

IDAHO ADMINISTRATIVE BULLETIN

September 4, 2019 – Vol. 19-9

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator
All Rights Reserved
Printed in the United States of America



The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Division of Financial Management, Office of the Governor, pursuant to Title 67, Chapter 52, Idaho Code.

Brad Little, Governor
Alex Adams, Administrator, Division of Financial Management
Dennis Stevenson, Administrative Rules Coordinator
Bradley Hunt, Administrative Rules Specialist
Jason Shaw, Publishing Specialist/Rules Analyst

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

September 4, 2019 – Vol. 19-9

PREFACE	6
IIDAPA 01 – BOARD OF ACCOUNTANCY	
<i>Docket No. 01-0101-1900F</i>	
Notice of Public Hearing for Omnibus Fee Rulemaking	14
IDAPA 02 – DEPARTMENT OF AGRICULTURE	
02.02.02 Through 02.06.41	
<i>Consolidation and Reorganization of Chapters Under the Direction of ISDA</i>	
Docket No. 02-0100-1901OM	
Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking	15
02.02.12 – <i>Bonded Warehouse Rules</i>	
Docket No. 02-0212-1901	
Notice of Rulemaking – Proposed Rule	20
02.03.01 – <i>Rules Governing Pesticide Management Plans for Ground Water Protection</i>	
Docket No. 02-0301-1901	
Notice of Rulemaking – Proposed Rule	30
02.03.03 – <i>Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application</i>	
Docket No. 02-0303-1901 (Fee Rule)	
Notice of Rulemaking – Proposed Rule	42
02.04.15 – <i>Rules Governing Beef Cattle Animal Feeding Operations</i>	
Docket No. 02-0415-1901	
Notice of Rulemaking – Proposed Rule	73
02.04.17 – <i>Rules Governing Dead Animal Movement and Disposal</i>	
Docket No. 02-0417-1901	
Notice of Rulemaking – Proposed Rule	82
02.04.20 – <i>Rules Governing Brucellosis</i>	
Docket No. 02-0420-1901	
Notice of Rulemaking – Proposed Rule	89
02.04.21 – <i>Rules Governing the Importation of Animals</i>	
Docket No. 02-0421-1901	
Notice of Rulemaking – Proposed Rule	94
02.04.23 – <i>Rules Governing Commercial Livestock Truck Washing Facilities</i>	
Docket No. 02-0423-1901	
Notice of Rulemaking – Proposed Rule	107
02.04.32 – <i>Rules Governing Poultry Operations</i>	
Docket No. 02-0432-1901 (Fee Rule)	
Notice of Rulemaking – Proposed Rule	115

IDAPA 07 – DIVISION OF BUILDING SAFETY

Docket No. 07-0000-1900F
 Notice of Public Hearing for Omnibus Rulemaking 128

Docket No. 07-0000-1900F
 Notice of Public Hearing for Omnibus Fee Rulemaking 130

07.01.01 – Rules of the Idaho Electric Board
Docket No. 07-0101-1901 (New Chapter)
 Notice of Rulemaking – Proposed Rule 132

07.05.01 – Rules of the Public Works Contractors License Board
Docket No. 07-0501-1901
 Notice of Rulemaking – Temporary and Proposed Rule..... 155

07.07.01 – Rules Governing Installation of Heating, Ventilation, & Air Conditioning Systems
Docket No. 07-0701-1902 (Fee Rule)
 Notice of Rulemaking – Proposed Rule 158

07.11.01 – Rules of the Division of Building Safety
Docket No. 07-1101-1901 (New Chapter)
 Notice of Rulemaking – Proposed Rule 163

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.01.30 – Unemployment Insurance Benefits Administration Rules
Docket No. 09-0130-1902
 Notice of Rulemaking – Proposed Rule 166

Docket No. 09-0130-1903
 Notice of Rulemaking – Proposed Rule 170

IDAPA 13 – DEPARTMENT OF FISH AND GAME

Docket No. 13-0000-1900
 Notice of Public Hearing for Omnibus Rulemaking 175

Docket No. 13-0000-1900F
 Notice of Public Hearing for Omnibus Fee Rulemaking 177

13.01.08 – Rules Governing the Taking of Big Game Animals in the State of Idaho
Docket No. 13-0108-1903
 Notice of Rulemaking – Proposed Rule 178

Docket No. 13-0108-1904
 Notice of Rulemaking – Proposed Rule 180

13.01.09 – Rules Governing the Taking of Game Birds in the State of Idaho
Docket No. 13-0109-1902
 Notice of Rulemaking – Proposed Rule 182

