Credit.** (4-2-08)~~

~~**a.** A taxpayer who elects to claim the biofuel infrastructure investment tax credit on qualified investment may not claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. A taxpayer may, however, claim the investment tax credit on property for which he is not claiming the biofuel infrastructure investment tax credit. (4-2-08)~~

~~**b.** A taxpayer who elects to claim the property tax exemption in lieu of the investment tax credit allowed by Section 63-3029B, Idaho Code, may not claim the biofuel infrastructure investment tax credit on the same property. (4-2-08)~~

~~**c.** A taxpayer may claim the investment tax credit, the property tax exemption in lieu of the investment tax credit, and the biofuel infrastructure investment tax credit in the same taxable year. However, only one (1) of the incentives may be claimed on any one (1) property. (4-2-08)~~

~~766. **BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT: RECAPTURE (RULE 766).**
Section 63-3029M, Idaho Code~~

~~**01. In General.** If a taxpayer is claiming or has claimed the biofuel infrastructure investment tax credit for property that ceases to qualify pursuant to Section 63-3029M, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. See Rule 715 of these rules. The qualified investment shall cease to qualify if any of the following occur prior to the end of the recapture period: (4-2-08)~~

- ~~a. The biofuel infrastructure is sold or otherwise disposed of; (4-2-08)~~
- ~~b. The biofuel infrastructure is moved out of Idaho; or (4-2-08)~~
- ~~c. The biofuel infrastructure ceases to be used in connection with offering biofuel for sale. (4-2-08)~~

~~**02. Unitary Taxpayers.** The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. (4-2-08)~~

~~767. **BIOFUEL INFRASTRUCTURE INVESTMENT CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 767).**
Section 63-3029M, Idaho Code~~

~~**01. Information Required.** Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the biofuel infrastructure investment tax credit claimed on an income tax return subject to examination. The records must include all of the following: (4-2-08)~~

- ~~a. A description of the property; (4-2-08)~~
- ~~b. The asset number assigned to the item of property, if applicable; (4-2-08)~~
- ~~c. The acquisition date and date placed in service; (4-2-08)~~
- ~~d. The basis of the property; (4-2-08)~~
- ~~e. The location and utilization (the usage both in and outside Idaho) of the property including information identifying that the property was used for biofuel; and (4-2-08)~~
- ~~f. The retirement, disposition, or date transferred out of Idaho, date no longer used in Idaho, or date the biofuel was no longer offered for sale on a continuous basis, if applicable. (4-2-08)~~

~~**02. Accounting Records Subject to Examination.** Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: (4-2-08)~~

- ~~a. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; (4-2-08)~~
- ~~b. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; (4-2-08)~~
- ~~c. Records verifying ownership including purchase contracts and proof of payment; (4-2-08)~~
- ~~d. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho and the purchase of biofuel offered for resale; and (4-2-08)~~
- ~~e. A system that verifies that property on which the biofuel infrastructure investment tax credit was claimed continues to maintain its status as qualified investment throughout the recapture period. (4-2-08)~~

~~03. **Failure to Maintain Adequate Records.** Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. (4-2-08)~~

~~04. **Unitary Taxpayers.** Corporations claiming the biofuel infrastructure investment tax credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. (4-2-08)~~

768~~55~~. -- 769. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

790. TRANSFER OF CREDIT: IN GENERAL (RULE 790).

Sections 63-3029I and 63-3029J, Idaho Code

01. In General. A credit may be transferred only as specifically allowed in the statute authorizing the credit. The following credits are the only credits that may be transferred: (3-15-02)

a. The broadband equipment investment credit, as allowed by Section 63-3029I, Idaho Code; ~~and.~~ (3-15-02)

~~**b.** The incentive investment tax credit, as allowed by Section 63-3029J, Idaho Code. (3-15-02)~~

02. Terms. For purposes of Rules 790 through 795 of these rules, the following terms have the stated meanings: (3-15-02)

a. Transferor. The taxpayer who earns the credit and sells, conveys, or transfers the credit to another taxpayer shall be referred to as the transferor. (3-15-02)

b. Transferee. The taxpayer who receives the credit from the transferor or intermediary shall be referred to as the transferee. (3-20-04)

03. Transfer Limited. (3-20-04)

~~**a.** Only the taxpayer who originally earned the incentive investment tax credit may transfer the credit. A taxpayer who receives the incentive investment tax credit through a transfer may not transfer the credit to another taxpayer. (3-20-04)~~

~~**b.** The broadband equipment investment credit may be transferred to another taxpayer required to file an Idaho income tax return or to an intermediary. The intermediary may use all or a portion of the broadband equipment investment credit or resell the credit to a taxpayer required to file an Idaho income tax return. The broadband equipment investment credit may not be transferred more than two (2) times. (3-20-04)~~

~~**eb.** A taxpayer who receives credit through unitary sharing may not transfer the credit to another taxpayer. (3-20-04)~~

791. TRANSFER OF CREDIT: NOTIFICATION OF INTENDED TRANSFER (RULE 791).

Sections 63-3029I and 63-3029J, Idaho Code

01. Timing of Notification. A taxpayer who intends to transfer qualified credit shall notify the Tax Commission in writing of its intent to transfer the credit at least sixty (60) days prior to the date of the transfer. A transfer may not take place prior to the Tax Commission providing its response as to the amount of credit available and the years the credit may be carried forward. (3-15-02)

02. Information Required. A transferor or intermediary shall notify the Tax Commission by submitting the following information on a form prescribed by the Tax Commission: (3-20-04)

- a. Name, address, and federal employer identification number of the transferor or intermediary; (3-20-04)
- b. Name, address, and federal employer identification number of the transferee; (3-15-02)
- c. Type of credit to be transferred; (3-15-02)
- d. Amount of credit to be transferred; (3-15-02)
- e. Date of intended transfer; (3-20-04)
- f. Signature of authorized individual for transferor or intermediary; and (3-20-04)
- g. A copy of the Idaho Form 68, Idaho Broadband Equipment Investment Credit, ~~or Idaho Form 69, Idaho Incentive Investment Tax Credit~~, and required schedules for each tax year the credit being transferred was earned. (3-20-04) ()

(BREAK IN CONTINUITY OF SECTIONS)

793. TRANSFER OF CREDIT: TRANSFEREE (RULE 793).

Sections 63-3029I and 63-3029J, Idaho Code

01. Tax Year Credit Available. A transferee may first claim the transferred credit on an income tax return originally filed during the calendar year in which the transfer takes place. However, if the transferee did not claim the transferred credit on his original return filed during the calendar year in which the transfer takes place, he may not amend such return to claim the credit for that tax year. The credit may not be claimed on a tax return that begins prior to January 1, 2001. (3-20-04)

02. Copy of Transfer Form Required. The form verifying the transferred credit shall be attached to the income tax return for each taxable year that the credit is claimed or carried over. (3-15-02)

03. Carryover Period. If a credit is transferred, the transferee is entitled to any remaining carryover period that would have been allowed to the transferor or intermediary had the credit not been transferred. The Tax Commission shall verify the carryover period. The carryover period approved shall apply to the taxable year of the transferee that begins in the calendar year in which the transferor's taxable year begins. (3-20-04)

~~a. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In March of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2001 since he filed it in October of 2002. Taxpayer B has a fourteen (14) year carryover remaining, the same as Taxpayer A would have been entitled to. (3-20-04)~~

~~b. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In December of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2002, which he filed in April of 2003. Taxpayer B has a thirteen (13) year carryover remaining. (3-20-04)~~

~~c. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. On his return for taxable year beginning in 2002, Taxpayer A claimed additional credit earned during his taxable year beginning in 2001. In September of 2003, Taxpayer A sold the remaining credit to Taxpayer B at which time he had a thirteen (13) year carryover remaining. Taxpayer B is entitled to claim the credit on his original return filed in October of 2003. Taxpayer B is entitled to a thirteen (13) year carryover. (3-20-04)~~

d. Taxpayer A earned the broadband equipment investment credit in his taxable year beginning in 2002. He claimed part of the credit on his return for that year. In October of 2003, Taxpayer A sold the remaining credit to Taxpayer B, an intermediary. Taxpayer B resold the credit in May of 2004 to Taxpayer C. Taxpayer C claimed the credit on his original return for taxable year beginning in 2003, which he filed in November of 2004. Taxpayer C has a thirteen (13) year carryover remaining, the same as Taxpayer B would have been entitled to. (3-20-04)

794. -- 798. (RESERVED)

799. PRIORITY ORDER OF CREDITS AND ADJUSTMENTS TO CREDITS (RULE 799).

Section 63-3029P, Idaho Code

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (3-20-97)

b. For part-year residents only, the grocery credit as authorized by Section 63-3024A, Idaho Code; (5-3-03)

c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)

d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)

e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (3-30-01)

f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (3-30-01)

g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)

h. ~~Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code;~~ (3-15-02)

i. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)

ji. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)

kk. ~~Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code.~~ (3-15-02)

lj. Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-11-06)

mk. Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-11-06)

nl. Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-11-06)

om. Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (3-30-07)

- ~~p. Biofuel infrastructure investment tax credit as authorized by Section 63-3029M, Idaho Code. (4-2-08)~~
- ~~n. Idaho child tax credit as authorized by Section 63-3029L, Idaho Code. ()~~
- 03. Adjustments to Credits.** (4-11-06)
- a.** Adjustments to the amount of a credit earned shall be determined pursuant to the law applicable to the taxable year in which the credit was earned. (4-11-06)
- b.** Adjustments to the amount of a credit earned may be made even though the taxable year in which the credit was earned is closed due to the statute of limitations. Such adjustments to the earned credit shall also apply to any taxable years to which the credit was carried over. (4-11-06)
- c.** If the taxable year in which the credit was earned or carried over to is closed due to the statute of limitations, any adjustments to the credit earned shall not result in any tax due or refund for the closed taxable years. However, the adjustments may result in tax due or a refund in a carryover year if the carryover year is open to the statute of limitations. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

830. INFORMATION RETURNS (RULE 830).

Section 63-3037, Idaho Code

- 01. In General.** Information returns are not required to be filed with the Tax Commission except as follows: (3-20-97)
- a.** Form 1098, Mortgage Interest Statement, if the property was located in Idaho. (4-5-00)
- b.** Form 1099-A, Acquisition or Abandonment of Secured Property, if the property was located in Idaho. (4-5-00)
- c.** Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, if the property was located in Idaho or the service was performed in Idaho. (4-5-00)
- d.** Form 1099-C, Cancellation of Debt, if the secured property was located in Idaho. (4-5-00)
- e.** Form 1099-MISC, Miscellaneous Income, if it was issued for transactions related to property located or utilized in Idaho or for services performed in Idaho. (4-5-00)
- f.** Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc., if Idaho income tax was withheld. (4-5-00)
- g.** Form 1099-S, Proceeds From Real Estate Transactions, if it was issued for transactions related to property located in Idaho. (4-5-00)
- h.** Form W-2G, Certain Gambling Winnings, if the gambling took place in Idaho. (7-1-98)
- 02. Submitting Returns.** Information returns must be submitted to the Tax Commission through electronic filing or on a paper copy of federal Form 1099. (4-7-11)
- 03. Due Date of Information Returns.** Information returns are made on a calendar year basis. The due date for information returns submitted through electronic filing or on paper is the last day of February following the close of the calendar year. (4-7-11)
- 04. Voluntary Withholding.** Each person who withholds Idaho income tax from amounts reported on

information returns required by Section 63-3037, Idaho Code, must: (4-7-11)

- a. Obtain an Idaho withholding account number as required by Rule 870 of these rules; and (4-7-11)
- b. Submit an annual reconciliation return to the Tax Commission and comply with the requirements provided for filing of annual reconciliation returns as discussed in Rule 872 of these rules. The reconciliation return must report amounts paid during the preceding calendar year and reconcile the state income tax withheld with the tax remitted for the preceding calendar year. The reconciliation return must be filed on or before the last day of ~~February~~ January. ~~(4-7-11)~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

890. NOTICE OF ADJUSTMENT OF FEDERAL TAX LIABILITY (RULE 890).
Section 63-3069, Idaho Code

01. Final Determination. The term final determination as used in Section 63-3069, Idaho Code means final federal determination as defined in Section 63-3068(f), Idaho Code. (3-20-97)

02. Written Notice. (3-20-97)

a. Written notice shall include copies of all Revenue Agents' reports, and any other documents and schedules required to clarify the adjustments to taxable income. If the final determination results in a refund of state taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-20-97)

b. Written notice included with an income tax return for a year or years other than the year subject to the federal adjustment shall not constitute the required notification. (3-20-97)

03. Immediate Notification. The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within ~~sixty~~ one hundred twenty (~~60~~120) days of the final determination. ~~(3-20-97)~~ ()

891. NOTICE OF ADJUSTMENT OF STATE OR TERRITORY TAX LIABILITY (RULE 891).
Sections 63-3069 and 63-3069A, Idaho Code

01. Final Determination. The term final determination of any deficiency or refund of income tax due to another state or territory as used in Section 63-3069, Idaho Code, shall mean the final resolution of all issues that were adjusted by the other state or territory. (3-30-01)

02. Written Notice. (3-30-01)

a. Written notice shall include copies of all reports issued by the other state or territory, and any other documents and schedules required to clarify the adjustments to taxable income of the state or territory. If the final determination results in a refund of Idaho taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-30-01)

b. Written notice included with an income tax return for a year or years other than the year subject to the adjustment by the state or territory shall not constitute the required notification. (3-30-01)

03. Immediate Notification. The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within ~~sixty~~ one hundred twenty (~~60~~120) days of the final determination. ~~(3-30-01)~~ ()

IDAPA 35 – STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1802

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2018.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 63-105 and 63-3039, Idaho Code.

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

RULE 017T - “Treatment of the Section 965 of the Internal Revenue Code Increase in Subpart F Income and Related Exclusions.”:

This rule is to give guidance on how to report the deemed repatriation income on the Idaho tax return.

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:

Compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Cynthia Adrian (208) 334-7670.

DATED this 11th day of July, 2018.

Cynthia Adrian
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 35-0101-1802
(Only Those Sections With Amendments Are Shown.)**

017. TREATMENT OF THE SECTION 965 OF THE INTERNAL REVENUE CODE INCREASE IN SUBPART F INCOME AND RELATED EXCLUSIONS (RULE 017).

Subpart F income as defined in Section 952, Internal Revenue Code, is gross income under Section 951(a), Internal Revenue Code, and included in a taxpayer’s taxable income under the Internal Revenue Code. Idaho taxpayers must include the Section 965, Internal Revenue Code, increase in their subpart F income (Section 965(a) reduced by Section 965(b), Internal Revenue Code), when computing their Idaho taxable income regardless of how such income is reported to the Internal Revenue Service on the federal income tax form. (1-1-18)T

017.8. -- 024. (RESERVED)

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1801

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 67-5220(1)&(2), 63-105(2), and Section 63-3624(a) Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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 037 – Aircraft and Flying Services

In general, when a third-party dealer or repair facility performs a repair and bills the seller of a warranty or service agreement, the third-party dealer or repair facility will separately state and charge sales tax on the parts to the seller of the warranty or service agreement. Section 63-3622GG, Idaho code exempts parts installed in non-resident aircraft if those parts are installed by a FAA approved repair station. This includes parts that are being installed as a result of a warranty or a service agreement. Currently this scenario has not been addressed in rule. The proposed rulemaking would add language that clarifies that these parts are exempt, even if the repair is paid for under a warranty agreement. Addressing this issue provides clarity that the exemption for parts installed on non-resident aircraft applies, even if the parts were paid for under a warranty agreement.

Rule 049 – Warranties and Service Agreements

The proposed rulemaking adds a cross reference to Rule 037 regarding the exemption for parts installed in non-resident aircraft if those parts are installed by a FAA approved repair station and a statutory reference to 63-3613.

Rule 068 – Collection of Tax

Section 63-3619, Idaho law requires the Tax Commission to provide retailers with schedules for collection of the tax on sales which involve a fraction of a dollar. Currently, rule 068 has two of these schedules, one for 5% sales tax and another for 6%. The 5% schedule is no longer necessary because the rate has been stable at 6% since 2006. The proposed rulemaking would remove subsection 04 & then renumbers the subsequent sections. A statutory reference to 63-3619 is added as well.

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 2, 2018 Idaho Administrative Bulletin, [Vol. 18-5, pages 141 – 142](#).

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 Leah Parsons, (208) 334-7531. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 6th day of July, 2018.

Leah Parsons, 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. 35-0102-1801
(Only Those Sections With Amendments Are Shown.)

037. AIRCRAFT AND FLYING SERVICES (RULE 037).
Section 63-3622GG, Idaho Code

01. Definitions. For the purposes of this rule, the following terms have the following meanings: (7-1-94)

a. Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, wildlife viewing, hot air balloon rides, or other similar activities. (4-11-06)

b. Freight. Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. See Subsection 037.06 of this rule. (4-11-06)

c. Transportation of Passengers. The transportation of passengers means the service of transporting passengers from one (1) point to another. It does not include survey flights, recreational or sightseeing flights, nor does it include any flight that begins and ends at the same point. (4-11-06)

d. Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code. (7-1-94)

e. Nonresident Businesses and Other Organizations. A corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state, and does not have consistent operations in this state. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more aircraft is not a nonresident. The use of an aircraft owned by such an entity will be subject to use tax upon its first use in Idaho. (4-4-13)

f. Day. For the purpose of this rule any part of a day is a day. (7-1-94)

g. Transportation of freight or passengers for hire. "Transportation of freight or passengers for hire" means the business of transporting persons or property for compensation from one (1) location on the ground or water to another. (4-4-13)

h. Common Carrier. The operation of an aircraft in the transportation of freight or passengers for hire by members of the public. When operating as a common carrier, the operator or owner of an aircraft usually charges a rate that will generate a profit. For flights in which federal regulations limit or minimize this profit, the aircraft is

- likely not operating as a common carrier. (4-4-13)
- i. Public. The public does not include: (4-4-13)
 - i. Owners or operators of the aircraft; (4-4-13)
 - ii. Employees of the aircraft owner or operator; (4-4-13)
 - iii. Guests of the aircraft owner or operator; (4-4-13)
 - iv. Any of the above with the same relationship to a parent of the aircraft owner, a subsidiary of that parent, or a subsidiary of the aircraft owner; (4-4-13)
 - v. An individual or entity flying under a time sharing agreement which is an arrangement where an aircraft owner leases his aircraft with flight crew to another individual or entity and the aircraft owner limits the amount charged in accordance with federal regulations; or (4-4-13)
 - vi. An individual or entity flying under an interchange agreement which is an arrangement where an aircraft owner leases his aircraft to another aircraft owner in exchange for equal time on the other owner's aircraft and any fees charged may not exceed the difference between the costs of owning, operating, and maintaining the two (2) aircraft. (4-4-13)
- 02. Sales of Aircraft.** Sales of aircraft are taxable unless an exemption applies. Section 63-3622GG, Idaho Code, provides an exemption for the sale, lease, purchase, or use of an aircraft: (4-11-06)
- a. Primarily used to provide passenger or freight services for hire as a common carrier; (4-4-13)
 - i. Example 1: An aircraft is flown for the following activities: the aircraft owner's personal vacations, flight instruction, and charter operations for hire as a common carrier. The flight hours for each activity are forty-five (45), sixty-five (65) and seventy-five (75) hours respectively in a consecutive twelve (12) month period. The combined flight hours for the taxable uses of the aircraft, owner and flight instruction, (45 + 65 = 110 hours) are more than the hours operating as a common carrier (75 hours). Since the greater use of the aircraft is performing activities that do not qualify for an exemption, the use of the aircraft will be taxable at fair market value as of that point in time. (3-20-14)
 - ii. Example 2: A charter aircraft service uses an aircraft for three purposes: flight instruction, air ambulance service, and charter flights operated as a common carrier. The flight hours for each activity are one hundred (100), sixty (60) and fifty (50) respectively in a consecutive twelve (12) month period. The combined flight hours for the exempt uses of the aircraft, as an air ambulance and as a common carrier (60 + 50 = 110 hours), are more than the hours used for flight instruction one hundred (100) hours. Since the greater use of the aircraft is performing activities that qualify for an exemption, the use of the aircraft will be exempt. (3-20-14)
 - b. Primarily used for emergency transportation of sick or injured persons; (3-29-17)
 - c. That is a fixed-wing aircraft primarily used as an air tactical group supervisor platform under a contract with a governmental entity for wildfire activity; or (3-29-17)
 - d. Purchased for use outside this state, when the aircraft is upon delivery taken outside this state, but only if: (3-20-04)
 - i. The aircraft is sold to a nonresident as defined in Subsection 037.01.d. or 037.01.e. of this rule; and (3-30-07)
 - ii. The registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any consecutive twelve (12) month period. (4-4-13)
- 03. Sales of Aircraft Repair Parts to Nonresidents.** Subject to the restrictions of Section 63-3622GG,

Idaho Code, sales of aircraft repair parts, including those paid for under a warranty or service agreement, are exempt from tax when installed on an aircraft owned by a nonresident individual or business as defined in Subsection 037.01 of this rule. (4-4-13)()

04. Federal Law Prohibits States From Taxing Sales of Air Transportation. See 49 U.S.C. Section 40116. For this reason, sales of intrastate transportation as described by Section 63-3612(i), Idaho Code, are not taxable in Idaho. (4-11-06)

05. Rentals and Leases of Aircraft. The rental or lease of an aircraft without operator is a sale subject to sales tax, other than as provided in Subsection 037.02 of this rule. See Rule 024 of these rules. (4-11-06)

06. Aerial Contracting Services. Businesses primarily engaged in the application of agricultural chemicals as described in Federal Aviation Regulation Part 137, or in activities involving the carrying of external loads as described in Federal Aviation Regulation Part 133, such as aerial logging, are performing aerial contracting services. Such businesses are not primarily engaged in the transportation of freight. (4-11-06)

a. Aircraft purchased, rented, or leased for aerial contracting are subject to tax. It makes no difference whether or not the service is provided to a government agency or a private individual or company. Sales or use tax also applies to the purchase of repair parts, oil, and other tangible personal property. (4-4-13)

b. When aircraft held for resale are used by the owner, who is an aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (4-11-06)

07. Air Ambulance Service. Charges for the emergency transportation of sick or injured persons, including standby time, are not subject to sales tax. (7-1-94)

08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not subject to sales tax. (7-1-94)

a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are subject to sales or use tax. (7-1-94)

b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

09. Recreational Flights. Sales and purchase of aircraft used primarily for providing recreational flights are subject to sales or use tax. (4-11-06)

10. Aircraft Held for Resale. Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business. (7-1-94)

a. Rentals of aircraft held for resale are taxable as provided by Subsection 037.05 of this rule. (7-1-93)

b. When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used. (7-1-94)

c. Parts and oil purchased to repair or maintain aircraft held for resale are not subject to sales tax. The aircraft dealer must provide the supplier with a properly completed resale certificate. See Rule 128 of these rules. (2-18-02)

11. Fuel. The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax. (7-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

049. WARRANTIES AND SERVICE AGREEMENTS (RULE 049).

[Section 63-3613, Idaho Code](#)

01. Warranties and Service Agreements. Warranties or service agreements may be furnished by the manufacturer or seller upon the sale, lease, or rental of tangible personal property by any of the following means: (7-1-93)

a. Including the price of the warranty or service agreement as part of the sales, lease, or rental price of the tangible personal property. (7-1-93)

b. Separately stating the price of the warranty or service agreement, but requiring the purchase of the warranty or service agreement as a condition of the sale, lease, or rental of tangible personal property. (7-1-93)

c. Allowing the purchaser the option of purchasing a separately stated warranty or service agreement. (7-1-93)

02. Separate Optional Contract. Service agreements may also be offered as a separate optional contract on tangible personal property not owned or sold by the seller of the service agreement. (7-1-93)

03. Services Agreed to be Rendered. Services agreed to be rendered as a condition of a warranty or service agreement may be performed by the seller of the warranty or service agreement or by any dealer or repair facility that the seller may appoint to perform the repair or service. (7-1-93)

04. Non-Optional Warranty or Service Agreement. If the warranty or service agreement is required as a condition of the sale, lease, or rental of tangible personal property, the gross sales price is subject to the sales tax whether or not the charge for the warranty or service agreement is separately stated from the sales price of the tangible personal property. (7-1-93)

a. When parts are replaced by the seller of the warranty or service agreement, no tax is imposed on the purchase of the parts by the seller. The parts replaced are considered to have been taxed at the time the warranty or service agreement was sold. (7-1-93)

b. When a third-party dealer or repair facility performs the repair, the seller of the warranty or service agreement may provide the repairer with a resale certificate. See Rule 128 of these rules. (3-15-02)

05. Optional Warranty or Service Agreement. If the warranty or service agreement is optional to the purchaser, no sales tax shall be charged on the sale of the warranty or service agreement. A taxable transaction does occur with regard to the seller of the warranty or service agreement upon performance of the repair. (7-1-93)

a. If the seller of the warranty or service agreement performs the repair and purchases parts for the repair or uses parts from his inventory, he will pay sales or use tax upon the parts when they are applied by him. (7-1-93)

b. When a third-party dealer or repair facility performs the repair and bills the seller of the warranty or service agreement, the third-party dealer or repair facility will separately state and charge sales tax on the parts to the seller of the warranty or service agreement. (7-1-93)

c. The seller of the warranty or service agreement will pay sales or use tax on parts for the repairs, whether or not the purchaser qualifies for any exemption under the Idaho Sales and Use Tax Act or rules. (7-1-93)

06. Parts in Addition to Warranty Fee. Regardless of any of the above, if the seller of the warranty or service agreement bills the purchaser for parts over and above the agreed upon warranty or service agreement fee,

sales tax shall be charged to the purchaser on the sales price of the parts. (7-1-93)

07. Replacement Parts and Maintenance Supplies. As used in this rule, a warranty or service agreement applies to replacement parts and maintenance supplies that become a part of the tangible personal property that is being serviced. The sale of other tangible personal property, such as paper for a copy machine, must be separately stated from any warranty or service agreement fee and sales tax charged to the purchaser. (7-1-93)

08. Cross-Reference.

a. See Section 037.03 of these rules. Sales of Aircraft Repair Parts to Nonresidents. ()

(BREAK IN CONTINUITY OF SECTIONS)

068. COLLECTION OF TAX (RULE 068).

Section, 63-3619, Idaho Code

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by Rule 105 of these rules. (4-11-06)

02. Sales Tax To Be Collected by Retailer. Sales tax shall be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation of Tax. The retailer will compute the tax upon the total sale to a purchaser at a given time and not upon each individual item purchased. (7-1-93)

04. Bracket System for Five Percent Tax Rate. *The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale if the sales tax rate is 5%. The 5% tax rate was in effect from July 1, 2005, through September 30, 2006.* (4-2-08)

a. *Multiply five cents (\$0.05) for every whole dollar included in the sale, and* (7-1-93)

b. *Add for each additional fractional dollar amount of sale the corresponding tax below:*

Dollar Amount of Sale	Tax
0.00-0.05	- .00
0.06-0.25	- .01
0.26-0.45	- .02
0.46-0.65	- .03
0.66-0.85	- .04
0.86-0.99	- .05

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (7-1-93)

05. Bracket System for Six Percent Tax Rate. Beginning October 1, 2006, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. (4-2-08)

a. Multiply six cents (\$0.06) for every whole dollar included in the sale, and (3-20-04)

- b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax
0.00 - 0.03	- .00
0.04 - 0.20	- .01
0.21 - 0.37	- .02
0.38 - 0.53	- .03
0.54 - 0.70	- .04
0.71 - 0.87	- .05
0.88 - 0.99	- .06

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (3-20-04)

065. Tax to Be Separately Displayed. The amount of tax collected by the retailer must be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax. (7-1-93)

076. Reimbursement of Tax From the Purchaser to the Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the purchaser if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code. (7-1-93)

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer. (7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. (7-1-93)

d. The receivable established by the seller seeking reimbursement from the purchaser is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. (7-1-93)

IDAPA 35 – STATE TAX COMMISSION
35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1801
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, 63-2427, 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 August 15, 2018.