13.01.10 – Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife
Docket No. 13-0110-1901
 Notice of Rulemaking – Proposed Rule 186

IDAPA 15 – OFFICE OF THE GOVERNOR: IDAHO COMMISSION ON AGING

Docket No. 15-0100-1900
 Notice of Public Hearing for Omnibus Rulemaking 188

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.02 – Emergency Medical Services (EMS) – Rule Definitions
Docket No. 16-0102-1901
 Notice of Rulemaking – Proposed Rule 189

16.01.03 – Emergency Medical Services (EMS) – Agency Licensing Requirements
Docket No. 16-0103-1901
 Notice of Rulemaking – Proposed Rule 193

16.01.07 – Emergency Medical Services (EMS) – Personnel Licensing Requirements
Docket No. 16-0107-1901
 Notice of Rulemaking – Proposed Rule 195

16.02.08 – Vital Statistics Rules
Docket No. 16-0208-1901
 Notice of Public Hearing 200

16.03.19 – Rules Governing Certified Family Homes
Docket No. 16-0319-1901
 Notice of Rulemaking – Proposed Rule 201

16.03.22 – Residential Care or Assisted Living Facilities in Idaho
Docket No. 16-0322-1901
 Notice of Rulemaking – Proposed Rule 205

16.05.06 – Criminal History and Background Checks
Docket No. 16-0506-1901
 Notice of Rulemaking – Proposed Rule 291

Docket No. 16-0506-1902
 Notice of Rulemaking – Proposed Rule 296

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY

19.01.01 – Rules of the Idaho State Board of Dentistry
Docket No. 19-0101-1901 (Fee Rule)
 Notice of Rulemaking – Temporary and Proposed Rule 306

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.02 – Rules Governing Mined Land Reclamation
Docket No. 20-0302-1902 (Fee Rule)
 Notice of Rulemaking – Adoption of Temporary Rule 317

20.03.03 – Rules Governing Administration of the Reclamation Fund
Docket No. 20-0303-1901
 Notice of Rulemaking – Proposed Rule 359

*20.03.04 – Rules for the Regulation of Beds, Waters,
 Airspace Over Navigable Lakes in the State of Idaho*
Docket No. 20-0304-1901 (Fee Rule)
 Notice of Rulemaking – Proposed Rule 367

IDAPA 23 – IDAHO BOARD OF NURSING

Docket No. 23-0101-1900F
 Notice of Public Hearing for Omnibus Rulemaking 373

IDAPA 25 – IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

Docket No. 25-0101-1900F

Notice of Public Hearing & Extension of Written Comment Period for Omnibus Fee Rulemaking 374

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – Property Tax Administrative Rules

Docket No. 35-0103-1903

Notice of Rulemaking – Proposed Rule375

Docket No. 35-0103-1906

Notice of Rulemaking – Proposed Rule380

35.01.05 – Idaho Motor Fuels Tax Administrative Rules

Docket No. 35-0105-1901

Notice of Rulemaking – Proposed Rule384

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

Hatwai Creek Subbasin Assessment and Total Maximum Daily Loads (TMDL) – 2019 Temperature TMDL (HUC 17060306)

Docket No. 58-0000-1905

Notice of Final Decision.....386

58.01.01 – Rules for the Control of Air Pollution in Idaho

Docket No. 58-0101-1904 (Fee Rule)

Notice of Rulemaking – Proposed Rule387

58.01.02 – Water Quality Standards

Docket No. 58-0102-1901

Notice of Meeting of the Idaho Board of Environmental Quality.....589

Docket No. 58-0102-1901

Notice of Rulemaking – Proposed Rulemaking590

58.01.03 – Individual/Subsurface Sewage Disposal Rules

Docket No. 58-0103-1902

Notice of Rulemaking – Proposed Rule610

58.01.09 – Rules Regulating Swine Facilities

Docket No. 58-0109-1901 (Fee Rule)

Notice of Rulemaking – Proposed Rule638

58.01.11 – Ground Water Quality Rule

Docket No. 58-0111-1901 (Fee Rule)