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 170 – This rule will be amended to clearly define which vehicles can use dyed diesel, according to 63-2425, Idaho Code.

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 6, 2018 Idaho Administrative Bulletin, **Vol. 18-6, page 111**.

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 Don Williams, (208) 334-7855. For general questions, contact Kimberlee Stratton, (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 19th day of June, 2018.

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. 35-0105-1801
(Only Those Sections With Amendments Are Shown.)

170. INFORMATION ON DYED & UNDYED DIESEL FUEL (RULE 170).
Section 63-2425, Idaho Code

01. **Undyed Diesel Fuel Used for Heating Purposes.** The consumer must apply directly to the State Tax Commission for a refund of the special fuels taxes included in the purchase price ~~on purchases~~ of undyed diesel ~~fuel which are~~ used for heating a dwelling or building. The distributor may assist the consumer ~~who is~~ claiming a refund of the special fuels tax from the State Tax Commission by: (4-2-08)()

- a. Properly documenting information on the sales invoice; and (7-1-98)
- b. Providing the customer with a Form 75. (3-29-10)

02. **Red-Dyed ~~Low-Sulfur and Ultra Low-Sulfur Fuel~~ Diesel.** It is illegal to use red-dyed ~~low-sulfur and ultra low-sulfur fuel~~ diesel in the ~~main~~ supply tank of a licensed, or required to be licensed, motor vehicle in this state unless the type of user is listed ~~in Subsection 170.03 of this rule~~ below. Penalties for illegal use of red-dyed ~~low-sulfur and ultra low-sulfur fuel~~ diesel in a motor vehicle are found in Section ~~63-2425~~ 63-2460, Idaho Code. The Internal Revenue Code does allow certain types of users to purchase tax-exempt red-dyed diesel for use in their vehicles. Red-dyed diesel may be used: (3-29-10)()

03. **Red-Dyed ~~Low-Sulfur and Ultra Low-Sulfur Fuel.~~** ~~The Internal Revenue Code does allow certain types of users to purchase tax-exempt red-dyed low-sulfur and ultra low-sulfur diesel fuel for use in their vehicles. The use of untaxed low-sulfur and ultra low-sulfur red-dyed diesel fuel in motor vehicles may be subject to Idaho's special fuels tax if the motor vehicles are not owned or leased, and operated by the state of Idaho, or any of its political subdivisions such as a city, county, or fire district. The red-dyed low-sulfur and ultra low-sulfur diesel fuel may be used:~~ (4-2-08)

- a. By state and local governments (political subdivisions of the state) for their exclusive use; (7-1-98)
- b. In the engine of a train; (7-1-98)
- c. In a school bus while the bus is engaged in the transportation of students and school employees; (7-1-98)
- d. In a vehicle (such as a ground servicing vehicle for aircraft) owned by an aircraft museum; (4-11-06)
- e. In a highway vehicle that is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income; (4-11-06)
- f. In a highway vehicle owned by the United States that is not used on a highway; (4-11-06)
- g. Exclusively by a nonprofit educational organization as defined in Internal Revenue Code Section 4221 (d)(5). (4-11-06)

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION

52.01.03 – RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-1801

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 67-7408, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

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 Idaho Lottery is required to move to an automated balancing functionality between the Lottery, Intralot (its gaming system contractor) and the Multi-State Lottery Association (MUSL) and is moving to production that will allow for draw games to be balanced without human intervention. This is mission critical and will fundamentally allow the Lottery to no longer have to employ Draw Managers to audit and balance draws. After this system is functional, the current tasks that draw managers perform will be automatically completed through the MUSL Automated Reporting System (MARS). Other benefits include eliminating human error and reducing labor costs. Because of these improvements in balancing data, our IDAPA Rules as written will be obsolete to industry practice and standard in requiring a “Draw Manager”. This rulemaking will conform Lottery administrative rules to meet the upcoming technical requirements and drawing procedure for draw games going forward.

Revisions are being made to IDAPA 52.01.03.204.07 to eliminate the “Drawing Manager” role from the online game drawing procedure because it will be obsolete to industry practice and standard, going forward.

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 rulemaking is simple in nature. The rulemaking is required by the Multi-State Lottery Association which governs and oversees drawings for draw games such as PowerBall™. There will no longer be a “draw manager” under procedures for conducting drawings for draw games in order to conform to industry practice and standard. There is nothing to negotiate.

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 Jeff Anderson, Executive Director, at (208) 334-2600.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 5th day of July 2018.

Jeffrey R. Anderson
Executive Director
Idaho State Lottery
Phone: (208) 334-2600

1199 Shoreline Ln., Ste. 100
P. O. Box 6537
Boise, ID 83707-6537

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 52-0103-1801
(Only Those Sections With Amendments Are Shown.)

204. ON-LINE COMPUTER GAMES (RULE 204).

01. On-Line Games -- Authorized -- Director's Authority. The Commission hereby authorizes the Director to select and operate on-line games which meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Rule 204 these terms have the following definitions: (3-26-08)

a. "Drawing." The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the game. Drawings are open to the public. (4-4-13)

b. "On-line Game." (4-4-13)

i. A Lottery game in which a player selects a combination of numbers or symbols, the type of game and amount of play, and the drawing date by use of a computer. In return for paying the appropriate fee, the player receives a computer-generated ticket with the player's selection printed on it. Each ticket bearer whose valid ticket includes a winning combination will be entitled to a prize if claim is submitted within the specified time period. (3-26-08)

ii. On-line terminal (OLT) instant ticket game having characteristics as defined in Paragraphs 202.02.a., 202.02.b., 202.02.d. and 202.02.i. of these rules. (4-4-13)

c. "On-line Retailer." A person or business authorized by the Lottery to sell on-line tickets. (3-26-08)

d. "On-line Terminal (OLT)." The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated. (3-26-08)

e. "On-line Ticket." A computer-generated ticket issued by an on-line terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected. (3-26-08)

f. "Ticket Bearer." The person who has signed the on-line ticket or who has possession of an unsigned ticket. (3-26-08)

g. "Validation." The process of determining whether an on-line ticket presented for payment is a winning ticket. (3-26-08)

h. "Winning Combination." One (1) or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing. (3-26-08)

03. Distribution of Tickets. (3-26-08)

a. Tickets will be sold by retailers selected by the Director. (3-26-08)

b. The Director is authorized to arrange for the distribution of OLTs, player-activated terminals (PATs), ticket stock, and supplies to certificated retailers. (3-26-08)

04. Sale of Tickets. (3-26-08)

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell on-line Lottery tickets, except that nothing in this section will be construed to prevent a person who may lawfully

purchase tickets from making a gift of Lottery tickets to another. (3-26-08)

b. Tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-26-08)

c. Nothing in this section shall be construed to prohibit the Director from designating certain of its agents and employees to sell Lottery tickets directly to the public. (3-26-08)

05. On-Line Games Criteria. (3-26-08)

a. The base price of an on-line ticket will not be less than fifty cents (\$.50), except to the extent of discounts authorized by the Commission. (3-26-08)

b. The price for a ticket in any particular on-line game will be set out in the game rules adopted by the Commission for that game. No person may sell a ticket at a price other than that established in accordance with these rules. On the average, the total of all prizes available to be won in an on-line game shall not be less than forty-five percent (45%) of the on-line game's projected revenue. (3-26-08)

c. The manner and frequency of drawings may vary with the type of on-line game as defined in Subparagraph 204.02.b.i. of these rules. (4-4-13)

d. The times, locations, and drawing procedures will be determined by the Director. (3-26-08)

e. OLT instant ticket game as defined in Subparagraph 204.02.b.ii. of these rules will operate with a finite number of tickets per game and a predetermined and guaranteed prize structure approved by the Director. (4-4-13)

f. A ticket bearer entitled to a prize must submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an on-line retailer through use of the validation number and any other means specified by the Director. (3-26-08)

06. Payment of Prizes. (3-26-08)

a. To claim an on-line game prize of less than six hundred dollars (\$600) the claimant may present the winning on-line ticket to any on-line retailer, or to the Boise Lottery office: (3-26-08)

i. If the claim is presented to an on-line retailer, the on-line retailer must validate the claim and, if determined to be a winning ticket, pay the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

ii. If the claim is presented to the Boise Lottery office, the claimant may be required to complete a claim form and submit it with the winning ticket, either by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

b. To claim an on-line prize of six hundred dollars (\$600) or more, the claimant must obtain and complete a claim form and submit it with the winning ticket to the Boise Lottery office by mail or in person. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery office. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. The amount due will be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

c. All prizes must be claimed within one hundred eighty (180) days from the drawing in which the prize was won. If the final day of the one hundred eighty (180) day period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery account. (3-26-08)

07. Drawings and End of Sales Prior to Drawings. (3-26-08)

a. Drawings will be conducted in a location and at days and times designated by the Director. (3-26-08)

b. For each type of on-line game, the Director will establish a time before the drawing for the end of sales. (3-26-08)

~~c. The Director will designate a Drawing Manager who will oversee each drawing. The Drawing Manager must attest that the drawing was conducted in accordance with proper drawing procedures at the end of each drawing. (3-26-08)~~

~~d. The Director will designate the type of equipment to be used and will establish procedures to randomly select the winning combination for each type of on-line game. Drawing procedures will include provisions for the substitution of backup drawing equipment if the primary drawing equipment malfunctions or fails for any reason. (3-26-08)~~

~~ed. The equipment used to determine the winning combination will not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The drawing results, including sales, number of winners and numbers drawn, are will be audited and reviewed after each drawing to assure proper operation and lack of tampering or fraud. Drawings will not be held until all pre-inspection checks are completed. No prizes will be paid until after all post-inspection checks have been completed. (4-4-13)()~~

~~fe. All drawings may be broadcast live on television, provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost. (5-8-09)~~

~~gf. The Director will establish procedures governing the conduct of drawings for each type of on-line game. The procedures must include provisions for deviations that include but are not limited to: (3-26-08)~~

~~i. Malfunction of the drawing equipment before determination of the winning combination; (3-26-08)~~

~~ii. Fouled drawing; (3-26-08)~~

~~iii. Delayed drawing; and (3-26-08)~~

~~iv. Other equipment, facility or personnel difficulties. (3-26-08)~~

~~hg. If a deviation occurs, the drawing will be completed under the supervision of the Lottery or its designee. The winning combination will be provided to the television network for dissemination to the public. (5-8-09)()~~

~~ih. If, during any live-broadcast drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a “foul” will be called by the Drawing Manager Lottery security or the Lottery’s designee. Any number drawn before a “foul” is called will stand and be deemed official after passing inspection and certification by the Drawing Manager Lottery security or the Lottery’s designee. (3-26-08)()~~

~~ji. The Director must delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment will be made after an investigation is completed and the drawing approved by the Drawing Manager Lottery security or the Lottery’s designee. If the drawing is not~~

approved, it will be void and another drawing will be conducted to determine the actual winner. ~~(3-26-08)~~()

08. Validation Requirements. (3-26-08)

a. To be a valid winning on-line ticket, all of the following conditions must be met: (3-26-08)

i. All printing on the ticket must be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and the date printed on the ticket. (3-26-08)

ii. The ticket must be intact. (3-26-08)

iii. The ticket must not be mutilated, altered, or tampered with in any manner. (3-26-08)

iv. The ticket cannot be counterfeit or an exact duplicate of another winning ticket. (3-26-08)

v. The ticket must have been issued by an authorized on-line retailer or dispensed by a player-activated terminal in an authorized manner. (3-26-08)

vi. The ticket must not have been stolen or cancelled. (3-26-08)

vii. The ticket must not have been previously paid. (3-26-08)

viii. The ticket must pass all other confidential security checks of the Lottery. (3-26-08)

ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. (3-26-08)

b. A ticket failing any of the validation requirements listed in Paragraph 204.08.a. of this rule is invalid and ineligible for a prize. The final decision on whether a prize is paid will be made by the Director. (3-26-08)

c. If there is a dispute between the Director and a claimant whether a ticket is a winning ticket, and if the Director determines that the ticket is not valid and a prize is not paid, the Director may replace the disputed ticket with a ticket of equivalent sales price for a future drawing of the same type of game. This will be the sole and exclusive remedy of the claimant. (3-26-08)

d. If a defective on-line ticket is purchased, the only responsibility or liability of the Lottery or of the on-line retailer is the replacement of the defective on-line ticket with another on-line ticket of equivalent value for a future drawing of the same type of game. (3-26-08)

09. Retailer Duties. Retailers with an on-line terminal (OLT) must perform the following duties: (3-26-08)

a. Pay costs associated with providing a telephone line or internet or similar connection that must be located as specified by the Lottery. Payment of the telephone line or internet or similar connection is nonrefundable after installation, except if the Lottery denies, through no fault of retailer, the installation of the on-line terminal. (5-8-09)

b. Pay the Lottery for the local monthly telephone or internet or similar charges per OLT as specified by the Lottery. The Lottery will pay for the mileage charges (if any) between the retailer's location and the Lottery's central site. (3-26-08)

c. Hold funds generated from the sale of on-line tickets in trust for the Lottery. At a time specified by the Lottery, the retailer must pay these funds to the Lottery plus the monthly communications charge specified above in Paragraph 204.09.b. of this rule, less: (3-26-08)

i. Prizes paid; (3-26-08)

- ii. Any credit; and (3-26-08)
- iii. The retailer discount. (3-26-08)
- d. Locate the OLT within the retailer's premises at a point-of-sale location approved by the Lottery. The retailer is prohibited from moving an OLT unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or internet or similar charges associated with the change of OLT location if the retailer requested the change. (3-26-08)
- e. Provide dedicated AC power to within approximately five (5) feet of the terminal. Dedicated AC power means that there is no other equipment on the line that is to be used for the on-line terminal. The retailer is responsible for all costs associated with providing dedicated AC power. The Lottery will provide a schematic of outlet requirements to the retailer's electrical contractor. (3-26-08)
- f. Sell all Lottery games, including but not limited to instant game tickets offered by the Lottery. The retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase. (3-26-08)
- g. Conduct the sale of on-line tickets during all hours and days that the retailer's business is open and the on-line system is functioning. The retailer must post the hours that redemption of winning tickets may take place if these hours are different from the retailer's normal business hours. The retailer must monitor ticket supply levels and give timely notice when any item is in short supply. (3-26-08)
- h. Post winning numbers prominently where tickets are sold as soon as possible following the drawing. (3-26-08)
- i. Provide secure storage for OLT supplies and a secure area for the OLT. (3-26-08)
- j. Exercise due diligence in the operation of the OLT and immediately notify the Lottery and the central computer facility of any telephone line, internet, radio, or OLT malfunction, such as the issuance of invalid on-line Lottery ticket, inability to sell or redeem an on-line ticket, and non-issuance of an on-line ticket. The retailer is prohibited from performing mechanical or electrical maintenance on the OLT. (3-26-08)
- k. Replace ribbons and on-line or instant ticket stock and clear paper jams as required for the OLT per the instructions provided by the Lottery. (3-26-08)
- l. Pay, without reimbursement, all electricity charges in connection with the operation of OLT. (3-26-08)
- 10. Payment of Prizes by On-Line Retailers. (3-26-08)**
 - a. An on-line retailer must pay to the ticket bearer on-line games prizes of less than six hundred dollars (\$600) for any validated claims presented to that on-line retailer. These prizes must be paid during all normal business hours of the on-line retailer, unless redemption hours differ from normal business hours that have been posted pursuant to Paragraph 204.09.g. of this rule, provided, that the on-line system is operational and claims can be validated. (3-26-08)
 - b. An on-line retailer may pay prizes in cash or by business check, certified check, money order, or any combination thereof. An on-line retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of its contract. (3-26-08)
- 11. Retailer Settlement. (3-26-08)**
 - a. The Director may require on-line retailers to establish an account for deposit of monies derived from on-line games with a financial institution that has the capability of electronic funds transfer (EFT). (3-26-08)
 - b. The amount deposited must be sufficient to cover monies due the Lottery. The Lottery will withdraw by EFT the amount due the Lottery on the day specified by the Director. If the day specified for withdrawal

falls on a state holiday, withdrawal may be delayed until the next business day. (3-26-08)

12. Prize Rights Unassignable. No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and that any person may be paid the prize to which the winner is entitled pursuant to an appropriate judicial order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

13. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or to the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho Law. For purposes of this Subsection the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. (3-26-08)

14. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee of any prize winnings that are or may be due to a person under a disability including, but not limited to, minority, mental deficiency, physical or mental incapacity. (3-26-08)

15. Discharge of State Lottery Upon Payment. The state of Idaho, its agents, officers, employees and representatives, the Lottery, its Director, agents, officers, employees and representatives shall be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes will be final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

16. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

PUBLIC HEARING

Wednesday, September 5, 2018 - 3:00 p.m. (MDT)

**Department of Environmental Quality
1410 N. Hilton Street
Conference Rooms C
Boise, Idaho 83706**

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the meeting date. For arrangements, contact the undersigned.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking to update and clarify certain air quality permitting sections. The proposed revisions include minor rule clarifications for sources seeking air quality permits or exemptions from permitting. The revisions also include resolving inconsistencies in rule language, removing outdated references, adding provisions for renewing operating permits, and correcting typographical errors.

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

After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2018 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2019 legislative session if adopted by the Board and approved by the Legislature. DEQ will submit the final rule to EPA.

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

NEGOTIATED RULEMAKING: The text of the proposed rule was drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the April 2018 issue of the Idaho Administrative Bulletin, and a preliminary draft rule was made available for public review. Meetings were held on May 1 and June 12, 2018. Key information was posted on the DEQ rulemaking web page and distributed to the public. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at www.deq.idaho.gov/58-0101-1801.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Carl Brown at carl.brown@deq.idaho.gov or (208) 373-0206.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 5, 2018.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1801
(Only Those Sections With Amendments Are Shown.)

006. GENERAL DEFINITIONS.

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (4-5-00)

02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)

03. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: (4-5-00)

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (4-5-00)

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (4-5-00)

c. For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions shall equal the potential to emit of

the unit on that date. (4-5-00)

d. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. (4-5-00)

04. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I Area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (3-30-07)

a. Times of visitor use of the Federal Class I Area; and (3-30-07)

b. The frequency and timing of natural conditions that reduce visibility. (3-30-07)

c. This term does not include affects on integral vistas when applied to 40 CFR 51.307. (3-30-07)

05. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof. (4-5-00)

06. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (4-5-00)

07. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)

08. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)

09. Allowable Emissions. The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (4-5-00)

a. The applicable standards set forth in 40 CFR part 60 and 61; (4-5-00)

b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (4-5-00)

c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (4-5-00)

10. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)

11. Ambient Air Quality Violation. Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (4-11-06)

12. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (4-11-06)

13. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. (4-11-06)

14. BART-Eligible Source. Any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit two hundred fifty (250) tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. (3-30-07)

- a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- b. Coal cleaning plants (thermal dryers); (3-30-07)
- c. Kraft pulp mills; (3-30-07)
- d. Portland cement plants; (3-30-07)
- e. Primary zinc smelters; (3-30-07)
- f. Iron and steel mill plants; (3-30-07)
- g. Primary aluminum ore reduction plants; (3-30-07)
- h. Primary copper smelters; (3-30-07)
- i. Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day; (3-30-07)
- j. Hydrofluoric, sulfuric, and nitric acid plants; (3-30-07)
- k. Petroleum refineries; (3-30-07)
- l. Lime plants; (3-30-07)
- m. Phosphate rock processing plants; (3-30-07)
- n. Coke oven batteries; (3-30-07)
- o. Sulfur recovery plants; (3-30-07)
- p. Carbon black plants (furnace process); (3-30-07)
- q. Primary lead smelters; (3-30-07)
- r. Fuel conversion plants; (3-30-07)
- s. Sintering plants; (3-30-07)
- t. Secondary metal production facilities; (3-30-07)
- u. Chemical process plants; (3-30-07)
- v. Fossil-fuel boilers of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)

- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (3-30-07)
- x. Taconite ore processing facilities; (3-30-07)
- y. Glass fiber processing plants; and (3-30-07)
- z. Charcoal production facilities. (3-30-07)
15. **Baseline (Area, Concentration, Date).** See Section 579. (5-1-94)
16. **Best Available Retrofit Technology (BART).** Means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)
17. **Board.** Idaho Board of Environmental Quality. (5-1-94)
18. **Breakdown.** An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)
19. **BTU.** British thermal unit. (5-1-94)
20. **Clean Air Act.** The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)
21. **Collection Efficiency.** The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
22. **Commence Construction or Modification.** In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (4-5-00)
23. **Complete.** A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)
24. **Construction.** Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)
25. **Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)
26. **Controlled Emission.** An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)
27. **Criteria Air Pollutant.** Any of the following: PM₁₀; PM_{2.5}; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-11-15)
28. **Deciview.** A measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction

coefficient must be calculated from aerosol measurements): Deciview Haze Index = $10 \ln_e (b_{\text{ext}} / 10 \text{Mm}^{-1})$ where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}). (3-30-07)

- 29. Department.** The Department of Environmental Quality. (5-1-94)
- 30. Designated Facility.** Any of the following facilities: (5-1-94)
- a.** Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
 - b.** Coal cleaning plants (thermal dryers); (5-1-94)
 - c.** Kraft pulp mills; (5-1-94)
 - d.** Portland cement plants; (5-1-94)
 - e.** Primary zinc smelters; (5-1-94)
 - f.** Iron and steel mill plants; (5-1-94)
 - g.** Primary aluminum ore reduction plants; (5-1-94)
 - h.** Primary copper smelters; (5-1-94)
 - i.** Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
 - j.** Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
 - k.** Petroleum refineries; (5-1-94)
 - l.** Lime plants; (5-1-94)
 - m.** Phosphate rock processing plants; (5-1-94)
 - n.** Coke oven batteries; (5-1-94)
 - o.** Sulfur recovery plants; (5-1-94)
 - p.** Carbon black plants (furnace process); (5-1-94)
 - q.** Primary lead smelters; (5-1-94)
 - r.** Fuel conversion plants; (5-1-94)
 - s.** Sintering plants; (5-1-94)
 - t.** Secondary metal production facilities; (5-1-94)
 - u.** Chemical process plants; (5-1-94)
 - v.** Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
 - w.** Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)

- x. Taconite ore processing facilities; (5-1-94)
- y. Glass fiber processing plants; and (5-1-94)
- z. Charcoal production facilities. (5-1-94)
- 31. Director.** The Director of the Department of Environmental Quality or his designee. (5-1-94)
- 32. Effective Dose Equivalent.** The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
- 33. Emission.** Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)
- 34. Emission Standard.** A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (4-5-00)
- 35. Emissions Unit.** An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term “unit” for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)
- 36. EPA.** The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)
- 37. Environmental Remediation Source.** A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)
- 38. Excess Emissions.** Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. (4-11-06)
- 39. Existing Stationary Source or Facility.** Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)
- 40. Facility.** All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)
- 41. Federal Class I Area.** Any federal land that is classified or reclassified “Class I.” (3-30-07)
- 42. Federal Land Manager.** The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). (3-30-07)
- 43. Federally Enforceable.** All limitations and conditions which are enforceable by EPA and the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to

40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60, or 63. (3-30-07)

44. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

45. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

46. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

47. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

48. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

49. Gasoline. Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. Gasoline also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels. (3-29-10)

50. Gasoline Cargo Tank. Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. (3-29-10)

51. Gasoline Dispensing Facility (GDF). Any facility with underground gasoline storage tanks used for dispensing gasoline. (3-29-10)

52. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

53. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)

54. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

55. Hazardous Air Pollutant (HAP). Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. (4-11-06)

56. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

- 57. Hot-Mix Asphalt Plant.** Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)
- 58. Incinerator.** Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)
- 59. Indian Governing Body.** The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)
- 60. Integral Vista.** A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. (3-30-07)
- 61. Kraft Pulping.** Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)
- 62. Least Impaired Days.** The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the lowest amount of visibility impairment. (3-30-07)
- 63. Lowest Achievable Emission Rate (LAER).** For any source, the more stringent rate of emissions based on the following: (4-5-00)
- a.** The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or (4-5-00)
 - b.** The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. (4-5-00)
- 64. Mandatory Class I Federal Area.** Any area identified in 40 CFR 81.400 through 81.437. (3-30-07)
- 65. Member of the Public.** For purposes of Subsection 006.108.a.xvi., a person located at any off-site point where there is a residence, school, business or office. (3-30-07)
- 66. Mercury.** Total mercury including elemental mercury and mercury compounds. (4-7-11)
- 67. Mercury Best Available Control Technology (MBACT).** An emission standard for mercury based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis taking into account energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT shall be valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review shall not be triggered as long as the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification shall be subject to a new MBACT review. (4-7-11)
- 68. Modification.** (4-11-06)
- a.** Any physical change in, or change in the method of operation of, a stationary source or facility which results in an emission increase as defined in Section 007 or which results in the emission of any regulated air

pollutant not previously emitted. (4-11-06)

b. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. (4-11-06)

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. (4-11-06)

d. For purposes of this definition of modification, routine maintenance, repair and replacement shall not be considered physical changes and the following shall not be considered a change in the method of operation: (3-30-07)

i. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

iii. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material before January 6, 1975 and use of such fuel or raw material is not specifically prohibited in a permit. (4-4-13)

69. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

70. Most Impaired Days. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the highest amount of visibility impairment. (3-30-07)

71. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

72. Natural Conditions. Includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration. (3-30-07)

73. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

- 74. Nonattainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)
- 75. Noncondensibles.** Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)
- 76. Odor.** The sensation resulting from stimulation of the human sense of smell. (5-1-94)
- 77. Opacity.** A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)
- 78. Open Burning.** The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)
- 79. Operating Permit.** A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)
- 80. Particulate Matter.** Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)
- 81. Particulate Matter Emissions.** All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. (4-5-00)
- 82. Permit to Construct.** A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)
- 83. Person.** Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)
- 84. PM₁₀.** All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)
- 85. PM₁₀ Emissions.** All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-5-00)
- 86. PM_{2.5}.** All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers measured by a reference method based on Appendix L of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (4-11-15)
- 87. PM_{2.5} Emissions.** All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-11-15)
- 88. Potential to Emit/Potential Emissions.** The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a facility or stationary source. (3-30-07)
- 89. Portable Equipment.** Equipment which is designed to be dismantled and transported from one (1)

- job site to another job site. (5-1-94)
- 90. PPM (parts per million).** Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)
- 91. Prescribed Fire Management Burning.** The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)
- a.** Fire hazard reduction; (5-1-94)
 - b.** The control of pests, insects, or diseases; (5-1-94)
 - c.** The promotion of range forage improvements; (5-1-94)
 - d.** The perpetuation of natural ecosystems; (5-1-94)
 - e.** The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
 - f.** The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
 - g.** Other accepted natural resource management purposes. (5-1-94)
- 92. Primary Ambient Air Quality Standard.** That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)
- 93. Process or Process Equipment.** Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)
- 94. Process Weight.** The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)
- 95. Process Weight Rate.** The rate established as follows: (5-1-94)
- a.** For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)
 - b.** For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)
- 96. Quantifiable.** The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)
- 97. Radionuclide.** A type of atom which spontaneously undergoes radioactive decay. (5-1-94)
- 98. Regional Haze.** Visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor

stationary sources, mobile sources, and area sources. (3-30-07)

99. Regulated Air Pollutant. (4-11-06)

a. For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., “regulated air pollutant” shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; (4-11-06)

b. For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of “regulated air pollutant” as defined in Subsection 006.99.a. shall also apply; (3-30-07)

c. For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., “regulated air pollutant” shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and (4-11-06)

d. For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, “regulated air pollutant” shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq. (4-11-06)

100. Replicable. Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)

101. Responsible Official. One (1) of the following: (5-1-94)

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or (4-5-00)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)

d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

- ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)
- 102. Safety Measure.** Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)
- 103. Salvage Operation.** Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)
- 104. Scheduled Maintenance.** Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)
- 105. Secondary Ambient Air Quality Standard.** That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)
- 106. Secondary Emissions.** Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (3-30-07)
- 107. Shutdown.** The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)
- 108. Significant.** In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: (4-11-06)
 - a. Pollutant and emissions rate: (4-11-06)
 - i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)
 - ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)
 - iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)
 - iv. Particulate matter: (4-4-13)
 - (1) Twenty-five (25) tons per year of particulate matter emissions; (4-4-13)
 - (2) Fifteen (15) tons per year of PM₁₀ emissions; or (4-4-13)
 - (3) Ten (10) tons per year of direct PM_{2.5} emissions; or forty (40) tons per year of sulfur dioxide emissions; or forty (40) tons per year of nitrogen oxide emissions; (4-4-13)
 - v. Ozone, forty (40) tons per year of volatile organic compounds; (4-11-06)
 - vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
 - vii. Fluorides, three (3) tons per year; (5-1-94)

- viii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
- ix. Hydrogen sulfide (H₂S), ten (10) tons per year; (5-1-94)
- x. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)
- xi. Reduced sulfur compounds (including H₂S), ten (10) tons per year; (5-1-94)
- xii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)
- xiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)
- xiv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; ~~or~~ (5-1-94) ()
- xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; ~~or~~ (4-11-06) ()
- ~~xvi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)~~

b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.108.a. above and not a toxic air pollutant, any emission rate; or (3-30-07)

c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)

109. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)

- a.** Sulfur dioxide: (5-1-94)
 - i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
 - ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)
 - iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)
- b.** Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)
- c.** Carbon monoxide: (5-1-94)
 - i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)
 - ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)
- d.** PM₁₀: (5-1-94)
 - i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

- ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average; (4-4-13)
- e. PM_{2.5}: (4-4-13)
 - i. Three-tenths (0.3) microgram per cubic meter, annual average; (4-4-13)
 - ii. One point two (1.2) micrograms per cubic meter, twenty-four (24) hour average. (4-4-13)
- 110. Small Fire.** A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)
- 111. Smoke.** Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)
- 112. Smoke Management Plan.** A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)
- 113. Smoke Management Program.** A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)
- 114. Source.** A stationary source. (5-1-94)
- 115. Source Operation.** The last operation preceding the emission of air pollutants, when this operation:
 - a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)
 - b. Is not an air cleaning device. (5-1-94)
- 116. Special Fuels.** All fuel suitable as fuel for diesel engines; a compressed or liquefied gas obtained as a by-product in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles. (3-29-10)
- 117. Stack.** Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)
- 118. Stage 1 Vapor Collection.** Used during the refueling of underground gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the gasoline cargo tank and returned to the terminal for processing. Two (2) types of Stage 1 systems exist: coaxial and dual point. (3-29-10)
 - a. Coaxial System. A Stage 1 vapor collection system that requires only one (1) tank opening. The tank opening is usually four (4) inches in diameter with a three (3) inch diameter product fill tube inserted into the opening. Fuel flows through the inner tube while vapors are displaced through the annular space between the inner and outer tubes. (3-29-10)
 - b. Dual Point System. A Stage 1 vapor collection system that consists of two (2) separate tank openings, one (1) for delivery of the product and the other for the recovery of vapors. (3-29-10)
- 119. Standard Conditions.** Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)

120. Startup. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

121. Stationary Source. Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)

122. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; (4-11-06)

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (4-11-06)

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

123. Total Suspended Particulates. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

124. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

125. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m³) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

126. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

127. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

128. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

129. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

130. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

131. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

132. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

133. Visibility Impairment. Any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions. (3-30-97)

134. Visibility in Any Mandatory Class I Federal Area. Includes any integral vista associated with that area. (3-30-07)

135. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

136. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

210. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE WITH TOXIC STANDARDS.

In accordance with Subsection 203.03, the applicant shall demonstrate preconstruction compliance with Section 161 to the satisfaction of the Department. The accuracy, completeness, execution and results of the demonstration are all subject to review and approval by the Department. (6-30-95)

01. Identification of Toxic Air Pollutants. The applicant may use process knowledge, raw materials inputs, EPA and Department references and commonly available references approved by EPA or the Department to identify the toxic air pollutants emitted by the stationary source or modification. (6-30-95)

02. Quantification of Emission Rates. (6-30-95)

a. The applicant may use standard scientific and engineering principles and practices to estimate the emission rate of any toxic air pollutant at the point(s) of emission. (6-30-95)

i. Screening engineering analyses use unrefined conservative data. (6-30-95)

ii. Refined engineering analyses utilize refined and less conservative data including, but not limited to, emission factors requiring detailed input and actual emissions testing at a comparable emissions unit using EPA or Department approved methods. (6-30-95)

b. The uncontrolled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design without the effect of any physical or operational limitations. (6-30-95)

i. Examples of physical and operational design include but are not limited to: the amount of time equipment operates during batch operations and the quantity of raw materials utilized in a batch process. (6-30-95)

ii. Examples of physical or operational limitations include but are not limited to: shortened hours of operation, use of control equipment, and restrictions on production which are less than design capacity. (6-30-95)

c. The controlled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of any physical or operational limitation that has been specifically described in a written and certified submission to the Department. (6-30-95)

d. The T-RACT emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of: (6-30-95)

i. Any physical or operational limitation other than control equipment that has been specifically

described in a written and certified submission to the Department; and (6-30-95)

ii. An emission standard that is T-RACT. (6-30-95)

03. Quantification of Ambient Concentrations. (6-30-95)

a. The applicant may use the modeling methods provided in Subsection 202.02 to estimate the ambient concentrations at specified receptor sites for any toxic air pollutant emitted from the point(s) of emission. (6-30-95)

i. For screening modeling, the models use arbitrary meteorological data and predict maximum one (1) hour concentrations for all specified receptor sites. For toxic air pollutants listed in Section 586, multiply the maximum hourly concentration output from the model by a persistence factor of one hundred twenty five one-thousandths (0.125) to convert the hourly average to an annual average. For toxic air pollutants listed in Section 585, multiply the maximum hourly concentration output from the model by a persistence factor of four tenths (0.4) to convert the hourly concentration to a twenty-four (24) hour average. (6-30-95)

ii. For refined modeling, the models use site specific information. If actual meteorological data is used and the model predicts annual averages for toxic air pollutants listed in Section 586 and twenty-four (24) hour averages for toxic air pollutants listed in Section 585, persistence factors need not be used. (6-30-95)

b. The point of compliance is the receptor site that is estimated to have the highest ambient concentration of the toxic air pollutant of all the receptor sites that are located either at or beyond the facility property boundary or at a point of public access; provided that, if the toxic air pollutant is listed in Section 586, the receptor site is not considered to be at a point of public access if the receptor site is located on or within a road, highway or other transportation corridor transecting the facility. (6-30-95)

c. The uncontrolled ambient concentration of the source or modification is estimated by modeling the uncontrolled emission rate. (6-30-95)

d. The controlled ambient concentration of the source or modification is estimated by modeling the controlled emission rate. (6-30-95)

e. The approved net ambient concentration from a modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources at the facility contributing an approved creditable decrease at the receptor site from the estimated ambient concentration from the modification at the receptor. (6-30-95)

f. The approved offset ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources contributing an approved offset at the receptor from the estimated ambient concentration for the source or modification at the receptor. (6-30-95)

g. The T-RACT ambient concentration of the source or modification is estimated by using refined modeling and the T-RACT emission rate. (6-30-95)

h. The approved interpollutant ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated as follows: (6-30-95)

i. Step 1: Calculate the estimated decrease in ambient concentrations for each toxic air pollutant from each source contributing an approved interpollutant trade at the receptor by multiplying the approved interpollutant ratio by the overall decrease in the ambient concentration of the toxic air pollutant at the receptor site. (6-30-95)

ii. Step 2: Calculate the total estimated decrease at the receptor by summing all of the individual estimated decreases calculated in Subsection 210.03.h.i. for that receptor. (6-30-95)

iii. Step 3: Calculate the approved interpollutant ambient concentration by subtracting the total

estimated decrease at the receptor from the estimated ambient concentration for the source or modification at the receptor. (6-30-95)

04. Preconstruction Compliance Demonstration. The applicant may use any of the Department approved standard methods described in Subsections 210.05 through 210.08, and may use any applicable specialized method described in Subsections 210.09 through 210.12 to demonstrate preconstruction compliance for each identified toxic air pollutant. (6-30-95)

05. Uncontrolled Emissions. (6-30-95)

a. Compare the source's or modification's uncontrolled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's uncontrolled emission rate is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

06. Uncontrolled Ambient Concentration. (6-30-95)

a. Compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

07. Controlled Emissions ~~and Uncontrolled Ambient Concentration.~~ (6-30-95)()

a. Compare the source's or modification's controlled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586 ~~and compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586.~~ (6-30-95)()

b. If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level ~~and if the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration,~~ no further procedures for demonstrating preconstruction compliance ~~will be~~ **is** required for that toxic air pollutant as part of the application process. (6-30-95)()

08. Controlled Ambient Concentration. (6-30-95)

a. Compare the source's or modification's controlled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's controlled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

c. The Department shall include an emission limit for the toxic air pollutant in the permit to construct that is equal to or, if requested by the applicant, less than the emission rate that was used in the modeling. (6-30-95)

09. Net Emissions. (6-30-95)

a. As provided in Section 007 (definition of net emissions increase) and Sections 460 and 461, the owner or operator may net emissions to demonstrate preconstruction compliance. (4-5-00)

b. Compare the modification's approved net emissions increase (expressed as an emission rate) for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (6-30-95)

c. If the modification's approved net emissions increase is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

10. Net Ambient Concentration. (6-30-95)

a. As provided in Section 007 (definition of net emission increase) and Sections 460 and 461, the owner or operator may net ambient concentrations to demonstrate preconstruction compliance. (4-5-00)

b. Compare the modification's approved net ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the modification's approved net ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

11. Toxic Air Pollutant Offset Ambient Concentration. (6-30-95)

a. As provided in Sections 206 and 460, the owner or operator may use offsets to demonstrate preconstruction compliance. (6-30-95)

b. Compare the source's or modification's approved offset ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the source's or modification's approved offset ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

12. T-RACT Ambient Concentration for Carcinogens. (6-30-95)

a. As provided in Subsections 210.12 and 210.13, the owner or operator may use T-RACT to demonstrate preconstruction compliance for toxic air pollutants listed in Section 586. (6-30-95)

i. This method may be used in conjunction with netting (Subsection 210.09), and offsets (Subsection 210.11). (6-30-95)

ii. This method is not to be used to demonstrate preconstruction compliance for toxic air pollutants listed in Section 585. (6-30-95)

b. Compare the source's or modification's approved T-RACT ambient concentration at the point of compliance for the toxic air pollutant to the amount of the toxic air pollutant that would contribute an ambient air

cancer risk probability of less than one to one hundred thousand (1:100,000) (which amount is equivalent to ten (10) times the applicable acceptable ambient concentration listed in Section 586). (6-30-95)

c. If the source's or modification's approved T-RACT ambient concentration at the point of compliance is less than or equal to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000), no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

13. T-RACT Determination Processing. (6-30-95)

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.12 may be applicable to the source or modification. (6-30-95)

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.12 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. (6-30-95)

14. T-RACT Determination. T-RACT shall be determined on a case-by-case basis by the Department as follows: (6-30-95)

a. The applicant shall submit information to the Department identifying and documenting which control technologies or other requirements the applicant believes to be T-RACT. (5-1-94)

b. The Department shall review the information submitted by the applicant and determine whether the applicant has proposed T-RACT. (5-1-94)

c. The technological feasibility of a control technology or other requirements for a particular source shall be determined considering several factors including, but not limited to: (5-1-94)

i. Process and operating procedures, raw materials and physical plant layout. (5-1-94)

ii. The environmental impacts caused by the control technology that cannot be mitigated, including, but not limited to, water pollution and the production of solid wastes. (5-1-94)

iii. The energy requirements of the control technology. (5-1-94)

d. The economic feasibility of a control technology or other requirement, including the costs of necessary mitigation measures, for a particular source shall be determined considering several factors including, but not limited to: (5-1-94)

i. Capital costs. (5-1-94)

ii. Cost effectiveness, which is the annualized cost of the control technology divided by the amount of emission reduction. (5-1-94)

iii. The difference in costs between the particular source and other similar sources, if any, that have implemented emissions reductions. (5-1-94)

e. If the Department determines that the applicant has proposed T-RACT, the Department shall determine which of the options, or combination of options, will result in the lowest emission of toxic air pollutants,

develop the emission standards constituting T-RACT and incorporate the emission standards into the permit to construct. (5-1-94)

f. If the Department determines that the applicant has not proposed T-RACT, the Department shall disapprove the submittal. If the submittal is disapproved, the applicant may supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210. If the applicant does not supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210, the Department shall deny the permit. (6-30-95)

15. Short Term Source Factor. For short term sources, the applicant may utilize a short term adjustment factor of ten (10). For a carcinogen, multiply either the applicable acceptable ambient concentration (AACC) or the screening emission rate, but not both, by ten (10), to demonstrate preconstruction compliance. This method may be used for TAPs listed in Section 586 only and may be utilized in conjunction with standard methods for quantification of emission rates (Subsections 210.05 through 210.08). (4-5-00)

16. Environmental Remediation Source. (6-30-95)

a. For Remediation sources subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, if the estimated ambient concentration at the point of impact is greater than the acceptable ambient impacts listed in Sections 585 and 586, Best Available Control Technology shall be applied and operated until the estimated uncontrolled emissions from the remediation source are below the acceptable ambient concentration. (6-30-95)

b. For Remediation sources not subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, shall, for the purposes of these rules, be considered the same as any other new or modified source of toxic air pollution. (6-30-95)

c. For an environmental remediation source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, the Department may waive the requirements of Section 513 of these rules. (3-15-02)

17. Interpollutant Trading Ambient Concentration. (6-30-95)

a. As provided in Subsections 209.01.c., 210.17 through 210.19, the owner or operator may use interpollutant trading to demonstrate preconstruction compliance. This method may be used in conjunction with netting (Subsection 210.10), and offsets (Subsection 210.11) (6-30-95)

b. Compare the source's or modification's approved interpollutant ambient concentration at the point of compliance for the toxic air pollutant emitted by the source or modification to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the source's or modification's approved interpollutant ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration listed in Sections 585 or 586, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits for all of the toxic air pollutants involved in the trade in the permit to construct. The Department shall also include other permit terms in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

18. Interpollutant Trading Determination Processing. (6-30-95)

a. The applicant may submit all information necessary to the demonstration at the time the applicant

submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.17 may be applicable to the source or modification. (6-30-95)

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.17 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. (6-30-95)

19. Interpollutant Determination. (6-30-95)

a. The applicant may request an interpollutant trade if the Department determines that: (6-30-95)

i. The facility complies with an emission standard at least as stringent as best available control technology (BACT); and (6-30-95)

ii. The owner or operator has instituted all known and available methods of pollution prevention at the facility to reduce, avoid or eliminate toxic air pollution prior to its generation including, but not limited to, recycling, chemical substitution, and process modification provided that such pollution prevention methods are compatible with each other and the product or service being produced; and (6-30-95)

iii. The owner or operator has taken all available offsets; and (6-30-95)

iv. The owner or operator has identified all geographical areas and populations that may be impacted by the proposed interpollutant trade. (6-30-95)

b. Interpollutant trades shall be approved or denied on a case-by-case basis by the Department. Denials shall be within the discretion of the Department. Approvals shall be granted only if: (6-30-95)

i. The Department of Health and Welfare's Division of Health approves the interpollutant trade; and (6-30-95)

ii. The Department of Environmental Quality determines that the interpollutant trade will result in a overall benefit to the environment; and (6-30-95)

iii. An EPA approved database or other EPA approved reference provides relative potency factors, or comparable factors, or other data that is sufficient to allow for adequate review and approval of the proposed trade by the Department and the Department of Health and Welfare's Division of Health is submitted for all of the toxic air pollutants being traded; and (6-30-95)

iv. The reductions occur at the same facility where the proposed source or modification will be constructed; and (6-30-95)

v. The interpollutant trade will not cause an increase in sum of the ambient concentrations of the carcinogenic toxic air pollutants involved in the particular interpollutant trade at any receptor site; and (6-30-95)

vi. The total cancer risk with the interpollutant trade will be less than the total cancer risk without the interpollutant trade; and (6-30-95)

vii. The total non-cancer health risk with the interpollutant trade will be less than the total non-cancer health risk without the interpollutant trade. (6-30-95)

20. NSPS and NESHAP Sources. No demonstration of compliance with the toxic air pollutant provisions is required to obtain a permit to construct or to demonstrate permit to construct exemption criteria for a new source or for modification of an existing source if the toxic air pollutant is also a listed hazardous air pollutant from: (6-30-95)()

a. *If the owner or operator demonstrates that the toxic air pollutant from the source or modification is regulated by the Department at the time of permit issuance under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, no further procedures for demonstrating preconstruction compliance will be required under Section 210 for that toxic air pollutant as part of the application process. The equipment or activity covered by a NSPS or NESHAP; or (6-30-95)()*

b. *If the owner or operator demonstrates that the toxic air pollutant from the source or modification is regulated by the EPA at the time of permit issuance under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 and the permit to construct issued by the Department contains adequate provisions implementing the federal standard, no further procedures for demonstrating preconstruction compliance will be required under Section 210 for that toxic air pollutant as part of the application process. The source category of equipment or activity addressed by a NSPS or NESHAP even if the equipment or activity is not subject to compliance requirements under the federal rule. (6-30-95)()*

21. **Permit Compliance Demonstration.** Additional procedures and requirements to demonstrate and ensure actual and continuing compliance may be required by the Department in the permit to construct. (5-1-94)

22. **Interpretation and Implementation of Other Sections.** Except as specifically provided in other sections of these rules, the provisions of Section 210 are not to be utilized in the interpretation or implementation of any other section of these rules. (6-30-95)

(BREAK IN CONTINUITY OF SECTIONS)

221. CATEGORY I EXEMPTION.

No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following: (4-5-00)

01. **Below Regulatory Concern.** The maximum capacity of a source to emit an air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed shall be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. (4-5-00)

02. **Radionuclides.** The source ~~shall have potential emissions that are less than one percent (1%) of is~~ not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)()

03. **Toxic Air Pollutants.** The source shall comply with Section 223. (4-5-00)

04. **Mercury.** The source shall have potential emissions that are less than twenty-five (25) pounds per year of mercury. Fugitive emissions shall not be included in the calculation of potential mercury emissions. (4-7-11)

222. CATEGORY II EXEMPTION.

No permit to construct is required for the following sources. (4-5-00)

01. **Exempt Source.** A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: (5-1-94)

i. Comply with Section 223. (4-5-00)

ii. ~~Have potential emissions that are less than one percent (1%) of~~ Not be required to obtain approval

to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ~~(4-5-00)~~()

b. Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than five hundred (500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. (4-11-06)

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream and which satisfies the following: (4-4-13)

i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)

ii. The source *shall have uncontrolled potential emissions that are less than one percent (1%) of is not required to obtain approval to construct in accordance with* the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ~~(4-5-00)~~()

iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquefied petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. (4-11-06)

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)

- e. Mobile internal combustion engines, marine installations and locomotives. (5-1-94)
- f. Agricultural activities and services. (5-1-94)
- g. Retail gasoline, natural gas, propane gas, liquefied petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)
- h. Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)
 - i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, “Rules and Standards for Hazardous Waste”; (7-1-97)
 - (1) For the purposes of Subsection 222.02.h., “used oil” refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)
 - (2) For the purposes of Subsection 222.02.h., “used oil fired space heater” refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)
 - ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)
 - iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)
 - iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)
 - v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)
- i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. (4-11-06)
- j. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at the DEQ website at <http://www.deq.idaho.gov>, to help assist sources in this exemption determination. (4-11-06)
- k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. (4-11-06)

223. EXEMPTION CRITERIA AND REPORTING REQUIREMENTS FOR TOXIC AIR POLLUTANT EMISSIONS.

No permit to construct for toxic air pollutants is required for a source that satisfies any of the exemption criteria below, the recordkeeping requirements at Subsection 220.02, and reporting requirements as follows: (4-5-00)

- 01. Below Regulatory Concern (BRC) Exemption.** The source qualifies for a BRC exemption if the

uncontrolled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)

02. Level I Exemption. To obtain a Level I exemption, the source shall satisfy the following criteria: (4-5-00)

a. The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or (4-5-00)

b. The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. (4-5-00)

03. Level II Exemption. To obtain a Level II exemption, ~~the source shall satisfy the following criteria:~~ (4-5-00)

~~**a.** The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and (4-5-00)~~

~~**b.** If the owner or operator installs and operates control equipment that is not otherwise required to qualify for an exemption and the controlled emission rate (refer to Section 210) of the source for all toxic air pollutants the maximum capacity of a source to emit a toxic air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed at the point of compliance is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)()~~

~~**04. Level III Exemption.** To obtain a Level III exemption, the source shall satisfy the following criteria: (4-5-00)~~

~~**a.** The uncontrolled ambient concentration at the point of compliance (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586; and (4-5-00)~~

~~**b.** The controlled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)~~

~~**05. Annual Report for Toxic Air Pollutant Exemption.** Commencing on May 1, 1996, and annually thereafter, ~~t~~The owner or operator of a source claiming a Level I, II, or III exemption shall submit a certified report, on or before May 1 for the previous calendar year, to the Department for each Level I, or II, ~~or III~~ exemption determination. The owner or operator is not required to annually submit a certified report for a Level I, or II, ~~or III~~ exemption determination previously claimed and reported. The report shall be labeled "Toxic Air Pollutant Exemption Report" and shall state the date construction has or will commence and shall include copies of all exemption determinations completed by the owner or operator for each Level I, and II, ~~and III~~ exemption. (4-4-13)()~~

(BREAK IN CONTINUITY OF SECTIONS)

404. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for Tier II operating permits. (5-1-94)

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify

the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. (5-1-94)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. (4-5-00)

02. Specific Procedures. Procedures for Tier II operating permits required by the Department under Subsection 401.03. (5-1-94)

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (5-1-94)

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. (5-1-94)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing.

(5-1-94)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof.

(5-1-94)

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit.

(5-1-94)

03. Availability of Fluid Models and Field Studies. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon.

(5-1-94)

04. Permit Revision or Renewal. The Director may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the Tier II operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration.

(7-1-02)()

05. Transfer of Tier II Permit.

(4-11-06)

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.04.

(4-11-06)

b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if:

(4-11-06)

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date;

(4-11-06)

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and

(4-11-06)

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii.

(4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages.