Notice of Rulemaking – Proposed Rule655

58.01.15 – Rules Governing the Cleaning of Septic Tanks

Docket No. 58-0115-1901

Notice of Status of Rulemaking674

58.01.17 – Recycled Water Rules

Docket No. 58-0117-1901

Notice of Rulemaking – Proposed Rule675

SECTIONS AFFECTED INDEX 703

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS 724

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES 729

SUBJECT INDEX 751

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 2019

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin 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	March 22, 2019	April 5, 2019	May 1, 2019	May 22, 2019
19-6	June 2019	April 19, 2019	May 3, 2019	June 5, 2019	June 26, 2019
19-7	July 2019	May 24, 2019	June 7, 2019	July 3, 2019	July 24, 2019
19-8	August 2019	June 21, 2019	July 5, 2019	August 7, 2019	August 28, 2019
19-9	September 2019	July 19, 2019	August 2, 2019	September 4, 2019	September 25, 2019
19-10	October 2019	August 16, 2019	**August 30, 2019	October 2, 2019	October 23, 2019
19-11	November 2019	September 20, 2019	October 4, 2019	November 6, 2019	November 27, 2019
19-12	December 2019	October 18, 2019	November 1, 2019	December 4, 2019	December 25, 2019

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2020

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
20-1	January 2020	November 15, 2019	*November 29, 2019	January 1, 2020	January 22, 2020
20-2	February 2020	December 20, 2019	January 3, 2020	February 5, 2020	February 26, 2020
20-3	March 2020	January 22, 2020	February 7, 2020	March 4, 2020	March 25, 2020
20-4	April 2020	February 21, 2020	March 6, 2020	April 1, 2020	April 22, 2020
20-5	May 2020	March 20, 2020	April 3, 2020	May 6, 2020	May 27, 2020
20-6	June 2020	April 24, 2020	May 1, 2020	June 3, 2020	June 24, 2020
20-7	July 2020	May 22, 2020	June 5, 2020	July 1, 2020	July 22, 2020
20-8	August 2020	June 19, 2020	July 3, 2020	August 5, 2020	August 26, 2020
20-9	September 2020	July 24, 2020	August 7, 2020	September 2, 2020	September 23, 2020
20-10	October 2020	August 21, 2020	**August 28, 2020	October 7, 2020	October 28, 2020
20-11	November 2020	September 18, 2020	October 2, 2020	November 4, 2020	November 25, 2020
20-12	December 2020	October 23, 2020	November 6, 2020	December 2, 2020	December 23, 2020

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

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

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 01	Accountancy , Board of
IDAPA 38	Administration , Department of
IDAPA 44	Administrative Rules Coordinator , Office of the
IDAPA 02	Agriculture , Idaho Department of
IDAPA 40	Arts , Idaho Commission on the
IDAPA 24.02	Athletic Commission , Idaho
IDAPA 04	Attorney General , Office of the
IDAPA 53	Barley Commission , Idaho
IDAPA 51	Beef Council , Idaho
IDAPA 07	Building Safety , Division of Electrical Board (07.01) Plumbing Board (07.02) Building Codes & Manufactured Homes (07.03) Building Code Advisory Board (07.03.01) Public Works Contractors License Board (07.05) Uniform School Building Safety (07.06) HVAC Board (07.07)
IDAPA 55	Career Technical Education , Division of
IDAPA 28	Commerce , Idaho Department of
IDAPA 06	Correction , Board of
IDAPA 19	Dentistry , Board of
IDAPA 08	Education , State Board of and State Department of
IDAPA 10	Engineers and Land Surveyors , Board of Professional
IDAPA 58	Environmental Quality , Department of
IDAPA 12	Finance , Department of
IDAPA 13	Fish and Game , Department of
IDAPA 24.04	Geologists , Board of Registration for Professional

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 15	Governor, Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission 15.04) Idaho Liquor Division (15.10) Idaho Military Division (Division of Homeland Security) (15.06)
IDAPA 48	Grape Growers and Wine Producers Commission, Idaho
IDAPA 16	Health and Welfare, Department of
IDAPA 41	Health Districts, Public
IDAPA 45	Human Rights Commission
IDAPA 17	Industrial Commission
IDAPA 18	Insurance, Department of
IDAPA 05	Juvenile Corrections, Department of
IDAPA 09	Labor, Idaho Department of
IDAPA 20	Lands, Department of
IDAPA 30	Libraries, Commission for
IDAPA 52	Lottery Commission, Idaho State
IDAPA 22	Medicine, Board of
IDAPA 23	Nursing, Board of
IDAPA 43	Oilseed Commission, Idaho