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
75-07-0	Acetaldehyde	2.2E-06	3.0E-03	4.5E-01
79-06-1	Acrylamide	1.3E-03	5.1E-06	7.7E-04
107-13-1	Acrylonitrile	6.8E-05	9.8E-05	1.5E-02
309-00-2	Aldrin	4.9E-03	1.3E-06	2.0E-04
62-53-3	Aniline	7.4E-06	9.0E-04	1.4E-01
140-57-8	Aramite	7.1E-06	9.3E-04	1.4E-01
NA	Aroclor, all (PCB) (ID)	---	6.6E-05	1.0E-02
7440-38-2	Arsenic compounds	4.3E-03	1.5E-06	2.3E-04
1332-21-4	Asbestos (Fibers /M.L.)	2.3E-01	N/A	4.0E-06
71-43-2	Benzene	8.3E-06	8.0E-04	1.2E-01
92-87-5	Benzidine	6.7E-02	9.9E-08	1.5E-05
50-32-8	Benzo(a)pyrene	3.3E-03	2.0E-06	3.0E-04
7440-41-7	Beryllium & compounds	2.4E-04	2.8E-05	4.2E-03
106-99-0	1,3-Butadiene	2.8E-04	2.4E-05	3.6E-03
111-44-4	Bis (2-chloroethyl) ether	3.3E-04	2.0E-05	3.0E-03
542-88-1	Bis (chloromethyl) ether	6.2E-02	1.0E-07	1.6E-05
108-60-1	Bis (2-chloro-1-methyl- ethyl) ether	2.0E-05	3.3E-04	5.0E-02
117-81-7	Bis (2-ethylhexyl) phthalate	2.4E-07	2.8E-02	4.2E+00
7440-43-9	Cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
56-23-5	Carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
57-74-9	Chlordane	3.7E-04	1.8E-04	2.7E-03
67-66-3	Chloroform	2.3E-05	2.8E-04	4.3E-02
18540-29-9	Chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
NA	Coal Tar Volitiles as benzene			
NA	Coke oven emissions	6.2E-04	1.1E-05	1.6E-03
8001-58-9	Creosote (ID) See coal tar volatiles as benzene extractables			
50-29-3	DDT (Dichlorodi phenyltrichloroethane)	9.7E-05	6.8E-05	1.0E-02
96-12-8	1,2-Dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
75-34-3	1,1 dichloroethane	2.6E-05	2.5E-04	3.8E-02
107-06-2	1,2 dichloroethane	2.6E-05	2.5E-04	3.8E-02

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
75-35-4	1,1 dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-09-2	Dichloromethane (Methylenechloride)	4.1E-06	1.6E-03	2.4E-01
542-75-6	1,3 dichloropropene	34.50E-016	1.97E-073	2.95E-061
764-41-0	1,4-Dichloro-2-butene	2.6E-03	2.5E-06	3.8E-04
60-57-1	Dieldrin	4.6E-03	1.4E-06	2.1E-04
56-53-1	Diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
123-91-1	1,4 dioxane	1.4E-06	4.8E-03	7.1E-01
	Dioxin and Furans (2,3,7,8,TCDD & mixtures) Dioxin and Furan emissions shall be considered as one TAP and expressed as an equivalent emission of 2,3,7,8, TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. U.S. EPA (Environmental Protection Agency), (2010) Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005.			
122-66-7	1,2-Diphenylhydrazine	2.2E-04	3.0E-05	4.5E-03
106-89-8	Epichlorohydrin	1.2E-06	5.6E-03	8.3E-01
106-93-4	Ethylene dibromide	2.2E-04	3.0E-05	4.5E-03
75-21-8	Ethylene oxide	1.0E-04	6.7E-05	1.0E-02
50-00-0	Formaldehyde	1.3E-05	5.1E-04	7.7E-02
76-44-8	Heptachlor	1.3E-03	5.1E-06	7.7E-04
1024-57-3	Heptachlor Epoxide	2.6E-03	2.5E-06	3.5E-04
118-74-1	Hexachlorobenzene	4.9E-04	1.3E-05	2.0E-03
87-68-3	Hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
	Hexachlorocyclo-hexane, Technical	5.1E-04	1.3E-05	1.9E-03
319-84-6	Hexachlorocyclohexane (Lindane) Alpha (BHC)	1.8E-03	3.7E-06	5.6E-04
319-85-7	Hexachlorocyclohexane (Lindane) Beta (BHC)	5.3E-04	1.3E-05	1.8E-03
58-89-9	Hexachlorocyclohexane (Lindane) Gamma (BHC)	3.8E-04	1.7E-05	2.6E-03
67-72-1	Hexachloroethane	4.0E-06	1.7E-03	2.5E-01
3042 -01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
10034-93-2	Hydrazine Sulfate	2.9E-03	2.2E-06	3.5E-04
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
75-09-2	Methylene Chloride	4.1E-06	1.6E-03	2.4E-01
74-87-3	Methyl chloride	3.6E-06	1.9E-03	2.8E-01
101-14-4	4,4-Methylene bis(2-Chloroaniline)	4.7E-05	1.4E-04	2.1E-02
60-34-4	Methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
7440-02-0	Nickel	2.4E-04	2.7E-05	4.2E-03

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
12035-72-2	Nickel Subsulfide	4.8E-04	1.4E-05	2.1E-02
7440-02-0	Nickel Refinery Dust	2.4E-04	2.8E-05	4.2E-02
79-46-9	2-Nitropropane	2.7E-02	2.5E-07	3.7E-05
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	4.3E-02	1.5E-07	2.3E-05
62-75-9	N-Nitrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
924-16-3	N-Nitrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
930-55-2	N-Nitrosopyrrolidine	6.1E-04	1.1E-05	1.6E-03
684-93-5	N-Nitroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
82-68-8	Pentachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
127-18-4	Perchloroethylene (see tetrachloroethylene)			
NA	Polycyclic Aromatic Hydrocarbons (except 7-PAH group)	7.3E-05	9.1E-05	1.4E-02
	(Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH group, the following PAHs shall be considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indeno(1,2,3-cd)pyrene, benzo(a)pyrene. (WA)			
23950-58-5	Promanide	4.6E-06	1.5E-03	2.2E-01
50-55-5	Reserpine	3.0E-03	2.2E-06	3.3E-04
1746-01-6	2,3,7,8,-Tetrachlorodibenzo-p-dioxin (2,3,7,8, -TCDD)	4.5.E+01	1.5E-10	2.2E-08
NA	Soots and Tars (ID) See coal tar volatiles as benzene extractables.			
79-34-5	1,1,2,2,Tetrachloro-ethane	5.8E-05	1.1E-05	1.7E-02
127-18-4	Tetrachloroethylene	4.8E-07	1.3E-02	2.1E+00
79-00-5	1,1,2 - trichloroethane	1.6E-05	4.2E-04	6.2E-02
62-56-6	Thiourea	5.5E-04	1.2E-05	1.8E-03
8001-35-2	Toxaphene	3.2E-04	2.0E-05	3.0E-03
79-01-6	Trichloroethylene	1.3E-06	5.1E-04	7.7E-01
88-06-2	2,4,6 - Trichlorophenol	5.7E-06	1.2E-03	1.8E-01
75-01-4	Vinyl chloride	7.1E-06	9.4E-04	1.4E-01

(4-13)()

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1802

NOTICE OF TERMINATION OF NEGOTIATED RULEMAKING

Notice is hereby given that this agency has terminated the negotiated rulemaking previously initiated under this docket.

DESCRIPTIVE SUMMARY: DEQ published a Notice of Negotiated Rulemaking under Docket No. 58-0101-1802 in the Idaho Administrative Bulletin, May 2, 2018, **Vol. 18-5, pages 153 through 154**. Negotiated rulemaking meetings were held on May 22 and July 10, 2018. Provided below is a summary of the reason for terminating this negotiated rulemaking.

Upon further review, DEQ determined that advancing this rule would be premature. If a new PM2.5 nonattainment area is designated, then DEQ will conduct the analysis to determine if ammonia contributes significantly to the PM2.5 design value and, if so, what should be the associated significant emissions rate for ammonia.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this termination of negotiated rulemaking, contact the undersigned.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1803

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105, 39-107, and 39-114, Idaho Code.

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

PUBLIC HEARING
Wednesday, September 5, 2018 - 3:00 p.m. (MDT)
Department of Environmental Quality 1410 N. Hilton Street Conference Rooms C Boise, Idaho 83706

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the meeting date. For arrangements, contact the undersigned.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking at the recommendation of the Crop Residue Advisory Committee to allow farmers to pay the required fees after the burn instead of prior to the burn. This rulemaking also provides DEQ a more streamlined administrative process. The fee structure will not be changed. Due to the deployment timing of DEQ's software used to implement the crop residue burning program, it is necessary to adopt a temporary rule and implement this change prior to the 2019 spring burning season to avoid interruption of the burn season. This rulemaking will not change the timing of the fee payment for the spot and bale burn permit.

Before this rule docket can become effective, it will be necessary to revise Idaho Code § 39-114. Legislation was drafted in conjunction with the negotiated rulemaking. DEQ intends to submit the proposed legislation for consideration by the 2019 Idaho Legislature. The temporary rule would become effective on the date the companion legislation becomes law. The identical companion pending rule would become final and effective upon conclusion of the legislative session.

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

After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2018 for adoption of a temporary/pending rule. If adopted by the Board, the temporary rule would become effective on the date the companion legislation becomes law, and the pending rule would become final and effective upon adjournment of the 2019 legislative session if approved by the Legislature. DEQ will submit the final rule to EPA.

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

NEGOTIATED RULEMAKING: The text of the proposed rule was drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the June 2018 issue of the Idaho Administrative Bulletin, and a preliminary draft rule was made available for public review. A meeting was held on June 21, 2018. Key information was posted on the DEQ rulemaking web page and distributed to the public. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at www.deq.idaho.gov/58-0101-1803.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Carl Brown at carl.brown@deq.idaho.gov or (208) 373-0206.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 5, 2018.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1803
(Only Those Sections With Amendments Are Shown.)

620. REGISTRATION BURN FEE.

01. Payment of Burn Fee. The ~~permit by rule registration burn~~ fee ~~set out~~ in Section 39-114, Idaho Code, shall be paid in its entirety ~~at least seven (7)~~ within thirty (30) days ~~prior to the proposed burn date~~ following the receipt of the annual burn fee invoice. See also Subsection 624.02.a. for registration and fee requirements for burning under a spot and baled agricultural residue burn permit. The ~~permit by rule registration form and burn~~ fee should be sent to:

Crop Residue Burning ~~Registration~~ Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255

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

02. Effect of Delinquent Fee Payment. ~~Payment of~~ The Department shall not accept or process a registration fee does not imply authorization or approval for a permit by rule to burn for any person having burn fees delinquent, in full or in part.

~~(5-8-09)~~()

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1804

NOTICE OF RULEMAKING – PROPOSED RULE

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

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

PUBLIC HEARING
Wednesday, September 5, 2018 - 3:00 p.m. (MDT)
Department of Environmental Quality 1410 N. Hilton Street Conference Rooms C Boise, Idaho 83706

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the meeting date. For arrangements, contact the undersigned.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the Clean Air Act. This proposed rule updates federal regulations incorporated by reference to include those revised as of July 1, 2018.

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

After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2018 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2019 legislative session if adopted by the Board and approved by the Legislature. DEQ will submit the final rule to EPA.

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

Adoption of federal regulations is necessary for EPA approval of Idaho’s Title V Operating Permit Program and state primacy of Clean Air Act programs. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at www.deq.idaho.gov/58-0101-1804 or by contacting the undersigned.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Carl Brown at carl.brown@deq.idaho.gov or (208) 373-0206.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 5, 2018.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1804
(Only Those Sections With Amendments Are Shown.)

107. INCORPORATIONS BY REFERENCE.

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

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

- and;
- a.** All federal publications: U.S. Government Printing Office at <http://www.ecfr.gov/cgi-bin/ECFR>; (3-25-16)
 - b.** Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-20-14)

- c. All documents herein incorporated by reference: (7-1-97)
0502. i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373- (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)
- 03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)
- a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR Part 51 revised as of July 1, 2017~~8~~. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (~~3-28-18~~)()
- i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
- ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
- b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- c. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, Subparts A and N and Appendices D and E, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- d. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- e. Ambient Air Quality Surveillance, 40 CFR Part 58, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- f. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- 2017~~8~~. g. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, (~~3-28-18~~)()
- h. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, 40 CFR Part 62, Subpart HHH, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- i. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- j. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- k. State Operating Permit Programs, 40 CFR Part 70, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- l. Permits, 40 CFR Part 72, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2017~~8~~. (~~3-28-18~~)()
- o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- p. Medical Waste Combustors, Section 39-128, Idaho Code (1992). (3-20-14)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1703

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. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 17, 2018. If no such written request is received, a public hearing pursuant to Section 67-5222(2), Idaho Code, will not be held. The public will have the opportunity to provide oral comments on the proposed rule during the meeting of the Idaho Board of Environmental Quality (Board) scheduled for November 14 and 15, 2018.

DESCRIPTIVE SUMMARY: This rule making has been initiated to designate domestic water supply as a beneficial use in 27 water bodies where the Safe Drinking Water Information System indicates an active surface water intake or ground water under direct influence of surface water and where domestic water supply is not currently designated.

In Sections 110 through 140, Domestic Water Supply (DWS) designations will be added to the “Other” column for 27 water body units where DWS is an existing use. Subsection 100.03.a. will be revised to clarify that the domestic water supply use is appropriate for use as untreated raw water for public drinking water supplies. In addition, Subsection 252.01 will be revised by deleting Subsection 252.01.a., which is unnecessary as it is redundant with the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08. Protection of surface waters from radioactivity is achieved with the narrative criteria in the Water Quality Standards, IDAPA 58.01.02.200.04. Subsection 252.01.b. will be revised for clarification purposes.

Idahoans that recreate in, drink from, or fish Idaho’s surface waters, and any who discharge pollutants to those same waters, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board in November 2018 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2019 legislative session if adopted by the Board and approved by the Legislature.

EFFECTIVE FOR CLEAN WATER ACT PURPOSES: Water quality standards adopted and submitted to EPA since May 30, 2000, are not effective for federal Clean Water Act (CWA) purposes until EPA approves them (see **40 CFR 131.21**). This is known as the Alaska Rule. This rulemaking will be promulgated so that the existing rule, which continues to be effective for CWA purposes, remains in the Idaho Administrative Code until EPA approves the rule revisions. Notations explaining the effectiveness of the rule sections are also included. Upon EPA approval, the revised rule will become effective for CWA purposes and the previous rule and notations will be deleted from the Idaho Administrative Code. Information regarding the status of EPA review will be posted at <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

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

NEGOTIATED RULEMAKING: The text of the proposed rule was drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the December 2017 issue of the Idaho Administrative Bulletin, and a preliminary draft rule was made available for public review. Meetings were held on December 19, 2017, and April 24, 2018. Key information was posted on the DEQ rulemaking web page and distributed to the public. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at www.deq.idaho.gov/58-0102-1703.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Jason Pappani at Jason.pappani@deq.idaho.gov, (208) 373-0515.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before August 31, 2018.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0102-1703
(Only Those Sections With Amendments Are Shown.)

100. SURFACE WATER USE DESIGNATIONS.

Waterbodies are designated in Idaho to protect water quality for existing or designated uses. The designated use of a waterbody does not imply any rights to access or ability to conduct any activity related to the use designation, nor does it imply that an activity is safe. For example, a designation of primary or secondary contact recreation may occur in areas where it is unsafe to enter the water due to water flows, depth or other hazardous conditions. Another example is that aquatic life uses may be designated in areas that are closed to fishing or access is not allowed by property owners. Wherever attainable, the designated beneficial uses for which the surface waters of the state are to be protected include: (3-15-02)

01. Aquatic Life. (7-1-93)

a. Cold water (COLD): water quality appropriate for the protection and maintenance of a viable aquatic life community for cold water species. (4-5-00)

b. Salmonid spawning (SS): waters which provide or could provide a habitat for active self-propagating populations of salmonid fishes. (3-30-07)

c. Seasonal cold water (SC): water quality appropriate for the protection and maintenance of a viable aquatic life community of cool and cold water species, where cold water aquatic life may be absent during, or tolerant of, seasonally warm temperatures. (4-5-00)

d. Warm water (WARM): water quality appropriate for the protection and maintenance of a viable aquatic life community for warm water species. (4-5-00)

e. Modified (MOD): water quality appropriate for an aquatic life community that is limited due to one (1) or more conditions set forth in 40 CFR 131.10(g) which preclude attainment of reference streams or conditions. (4-5-00)

02. Recreation. (7-1-93)

a. Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. (4-5-00)

b. Secondary contact recreation (SCR): water quality appropriate for recreational uses on or about the water and which are not included in the primary contact category. These activities may include fishing, boating, wading, infrequent swimming, and other activities where ingestion of raw water is not likely to occur. (4-5-00)

03. Water Supply. (7-1-93)

a. Domestic (DWS): water quality appropriate for drinking water supplies. (4-5-00)

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

a. Domestic (DWS): water quality appropriate for use as untreated raw water (as defined under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems") for public drinking water ~~supplies.~~ ~~(4-5-00)~~ ()

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

b. Agricultural: water quality appropriate for the irrigation of crops or as drinking water for livestock. This use applies to all surface waters of the state. (4-5-00)

c. Industrial: water quality appropriate for industrial water supplies. This use applies to all surface waters of the state. (4-5-00)

04. Wildlife Habitats. Water quality appropriate for wildlife habitats. This use applies to all surface waters of the state. (4-5-00)

05. Aesthetics. This use applies to all surface waters of the state. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

110. PANHANDLE BASIN.

Surface waters found within the Panhandle basin total fourteen (14) subbasins and are designated as follows: (4-5-00)

01. Upper Kootenai Subbasin. The Upper Kootenai Subbasin, HUC 17010101, is comprised of six (6) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Star Creek - source to Idaho/Montana border	COLD SS	PCR	
P-2	North Callahan Creek - source to Idaho/Montana border	COLD SS	PCR	
P-3	South Callahan Creek - Glad Creek to Idaho/Montana border	COLD SS	PCR	
P-4	South Callahan Creek - source to Glad Creek	COLD SS	PCR	
P-5	Glad Creek - source to mouth	COLD SS	PCR	
P-6	Keeler Creek - source to Idaho/Montana border	COLD SS	PCR	

(3-30-01)

02. Lower Kootenai Subbasin. The Lower Kootenai Subbasin, HUC 17010104, is comprised of forty (40) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
 Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Kootenai River - Shorty's Island to the Idaho/Canadian border	COLD SS	PCR	DWS
P-2	Boundary Creek - Idaho/Canadian border to mouth	COLD SS	PCR	
P-3	Grass Creek - source to Idaho/Canadian border	COLD SS	PCR	
P-4	Blue Joe Creek - source to Idaho/Canadian border	COLD SS	PCR	
P-5	Smith Creek - Cow Creek to mouth	COLD SS	PCR	
P-6	Cow Creek - source to mouth	COLD SS	PCR	
P-7	Smith Creek - source to Cow Creek	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-8	Long Canyon Creek - source to mouth	COLD SS	PCR	
P-9	Parker Creek - source to mouth	COLD SS	PCR	
P-10	Trout Creek - source to mouth	COLD SS	PCR	
P-11	Ball Creek - source to mouth	COLD SS	PCR	
P-12	Kootenai River - Deep Creek to and including Shorty's Island	COLD SS	PCR	DWS
P-13	Myrtle Creek - source to mouth	COLD SS	PCR	---1 DWS ²
P-14	Cascade Creek - source to mouth	COLD SS	PCR	
P-15	Deep Creek - Snow Creek to mouth	COLD SS	PCR	DWS
P-16	Snow Creek - source to mouth	COLD SS	PCR	
P-17	Caribou Creek - source to mouth	COLD SS	PCR	
P-18	Deep Creek - Brown Creek to Snow Creek	COLD SS	PCR	DWS
P-19	Deep Creek - Trail Creek to Brown Creek	COLD SS	PCR	DWS
P-20	Ruby Creek - source to mouth	COLD SS	PCR	
P-21	Fall Creek - source to mouth	COLD SS	PCR	
P-22	Deep Creek - McArthur Lake to Trail Creek	COLD SS	PCR	DWS
P-23	McArthur Lake	COLD		
P-24	Dodge Creek - source to mouth	COLD SS	SCR	
P-25	Deep Creek - source to McArthur Lake	COLD SS	PCR	
P-26	Trail Creek - source to mouth	COLD SS	PCR	
P-27	Brown Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-28	Twentymile Creek - source to mouth	COLD SS	PCR	..1 DWS ²
P-29	Kootenai River - Moyie River to Deep Creek	COLD SS	PCR	DWS
P-30	Cow Creek - source to mouth	COLD SS	SCR	..1 DWS ²
P-31	Kootenai River - Idaho/Montana to Moyie River	COLD SS	PCR	DWS
P-32	Boulder Creek - East Fork Boulder Creek to mouth	COLD SS	PCR	
P-33	Boulder Creek - source to East Fork Boulder Creek	COLD SS	PCR	
P-34	East Fork Boulder Creek - source to mouth	COLD SS	PCR	
P-35	Curley Creek - source to mouth	COLD SS	SCR	
P-36	Flemming Creek - source to mouth	COLD SS	SCR	
P-37	Rock Creek - source to mouth	COLD SS	SCR	
P-38	Mission Creek - Brush Creek to mouth	COLD SS	PCR	
P-39	Brush Creek - source to mouth	COLD SS	SCR	
P-40	Mission Creek - Idaho/Canadian border to Brush Creek	COLD SS	SCR	

(3-29-12)()

03. **Moyie Subbasin.** The Moyie Subbasin, HUC 17010105, is comprised of twelve (12) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Moyie River - Moyie Falls Dam to mouth	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-2	Moyie River - Meadow Creek to Moyie Falls Dam	COLD SS	PCR	DWS
P-3	Skin Creek - Idaho/Montana border to mouth	COLD SS	PCR	---1 DWS ²
P-4	Deer Creek - source to mouth	COLD SS	PCR	
P-5	Moyie River - Round Prairie Creek to Meadow Creek	COLD SS	PCR	DWS
P-6	Moyie River - Idaho/Canadian border to Round Prairie Creek	COLD SS	PCR	DWS
P-7	Canuck Creek - Idaho/Montana border to Idaho/Canadian border	COLD SS	SCR	
P-8	Round Prairie Creek - Gillon Creek to mouth	COLD SS	PCR	
P-9	Gillon Creek - Idaho/Canadian border to mouth	COLD SS	PCR	
P-10	Round Prairie Creek - source to Gillon Creek	COLD SS	PCR	
P-11	Miller Creek - source to mouth	COLD SS	PCR	
P-12	Meadow Creek - source to mouth	COLD SS	PCR	---1 DWS ²

(3-29-12)()

04. Lower Clark Fork Subbasin. The Lower Clark Fork Subbasin, HUC 17010213, is comprised of twenty-one (21) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Clark Fork River Delta - Mosquito Creek to Pend Oreille Lake	COLD SS	PCR	DWS
P-2	Johnson Creek - source to mouth			
P-3	Clark Fork River - Cabinet Gorge Dam to Mosquito Creek	COLD SS	PCR	DWS
P-4	Dry Creek - source to mouth			
P-5	Clark Fork River - Idaho/Montana border to Cabinet Gorge Dam	COLD SS	PCR	DWS
P-6	West Fork Elk Creek - source to Idaho/Montana border			

Unit	Waters	Aquatic Life	Recreation	Other
P-7	West Fork Blue Creek - source to Idaho/Montana border			
P-8	Gold Creek - source to Idaho/Montana border			
P-9	Mosquito Creek - source to mouth			
P-10	Lightning Creek - Spring Creek to mouth	COLD SS	PCR	DWS
P-11	Lightning Creek - Cascade Creek to Spring Creek	COLD SS	PCR	DWS
P-12	Cascade Creek - source to mouth			
P-13	Lightning Creek - East Fork Creek to Cascade Creek	COLD SS	PCR	DWS
P-14	East Fork Creek - Idaho/Montana border to mouth			
P-15	Savage Creek - Idaho/Montana border to mouth			
P-16	Lightning Creek - Wellington Creek to East Fork Creek	COLD SS	PCR	DWS
P-17	Lightning Creek - Rattle Creek to Wellington Creek	COLD SS	PCR	DWS
P-18	Rattle Creek - source to mouth			
P-19	Lightning Creek - source to Rattle Creek	COLD SS	PCR	DWS
P-20	Wellington Creek - source to mouth			
P-21	Spring Creek - source to mouth			

(3-29-12)

05. Pend Oreille Lake Subbasin. The Pend Oreille Lake Subbasin, HUC 17010214, is comprised of sixty-one (61) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
 Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Pend Oreille River - Priest River to Albeni Falls Dam	COLD	PCR	DWS
P-2	Pend Oreille River - Pend Oreille Lake to Priest River	COLD	PCR	DWS
P-3	Hoodoo Creek - source to mouth			
P-4	Kelso Lake and outlet	COLD SS	PCR	DWS
P-5	Granite Lake			

Unit	Waters	Aquatic Life	Recreation	Other
P-6	Beaver Lake			
P-7	Spirit Creek - source to mouth			
P-8	Blanchard Lake			
P-9	Spirit Lake	COLD SS	PCR	DWS
P-10	Brickel Creek - Idaho/Washington border to mouth			
P-11	Jewell Lake			
P-12	Cocolalla Creek - Cocolalla Lake to mouth	COLD	PCR	DWS
P-13	Cocolalla Lake	COLD	PCR	DWS
P-14	Cocolalla Creek - source to Cocolalla Lake			--1 ----- DWS ²
P-15	Fish Creek - source to mouth			
P-16	Fry Creek - source to mouth			
P-17	Shepard Lake			
P-18	Pend Oreille Lake	COLD SS	PCR	DWS
P-19	Gamble Lake			
P-20	Mirror Lake			
P-21	Gold Creek - West Gold Creek to mouth			
P-22	West Gold Creek- source to mouth			
P-23	Gold Creek - source to West Gold Creek			
P-24	Chloride Creek - source to mouth			
P-25	North Gold Creek - source to mouth			
P-26	Cedar Creek - source to mouth			
P-27	Granite Creek - source to mouth	COLD SS	SCR	
P-28	Riser Creek - source to mouth			--1 ----- DWS ²
P-29	Strong Creek - source to mouth			--1 ----- DWS ²
P-30	Trestle Creek - source to mouth	COLD SS	SCR	
P-31	Lower Pack River - Sand Creek to mouth	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-32	Trout Creek - source to mouth			
P-33	Rapid Lightning Creek - source to mouth			
P-34	Gold Creek - source to mouth			
P-35	Grouse Creek - North Fork Grouse Creek to mouth			
P-36	Grouse Creek - source to North Fork Grouse Creek			
P-37	North Fork Grouse Creek - source to mouth			
P-38	Sand Creek - source to mouth			
P-39	Upper Pack River - Lindsey Creek to Sand Creek	COLD SS	PCR	DWS
P-40	Walsh Lake			
P-41	Upper Pack River - source to and including Lindsey Creek	COLD SS	PCR	DWS
P-42	McCormick Creek - source to mouth			
P-43	Jeru Creek - source to mouth			
P-44	Hellroaring Creek - source to mouth			
P-45	Caribou Creek - source to mouth			
P-46	Berry Creek - source to mouth			--1 ----- DWS ²
P-47	Colburn Creek - source to mouth			
P-48	Sand Creek - Schweitzer Creek to mouth			--1 ----- DWS ²
P-49	Sand Creek - source to Schweitzer Creek			
P-50	Spring Jack Creek - source to mouth			
P-51	Swede Creek - source to mouth			
P-52	Schweitzer Creek - source to mouth			
P-53	Little Sand Creek - source to mouth			--1 ----- DWS ²
P-54	Syringa Creek - source to mouth			
P-55	Carr Creek - source to mouth			
P-56	Hornby Creek - source to mouth			
P-57	Smith Creek - source to mouth			
P-58	Johnson Creek - source to mouth			
P-59	Riley Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-60	Manley Creek - source to mouth			
P-61	Strong Creek - source to mouth			

(3-29-12)()

06. Priest Subbasin. The Priest Subbasin, HUC 17010215, is comprised of thirty-one (31) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Lower Priest River - Upper West Branch Priest River to mouth	COLD	PCR	DWS
P-2	Big Creek - source to mouth			
P-3	Middle Fork East River - source to mouth			
P-4	North Fork East River - source to mouth			
P-5	Lower Priest River - Priest Lake to Upper West Branch Priest River	COLD	PCR	DWS
P-6	Priest Lake	COLD SS	PCR	DWS
P-7	Chase Lake			
P-8	Soldier Creek - source to mouth			
P-9	Hunt Creek - source to mouth			
P-10	Indian Creek - source to mouth			
P-11	Bear Creek - source to mouth			
P-12	Two Mouth Creek - source to mouth			
P-13	Lion Creek - source to mouth			
P-14	Priest Lake Thorofare - Upper Priest Lake to Priest Lake	COLD SS	PCR	DWS
P-15	Caribou Creek - source to mouth			
P-16	Upper Priest Lake	COLD SS	PCR	DWS
P-17	Trapper Creek - source to mouth			
P-18	Upper Priest River - Idaho/Canadian border to mouth	COLD SS	PCR	DWS
P-19	Hughes Fork - source to mouth			
P-20	Beaver Creek - source to mouth			
P-21	Tango Creek - source to mouth			
P-22	Granite Creek - Idaho/Washington border to mouth			
P-23	Reeder Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-24	Kalispell Creek - Idaho/Washington border to mouth			
P-25	Lamb Creek - Idaho/Washington border to mouth			
P-26	Binarch Creek - Idaho/Washington border to mouth			
P-27	Upper West Branch Priest River - Idaho/Washington border to mouth			
P-28	Goose Creek - Idaho/Washington border to mouth			
P-29	Quartz Creek - source to mouth			
P-30	Lower West Branch Priest River - Idaho/Washington border to mouth			
P-31	Moore's Creek - source to mouth			

(3-29-12)

07. Pend Oreille Subbasin. The Pend Oreille Subbasin, HUC 17010216, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Salmo River - source to Idaho/Washington border			
P-2	Pend Oreille River - Albeni Falls Dam to Idaho/Washington border	COLD	PCR	DWS

(4-5-00)

08. Upper Coeur d'Alene Subbasin. The Upper Coeur d'Alene Subbasin, HUC 17010301, is comprised of thirty-nine (39) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	North Fork Coeur d'Alene River - Yellow Dog Creek to mouth	COLD SS	PCR	DWS
P-2	Graham Creek - source to mouth			
P-3	Beaver Creek - source to mouth			
P-4	Prichard Creek - Butte Creek to mouth	COLD SS	PCR	
P-5	Prichard Creek - source to Butte Creek	COLD SS	PCR	DWS
P-6	Butte Creek - source to mouth			
P-7	Eagle Creek - source to mouth			
P-8	West Fork Eagle Creek - source to mouth			
P-9	Lost Creek - source to mouth			
P-10	Shoshone Creek - Falls Creek to mouth			
P-11	Falls Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-12	Shoshone Creek - source to Falls Creek			
P-13	North Fork Coeur d'Alene River - Jordan Creek to Yellow Dog Creek	COLD SS	PCR	DWS
P-14	Jordan Creek - source to mouth			
P-15	North Fork Coeur d'Alene River - source to Jordan Creek	COLD SS	PCR	DWS
P-16	Cataract Creek - source to mouth			
P-17	Tepee Creek - confluence of Trail Creek and Big Elk Creek to mouth			
P-18	Independence Creek - source to mouth			
P-19	Trail Creek - source to mouth			
P-20	Big Elk Creek - source to mouth			
P-21	Brett Creek - source to mouth			
P-22	Miners Creek - source to mouth			
P-23	Flat Creek - source to mouth			
P-24	Yellow Dog Creek - source to mouth			
P-25	Downey Creek - source to mouth			
P-26	Brown Creek - source to mouth			
P-27	Grizzly Creek - source to mouth			
P-28	Steamboat Creek - source to mouth			
P-29	Cougar Gulch - source to mouth			
P-30	Little North Fork Coeur d'Alene River - source to mouth			
P-31	Bumblebee Creek - source to mouth			
P-32	Laverne Creek - source to mouth			
P-33	Leiberg Creek - source to mouth			
P-34	Bootjack Creek - source to mouth			
P-35	Iron Creek - source to mouth			
P-36	Burnt Cabin Creek - source to mouth			
P-37	Deception Creek - source to mouth			
P-38	Skookum Creek - source to mouth			
P-39	Copper Creek - source to mouth			

(3-29-12)

09. South Fork Coeur d'Alene Subbasin. The South Fork Coeur d'Alene Subbasin, HUC 17010302, is comprised of twenty (20) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Fork Coeur d'Alene River - Canyon Creek to mouth	COLD	SCR	
P-2	Pine Creek - East Fork Pine Creek to mouth	COLD SS	SCR	
P-3	Pine Creek - source to East Fork Pine Creek	COLD SS	PCR	DWS
P-4	East Fork Pine Creek - source to mouth			
P-5	Hunter Creek - source to mouth			
P-6	Government Gulch - source to mouth	COLD SS	SCR	
P-7a	Big Creek - source to mining impact area	COLD SS	PCR	DWS
P-7b	Big Creek - mining impact area to mouth	COLD SS	SCR	
P-8a	Shields Gulch - source to mining impact area	COLD SS	PCR	DWS
P-8b	Shields Gulch - mining impact area to mouth		SCR	
P-9a	Lake Creek - source to mining impact area	COLD SS	PCR	DWS
P-9b	Lake Creek - mining impact area to mouth	COLD SS	SCR	--1 ----- DWS ²
P-10	Placer Creek - source to mouth			--1 ----- DWS ²
P-11	South Fork Coeur d'Alene River - from and including Daisy Gulch to Canyon Creek	COLD	SCR	--1 ----- DWS ²
P-12	Willow Creek - source to mouth			
P-13	South Fork Coeur d'Alene River - source to Daisy Gulch	COLD SS	PCR	DWS
P-14	Canyon Creek - from and including Gorge Gulch to mouth	COLD	SCR	--1 ----- DWS ²
P-15	Canyon Creek - source to Gorge Gulch	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-16	Ninemile Creek - from and including East Fork Ninemile Creek to mouth	COLD SS	SCR	
P-17	Ninemile Creek - source to East Fork Ninemile Creek	COLD SS	PCR	DWS
P-18	Moon Creek - source to mouth			
P-19	West Fork Moon Creek - source to mouth			
P-20	Bear Creek - source to mouth	COLD SS	PCR	DWS

(3-15-02)()

10. Coeur d'Alene Lake Subbasin. The Coeur d'Alene Lake Subbasin, HUC 17010303, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Coeur d'Alene Lake	COLD SS	PCR	DWS
P-2	Cougar Creek - source to mouth			
P-3	Kid Creek - source to mouth			
P-4	Mica Creek - source to mouth			
P-5	Fighting Creek - source to mouth			
P-6	Lake Creek - Idaho/Washington border to mouth			
P-7	Coeur d'Alene River - Latour Creek to mouth	COLD	PCR	
P-8	Anderson Lake			
P-9	Black Lake			
P-10	Medicine Lake			
P-11	Willow Creek - source to mouth			
P-12	Evans Creek - source to mouth			
P-13	Robinson Creek - source to mouth			
P-14	Bull Run Lake			
P-15	Latour Creek - source to mouth			
P-16	Coeur d'Alene River - South Fork Coeur d'Alene River to Latour Creek	COLD	PCR	
P-17	Skeel and Cataldo Creeks - source to mouth			
P-18	French Gulch - source to mouth			
P-19	Hardy and Hayden Gulch and Whitman Draw Creeks Complex - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-20	Fourth of July Creek - source to mouth			
P-21	Rose Lake			
P-22	Killarney Lake			
P-23	Swan Lake			
P-24	Blue Lake			
P-25	Thompson Lake			
P-26	Carlin Creek - source to mouth			
P-27	Turner Creek - source to mouth			
P-28	Beauty Creek - source to mouth			
P-29	Wolf Lodge Creek - source to mouth	COLD SS	PCR	DWS
P-30	Cedar Creek - source to mouth			
P-31	Marie Creek - source to mouth			
P-32	Fernan Creek - Fernan Lake to mouth	COLD SS	PCR	DWS
P-33	Fernan Lake	COLD SS	PCR	DWS
P-34	Fernan Creek - source to Fernan Lake			

(3-29-12)

11. **St. Joe Subbasin.** The St. Joe Subbasin, HUC 17010304, is comprised of sixty-nine (69) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Chatcolet Lake			
P-2	Plummer Creek - source to mouth	COLD SS	SCR	
P-3	Pedee Creek - source to mouth			
P-4	Benewah Creek - source to mouth			
P-5	St. Joe River - St. Maries River to mouth	COLD	PCR	
P-6	Cherry Creek - source to mouth			
P-7	St. Maries River - Santa Creek to mouth	COLD	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-8	Alder Creek - source to mouth			
P-9	John Creek - source to mouth			
P-10	Santa Creek - source to mouth	COLD SS	PCR	
P-11	Charlie Creek - source to mouth			
P-12	St. Maries River - Carpenter Creek to Santa Creek	COLD	PCR	
P-13	Tyson Creek - source to mouth			
P-14	Carpenter Creek - source to mouth			
P-15	St. Maries River - confluence of West Fork and Middle Fork St. Maries Rivers to Carpenter Creek	COLD	PCR	DWS
P-16	Emerald Creek - source to mouth			
P-17	West Fork St. Maries River - source to mouth			
P-18	Middle Fork St. Maries River - source to mouth			
P-19	Gold Center Creek - source to mouth			
P-20	Merry Creek - source to mouth			
P-21	Childs Creek - source to mouth			
P-22	Olson Creek - source to mouth			
P-23	Crystal Creek - source to mouth			
P-24	Renfro Creek - source to mouth			
P-25	Beaver Creek - source to mouth			
P-26	Thorn Creek - source to mouth			
P-27	St. Joe River - North Fork St. Joe River to St. Maries River	COLD SS	PCR	DWS
P-28	Bond Creek - source to mouth			
P-29	Hugus Creek- source to mouth			
P-30	Mica Creek - source to mouth			
P-31	Marble Creek - Hobo Creek to mouth			
P-32	Eagle Creek - source to mouth			
P-33	Bussel Creek - source to mouth			
P-34	Hobo Creek - source to mouth			
P-35	Marble Creek - source to Hobo Creek			
P-36	Homestead Creek - source to mouth			
P-37	Daveggio Creek - source to mouth			
P-38	Boulder Creek - source to mouth			
P-39	Fishhook Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-40	Siwash Creek - source to mouth			
P-41	St. Joe River - source to North Fork St. Joe River	COLD SS	PCR	DWS
P-42	Sisters Creek - source to mouth			
P-43	Prospector Creek - source to mouth			
P-44	Nugget Creek - source to mouth			
P-45	Bluff Creek - source to mouth			
P-46	Mosquito Creek - source to mouth			
P-47	Fly Creek - source to mouth			
P-48	Beaver Creek - source to mouth			
P-49	Copper Creek - source to mouth			
P-50	Timber Creek - source to mouth			
P-51	Red Ives Creek - source to mouth			
P-52	Simmons Creek - source to mouth			
P-53	Gold Creek - source to mouth			
P-54	Bruin Creek - source to mouth			
P-55	Quartz Creek - source to mouth			
P-56	Eagle Creek - source to mouth			
P-57	Bird Creek - source to mouth			
P-58	Skookum Creek - source to mouth			
P-59	North Fork St. Joe River - Loop Creek to mouth			
P-60	Loop Creek - source to mouth			
P-61	North Fork St. Joe River - source to Loop Creek			
P-62	Slate Creek - source to mouth			
P-63	Big Creek - source to mouth			
P-64	Trout Creek - source to mouth			
P-65	Falls Creek - source to mouth			
P-66	Reeds Gulch Creek - source to mouth			
P-67	Rochat Creek - source to mouth			<u>1</u> ----- DWS ²
P-68	Street Creek - source to mouth			
P-69	Deep Creek - source to mouth			

(3-29-12)()

12. Upper Spokane Subbasin. The Upper Spokane Subbasin, HUC 17010305, is comprised of eighteen (18) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Liberty Creek - source to Idaho/Washington border			
P-2	Cable Creek - source to Idaho/Washington border			
P-3	Spokane River - Post Falls Dam to Idaho/Washington border	COLD SS	PCR	DWS
P-4	Spokane River - Coeur d'Alene Lake to Post Falls Dam	COLD SS	PCR	DWS
P-5	Hayden Lake	COLD SS	PCR	DWS
P-6	Yellowbank Creek - source to mouth			
P-7	Jim Creek - source to mouth			
P-8	Mokins Creek - source to mouth			
P-9	Nilsen Creek - source to mouth			
P-10	Hayden Creek -source to mouth			
P-11	Sage Creek and Lewellen Creek - source to mouth			
P-12	Rathdrum Creek - Twin Lakes to mouth			
P-13	Twin Lakes	COLD	PCR	DWS
P-14	Fish Creek - Idaho/Washington border to Twin Lakes			
P-15	Hauser Lake outlet - Hauser Lake to mouth			
P-16	Hauser Lake	COLD	PCR	DWS
P-17	Lost Lake, Howell, and Lost Creeks - source to mouth			
P-18	Hauser Creek - source to mouth			

(3-29-12)

13. Hangman Subbasin. The Hangman Subbasin, HUC 17010306, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Hangman Creek - source to Idaho/Washington border	COLD	SCR	
P-2	Little Hangman Creek - source to Idaho/Washington border			
P-3	Rock Creek - source to Idaho/Washington border		SCR	
P-4	Middle Fork Rock Creek - source to Idaho/Washington border			
P-5	North Fork Rock Creek - source to Idaho/Washington border			

(4-5-00)

14. Little Spokane Subbasin. The Little Spokane Subbasin, HUC 17010308, is comprised of one (1) water body unit.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	McDonald Creek - source to mouth			

(4-5-00)

111. -- 119. (RESERVED)

120. CLEARWATER BASIN.

Surface waters found within the Clearwater basin total ten (10) subbasins and are designated as follows: (4-5-00)

01. Palouse Subbasin. The Palouse Subbasin, HUC 17060108, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Cow Creek - source to Idaho/Washington border	COLD	SCR	
C-2	South Fork Palouse River - Gnat Creek to Idaho/Washington border	COLD SS	SCR	
C-3	South Fork Palouse River - source to Gnat Creek	COLD SS	SCR	
C-4a	Gnat Creek - source to T40N, R05W, Sec. 26	COLD	SCR	
C-4b	Gnat Creek - T40N, R05W, Sec. 26 to mouth	COLD	SCR	
C-5	Paradise Creek - source to Idaho/Washington border	COLD	SCR	
C-6a	Missouri Flat Creek - source to T40N, R5W, Sec. 17	COLD	SCR	
C-6b	Missouri Flat Creek-T40N, R5W, Sec. 17 to Idaho/Washington border	COLD	SCR	
C-7a	Fourmile Creek - source to T40N, R5W, Sec. 5	COLD	SCR	
C-7b	Fourmile Creek - T40N, R5W, Sec. 5 to Idaho/Washington border	COLD	SCR	
C-8a	Silver Creek - source to T43, R5W, Sec. 29	COLD	SCR	
C-8b	Silver Creek - T43, R5W, Sec. 29 to Idaho/Washington border	COLD	SCR	
C-9	Palouse River - Deep Creek to Idaho/Washington border	COLD	SCR	
C-10	Palouse River - Hatter Creek to Deep Creek	COLD	SCR	
C-11a	Flannigan Creek - source to T41N, R05W, Sec. 23	COLD	SCR	
C-11b	Flannigan Creek - T41N, R05W, Sec. 23 to mouth	COLD	SCR	
C-12	Rock Creek - confluence of West and East Fork Rock Creeks to mouth	COLD	SCR	
C-13a	West Fork Rock Creek - source to T41N, R04W, Sec. 30	COLD	SCR	
C-13b	West Fork Rock Creek - T41N, R04W, Sec. 30 to mouth	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-14a	East Fork Rock Creek - source to T41N, R 04W, Sec. 29	COLD	SCR	
C-14b	East Fork Rock Creek - T41N, R 04W, Sec. 29 to mouth	COLD	SCR	
C-15a	Hatter Creek - source to T40N, R04W, Sec. 3	COLD	SCR	
C-15b	Hatter Creek - T40N, R04W, Sec. 3 to mouth	COLD	SCR	
C-16	Palouse River - Strychnine Creek to Hatter Creek	COLD SS	PCR	DWS
C-17	Flat Creek - source to mouth	COLD	SCR	
C-18	Palouse River - source to Strychnine Creek	COLD SS	PCR	DWS
C-19	Little Sand Creek - source to mouth	COLD SS	SCR	
C-20	Big Sand Creek - source to mouth	COLD SS	SCR	
C-21	North Fork Palouse River - source to mouth	COLD SS	SCR	
C-22	Strychnine Creek - source to mouth	COLD SS	SCR	
C-23	Meadow Creek - East Fork Meadow Creek to mouth	COLD	SCR	
C-24	East Fork Meadow Creek - source to mouth	COLD SS	SCR	
C-25	Meadow Creek - source to East Fork Meadow Creek	COLD SS	SCR	
C-26	White Pine Creek - source to mouth	COLD SS	SCR	
C-27a	Big Creek - source to T42N, R03W, Sec. 08	COLD SS	SCR	
C-27b	Big Creek - T42N, R03W, Sec. 08 to mouth	COLD	SCR	
C-28	Jerome Creek - source to mouth	COLD SS	SCR	
C-29	Gold Creek - T42N, R04W, Sec. 28 to mouth	COLD	SCR	
C-30	Gold Creek - source to T42N, R04W, Sec. 28	COLD SS	SCR	
C-31a	Crane Creek - source to T42N, 04W, Sec. 28	COLD	SCR	
C-31b	Crane Creek - T42N, 04W, Sec. 08 to mouth	COLD	SCR	
C-32a	Deep Creek - source to T42, R05, Sec. 02	COLD	SCR	
C-32b	Deep Creek - T42, R05, Sec. 02 to mouth	COLD	SCR	
C-33a	Cedar Creek - source to T43N, R05W, Sec. 28	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-33b	Cedar Creek - T43N, R05W, Sec. 28 to Idaho/Washington border	COLD	SCR	

(5-3-03)

02. Rock Subbasin. The Rock Subbasin, HUC 17060109, is comprised of three (3) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	South Fork Pine Creek - source to Idaho/Washington border	COLD	SCR	
C-2	North Fork Pine Creek - source to Idaho/Washington border	COLD	SCR	
C-3	Unnamed Tributaries - source to Idaho/Washington border (T44N, R05W, Sec.31 / T43N, R05W, Sec. 6)	COLD	SCR	

(5-3-03)

03. Upper Selway Subbasin. The Upper Selway Subbasin, HUC 17060301, is comprised of fifty-eight (58) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Selway River - Bear Creek to Moose Creek	COLD SS	PCR	DWS
C-2	Magpie Creek - source to mouth			
C-3	Bitch Creek - source to mouth			
C-4	Selway River - White Cap Creek to Bear Creek	COLD SS	PCR	DWS
C-5	Ditch Creek - source to mouth			
C-6	Elk Creek - source to mouth			
C-7	Goat Creek - source to mouth			
C-8	Running Creek - Lynx Creek to mouth			
C-9	Running Creek - source to Lynx Creek			
C-10	South Fork Running Creek - source to mouth			
C-11	Lynx Creek - source to mouth			
C-12	Eagle Creek - source to mouth			
C-13	Crooked Creek - source to mouth			
C-14	Selway River - Deep Creek to White Cap Creek	COLD SS	PCR	DWS
C-15	Little Clearwater River- Flat Creek to mouth			
C-16	Short Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-17	Little Clearwater River - source to Flat Creek			
C-18	Burnt Knob Creek - source to mouth			
C-19	Salamander Creek - source to mouth			
C-20	Flat Creek - source to mouth			
C-21	Magruder Creek - source to mouth			
C-22	Selway River - confluence of Hidden and Surprise Creeks to Deep Creek	COLD SS	PCR	DWS
C-23	Three Lakes Creek - source to mouth			
C-24	Swet Creek - source to mouth			
C-25	Stripe Creek - source to mouth			
C-26	Hidden Creek - source to mouth			
C-27	Surprise Creek - source to mouth			
C-28	Wilkerson Creek - Storm Creek to mouth			
C-29	Wilkerson Creek - source to Storm Creek			
C-30	Storm Creek - source to mouth			
C-31	Deep Creek - source to mouth			
C-32	Vance Creek - source to mouth			
C-33	Lazy Creek - source to mouth			
C-34	Pete Creek - source to mouth			
C-35	Cayuse Creek - source to mouth			
C-36	Indian Creek - source to mouth			
C-37	Schofield Creek - source to mouth			
C-38	Snake Creek - source to mouth			
C-39	White Cap Creek - Canyon Creek to mouth			
C-40	Canyon Creek - source to mouth			
C-41	Cooper Creek - source to mouth			
C-42	White Cap Creek - source to Canyon Creek			
C-43	Paloma Creek - source to mouth			
C-44	Bad Luck Creek - source to mouth			
C-45	Gardner Creek - source to mouth			
C-46	North Star Creek - source to mouth			
C-47	Bear Creek - Cub Creek to mouth			
C-48	Cub Creek - Brushy Fork Creek to mouth			
C-49	Brushy Fork Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-50	Cub Creek - source to Brushy Fork Creek			
C-51	Paradise Creek - source to mouth			
C-52	Bear Creek - Wahoo Creek to Cub Creek			
C-53	Bear Creek - source to Wahoo Creek			
C-54	Granite Creek - source to mouth			
C-55	Wahoo Creek - source to mouth			
C-56	Pettibone Creek - source to mouth			
C-57	Cow Creek - source to mouth			
C-58	Dog Creek - source to mouth			

(3-29-12)

04. Lower Selway Subbasin. The Lower Selway Subbasin, HUC 17060302, is comprised of fifty-five (55) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Selway River - O'Hara Creek to mouth	COLD SS	PCR	DWS
C-2	Goddard Creek - source to mouth	COLD SS	SCR	
C-3	O'Hara Creek - confluence of West and East Fork O'Hara Creeks to mouth	COLD SS	SCR	
C-4	West Fork O'Hara Creek - source to mouth			
C-5	East Fork O'Hara Creek - source to mouth			
C-6	Selway River - Meadow Creek to O'Hara Creek	COLD SS	PCR	DWS
C-7	Falls Creek - source to mouth	COLD SS	SCR	
C-8	Meadow Creek - Buck Lake Creek to mouth	COLD SS	SCR	
C-9	Horse Creek - source to mouth			
C-10	Fivemile Creek - source to mouth			
C-11	Little Boulder Creek - source to mouth			
C-12	Meadow Creek - East Fork Meadow Creek to Buck Lake Creek	COLD SS	SCR	
C-13	Butte Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-14	Sable Creek - source to mouth	COLD SS	SCR	
C-15	Simmons Creek - source to mouth	COLD SS	SCR	
C-16	Meadow Creek - source to East Fork Meadow Creek			
C-17	Butter Creek - source to mouth			
C-18	Three Prong Creek - source to mouth			
C-19	East Fork Meadow Creek - source to mouth			
C-20	Schwar Creek - source to mouth			
C-21	Buck Lake Creek - source to mouth			
C-22	Selway River - Moose Creek to Meadow Creek	COLD SS	PCR	DWS
C-23	Otter Creek - source to mouth			
C-24	Mink Creek - source to mouth			
C-25	Marten Creek - source to mouth			
C-26	Trout Creek - source to mouth			
C-27	Moose Creek - East Fork Moose Creek to mouth			
C-28	East Fork Moose Creek - Cedar Creek to Moose Creek			
C-29	Freeman Creek - source to mouth			
C-30	Monument Creek - source to mouth			
C-31	Elbow Creek - source to mouth			
C-32	Battle Creek - source to mouth			
C-33	East Fork Moose Creek - source to Cedar Creek			
C-34	Chute Creek - source to mouth			
C-35	Dead Elk Creek - source to mouth			
C-36	Cedar Creek - source to mouth			
C-37	Maple Creek - source to mouth			
C-38	Double Creek - source to mouth			
C-39	Fitting Creek - source to mouth			
C-40	North Fork Moose Creek - Rhoda Creek to mouth			
C-41	North Fork Moose Creek - West Moose Creek to Rhoda Creek			
C-42	North Fork Moose Creek - source to West Fork Moose Creek			
C-43	West Fork Moose Creek - source to mouth			
C-44	Rhoda Creek - Wounded Doe Creek to mouth			
C-45	Wounded Doe Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-46	Rhoda Creek - source to Wounded Doe Creek			
C-47	Lizard Creek - Lizard Lakes to mouth			
C-48	Meeker Creek - source to mouth			
C-49	Three Links Creek - source to mouth			
C-50	Gedney Creek - West Fork Gedney Creek to mouth			
C-51	Gedney Creek - source to West Fork Gedney Creek			
C-52	West Fork Gedney Creek - source to mouth			
C-53	Glover Creek - source to mouth	COLD SS	SCR	
C-54	Boyd Creek - source to mouth	COLD SS	SCR	
C-55	Rackliff Creek - source to mouth	COLD SS	SCR	

(3-29-12)

05. Lochsa Subbasin. The Lochsa Subbasin, HUC 17060303, is comprised of sixty-five (65) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Lochsa River - Deadman Creek to mouth	COLD SS	PCR	DWS
C-2	Kerr Creek - source to mouth			
C-3	Lochsa River - Old Man Creek to Deadman Creek	COLD SS	PCR	DWS
C-4	Coolwater Creek - source to mouth			
C-5	Fire Creek - source to mouth			
C-6	Split Creek - source to mouth			
C-7	Old Man Creek - source to mouth			
C-8	Lochsa River - Fish Creek to Old Man Creek	COLD SS	PCR	DWS
C-9	Lochsa River - Indian Grave Creek to Fish Creek	COLD SS	PCR	DWS
C-10	Boulder Creek - source to mouth			
C-11	Stanley Creek - source to mouth			
C-12	Eagle Mountain Creek - source to mouth			
C-13	Lochsa River- Warm Springs Creek to Indian Grave Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-14	Sponge Creek - Fish Lake Creek to mouth			
C-15	Sponge Creek - source to Fish Lake Creek			
C-16	Fish Lake Creek - source to mouth			
C-17	Warm Springs Creek - Wind Lakes Creek to mouth			
C-18	Warm Springs Creek - source to Wind Lakes Creek			
C-19	Wind Lakes Creek - source to mouth			
C-20	Lochsa River - confluence of Crooked Fork, White Sand Creek, and Walton Creek to Warm Springs Creek	COLD SS	PCR	DWS
C-21	Jay Creek - source to mouth			
C-22	Cliff Creek - source to mouth			
C-23	Walton Creek - source to mouth			
C-24	White Sand Creek - Storm Creek to mouth			
C-25	White Sand Creek - source to Storm Creek			
C-26	Colt Creek - source to mouth			
C-27	Big Sand Creek - Hidden Creek to mouth			
C-28	Swamp Creek - source to mouth			
C-29	Big Sand Creek - source to Hidden Creek			
C-30	Hidden Creek - source to mouth			
C-31	Big Flat Creek - source to mouth			
C-32	Storm Creek - source to mouth			
C-33	Beaver Creek - source to mouth			
C-34	Crooked Fork - Brushy Fork to mouth			
C-35	Brushy Fork - Spruce Creek to mouth			
C-36	Spruce Creek - source to mouth			
C-37	Brushy Fork - source to Spruce Creek			
C-38	Crooked Fork - source to Brushy Fork			
C-39	Hopeful Creek - source to mouth			
C-40	Boulder Creek - source to mouth			
C-41	Papoose Creek - source to mouth			
C-42	Parachute Creek - source to mouth			
C-43	Wendover Creek - source to mouth			
C-44	Badger Creek - source to mouth			
C-45	Squaw Creek - source to mouth			
C-46	West Fork Squaw Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-47	Doe Creek - source to mouth			
C-48	Postoffice Creek - source to mouth			
C-49	Weir Creek - source to mouth			
C-50	Indian Grave Creek - source to mouth			
C-51	Bald Mountain Creek - source to mouth			
C-52	Fish Creek - Hungery Creek to mouth			
C-53	Willow Creek - source to mouth			
C-54	Hungery Creek - Obia Creek to mouth			
C-55	Obia Creek - source to mouth			
C-56	Hungery Creek - source to Obia Creek			
C-57	Fish Creek - source to Hungery Creek			
C-58	Bimerick Creek - source to mouth			
C-59	Deadman Creek - East Fork Deadman Creek to mouth			
C-60	East Fork Deadman Creek - source to mouth			
C-61	Deadman Creek - source to East Fork Deadman Creek			
C-62	Canyon Creek - source to mouth			
C-63	Pete King Creek - Walde Creek to mouth			
C-64	Walde Creek - source to mouth			
C-65	Pete King Creek - source to Walde Creek			

(3-29-12)