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

IDAPA 24	Occupational Licenses, Board of (24.20) Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Athletic Commission, State (24.02) Barber and Cosmetology Services Licensing Board (24.28) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho State (24.21) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Genetic Counselors Licensing Board (24.24) Geologists, Board of Registration for Professional (24.04) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board (24.22) Massage Therapy, Board of (24.27) Midwifery, Board of (24.26) Morticians, Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of Examiners of (24.19) Shorthand Reporters Board, Idaho Certified (24.29) Social Work Examiners, Board of (24.14) Speech, Hearing and Communication Services Licensure Board (24.23)
IDAPA 25	Outfitters and Guides Licensing Board
IDAPA 50	Pardons and Parole, Commission for
IDAPA 26	Parks and Recreation, Department of
IDAPA 27	Pharmacy, Board of
IDAPA 11	Police, Idaho State
IDAPA 29	Potato Commission, Idaho
IDAPA 61	Public Defense Commission, State
IDAPA 59	Public Employee Retirement System of Idaho (PERSI)
IDAPA 31	Public Utilities Commission
IDAPA 56	Rangeland Resources Commission, Idaho
IDAPA 33	Real Estate Commission, Idaho
IDAPA 34	Secretary of State, Office of the
IDAPA 57	Sexual Offender Management Board

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 24.29	Shorthand Reporters Board, Idaho Certified
IDAPA 60	Soil and Water Conservation Commission, Idaho State
IDAPA 36	Tax Appeals, Board of
IDAPA 35	Tax Commission, State
IDAPA 39	Transportation Department, Idaho
IDAPA 54	Treasurer, Office of the State
IDAPA 21	Veterans Services, Division of
IDAPA 46	Veterinary Medical Examiners, Board of
IDAPA 47	Vocational Rehabilitation, Division of
IDAPA 37	Water Resources, Department of
IDAPA 42	Wheat Commission

IDAPA 01 – BOARD OF ACCOUNTANCY

DOCKET NO. 01-0101-1900F

NOTICE OF PUBLIC HEARING FOR OMNIBUS FEE RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section 54-204(1), Idaho Code.

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

PUBLIC HEARING (LIVE)

Wednesday, September 25, 2019 - 1:30 p.m. (MDT)

ISBA Office
3101 W. Main Street, Ste. 210
Boise, ID 83702

TELECONFERENCE (CALL-IN) (same date and time as above)

Toll Free: 1-877-820-7831
Participant Code: 957362

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 summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 33 - 34**. The following is a statement in nontechnical language of the substance and purpose of the rulemaking and the principal issued involved:

The purpose of the rulemaking is to clarify and simplify the Board's existing rules as prompted, in part, by the Red Tape Reduction Act (**Executive Order 2019-02**). The rulemaking involved will eliminate and simplify language and remove redundant language covered in statute. Specifically, areas covering the Licensure requirements; the CPA examination including the preparation of continuous testing to possibly launch in July 2020; Records, which include work product, client records, and working papers; CPE; and Peer Review.

ASSISTANCE ON TECHNICAL QUESTIONS:

For assistance on technical questions concerning this rulemaking, contact Kent A. Absec, Executive Director at (208) 334-2490. Materials pertaining to the rulemaking can be found on the ISBA web site at the following web address: <https://isba.idaho.gov/>.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before September 24, 2019.

Dated this 2th day of August, 2019.

Kent A. Absec, Executive Director
Phone: (208) 334-2490
Fax: (208) 334-2615
E-mail: kent.absec@isba.idaho.gov

Idaho State Board of Accountancy
3101 W. Main Street, Suite 210
Boise, ID 83702
P.O. Box 83820
Boise, Idaho 83720-0002

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.02 THROUGH 02.06.41

CONSOLIDATION AND REORGANIZATION OF CHAPTERS UNDER THE DIRECTION OF ISDA

DOCKET NO. 02-0100-19010M

NOTICE OF INTENT TO PROMULGATE RULES – OMNIBUS NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 22-101(3), 22-103(20), 22-108, 22-110, 22-112, 22-418(4), 22-418(11), 22-505, 22-604, 22-702, 22-802, 22-803, 22-901, 22-911, 22-1907, 22-2006, 22-2013, 22-2204, 22-2303(5), 22-2403, 22-2412, 22-2503, 22-2511, 25-2710, 22-4903, 25-203, 25-207A(1), 25-212, 25-305, 25-601, 25-1723(b), 25-3206, 25-3802, 25-4012(2), 37-303, 37-401(1), 37-405, 37-603(1), 37-516, and 67-6529F, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: Participation in-person is available or by written comment consistent with instructions at the end of this notice.

PUBLIC MEETINGS

**Monday September 16, 2019 –
9:00 a.m. to 10:30 a.m. & 1:00 p.m. to 3:00 p.m.**

Wednesday, September 18, 2019 – 9:00 a.m. to Noon (MDT)

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

Teleconferencing available upon request

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Idaho State Department of Agriculture (ISDA) previously proposed particular rules be promulgated as separate chapters in the Idaho administrative code. In an effort from ISDA and also in alignment with the Governor's [Red Tape Reduction Act](#), ISDA has decided to consolidate and combine like-minded rule chapters to simplify and streamline the rulemaking process and assist the regulated community. The following is a list of statements in nontechnical language of the substance and purpose of the intended negotiated meeting, as well as the date and time of the discussion on this combination rule:

Monday, September 16, 2019 – 9:00 a.m.