06. Middle Fork Clearwater Subbasin. The Middle Fork Clearwater Subbasin, HUC 17060304, is comprised of eleven (11) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Middle Fork Clearwater River - confluence of Lochsa and Selway River to mouth	COLD SS	PCR	DWS
C-2	Clear Creek - South Fork Clear Creek to mouth			
C-3	West Fork Clear Creek - source to mouth			
C-4	South Fork Clear Creek - source to mouth			
C-5	Kay Creek - source to mouth			
C-6	Clear Creek - source to South Fork Clear Creek	COLD SS	SCR	
C-7	Middle Fork Clear Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-8	Browns Spring Creek - source to mouth	COLD SS	SCR	
C-9	Pine Knob Creek - source to mouth	COLD SS	SCR	
C-10	Lodge Creek - source to mouth	COLD SS	SCR	
C-11	Maggie Creek - source to mouth			

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07. South Fork Clearwater Subbasin. The South Fork Clearwater Subbasin, HUC 17060305, is comprised of eighty-two (82) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
C-1	South Fork Clearwater River - Butcher Creek to mouth	COLD SS	PCR	
C-2	Cottonwood Creek - Cottonwood Creek waterfall (9.0 miles upstream) to mouth	COLD SS	PCR	
C-3	Cottonwood Creek - source to Cottonwood Creek waterfall (9.0 miles upstream)	COLD SS	PCR	
C-4	Red Rock Creek - Red Rock Creek waterfall (3.6 miles upstream) to mouth			
C-5	Red Rock Creek - source to Red Rock Creek waterfall (3.6 miles upstream)			
C-6	Stockney Creek - source to mouth			
C-7	Shebang Creek - source to mouth			
C-8	South Fork Cottonwood Creek - source to mouth			
C-9	Long Haul Creek - source to mouth			
C-10	Threemile Creek - source to mouth	COLD SS	SCR	
C-11a	Butcher Creek - unnamed tributary (4.5 miles above mouth) in T30N, R03E, Sec. 1 to mouth	COLD SS	SCR	
C-11b	Butcher Creek - source to unnamed tributary (4.5 miles above mouth) in T30N, R03E, Sec. 1	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-12	South Fork Clearwater River - Johns Creek to Butcher Creek	COLD SS	PCR	
C-13	Mill Creek - source to mouth			
C-14	Johns Creek - Gospel Creek to mouth	COLD SS	SCR	
C-15	Gospel Creek - source to mouth	COLD SS	SCR	
C-16	West Fork Gospel Creek - source to mouth	COLD SS	SCR	
C-17	Johns Creek - Moores Creek to Gospel Creek	COLD SS	SCR	
C-18	Johns Creek - source to Moores Creek	COLD SS	SCR	
C-19	Moores Creek - source to mouth	COLD SS	SCR	
C-20	Square Mountain Creek - source to mouth	COLD SS	SCR	
C-21	Hagen Creek - source to mouth	COLD SS	SCR	
C-22	South Fork Clearwater River - Tenmile Creek to Johns Creek	COLD SS	PCR	
C-23	Wing Creek - source to mouth	COLD SS	SCR	
C-24	Twentymile Creek - source to mouth			
C-25	Tenmile Creek - Sixmile Creek to mouth			
C-26	Tenmile Creek - Williams Creek to Sixmile Creek	COLD SS	SCR	
C-27	Tenmile Creek - source to Williams Creek	COLD SS	SCR	
C-28	Williams Creek - source to mouth	COLD SS	SCR	
C-29	Sixmile Creek - source to mouth			
C-30	South Fork Clearwater River - Crooked River to Tenmile Creek	COLD SS	PCR	
C-31	Crooked River - Relief Creek to mouth	COLD SS	SCR	
C-32	Crooked River - confluence of West and East Fork Crooked Rivers to Relief Creek	COLD SS	SCR	
C-33	West Fork Crooked River - source to mouth			
C-34	East Fork Crooked River - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-35	Relief Creek - source to mouth			
C-36	South Fork Clearwater River - confluence of American River and Red River to Crooked River	COLD SS	PCR	
C-37	Red River- Siegel Creek to mouth	COLD SS	PCR	DWS
C-38	Red River - South Fork Red River to Siegel Creek	COLD SS	PCR	DWS
C-39	Moose Butte Creek - source to mouth			
C-40	South Fork Red River - Trapper Creek to mouth	COLD SS	SCR	
C-41	South Fork Red River - West Fork Red River to Trapper Creek	COLD SS	SCR	
C-42	West Fork Red River - source to mouth	COLD SS	SCR	
C-43	South Fork Red River - source to West Fork Red River	COLD SS	SCR	
C-44	Trapper Creek - source to mouth	COLD SS	SCR	
C-45	Red River - source to South Fork Red River	COLD SS	SCR	DWS
C-46	Soda Creek - source to mouth	COLD SS	SCR	
C-47	Bridge Creek - source to mouth	COLD SS	SCR	
C-48	Otterson Creek - source to mouth	COLD SS	SCR	
C-49	Trail Creek - source to mouth	COLD SS	SCR	
C-50	Siegel Creek - source to mouth	COLD SS	SCR	
C-51	Red Horse Creek - source to mouth			
C-52	American River - East Fork American River to mouth	COLD SS	PCR	DWS
C-53	Kirks Fork - source to mouth			
C-54	East Fork American River - source to mouth			
C-55	American River - source to East Fork American River	COLD SS	PCR	DWS
C-56	Elk Creek - confluence of Big Elk and Little Elk Creeks to mouth			--1 ----- DWS ²

Unit	Waters	Aquatic Life	Recreation	Other
C-57	Little Elk Creek - source to mouth	COLD SS	SCR	
C-58	Big Elk Creek - source to mouth	COLD SS	SCR	
C-59	Buffalo Gulch - source to mouth			
C-60	Whiskey Creek - source to mouth	COLD SS	SCR	
C-61	Maurice Creek - source to mouth			
C-62	Newsome Creek - Beaver Creek to mouth			
C-63	Bear Creek - source to mouth			
C-64	Nugget Creek - source to mouth			
C-65	Beaver Creek - source to mouth			
C-66	Newsome Creek - Mule Creek to Beaver Creek			
C-67	Mule Creek - source to mouth	COLD SS	SCR	
C-68	Newsome Creek - source to Mule Creek			
C-69	Haysfork Creek - source to mouth			
C-70	Baldy Creek - source to mouth	COLD SS	SCR	
C-71	Pilot Creek - source to mouth			
C-72	Sawmill Creek - source to mouth			
C-73	Sing Lee Creek - source to mouth			
C-74	West Fork Newsome Creek - source to mouth			
C-75	Leggett Creek - source to mouth			
C-76	Fall Creek - source to mouth			
C-77	Silver Creek - source to mouth	COLD SS	SCR	
C-78	Peasley Creek - source to mouth			
C-79	Cougar Creek - source to mouth			
C-80	Meadow Creek - source to mouth			
C-81	Sally Ann Creek - source to mouth			..1 ----- DWS ²
C-82	Rabbit Creek - source to mouth			

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08. **Clearwater Subbasin.** The Clearwater Subbasin, HUC 17060306, is comprised of sixty-seven (67) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
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Unit	Waters	Aquatic Life	Recreation	Other
C-1	Lower Granite Dam pool	COLD	PCR	DWS
C-2	Clearwater River - Potlatch River to Lower Granite Dam pool	COLD SS	PCR	DWS
C-3	Lindsay Creek - source to mouth	COLD	SCR	
C-4	Lapwai Creek - Sweetwater Creek to mouth	COLD	PCR	
C-5	Sweetwater Creek - Webb Creek to mouth			
C-6	Sweetwater Creek - source to Webb Creek			
C-7	Webb Creek - source to mouth			
C-8	Lapwai Creek - Winchester Lake to Sweetwater Creek	COLD	PCR	
C-9	Winchester Lake	COLD	PCR	DWS
C-10	Lapwai Creek - source to Winchester Lake	COLD SS	PCR	DWS
C-11	Mission Creek - source to mouth			
C-12	Tom Beall Creek - source to mouth			
C-13	Clearwater River - North Fork Clearwater River to mouth	COLD SS	PCR	DWS
C-14	Cottonwood Creek - source to mouth	COLD SS	SCR	
C-15	Jacks Creek - source to mouth			
C-16	Big Canyon Creek - source to mouth	COLD SS	PCR	1 DWS ²
C-17	Cold Springs Creek - source to mouth			
C-18	Little Canyon Creek - confluence of Holes and Long Hollow Creeks to mouth			
C-19	Holes Creek - source to mouth			
C-20	Long Hollow Creek - source to mouth			
C-21	Clearwater River - Lolo Creek to North Fork Clearwater River	COLD SS	PCR	DWS
C-22	Clearwater River - confluence of South and Middle Fork Clearwater Rivers to Lolo Creek	COLD SS	PCR	DWS
C-23	Sixmile Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-24	Lawyer Creek - source to mouth	COLD SS	PCR	
C-25	Sevenmile Creek - source to mouth			
C-26	Lolo Creek - Yakus Creek to mouth			
C-27	Yakus Creek - source to mouth			
C-28	Lolo Creek - source to Yakus Creek			
C-29	Eldorado Creek - source to mouth			
C-30	Yoosa Creek - source to mouth			
C-31	Jim Brown Creek - source to mouth			
C-32	Musselshell Creek - source to mouth			
C-33	Big Creek - source to mouth			
C-34	Jim Ford Creek - Jim Ford Creek waterfall (12.5 miles upstream) to mouth	COLD	PCR	
C-35	Jim Ford Creek - source to Jim Ford Creek waterfall (12.5 miles upstream)	COLD	PCR	
C-36	Grasshopper Creek - source to mouth	COLD	PCR	DWS
C-37	Winter Creek - Winter Creek waterfall (3.4 miles upstream) to mouth			
C-38	Winter Creek - source to Winter Creek waterfall (3.4 miles upstream)			
C-39	Orofino Creek - source to mouth	COLD SS	PCR	-1 DWS ²
C-40	Whiskey Creek - source to mouth			
C-41	Bedrock Creek - source to mouth			
C-42	Louse Creek - source to mouth			
C-43	Pine Creek - source to mouth			
C-44	Potlatch River - Big Bear Creek to mouth	COLD SS	PCR	DWS
C-45	Potlatch River - Corral Creek to Big Bear Creek	COLD SS	PCR	DWS
C-46	Cedar Creek - source to mouth			
C-47	Boulder Creek - source to mouth			
C-48	Potlatch River - Moose Creek to Corral Creek	COLD SS	PCR	DWS
C-49	Potlatch River - source to Moose Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-50	Little Boulder Creek - source to mouth			
C-51	East Fork Potlatch River - source to mouth			
C-52	Ruby Creek - source to mouth			
C-53	Moose Creek - source to mouth			
C-54	Corral Creek - source to mouth			
C-55	Pine Creek - source to mouth			
C-56	Big Bear Creek - confluence of West and East Fork Big Bear Creeks to mouth			
C-57	East Fork Big Bear Creek - source to mouth			
C-58	West Fork Big Bear Creek - source to mouth			
C-59	Dry Creek - source to mouth			
C-60	Little Bear Creek - source to mouth	COLD SS	SCR	
C-61	West Fork Little Bear Creek - source to mouth			1 DWS ²
C-62	Middle Potlatch Creek - source to mouth	COLD	SCR	
C-63	Bethel Canyon - source to mouth			
C-64	Little Potlatch Creek - source to mouth	COLD	SCR	
C-65	Howard Gulch - source to mouth			
C-66	Catholic Creek - source to mouth			
C-67	Hatwai Creek - source to mouth			

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09. **Upper North Fork Clearwater Subbasin.** The Upper North Fork Clearwater Subbasin, HUC 17060307, is comprised of forty-nine (49) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	North Fork Clearwater River - Skull Creek to Aquarius Campground (T40N, R07E, Sec. 05)	COLD SS	PCR	DWS
C-2	North Fork Clearwater River- Washington Creek to Skull Creek	COLD SS	PCR	DWS
C-3	Washington Creek - source to mouth	COLD SS	SCR	
C-4	North Fork Clearwater River - Orogrande Creek to Washington Creek	COLD SS	PCR	DWS
C-5	Orogrande Creek - French Creek to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-6	Orogrande Creek - source to French Creek			
C-7	French Creek - source to mouth	COLD	SCR	
C-8	North Fork Clearwater River - Weitas Creek to Orogrande Creek	COLD SS	PCR	DWS
C-9	Weitas Creek - Hemlock Creek to mouth			
C-10	Hemlock Creek - source to mouth			
C-11	Weitas Creek - Windy Creek to Hemlock Creek			
C-12	Middle Creek - source to mouth	COLD SS	SCR	
C-13	Little Weitas Creek - source to mouth	COLD	SCR	
C-14	Weitas Creek - source to Windy Creek	COLD SS	SCR	
C-15	Windy Creek - source to mouth	COLD	SCR	
C-16	North Fork Clearwater River - Kelly Creek to Weitas Creek	COLD SS	PCR	DWS
C-17	Fourth of July Creek - source to mouth			
C-18	Kelly Creek - Cayuse Creek to mouth			
C-19	Cayuse Creek - Gravey Creek to mouth			
C-20	Monroe Creek - source to mouth	COLD SS	SCR	
C-21	Gravey Creek - source to mouth	COLD SS	SCR	
C-22	Cayuse Creek - source to Gravey Creek			
C-23	Toboggan Creek - source to mouth	COLD	SCR	
C-24	Kelly Creek - confluence of North and Middle Fork Kelly Creek to Cayuse Creek			
C-25	South Fork Kelly Creek - source to mouth			
C-26	Middle Fork Kelly Creek - source to mouth			
C-27	North Fork Kelly Creek - source to mouth			
C-28	Moose Creek - Osier Creek to mouth			
C-29	Little Moose Creek - source to mouth			
C-30	Osier Creek - source to mouth	COLD SS	SCR	
C-31	Moose Creek - source to Osier Creek			
C-32	North Fork Clearwater River - Lake Creek to Kelly Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-33	Lake Creek - source to mouth	COLD SS	SCR	
C-34	North Fork Clearwater River - Vanderbilt Gulch to Lake Creek	COLD SS	PCR	DWS
C-35	Long Creek - source to mouth	COLD SS	SCR	
C-36	North Fork Clearwater River - source to Vanderbilt Gulch	COLD SS	PCR	DWS
C-37	Vanderbilt Gulch - source to mouth			
C-38	Meadow Creek - source to mouth			
C-39	Elizabeth Creek - source to mouth	COLD SS	SCR	
C-40	Cold Springs Creek - source to mouth	COLD SS	SCR	
C-41	Sprague Creek - source to mouth			
C-42	Larson Creek - source to mouth	COLD	SCR	
C-43	Rock Creek - source to mouth	COLD SS	SCR	
C-44	Quartz Creek - source to mouth			
C-45	Cougar Creek - source to mouth			
C-46	Skull Creek - Collins Creek to mouth	COLD	SCR	
C-47	Skull Creek - source to Collins Creek			
C-48	Collins Creek - source to mouth	COLD SS	SCR	

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10. Lower North Fork Clearwater Subbasin. The Lower North Fork Clearwater Subbasin, HUC 17060308, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	North Fork Clearwater River - Dworshak Reservoir Dam to mouth	COLD SS	PCR	DWS
C-2	Dworshak Reservoir	COLD SS	PCR	DWS
C-3	Reeds Creek - Alder Creek to Dworshak Reservoir	COLD SS	PCR	DWS
C-4	Reeds Creek - source to Alder Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-5	Alder Creek - source to mouth			
C-6	Silver Creek - source to Dworshak Reservoir			
C-7	Benton Creek - source to Dworshak Reservoir			
C-8	North Fork Clearwater River - Aquarius Campground (T40N, R07E, Sec. 05) to Dworshak Reservoir	COLD SS	PCR	DWS
C-9	Beaver Creek - source to mouth	COLD SS	SCR	
C-10	Isabella Creek - source to mouth			
C-11	Little North Fork Clearwater River - Foehl Creek to Dworshak Reservoir			
C-12	Little North Fork Clearwater River - Spotted Louis Creek to Foehl Creek			
C-13	Sawtooth Creek - source to mouth			
C-14	Canyon Creek - source to mouth			
C-15	Spotted Louis Creek - source to mouth			
C-16	Little North Fork Clearwater River - Rutledge Creek to Spotted Louis Creek			
C-17	Rutledge Creek - source to mouth			
C-18	Little North Fork Clearwater River - source to Rutledge Creek			
C-19	Foehl Creek - source to mouth			
C-20	Stoney Creek - Glover Creek to Dworshak Reservoir			
C-21	Floodwood Creek - source to mouth			
C-22	Glover Creek - source to mouth			
C-23	Stoney Creek - source to Glover Creek	COLD SS	SCR	
C-24	Isabella Creek - source to mouth			
C-25	Breakfast Creek - source to mouth			
C-26	Gold Creek - source to Dworshak Reservoir			
C-27	Weitas Creek - source to Dworshak Reservoir			
C-28	Swamp Creek - source to Dworshak Reservoir			
C-29	Cranberry Creek - source to Dworshak Reservoir			
C-30	Elk Creek - source to Dworshak Reservoir	COLD SS	PCR	DWS
C-31	Bull Run Creek - confluence of Squaw and Shattuck Creeks to mouth			
C-32	Shattuck Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-33	Squaw Creek - source to mouth			
C-34	Long Meadow Creek - source to Dworshak Reservoir			
C-35	Dicks Creek - source to Dworshak Reservoir			

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(BREAK IN CONTINUITY OF SECTIONS)

140. SOUTHWEST IDAHO BASIN.

Surface waters found within the Southwest basin total nineteen (19) subbasins and are designated as follows:

(4-5-00)

01. C.J. Strike Reservoir Subbasin. The C.J. Strike Reservoir Subbasin, HUC 17050101, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - Browns Creek to C.J. Strike Dam	COLD	PCR	DWS
SW-2	Dune's Lake			
SW-3	Browns Creek - source to mouth			
SW-4	West Fork Browns Creek - source to mouth			
SW-5	Snake River - Clover Creek to Browns Creek	COLD	PCR	DWS
SW-6	Sailor Creek - source to mouth			
SW-7	Pot Hole Creek - source to mouth			
SW-8	Deadman Creek - source to mouth			
SW-9	Rosevear Gulch - source to mouth			
SW-10	King Hill Creek - source to mouth			
SW-11	West Fork King Hill Creek - source to mouth			
SW-12	Little Canyon Creek - source to mouth			
SW-13	Alkali Creek - source to mouth			
SW-14	Cold Springs Creek - source to mouth			
SW-15	Ryegrass Creek - source to mouth			
SW-16	Bennett Creek - source to mouth			
SW-17	Hot Springs Reservoir			
SW-18	Dive Creek - source to mouth			
SW-19	Rattlesnake Creek - source to mouth (T05S, R06E)			
SW-20	Mountain Home Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
SW-21	Canyon Creek - Fraiser Reservoir Dam to mouth			
SW-22	Fraiser Reservoir			
SW-23	Canyon Creek - confluence of Syrup and Long Tom Creeks to Fraiser Reservoir			
SW-24	Long Tom Creek - source to mouth			
SW-25	Syrup Creek - source to mouth			
SW-26	Squaw Creek - source to mouth			

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02. Bruneau Subbasin. The Bruneau Subbasin, HUC 17050102, is comprised of thirty-five (35) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	C.J. Strike Reservoir	COLD	PCR	
SW-2	Jacks Creek - confluence of Little and Big Jacks Creeks to C.J. Strike Reservoir			
SW-3	Little Jacks Creek - source to mouth			
SW-4	Big Jacks Creek -source to mouth			
SW-5	Cottonwood Creek - source to mouth			
SW-6	Duncan Creek - source to mouth			
SW-7	Wickahoney Creek - source to mouth			
SW-8	Sugar Valley Creek - source to mouth			
SW-9	Bruneau River - Hot Creek to C.J. Strike Reservoir	COLD SS	PCR	
SW-10	Hot Creek - source to mouth			
SW-11	Bruneau River - Clover Creek (East Fork Bruneau River) to Hot Creek	COLD SS	PCR	DWS
SW-12	Miller Water - source to mouth			
SW-13	Bruneau River - Jarbridge River to Clover Creek (East Fork Bruneau River)	COLD SS	PCR	DWS
SW-14	Sheep Creek - Idaho/Nevada border to mouth	COLD	PCR	
SW-15	Louse Creek - source to mouth			
SW-16	Marys Creek - source to mouth			
SW-17	Bull Creek - source to mouth			
SW-18	Pole Creek - Idaho/Nevada border to mouth			
SW-19	Cat Creek - Idaho/Nevada border to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-20	Bruneau River - Idaho/Nevada border to Jarbridge River	COLD SS	PCR	DWS
SW-21	Jarbridge River -Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-22	Cougar Creek - source to mouth			
SW-23	Dorsey Creek - Idaho/Nevada border to mouth			
SW-24	East Fork Jarbridge River - Idaho/Nevada border to mouth	COLD SS	PCR	
SW-25	Poison Creek - Idaho/Nevada border to mouth			
SW-26	Unnamed Tributary - source to mouth (T11S, R07E, Sec. 27)			
SW-27	Sheepshead Draw - source to mouth			
SW-28	Clover Creek (East Fork Bruneau River) - confluence of Big Flat, Three, and Deadwood Creeks to mouth	COLD SS	PCR	DWS
SW-29	Juniper Draw - source to mouth			
SW-30	Big Flat Creek - Idaho/Nevada border to mouth			
SW-31	Three Creek - Idaho/Nevada border to mouth			
SW-32	Cherry Creek - Idaho/Nevada border to mouth			
SW-33	Deer Creek - Idaho/Nevada border to mouth			
SW-34	Deadwood Creek - Idaho/Nevada to mouth			
SW-35	Buck Flat Draw - source to mouth			

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03. Middle Snake-Succor Subbasin. The Middle Snake-Succor Subbasin, HUC 17050103, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - river mile 425 (T02N, R04W, Sec. 02) to Idaho/Oregon border	COLD	PCR	DWS
SW-2	Succor Creek - Idaho/Oregon border to mouth	COLD SS	PCR	
SW-3	Succor Creek - source to Idaho/Oregon border	COLD SS	PCR	
SW-4	McBride Creek - source to Idaho/Oregon border			
SW-5	Jump Creek - source to mouth	COLD	PCR	
SW-6	Snake River - C.J. Strike Dam to river mile 425 (T02N, R04W, Sec. 02)	COLD	PCR	DWS
SW-7	Squaw Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-8	Hardtrigger Creek - source to mouth			
SW-9	Reynolds Creek - source to mouth	COLD SS	PCR	
SW-10	West Rabbit Creek - source to mouth			
SW-11	Rabbit Creek - source to mouth			
SW-12	Sinker Creek - source to mouth	COLD SS	PCR	
SW-13	Fossil Creek - source to mouth			
SW-14	Castle Creek - source to mouth	COLD SS	PCR	
SW-15	Catherine Creek - confluence of Hart and Pickett Creeks to mouth			
SW-16	Pickett Creek - source to mouth			
SW-17	Bates Creek - source to mouth			
SW-18	Hart Creek - source to mouth			
SW-19	Brown Creek - source to mouth			
SW-20	South Fork Castle Creek - source to mouth			
SW-21	Birch Creek - source to mouth			
SW-22	McKeeth Wash - source to mouth			
SW-23	Vinson Wash - source to mouth			
SW-24	Shoofly Creek - source to mouth			
SW-25	Corder Creek - source to mouth			
SW-26	Rabbit Creek - source to mouth			

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04. Upper Owyhee Subbasin. The Upper Owyhee Subbasin, HUC 17050104, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Owyhee River - Juniper Creek to South Fork Owyhee River	COLD SS	PCR	DWS
SW-2	Unnamed Tributaries and playas of YP Desert (T14S, R04W)			
SW-3	Piute Creek - source to mouth			
SW-4	Juniper Creek - Juniper Basin Reservoir Dam to mouth			
SW-5	Juniper Basin Reservoir			
SW-6	Owyhee River - Idaho/Nevada border to Juniper Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
SW-7	Blue Creek - Blue Creek Reservoir Dam to mouth			
SW-8	Boyle Creek Reservoir (Mt. View Lake)	COLD	PCR	
SW-9	Papoose/Mud Creek complex			
SW-10	Payne Creek - source to mouth			
SW-11	Squaw Creek - source to mouth			
SW-12	Little Blue Creek - source to mouth			
SW-13	Blue Creek - source to Blue Creek Reservoir Dam			
SW-14	Shoofly Creek - source to mouth			
SW-15	Harris Creek - source to mouth			
SW-16	Little Jarvis Lake			
SW-17	Rough Little Lake			
SW-18	Ross Lake			
SW-19	Juniper Lake			
SW-20	Henry Lake			
SW-21	Unnamed Tributary - source to mouth (T15S, R01W, Sec. 01)			
SW-22	Yatahoney Creek - source to mouth			
SW-23	Battle Creek - source to mouth			
SW-24	Dry Creek - source to mouth			
SW-25	Big Springs Creek - source to mouth			
SW-26	Deep Creek - source to mouth			
SW-27	Dickshooter Creek - source to mouth			
SW-28	Pole Creek - source to mouth			
SW-29	Camas Creek - source to mouth			
SW-30	Camel Creek - source to mouth			
SW-31	Nickel Creek - source to mouth			
SW-32	Castle Creek - source to mouth			
SW-33	Beaver Creek - source to mouth			
SW-34	Red Canyon Creek - source to mouth	COLD	PCR	

(3-29-12)

05. South Fork Owyhee Subbasin. The South Fork Owyhee Subbasin, HUC 17050105, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	South Fork Owyhee River - Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-2	Spring Creek - source to mouth			
SW-3	Bull Camp Reservoir			
SW-4	Homer Wells Reservoir			
SW-5	Coyote Flat - source to mouth			

(3-29-12)

06. East Little Owyhee Subbasin. The East Little Owyhee Subbasin, HUC 17050106, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Little Owyhee River - Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-2	Tent Creek- Idaho/Oregon border to mouth			

(3-29-12)

07. Middle Owyhee Subbasin. The Middle Owyhee Subbasin, HUC 17050107, is comprised of fourteen (14) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Owyhee River - South Fork Owyhee River to Idaho/Oregon border	COLD SS	PCR	DWS
SW-2	Oregon Lake Creek - source to Idaho/Oregon border			
SW-3	Field Creek - source to Idaho/Oregon border			
SW-4	Middle Fork Owyhee River - source to Idaho/Oregon border	COLD SS	PCR	DWS
SW-5	Pole Creek - source to Idaho/Oregon border			
SW-6	Squaw Creek - source to Idaho/Oregon border	COLD SS	PCR	
SW-7	Cottonwood Creek - source to mouth			
SW-8	North Fork Owyhee River - source to Idaho/Oregon border	COLD SS	PCR	DWS
SW-9	Pleasant Valley Creek - source to mouth	COLD	PCR	
SW-10	Noon Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-11	Cabin Creek - source to mouth	COLD SS	PCR	
SW-12	Juniper Creek - source to mouth	COLD SS	PCR	
SW-13	Cherry Creek - source to Idaho/Oregon border			
SW-14	Soldier Creek - source to Idaho/Oregon border			

(3-29-12)

08. Jordan Subbasin. The Jordan Subbasin, HUC 17050108, is comprised of twenty-three (23) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Jordan Creek - Williams Creek to Idaho/Oregon border	COLD SS	PCR	
SW-2	Lone Tree Creek - source to mouth			
SW-3	Williams Creek - source to mouth	COLD	PCR	
SW-4	Jordan Creek - source to Williams Creek	COLD SS	PCR	
SW-5	Big Boulder Creek - confluence of North and South Fork Boulder Creeks to mouth			
SW-6	South Fork Boulder Creek - source to mouth			
SW-7	North Fork Boulder Creek - source to mouth			
SW-8	Mammoth Creek - source to mouth			
SW-9	Combination Creek - source to mouth			
SW-10	Rock Creek -Triangle Reservoir Dam to mouth			
SW-11	Rose Creek - source to mouth			
SW-12	Josephine Creek - source to mouth			
SW-13	Rock Creek - source to and including Triangle Reservoir			
SW-14	Louisa Creek - source to Triangle Reservoir			
SW-15	Spring Creek - source to mouth			
SW-16	Deer Creek - source to mouth			
SW-17	Flint Creek - source to mouth			
SW-18	Louse Creek - source to mouth			
SW-19	Trout Creek - source to Idaho/Oregon border			
SW-20	Hooker Creek - source to Idaho/Oregon border			
SW-21	Cow Creek - source to Idaho/Oregon border			

Unit	Waters	Aquatic Life	Recreation	Other
SW-22	Soda Creek - source to mouth			
SW-23	Baxter Creek - source to Idaho/Oregon border			

(3-29-12)

09. North and Middle Fork Boise Subbasin. The North and Middle Fork Boise Subbasin, HUC 17050111, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Boise River - source to mouth	COLD SS	PCR	DWS
SW-2	East Fork Roaring River -source to mouth	COLD SS	PCR	
SW-3	Hot Creek - source to mouth	COLD SS	SCR	
SW-4	Yuba River - source to mouth	COLD SS	SCR	
SW-5	Decker Creek - source to mouth	COLD SS	SCR	
SW-6	Queens River - source to mouth	COLD SS	SCR	
SW-7	Little Queens River - source to mouth	COLD SS	SCR	
SW-8	Black Warrior Creek - source to mouth	COLD SS	SCR	
SW-9	Browns Creek - source to mouth	COLD SS	PCR	
SW-10	North Fork Boise River - source to mouth	COLD SS	PCR	DWS
SW-11	Johnson Creek - source to mouth	COLD SS	SCR	
SW-12	Bear River - source to mouth	COLD SS	SCR	
SW-13	Big Owl/Little Owl Creeks - source to mouth	COLD SS	PCR	
SW-14	Crooked River - source to mouth	COLD SS	PCR	
SW-15	Rabbit Creek - source to mouth	COLD SS	PCR	
SW-16	Meadow Creek - source to mouth	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-17	French Creek - source to mouth	COLD SS	SCR	

(3-29-12)

10. Boise-Mores Subbasin. The Boise-Mores Subbasin, HUC 17050112, is comprised of seventeen (17) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
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Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Lucky Peak Reservoir (Boise River)	COLD SS	PCR	DWS
SW-2	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS
SW-3	Grouse Creek - source to Arrowrock Reservoir			
SW-4	Boise River - confluence of North and Middle Fork Boise Rivers to Arrowrock Reservoir	COLD SS	PCR	DWS
SW-5	Sheep Creek - source to mouth			
SW-6	Brown Creek - source to mouth			
SW-7	Cottonwood Creek - source to Arrowrock Reservoir			
SW-8	Deer Creek - source to Lucky Peak Reservoir			
SW-9	Mores Creek - source to Lucky Peak Reservoir	COLD SS	PCR	DWS
SW-10	Smith Creek - source to mouth			
SW-11	Thorn Creek - source to mouth			
SW-12	Elk Creek - source to mouth			..1 DWS ²
SW-13	Grimes Creek - source to mouth			
SW-14	Granite Creek - source to mouth	COLD	PCR	
SW-15	Macks Creek - source to mouth	COLD SS	PCR	
SW-16	Daggett Creek - source to mouth			
SW-17	Robie Creek - source to Lucky Peak Reservoir	COLD SS	PCR	

(3-29-12)()

11. South Fork Boise Subbasin. The South Fork Boise Subbasin, HUC 17050113, is comprised of thirty-three (33) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS
SW-2a	Willow Creek - Cottonwood Creek to Arrowrock Reservoir	COLD SS	PCR	
SW-2b	Willow Creek - source to Cottonwood Creek			
SW-3	Wood Creek - source to mouth	COLD SS	PCR	
SW-4	South Fork Boise River - Anderson Ranch Dam to Arrowrock Reservoir	COLD SS	PCR	DWS
SW-5	Anderson Ranch Reservoir (Boise River)	COLD SS	PCR	DWS
SW-6	Little Camas Creek - Little Camas Reservoir Dam to Anderson Ranch Reservoir			
SW-7	Little Camas Creek Reservoir	SC	PCR	
SW-8	Little Camas Creek - source to Little Camas Creek Reservoir			
SW-9	Wood Creek - source to Anderson Ranch Reservoir			
SW-10	Lime Creek - source to Anderson Ranch Reservoir	COLD SS	SCR	
SW-11	South Fork Lime Creek - source to mouth			
SW-12	Deer Creek - source to Anderson Ranch Reservoir	COLD SS	SCR	
SW-13	South Fork Boise River - Willow Creek to Anderson Ranch Reservoir	COLD SS	PCR	DWS
SW-14	Grouse Creek - source to mouth	COLD SS	PCR	
SW-15	South Fork Boise River - Little Smoky Creek to Willow Creek	COLD SS	PCR	DWS
SW-16	Beaver Creek - source to mouth	COLD SS	SCR	
SW-17	Boardman Creek - source to mouth	COLD SS		

Unit	Waters	Aquatic Life	Recreation	Other
SW-18	Little Smoky Creek - source to mouth	COLD SS	SCR	
SW-19	Big Smoky Creek - source to mouth	COLD SS	PCR	
SW-20	Paradise Creek - source to mouth	COLD SS	SCR	
SW-21	South Fork Boise River - confluence of Ross Fork and Johnson Creeks to Little Smoky Creek	COLD SS	PCR	DWS
SW-22	Johnson Creek - source to mouth			
SW-23	Ross Fork - source to mouth	COLD SS	PCR	
SW-24	Skeleton Creek - source to mouth	COLD SS	PCR	
SW-25	Willow Creek - source to South Fork Boise River			
SW-26	Shake Creek - source to mouth	COLD SS	PCR	
SW-27	Feather Creek - source to mouth	COLD SS	PCR	--- DWS ²
SW-28	Trinity Creek - source to mouth	COLD SS	PCR	
SW-29	Green Creek - source to mouth	COLD SS	SCR	
SW-30	Dog Creek - source to mouth	COLD SS	PCR	
SW-31	Fall Creek - source to Anderson Ranch Reservoir	COLD SS	PCR	
SW-32	Smith Creek - source to mouth	COLD SS	PCR	
SW-33	Rattlesnake Creek - source to Arrowrock Reservoir	COLD SS	SCR	

(3-29-12)()

12. **Lower Boise Subbasin.** The Lower Boise Subbasin, HUC 17050114, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Boise River- Indian Creek to mouth	COLD	PCR	
SW-2	Indian Creek - Sugar Ave. (T03N, R02W, Sec. 15) to mouth	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-3a	Split between New York Canal and historic creek bed to Sugar Ave. (T03N, R02W, Sec. 15)	COLD SS	SCR	
SW-3b	Indian Creek Reservoir to split between New York Canal and historic creek bed	COLD	SCR	
SW-3c	Indian Creek Reservoir	COLD	PCR	
SW-3d	Indian Creek - source to Indian Creek Reservoir	COLD	SCR	
SW-4	Lake Lowell	WARM	PCR	
SW-5	Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	COLD SS	PCR	
SW-6	Mason Creek - New York Canal to mouth		SCR	
SW-7	Fifteenmile Creek - Miller Canal to mouth		SCR	
SW-8	Tenmile Creek - Blacks Creek Reservoir Dam to Miller Canal	COLD	SCR	
SW-9	Blacks Creek - source to and including Blacks Creek Reservoir			
SW-10	Fivemile Creek - source to Miller Canal	COLD	SCR	
SW-11a	Boise River - Diversion Dam to river mile 50 (T04N, R02W, Sec. 32)	COLD SS	PCR	DWS
SW-11b	Boise River - Lucky Peak Dam to Diversion Dam	COLD	PCR	DWS
SW-12	Stewart Gulch, Cottonwood and Crane Creeks -source to mouth			
SW-13	Dry Creek - source to mouth			
SW-14	Big/Little Gulch Creek complex			
SW-15	Willow Creek - source to mouth			
SW-16	Langley/Graveyard Gulch complex			
SW-17	Sand Hollow Creek - source to mouth		SCR	

(3-29-12)

13. Middle Snake-Payette Subbasin. The Middle Snake-Payette Subbasin, HUC 17050115, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - the Idaho/Oregon border to Weiser River	COLD	PCR	DWS
SW-2	Homestead Gulch - source to mouth			
SW-3	Ashlock Gulch - source to mouth			
SW-4	Hurd Gulch - source to mouth			
SW-5	Sand Hollow - source to mouth			

(3-20-04)

14. South Fork Payette Subbasin. The South Fork Payette Subbasin, HUC 17050120, is comprised of twenty-one (21) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	South Fork Payette River - Trail Creek to mouth	COLD SS	PCR	DWS
SW-2	Rock Creek - source to mouth			
SW-3	Tenmile Creek - source to mouth			
SW-4	Wapiti Creek - source to mouth			
SW-5	South Fork Payette River - source to and including Trail Creek	COLD SS	PCR	DWS
SW-6	Goat Creek - source to mouth			
SW-7	Baron Creek - source to mouth			
SW-8	Bear Creek - source to mouth			
SW-9	Canyon Creek - source to mouth			
SW-10	Warm Spring Creek - source to mouth			
SW-11	Eightmile Creek - source to mouth			
SW-12	Fivemile Creek - source to mouth			
SW-13	Clear Creek - source to mouth			
SW-14	Deadwood River - Deadwood Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-15	Whitehawk Creek - source to mouth			
SW-16	Warm Springs Creek - source to mouth			
SW-17	Wilson Creek - source to mouth			
SW-18	Deadwood Reservoir	COLD SS	PCR	DWS
SW-19	Deadwood River - source to Deadwood Reservoir	COLD SS	PCR	DWS
SW-20	Scott Creek - source to mouth			
SW-21	Big Pine Creek - source to mouth			

(3-29-12)

15. Middle Fork Payette Subbasin. The Middle Fork Payette Subbasin, HUC 17050121, is comprised of ten (10) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Payette River - Big Bulldog Creek to mouth	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
SW-2	Anderson Creek - source to mouth	COLD SS	PCR	
SW-3	Lightning Creek - source to mouth	COLD SS	PCR	
SW-4	Big Bulldog Creek - source to mouth	COLD SS	PCR	
SW-5	Middle Fork Payette River - source to Big Bulldog Creek	COLD SS	PCR	DWS
SW-6	Rattlesnake Creek - source to mouth	COLD SS	PCR	
SW-7	Silver Creek - source to mouth	COLD SS	PCR	
SW-8	Peace Creek - source to mouth	COLD SS	PCR	
SW-9	Bull Creek - source to mouth	COLD SS	PCR	
SW-10	Scriver Creek - source to mouth	COLD SS	PCR	

(3-29-12)

16. **Payette Subbasin.** The Payette Subbasin, HUC 17050122, is comprised of twenty-one (21) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
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Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Payette River - Black Canyon Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-2	Black Canyon Reservoir	COLD SS	PCR	DWS
SW-3	Payette River - confluence of the North Fork and South Fork Payette Rivers to Black Canyon Reservoir	COLD SS	PCR	DWS
SW-4	Shafer Creek - source to mouth	COLD SS	PCR	..1 DWS ²
SW-5	Harris Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-6	Porter Creek - source to mouth			
SW-7	Hill Creek - source to mouth			
SW-8	South Fork Payette River - Middle Fork Payette River to mouth	COLD SS	PCR	DWS
SW-9	Deer Creek - source to mouth			
SW-10	Squaw Creek - source to mouth	COLD SS	PCR	
SW-11	Little Squaw Creek - source to mouth			
SW-12	Soldier Creek - source to mouth			
SW-13	Pine Creek - source to mouth			
SW-14	Second Fork Squaw Creek - source to mouth			
SW-15	Bissel Creek - source to mouth			
SW-16	Sand Hollow - source to mouth			
SW-17	Big Willow Creek - source to mouth	COLD SS	PCR	
SW-18	Little Willow Creek - Paddock Valley Reservoir Dam to mouth			
SW-19	Indian Creek - source to mouth			
SW-20	Paddock Valley Reservoir			
SW-21	Little Willow Creek - source to Paddock Valley Reservoir			

(3-29-12)()

17. **North Fork Payette Subbasin.** The North Fork Payette Subbasin, HUC 17050123, is comprised of twenty-two (22) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	North Fork Payette River - Cascade Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-2	Round Valley Creek - source to mouth			
SW-3	Clear Creek - source to mouth			
SW-4	Big Creek - source to mouth			
SW-5	Horsethief Reservoir			--1 ----- DWS ²

Unit	Waters	Aquatic Life	Recreation	Other
SW-6	Beaver Creek - source to mouth			
SW-7	Cascade Reservoir	COLD SS	PCR	DWS
SW-8	Gold Fork - source to Cascade Reservoir	COLD SS	PCR	DWS
SW-9	Flat Creek - source to mouth			
SW-10	Kennally Creek - source to mouth			
SW-11	Boulder Creek - source to Cascade Reservoir			
SW-12	Lake Fork - Little Payette Lake to Cascade Reservoir	COLD SS	PCR	DWS
SW-13	Little Payette Lake	COLD SS	PCR	
SW-14	Lake Fork - source to Little Payette Lake	COLD SS	PCR	DWS
SW-15	Mud Creek - source to Cascade Reservoir			
SW-16	North Fork Payette River - Payette Lake to Cascade Reservoir	COLD SS	PCR	DWS
SW-17	Payette Lake	COLD SS	PCR	DWS
SW-18	North Fork Payette River - Upper Payette Lake to Payette Lake	COLD SS	PCR	DWS
SW-19	Upper Payette Lake	COLD SS	PCR	DWS
SW-20	Twentymile Creek - source to mouth	COLD SS	PCR	
SW-21	North Fork Payette River - source to Upper Payette Lake	COLD SS	PCR	DWS
SW-22	Fisher Creek - source to mouth			

(3-29-12)()

18. **Weiser Subbasin.** The Weiser Subbasin, HUC 17050124, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Weiser River - Keithly Creek to mouth	COLD	PCR	DWS
SW-2	Cove Creek - source to mouth			
SW-3	Crane Creek - Crane Creek Reservoir Dam to mouth	COLD	PCR	
SW-4	Crane Creek Reservoir	COLD	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-5	South Fork Crane Creek - source to Crane Creek Reservoir			
SW-6	North Crane Creek - source to Crane Creek Reservoir			
SW-7	Weiser River - source to Keithly Creek	COLD	PCR	DWS
SW-8	Little Weiser River - source to mouth	COLD SS	PCR	DWS
SW-9	Ben Ross Creek - source to mouth			
SW-10	Mill Creek - source to mouth			
SW-11	Anderson Creek - source to mouth			
SW-12	Grays Creek - source to mouth			
SW-13	Bacon Creek - source to mouth			
SW-14	Middle Fork Weiser River - source to mouth	COLD SS	PCR	DWS
SW-15	Cottonwood Creek - source to mouth			
SW-16	East Fork Weiser River - source to mouth			
SW-17	West Fork Weiser River - source to mouth	COLD SS	PCR	DWS
SW-18	Lost Creek - Lost Valley Reservoir Dam to mouth			
SW-19	Lost Valley Reservoir			
SW-20	Lost Creek - source to Lost Valley Reservoir			
SW-21	Hornet Creek - source to mouth			
SW-22	Johnson Creek - source to mouth	COLD SS	PCR	
SW-23	Goodrich Creek - source to mouth			
SW-24	Cow Creek - source to mouth			
SW-25	Rush Creek - source to mouth			
SW-26	Spring Creek - source to mouth			
SW-27	Pine Creek - source to mouth	COLD SS	PCR	
SW-28	Keithly Creek - source to mouth			
SW-29	Sage Creek - source to mouth			
SW-30	Mann Creek - Mann Creek Reservoir Dam to mouth	COLD SS	PCR	
SW-31	Mann Creek Reservoir	COLD SS	PCR	
SW-32	Mann Creek - source to Mann Creek Reservoir	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-33	Monroe Creek - source to mouth			

(3-29-12)

19. Brownlee Reservoir Subbasin. The Brownlee Reservoir Subbasin, HUC 17050201, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River (Hells Canyon Reservoir) - Oxbow Dam to Hells Canyon Dam	COLD	PCR	DWS
SW-2	Snake River (Oxbow Reservoir) - Brownlee Dam to Oxbow Dam	COLD	PCR	DWS
SW-3	Snake River (Brownlee Reservoir) - Scott Creek to Brownlee Dam	COLD	PCR	DWS
SW-4	Snake River - Weiser River to Scott Creek	COLD	PCR	DWS
SW-5	Jenkins Creek - source to mouth	COLD	PCR	
SW-6	Scott Creek - source to mouth			
SW-7	Warm Springs Creek - source to mouth			
SW-8	Hog Creek - source to mouth			
SW-9	Grouse Creek - source to mouth			
SW-10	Rock Creek - source to mouth			
SW-11	Wolf Creek - source to mouth			
SW-12	Dennett Creek - source to mouth			
SW-13	Sturgill Creek - source to mouth			
SW-14	Brownlee Creek - source to mouth			
SW-15	Wildhorse River - confluence of Bear Creek and including Crooked River to mouth	COLD SS	PCR	
SW-16	Bear Creek - source to mouth	COLD SS	PCR	
SW-17	Indian Creek - source to mouth			

(3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

160. BEAR RIVER BASIN.

Surface waters found within the Bear River basin total six (6) subbasins and are designated as follows: (4-5-00)

01. Central Bear Subbasin. The Central Bear Subbasin, HUC 16010102, is comprised of eight (8) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Bear River - Idaho/Wyoming border to railroad bridge (T14N, R45E, Sec. 21)	COLD SS	PCR	
B-2	Pegram Creek - source to mouth			
B-3	Thomas Fork - Idaho/Wyoming border to mouth	COLD SS	PCR	
B-4	Raymond Creek - Idaho/Wyoming border to mouth; and the Hollows - source to mouth			
B-5	Dry Creek - source to mouth	COLD SS	SCR	
B-6	Preuss Creek - source to mouth	COLD SS	SCR	
B-7	Salt Creek - source to Idaho/Wyoming border	COLD SS	SCR	
B-8	Sheep Creek - source to mouth			

(4-5-00)

02. Bear Lake Subbasin. The Bear Lake Subbasin, HUC 16010201, is comprised of twenty-five (25) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
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Unit	Waters	Aquatic Life	Recreation	Other
B-1	Alexander Reservoir (Bear River)	COLD SS	PCR	
B-2	Bear River -railroad bridge (T14N, R45E, Sec. 21) to Alexander Reservoir	COLD SS	PCR	
B-3	Bailey Creek - source to mouth	COLD SS	SCR	
B-4	Eightmile Creek - source to mouth	COLD SS	SCR	
B-5	Pearl Creek - source to mouth	COLD SS	SCR	
B-6	Stauffer Creek - source to mouth	COLD SS	SCR	
B-7	Skinner Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
B-8	Co-op Creek - source to mouth	COLD SS	SCR	
B-9	Ovid Creek - confluence of North and Mill Creek to mouth			
B-10	North Creek - source to mouth	COLD SS	PCR	
B-11	Mill Creek - source to mouth	COLD SS	PCR	
B-12	Bear Lake Outlet - Lifton Station to Bear River	COLD SS	PCR	DWS
B-13	Paris Creek - source to mouth	COLD SS	PCR	
B-14	Bloomington Creek - source to mouth	COLD SS	PCR	DWS
B-15	Spring Creek - source to mouth			
B-16	Little and St. Charles Creeks - source to Bear Lake	COLD SS	PCR	
B-17	Dry Canyon Creek - source to mouth			
B-18	Bear Lake	COLD SS	PCR	DWS
B-19	Fish Haven Creek - source to Bear Lake	COLD SS	PCR	
B-20	Montpelier Creek - source to mouth			
B-21	Snowslide Creek - source to mouth	COLD SS	SCR	
B-22	Georgetown Creek - source to mouth	COLD SS	PCR	DWS
B-23	Soda Creek - Soda Creek Reservoir Dam to Alexander Reservoir		SCR	..1 DWS ²
B-24	Soda Creek Reservoir		SCR	
B-25	Soda Creek - source to Soda Creek Reservoir		SCR	

(3-29-12)()

03. Middle Bear Subbasin. The Middle Bear Subbasin, HUC 16010202, is comprised of twenty-one (21) water body units.

¹Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
²Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Spring Creek - source to Idaho/Utah border			
B-2	Cub River - US Hwy 91 Bridge (T16S, R40E, Sec. 20) to Idaho/Utah border	COLD	SCR	
B-3	Cub River - from and including Sugar Creek to US Hwy 91 Bridge (T16S, R40E, Sec. 20)	COLD	PCR	--- ¹ DWS ²
B-4	Cub River - source to Sugar Creek	COLD SS	PCR	DWS
B-5	Worm Creek - source to Idaho/Utah border	COLD	SCR	
B-6	Bear River - Oneida Narrows Reservoir Dam to Idaho/Utah border	COLD SS	PCR	
B-7	Mink Creek - source to mouth	COLD SS	PCR	
B-8	Oneida Narrows Reservoir	COLD SS	PCR	
B-9	Bear River - Alexander Reservoir Dam to Oneida Narrows Reservoir	COLD SS	PCR	
B-10	Williams Creek - source to mouth			
B-11	Trout Creek - source to mouth			
B-12	Whiskey Creek - source to mouth			
B-13	Densmore Creek - source to mouth			
B-14	Cottonwood Creek - source to Oneida Narrows Reservoir			
B-15	Battle Creek - source to mouth	COLD	SCR	
B-16	Twin Lakes Reservoir			
B-17	Oxford Slough			
B-18	Swan Lake Creek Complex			
B-19	Fivemile Creek - source to mouth			
B-20	Weston Creek - source to mouth			
B-21	Jenkins Hollow - source to Idaho/Utah border			

(3-29-12)()

04. Little Bear-Logan Subbasin. The Little Bear-Logan Subbasin, HUC 16010203, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Beaver Creek - source to Idaho/Utah border			

Unit	Waters	Aquatic Life	Recreation	Other
B-2	Logan River - source to Idaho/Utah border			

(4-5-00)

05. Lower Bear-Malad Subbasin. The Lower Bear-Malad Subbasin, HUC 16010204, is comprised of thirteen (13) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Malad River - Little Malad River to Idaho/Utah border	COLD	SCR	
B-2	Devil Creek - Devil Creek Reservoir Dam to mouth			
B-3	Devil Creek Reservoir			
B-4	Devil Creek - source to Devil Creek Reservoir			
B-5	Deep Creek - Deep Creek Reservoir Dam to mouth			
B-6	Deep Creek Reservoir			
B-7	Deep Creek - source to Deep Creek Reservoir			
B-8	Little Malad River - Daniels Reservoir Dam to mouth	COLD	PCR	
B-9	Daniels Reservoir			
B-10	Wright Creek - source to Daniels Reservoir	COLD SS	PCR	
B-11	Dairy Creek - source to mouth			
B-12	Malad River - source to Little Malad River	COLD	PCR	DWS
B-13	Samaria Creek - source to mouth			

(4-5-00)

06. Curlew Valley Subbasin. The Curlew Valley Subbasin, HUC 16020309, is comprised of three (3) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Deep Creek - Rock Creek to Idaho/Utah border	COLD	PCR	DWS
B-2	Deep Creek - source to Rock Creek	COLD	PCR	DWS
B-3	Rock Creek - source to mouth			

(4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

252. SURFACE WATER QUALITY CRITERIA FOR WATER SUPPLY USE DESIGNATION.

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

01. Domestic. Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

a. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, “Rules Governing Public Drinking Water Systems.” (8-24-94)

b. Small public water supplies (Surface Water). (8-24-94)

i. The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies.

TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES

County	Water Body	Supply No.*	Supply System Name
Benewah	Spring	1050001	BLM Sheep Springs
Benewah	Spring	1050002	BLM Tingley Springs
Benewah	Adams Ck.	1050011	Fernwood Water Dist.
Benewah	Rochat Ck.	1050024	St Maries, City of
Boise	Elk Ck.	4080025	Idaho City Water Dept.
Boise	McBride Ck.	4080047	Terrace Lakes Rec. Ranch
Bonner	Spring	1090168	Beaver Ck Camp Assn
Bonner	Spring	1090017	Clark Fork U ID Field Campus
Bonner	Berry Ck.	1090021	Colburn Water Assn.
Bonner	Cougar Ck.	1090030	Cougar Creek Water Assn
Bonner	Strong Ck.	1090038	East Hope Water Dept.
Bonner	Composite Spring	1090052	Hope Water System
Bonner	Spring	1090074	Lakeview Townsite Improve Assn
Bonner	Spring	1090031	Midas Water System
Bonner	Little Sand Ck.	1090121	Sandpoint Water Dept
Bonner	Schweitzer Ck.	1090124	Schweitzer Basin Water Co
Bonner	Spring #1	1090123	Schweitzer Mtn Resort
Bonner	Spring #2	1090123	Schweitzer Mtn Resort
Bonner	Springs	1090151	West Bonner WD#1
Boundary	Meadow Ck.	1110001	Bee Line Water Assn.
Boundary	Myrtle Ck.	1110003	Bonnors Ferry, City of
Boundary	Spring	1110007	Cow Ck Water Assn
Boundary	Curley Ck.	1110008	Curley Ck. Water Assn.

County	Water Body	Supply No.*	Supply System Name
Boundary	Mission Ck.	1110019	Mission Creek Water Assn.
Boundary	Caribou Ck.	1110020	Moravia Water Assn.
Boundary	Spring	1110044	Northwest Academy/Ascent
Boundary	Ruby Ck.	1110044	Northwest Academy/Ascent
Boundary	Brown Creek and Cedar Ck.	1110023	Paradise Valley Water Assn.
Boundary	Spring #1	1110024	Rocky Mountain Academy
Boundary	Spring #2	1110024	Rocky Mountain Academy
Boundary	Skin Ck.	1110025	Skin Ck. Water Assn.
Boundary	Springs	1110029	Trow Creek Water Assn
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Ck. Water Assn.
Clearwater	N.F. Clearwater R.**	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Ck.	2180029	Potlatch Corp-Headquarters
Custer	Garden Ck.	7190013	Challis, City of
Elmore	E.F. Montezuma Ck.	4200005	Atlanta Water Assn.
Idaho	Wall Creek	2250011	Clearwater Water Assn.
Idaho	Big Elk Ck.	2250017	Elk City Water/Sewer Assn.
Kootenai	Spring	1280068	Excelsior Beach Water
Kootenai	Rose Spring	1280161	Rose Lake Water Assn
Lemhi	Chick Ck., Jesse Ck., and Pollard Ck.	7300042	Salmon, City of
Nez Perce	Big Canyon Ck.	2350023	Peck Water System
Shoshone	Lake Ck.	1400081	Asarco Galena Unit
Shoshone	Shields Ck.	1400089	Central Shoshone County WD
Shoshone	Big Ck.	1400089	Central Shoshone County WD
Shoshone	McFarren Ck.	1400089	Central Shoshone County WD
Shoshone	Milo Ck.	1400089	Central Shoshone County WD
Shoshone	Sawmill Gulch and Canyon Ck.	1400016	East Shoshone County WD-Burke
Shoshone	Boulder Ck.	1400017	East Shoshone County WD-Mullan
Shoshone	Cranky Gulch	1400019	East Shoshone County WD-Wallace
Shoshone	Weyer Gulch	1400019	East Shoshone County WD-Wallace
Shoshone	Experimental Ck.	1400019	East Shoshone County WD-Wallace
Shoshone	Canyon Ck.	1400016	East Shoshone County WD-Burke
Shoshone	Mill Ck.	1400017	East Shoshone County WD-Mullan

County	Water Body	Supply No.*	Supply System Name
Shoshone	Placer Ck.-main channel	1400019	East Shoshone County WD-Wallace
Shoshone	Placer Ck-WF	1400019	East Shoshone County WD-Wallace
Shoshone	Deadman Ck. MF	1400028	Hecla Mining Co-Lucky Friday
Shoshone	National Tunnel	1400028	Hecla Mining Co-Lucky Friday
Shoshone	Deadman Ck. WF	1400028	Hecla Mining Co-Lucky Friday
Shoshone	Spring	1400067	Lookout Pass Ski Area
Shoshone	Alder Ck. and East Alder Ck.	1400039	Murray Water Works
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Shoshone	Big Ck #1	1400050	Sunshine Precious Metals
Valley	Boulder Ck.	4430059	Yellowpine Water System, Inc.

* Public water supply number assigned by IDHW/DEQ.

** Only the portion of the watershed below Dworshak Dam is included. (3-30-01)

ii. For those surface waters identified in Subsection 252.01.b.i. turbidity as measured at the public water intake shall not be: (4-5-00)

(1) Increased by more than five (5) NTU above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, when background turbidity is fifty (50) NTU or less. (8-24-94)

(2) Increased by more than ten percent (10%) above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed twenty-five (25) NTU, when background turbidity is greater than fifty (50) NTU. (8-24-94)

02. Agricultural. Water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (4-5-00)

03. Industrial. Water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 252 or 275 through 298. (4-5-00)

252. SURFACE WATER QUALITY CRITERIA FOR WATER SUPPLY USE DESIGNATION.

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

01. Domestic. Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

~~*a. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Rules Governing Public Drinking Water Systems."*~~ (8-24-94)

~~*b. Small public water supplies (Surface Water).*~~ (8-24-94)

i. *The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies.*

TABLE – DESIGNATED SMALL PUBLIC WATER SUPPLIES

County	Water Body	Supply No.*	Supply System Name
<i>Benewah</i>	<i>Spring</i>	<i>1050001</i>	<i>BLM Sheep Springs</i>
<i>Benewah</i>	<i>Spring</i>	<i>1050002</i>	<i>BLM Tingley Springs</i>
<i>Benewah</i>	<i>Adams Ck.</i>	<i>1050011</i>	<i>Fernwood Water Dist.</i>
<i>Benewah</i>	<i>Rochat Ck.</i>	<i>1050024</i>	<i>St Maries, City of</i>
<i>Boise</i>	<i>Elk Ck.</i>	<i>4080025</i>	<i>Idaho City Water Dept.</i>
<i>Boise</i>	<i>McBride Ck.</i>	<i>4080047</i>	<i>Terrace Lakes Rec. Ranch</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090168</i>	<i>Beaver Ck Camp Assn</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090017</i>	<i>Clark Fork U ID Field Campus</i>
<i>Bonner</i>	<i>Berry Ck.</i>	<i>1090021</i>	<i>Colburn Water Assn.</i>
<i>Bonner</i>	<i>Cougar Ck.</i>	<i>1090030</i>	<i>Cougar Creek Water Assn</i>
<i>Bonner</i>	<i>Strong Ck.</i>	<i>1090038</i>	<i>East Hope Water Dept.</i>
<i>Bonner</i>	<i>Composite Spring</i>	<i>1090052</i>	<i>Hope Water System</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090074</i>	<i>Lakeview Townsite Improve Assn</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090031</i>	<i>Midas Water System</i>
<i>Bonner</i>	<i>Little Sand Ck.</i>	<i>1090121</i>	<i>Sandpoint Water Dept</i>
<i>Bonner</i>	<i>Schweitzer Ck.</i>	<i>1090124</i>	<i>Schweitzer Basin Water Co</i>
<i>Bonner</i>	<i>Spring #1</i>	<i>1090123</i>	<i>Schweitzer Mtn Resort</i>
<i>Bonner</i>	<i>Spring #2</i>	<i>1090123</i>	<i>Schweitzer Mtn Resort</i>
<i>Bonner</i>	<i>Springs</i>	<i>1090151</i>	<i>West Bonner WD#1</i>
<i>Boundary</i>	<i>Meadow Ck.</i>	<i>1110001</i>	<i>Bee Line Water Assn.</i>
<i>Boundary</i>	<i>Myrtle Ck.</i>	<i>1110003</i>	<i>Bonnors Ferry, City of</i>
<i>Boundary</i>	<i>Spring</i>	<i>1110007</i>	<i>Cow Ck Water Assn</i>
<i>Boundary</i>	<i>Curley Ck.</i>	<i>1110008</i>	<i>Curley Ck. Water Assn.</i>
<i>Boundary</i>	<i>Mission Ck.</i>	<i>1110019</i>	<i>Mission Creek Water Assn.</i>
<i>Boundary</i>	<i>Caribou Ck.</i>	<i>1110020</i>	<i>Moravia Water Assn.</i>
<i>Boundary</i>	<i>Spring</i>	<i>1110044</i>	<i>Northwest Academy/Ascent</i>
<i>Boundary</i>	<i>Ruby Ck.</i>	<i>1110044</i>	<i>Northwest Academy/Ascent</i>
<i>Boundary</i>	<i>Brown Creek and Cedar Ck.</i>	<i>1110023</i>	<i>Paradise Valley Water Assn.</i>
<i>Boundary</i>	<i>Spring #1</i>	<i>1110024</i>	<i>Rocky Mountain Academy</i>
<i>Boundary</i>	<i>Spring #2</i>	<i>1110024</i>	<i>Rocky Mountain Academy</i>

<i>County</i>	<i>Water Body</i>	<i>Supply No.*</i>	<i>Supply System Name</i>
<i>Boundary</i>	<i>Skin Ck.</i>	<i>1110025</i>	<i>Skin Ck. Water Assn.</i>
<i>Boundary</i>	<i>Springs</i>	<i>1110029</i>	<i>Trow Creek Water Assn</i>
<i>Boundary</i>	<i>Twenty Mile Ck.</i>	<i>1110030</i>	<i>Twenty Mile Ck. Water Assn.</i>
<i>Clearwater</i>	<i>N.F. Clearwater R.**</i>	<i>2180001</i>	<i>Ahsahka Water and Sewer District</i>
<i>Clearwater</i>	<i>Reeds Ck.</i>	<i>2180029</i>	<i>Potlatch Corp. Headquarters</i>
<i>Custer</i>	<i>Garden Ck.</i>	<i>7190013</i>	<i>Challis, City of</i>
<i>Elmore</i>	<i>E.F. Montezuma Ck.</i>	<i>4200005</i>	<i>Atlanta Water Assn.</i>
<i>Idaho</i>	<i>Wall Creek</i>	<i>2250011</i>	<i>Clearwater Water Assn.</i>
<i>Idaho</i>	<i>Big Elk Ck.</i>	<i>2250017</i>	<i>Elk City Water/Sewer Assn.</i>
<i>Kootenai</i>	<i>Spring</i>	<i>1280068</i>	<i>Excelsior Beach Water</i>
<i>Kootenai</i>	<i>Rose Spring</i>	<i>1280161</i>	<i>Rose Lake Water Assn</i>
<i>Lemhi</i>	<i>Chick Ck., Jesse Ck., and Pollard Ck.</i>	<i>7300042</i>	<i>Salmon, City of</i>
<i>Nez Perce</i>	<i>Big Canyon Ck.</i>	<i>2350023</i>	<i>Peck Water System</i>
<i>Shoshone</i>	<i>Lake Ck.</i>	<i>1400081</i>	<i>Asarco Galena Unit</i>
<i>Shoshone</i>	<i>Shields Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Big Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>McFarren Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Milo Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Sawmill Gulch and Canyon Ck.</i>	<i>1400016</i>	<i>East Shoshone County WD-Burke</i>
<i>Shoshone</i>	<i>Boulder Ck.</i>	<i>1400017</i>	<i>East Shoshone County WD-Mullan</i>
<i>Shoshone</i>	<i>Cranky Gulch</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Weyer Gulch</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Experimental Ck.</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Canyon Ck.</i>	<i>1400016</i>	<i>East Shoshone County WD-Burke</i>
<i>Shoshone</i>	<i>Mill Ck.</i>	<i>1400017</i>	<i>East Shoshone County WD-Mullan</i>
<i>Shoshone</i>	<i>Placer Ck.-main channel</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Placer Ck-WF</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Deadman Ck. MF</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>National Tunnel</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>Deadman Ck. WF</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>Spring</i>	<i>1400067</i>	<i>Lookout Pass Ski Area</i>
<i>Shoshone</i>	<i>Alder Ck. and East Alder Ck.</i>	<i>1400039</i>	<i>Murray Water Works</i>

County	Water Body	Supply No.*	Supply System Name
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Shoshone	Big Ck #1	1400050	Sunshine Precious Metals
Valley	Boulder Ck.	4430059	Yellowpine Water System, Inc.

* Public water supply number assigned by IDHW/DEQ.

** Only the portion of the watershed below Dworshak Dam is included. (3-30-01)

a. Must meet general water quality criteria set forth in Section 200 and the Water & Fish criteria set forth in Subsection 210.01.b. ()

ii.b. ~~For those surface waters identified in Subsection 252.01.b.i.~~ Turbidity as measured at the any public water intake shall not be: (4-5-00) ()

~~(1)~~ **i.** Increased by more than five (5) NTU above *natural* background, ~~measured at a location upstream from or not influenced by any human induced nonpoint source activity,~~ when background turbidity is fifty (50) NTU or less; (8-24-94) ()

~~(2)~~ **ii.** Increased by more than ten percent (10%) above *natural* background, ~~measured at a location upstream from or not influenced by any human induced nonpoint source activity,~~ not to exceed twenty-five (25) NTU, when background turbidity is greater than fifty (50) NTU; and less than two hundred and fifty (250) NTU; or (8-24-94) ()

iii. Increased by more than twenty-five (25) NTU above background when background turbidity is two hundred and fifty (250) NTU or greater. ()

02. Agricultural. Water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (4-5-00)

03. Industrial. Water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 252 or 275 through 298. (4-5-00)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1703

NOTICE OF MEETING OF THE IDAHO BOARD OF ENVIRONMENTAL QUALITY

NOTICE OF PUBLIC MEETING: Notice is hereby given that during the meeting scheduled for November 14 and 15, 2018, the Idaho Department of Environmental Quality (DEQ) will present Rule Docket No. 58-0102-1703 to the Idaho Board of Environmental Quality (Board) for adoption as a pending rule.

BOARD MEETING SCHEDULE:

PUBLIC MEETING
Wednesday, November 14 & Thursday, November 15, 2018 Call to Order at 9:00 a.m. (MST)
DEQ State Office 1410 N. Hilton Street Conference Rooms A & B Boise, Idaho 83706

The Board meeting agenda will be available on November 1, 2018, at <http://www.deq.idaho.gov/about-deq/board-of-environmental-quality/meetings/>.

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. For those who cannot attend the meeting in person, arrangements for telephone/web conferencing can be made. To request accommodations for language translation or telephone/web conferencing, contact the undersigned by November 6, 2018.

DESCRIPTIVE SUMMARY: Proposed Rule Docket No. 58-0102-1703 was published in the Idaho Administrative Bulletin on August 1, 2018, **Vol. 18-8**, and is available at www.deq.idaho.gov/58-0102-1703. The written comment deadline for Docket No. 58-0102-1703 is August 31, 2018. After consideration of public comments, DEQ intends to present the final proposal to the Board for adoption of a pending rule. The public will have an opportunity to provide oral comments on the proposed rule during the Board meeting. The rule is expected to become final and effective upon the conclusion of the 2019 legislative session if adopted by the Board and approved by the Legislature.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-1801

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 15, 2018. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. Idaho's Rules and Standards for Hazardous Waste, IDAPA 58.01.05, are updated annually to maintain consistency with the federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference to include those revised as of July 1, 2018.

This proposed rule includes the incorporation by reference of **40 CFR Part 264, Subpart FF, and Part 265, Subpart FF**, Fees for the Electronic Hazardous Waste Manifest Program (e-Manifest system). The fees are imposed and collected by the U.S. Environmental Protection Agency (EPA) for use of the e-Manifest system. The e-Manifest system is a new national system established by EPA for tracking hazardous waste shipments electronically. All receiving facilities, i.e., facilities that receive waste that must be manifested under federal law or receive state-regulated hazardous waste that must be manifested as required by the state in which the waste was generated, must submit those manifests to EPA either in paper form or electronically beginning June 30, 2018. EPA will charge receiving facilities an associated fee for each manifest. The fees are differentiated based on the manifest type and mode of submission.

States with authorized hazardous waste programs are required by EPA to revise their programs to be equivalent to, consistent with, and no less stringent than the requirements of the final e-Manifest user fee regulations. All state programs must adopt or reference appropriately in their state rules certain fee methodology provisions of the e-Manifest user fee rule so that users in all states are aware of the receiving facilities' obligation to pay user fees to EPA for e-Manifest related services.

The fees depend on the type of manifest submitted and, for the first year, will range from \$5 to \$15 per manifest. The fee assessments and collections associated with this rule are performed solely by EPA. DEQ is not involved in any way with the assessment or collection of e-Manifest user fees. Therefore, DEQ will not have additional costs associated with implementing the e-Manifest rule, and the regulated community will not have additional costs with respect to DEQ; fees will not be imposed or collected by DEQ.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board in November 2018 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2019 legislative session if adopted by the Board and approved by the Legislature.

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

Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive difference between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at www.deq.idaho.gov/58-0105-1801 or by contacting the undersigned.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting EPA's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Matt Alvarado at matt.alvarado@deq.idaho.gov or (208) 373-0554.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before August 29, 2018.

Dated this 1st day of August, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton St.
Boise, Idaho 83706-1255
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0105-1801
(Only Those Sections With Amendments Are Shown.)

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2017~~8~~, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(3-28-18)~~()

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

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

- a. U.S. Government Printing Office, <http://www.ecfr.gov/cgi-bin/ECFR>; and (3-25-16)
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208) 334-3316; and (7-2-97)
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017⁸. For the purposes of 40 CFR 260.4(a)(4) and 260.5(b)(2), “EPA” shall be defined as the U.S. Environmental Protection Agency. For the purposes of 40 CFR 260.10 in the definition of electronic manifest and electronic manifest system, “EPA” shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, “Federal Register” shall be defined as the Idaho Administrative Bulletin. (~~3-28-18~~)()

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts (excluding 261.4(b)(17)), except the language “in the Region where the sample is collected” in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017⁸. For purposes of 40 CFR 261.10 and 40 CFR 261.11, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), 40 CFR 261.41, and 40 CFR 261 Appendix IX, “EPA” shall be defined as the U.S. Environmental Protection Agency. Copies of annual reports and advance notifications under these sections shall also be sent to the Director. (~~3-28-18~~)()

01. Hazardous Secondary Materials Managers Emergency Notification. In addition to the emergency notification required by 40 CFR 261.411(d)(3) and 261.420(f)(4)(ii), the emergency coordinator must also immediately notify the Idaho Office of Emergency Management by telephone, 1-800-632-8000, to file an identical report. (3-29-17)

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

a. **Verification Testing Requirements.** Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.02.b. and 005.02.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-29-17)

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

i. For purposes of Subsections 005.02.b., “new source” shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.02.d. (3-29-17)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in

- writing. The written notification shall include: (3-16-96)
- (1) The waste profile information; and (3-16-96)
 - (2) The name and address of the generator. (3-16-96)
- iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.02.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.02.d. (3-29-17)
- iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.02.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.02.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-29-17)
- v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)
- (1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.02.d.; and (3-29-17)
 - (2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.02.b.iv. (3-29-17)
- vi. For purposes of Subsections 005.02.b. and 005.02.c., “batch” shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-29-17)
- c. Subsequent Verification Testing.** (3-16-96)
- i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.02.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-29-17)
 - ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.02.d. (3-29-17)
 - iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)
 - iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.02.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.02.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-29-17)
 - v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.02.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-29-17)
 - (1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.02.d.; or (3-29-17)
 - (2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)
 - vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in

Subsection 005.02.d. (3-29-17)

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

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

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

(3-16-96)

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

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

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

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

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

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Waste Management and Remediation Division, 1410 N. Hilton, Boise, Idaho 83706. (3-29-12)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify

that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017. For purposes of 40 CFR 262.82, 262.83, and 262.84, "EPA" shall be defined as the U.S. Environmental Protection Agency. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.20, 262.21, 262.24, and 262.25, and 262.39, EPA or Environmental Protection Agency shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262, Subpart H, "United States or U.S." shall be defined as the United States. (3-28-18)()

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 262.16(b)(9)(iv)(C) and 262.265(d)(2), (see 40 CFR 262.17(a)(6), 263.30(c)(1), 264.56(d)(2), and 265.56(d)(2)) the emergency coordinator must also immediately notify the Idaho Office of Emergency Management by telephone, 1-800-632-8000, to file an identical report. (3-28-18)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States. For the purposes of 40 CFR 263.20(a), "EPA" shall be defined as U.S. Environmental Protection Agency. (3-28-18)()

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

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71 and 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. (3-28-18)()

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

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.1(c)(15), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)), except the language contained in 40 CFR 265.340(b)(2) as replaced with: "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part," are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71 and 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. (3-28-18)()

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

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~. ~~(3-28-18)~~()

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) “EPA” shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), “Administrator” shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), “D009” is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.)

~~(3-28-18)~~()

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.1(c)(2)(ix), 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively.

~~(3-28-18)~~()

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

40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~, except that the last sentence of 40 CFR 124.10(b)(1), 40 CFR 124.15(b)(2) 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively.

~~(3-28-18)~~()

014. (RESERVED)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~. For purposes of 40 CFR 279.43(c)(3)(ii) “Director” shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ~~(3-28-18)~~()

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

(2-11-94)

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

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

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~. For purposes of 40 CFR 273.32(a)(3), “EPA” shall be defined as the U.S. Environmental Protection Agency.

~~(3-28-18)~~()

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

40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~. ~~(3-28-18)~~()

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

40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2017~~8~~. ~~(3-28-18)~~()

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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 August 15, 2018, unless otherwise posted.
The proposed rule written comment submission deadline is August 22, 2018, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 07 – DIVISION OF BUILDING SAFETY PO Box 83720, Meridian, ID 83642

07-0206-1702, Rules Concerning Idaho State Plumbing Code. Revises certain sections of the 2017 Idaho State Plumbing Code to require an air gap or backflow prevention device on a potable water supply to beverage dispensers or coffee machines; allows water closets to act as cleanouts and requires installation of exterior, two-way cleanouts; replaces the first hour ratings in table 501.1(1) with ratings calculated using the U.S. Department of Energy's revised ratings method.

07-0501-1801, Rules of the Public Works Contractors License Board. Defines an individual qualified by examination (QI) designation; determines the "reasonable length of time" a contractor's license will remain in force; and clarifies that notice that a contractor's QI has ceased to be connected with the contractor must be provided on forms prescribed by the administrator.

07-0701-1703, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems. Allows apprentices to take the journeyman exam before completing four years' work experience and allows apprentices who successfully complete a Board-approved, full-time, one-year training course to receive credit for up to one year of work experience.

IDAPA 08 – STATE BOARD OF EDUCATION AND DEPARTMENT OF EDUCATION PO Box 83720, Boise ID 83720-0027

08-0202-1801, Rules Governing Uniformity. Makes certification and endorsement revisions for school nurse, teacher librarian, teacher leader, gifted and talented, English, online teacher, and literacy; defines "clinical experience"; adds new endorsements for middle school social studies and science; addresses the use of continuing education units toward a certificate renewal by pupil service staff certificate holders who also hold a license through IBOL.

08.02.03 - Rules Governing Thoroughness

08-0203-1801, Incorporates by reference the updated Idaho Special Education Manual.

08-0203-1805, Removes obsolete references to Annual Measureable Achievement Objectives (AMAOs).

IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS 1510 Watertower St, Meridian, ID 83642

***10-0101-1801, Rules of Procedure.** (*PH) Implements SB 1252 by repealing examination failure requirements, allowing for early testing for professional examinations, and adding a new category for discontinued certificates of authorization.

***10-0102-1801, Rules of Professional Responsibility.** (*PH) Requires professional land surveyors to notify affected adjacent landowners and the Board prior to setting a monument that represents a material discrepancy with another

monument for the same property corner and potentially clouding the title of private land.

IDAPA 12 – DEPARTMENT OF FINANCE**PO Box 83720 Boise, ID 83720-0031**

12-0108-1801, Rules Pursuant to the Uniform Securities Act (2004). Removes an exemption for a federal securities issuer that no longer exists; addresses recent changes in uniform securities examinations as adopted by both federal and state securities regulators.

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

16-0309-1809, Medicaid Basic Plan Benefits. (Temp & Prop) PCS paraprofessional provider qualifications are being updated for school-based services to align with community paraprofessional PCS provider qualifications. (eff. 8-1-18)T

**16-0310-1801, Medicaid Enhanced Plan Benefits.* (*PH) (Temp & Prop) Allows Medicaid to enroll dual eligibles who have not elected to enroll in the coordinated MMCP into a Medicaid Managed Long-Term Services and Supports program, which will administer and coordinate Medicaid benefits. (eff. 10-1-18)T

IDAPA 20 – IDAHO DEPARTMENT OF LANDS**3284 W. Industrial Loop, Coeur d'Alene, ID 83815**

20-0401-1801, Rules Pertaining to Forest Fire Protection. Incorporates by reference the spark arrester standards established in 2012; adds required sections; updates and adds definitions; updates fire tool requirements and new fire protection requirements for forest operation activities involving cable logging operations and the use of metal tracked harvesters to include on-site water supply, fire watch service and operation area fire prevention practices.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES**PO Box 83720, Boise, ID 83720-0065**

24-0101-1801, Rules of the Board of Architectural Examiners. (Temp & Prop) Implements HB 458 by updating and streamlining processes to make it easier for licensees and those seeking licensure to obtain one; removes a 30-day application deadline; eliminates unnecessary and obsolete language. (eff. 7-1-18)T

24-1501-1801, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. (Temp & Prop) Establishes education requirements, reduces costs and barriers for licensure; allows an individual to work under supervision while completing licensure requirements; accepts the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) graduate programs as meeting all education requirements; increases flexibility to complete both practicum and supervised experience hours, which reduces tuition and supervision costs for applicants.

IDAPA 34 – OFFICE OF THE SECRETARY OF STATE**PO Box 83720, Boise, ID 83720-0080**

**34-0602-1801, Rules Governing the Electronic Recording of Plats, Records of Survey, and Corner Records.* (*PH) New chapter implements consistent standards for electronically filing and recording plats, records of survey, and corner records in county courthouses.

IDAPA 35 – IDAHO STATE TAX COMMISSION**PO Box 36, Boise, ID 83722-0410**

35-0101-1801, Income Tax Administrative Rules. Clarifies Commission's application of Federal retroactive provisions and that uncodified provisions of federal law are included when calculating Idaho taxable income; new rule tells how to report federal section 965 deemed repatriation income on the Idaho return; adds 2018 tax bracket; limits and exempts certain contributions and earnings for nonqualified withdrawals from college savings to what was previously exempt; increases deductions for adoption expenses; adds the amount of guaranteed payments that are sourced as compensation for services for 2018; lists the corporate tax rates for 2001 through 2018; adds the new Idaho child tax credit; changes the date the withholding reconciliation return must be filed; modifies the time period that a taxpayer has to notify the Tax Commission of a change in federal taxable income or in tax paid to another state; deletes obsolete rules.

35-0102-1801, Idaho Sales and Use Tax Administrative Rules. Clarifies that parts installed in non-resident aircraft

are exempt from sales tax if those parts are installed by a FAA approved repair station, even if the repair is paid for under a warranty agreement; removes the 5% tax schedule from the sales tax tables.

35-0105-1801, Idaho Motor Fuel Tax Administrative Rules. Clarifies which vehicles can use dyed diesel pursuant to 63-2425, Idaho Code.

**IDAPA 52 – IDAHO STATE LOTTERY COMMISSION
PO Box 6537, Boise, ID 83707-6537**

52-0103-1801, Rules Governing Operations of the Idaho State Lottery. Moves the Idaho Lottery to an automated balancing functionality by eliminating the use of Drawing Managers to audit and balance draws from the online game drawing procedure, a function that will be obsolete to industry practice and standard going forward.

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

58.01.01 - Rules for the Control of Air Pollution in Idaho

***58-0101-1801, (*PH)** Updates and clarifies certain air quality permitting provisions including minor clarifications for sources seeking air quality permits or exemptions from permitting; resolves inconsistencies in rule language; removes outdated references: adds provisions for renewing operating permits. Comment by 9/5/2018

***58-0101-1803, (*PH)** Allows farmers to pay the required burn fees after crop burning instead of prior to burning; streamlines DEQ administrative processes for permit registration and fee collections. Comment by 9/5/2018

***58-0101-1804, (*PH)** Updates and adopts amendments to the Clean Air Act federal regulations that are incorporated by reference. Comment by 9/5/2018

58-0102-1703, Water Quality Standards. Designates domestic water supply as a beneficial use in 27 water bodies where the Safe Drinking Water Information System indicates an active surface water intake and where domestic water supply is not currently designated.

58-0105-1801, Rules and Standards for Hazardous Waste. Updates and adopts amendments to the Resource Conservation and Recovery Act federal regulations that are incorporated by reference. Comment by 8/29/2018

NOTICES OF ADOPTION OF TEMPORARY RULE ONLY

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24-2801-1801, Rules of the Barber and Cosmetology Services Licensing Board (eff. 7-2-18)T

IDAPA 35 – IDAHO STATE TAX COMMISSION

35-0101-1802, Income Tax Administrative Rules (eff. 1-1-18)T

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IDAPA 13 – IDAHO FISH AND GAME COMMISSION / DEPT OF FISH AND GAME

13.01.11 – Rules Governing Fish

13-0111-1802AP – Notice of Amended Proclamation

13-0111-1803AP – Notice of Amended Proclamation

13-0111-1804 – Notice of Proclamation

Please refer to the Idaho Administrative Bulletin, **August 1, 2018, Volume 18-8**, for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

Office of the Administrative Rules Coordinator, Dept. of Administration, P.O. Box 83720, Boise, ID 83720-0306
Phone: 208-332-1820; 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 28, 2018 – August 1, 2018

(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)

HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)

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