02.02.02 – Department of Agriculture Controlled Atmosphere Storage Rules

02.02.04 – Idaho Standards for Grades of Apples

Two rules administered by the ISDA are related to the grading standards and storage of apples in Idaho. These rules are IDAPA 02.02.02, "Department of Agriculture Controlled Atmosphere Storage Rules" and IDAPA 02.02.04, "Idaho Standards for Grades of Apples." These rules were promulgated to carry out requirements described in Title 22, Chapters 7 and 8, Idaho Code. In order to streamline and simplify rules related to apples, the ISDA has decided to combine the two rules into a single rule. The new rule will be titled "**02.02.02, Rules Governing Grading and Controlled Atmosphere Storage of Apples.**" No substantive changes are being made to the two rules cited above.

Monday, September 16, 2019 – 9:30 a.m.

02.02.05 – Prune Standards

02.02.06 – Idaho Standards for Grades of Sweet Cherries

02.02.10 – Idaho Standards for Apricots

Three rules administered by the ISDA are related to the state inspection and grading standards for prunes, sweet cherries and apricots, commonly known as stone fruits. These rules are IDAPA 02.02.05, “Prune Standards,” IDAPA 02.02.06, “Idaho Standards for Grades of Sweet Cherries,” and IDAPA 02.02.10, “Idaho Standards for Apricots.” These rules were promulgated to carry out requirements described in Title 22, Chapters 7 and 8, Idaho Code. Inspection and grading standards for stone fruits are similar in defect descriptions and grading tolerances and ISDA has decided to combine all three rules into a single rule to streamline and simplify them. The rule will be titled “**02.02.05, Rules Governing Grading of Stone Fruit.**” No substantive changes are being made to the three rules cited above.

Monday, September 16, 2019 – 10:00 a.m.

02.02.07 – Bulk Permit Procedure

02.02.09 – Rules Requiring the Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets

Two rules administered by ISDA are related to the retail sale inspection and bulk permitting of potatoes in Idaho. These rules are IDAPA 02.02.07, “Bulk Permit Procedure,” and IDAPA 02.02.09, “Rules Requiring the Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets.” These rules were promulgated to carry out requirements described in Title 22, Chapters 9 and 20, Idaho Code. In order to streamline and simplify rules related to retail sale inspection and bulk permitting requirements for potatoes, the ISDA has decided to combine the two rules into a single rule to be titled “**02.02.07, Rules Governing Bulk Permits and Retail Sale of Potatoes.**” No substantive changes are being made to the two rules cited above.

Monday, September 16, 2019 – 1:00 p.m.

02.04.05 – Rules Governing Manufacture Grade Milk

02.04.06 – Rules Governing Licensed Dairy Plants

02.04.08 – Rules Governing Grade A Milk and Milk Products

02.04.09 – Rules Governing Milk and Cream Procurement and Testing

Four rules administered by the ISDA are related to the inspection, production, processing, analysis and transport of Grade A and Manufacture Grade Milk and Milk Products. These rules are IDAPA 02.04.05, “Rules Governing Manufacture Grade Milk,” IDAPA 02.04.06, “Rules Governing Licensed Dairy Plants,” IDAPA 02.04.08, “Rules Governing Grade A Milk and Milk Products,” and IDAPA 02.04.09, “Rules Governing Milk and Cream Procurement and Testing.” Each of these rules addresses regulations pertaining to different variations of milk production. In order to streamline and simplify all rules related to milk production, the ISDA is proposing to combine all four rules into a single rule to be titled “**02.04.05, Rules Governing Grade A and Manufacture Grade Milk.**” No substantive changes are being made to the four rules cited above.

Monday, September 16, 2019 – 1:30 p.m.

02.04.16 – Rules Governing Agriculture Odor Management

02.04.18 – Rules Governing CAFO Site Advisory Team

02.04.30 – Rules Governing Nutrient Management

02.04.31 – Rules Governing the Stockpiling of Agricultural Waste

Four rules administered by the ISDA are related to general environmental issues associated with agricultural and livestock facilities. These rules are IDAPA 02.04.16, “Rules Governing Agriculture Odor Management,” IDAPA 02.04.18, “Rules Governing CAFO Site Advisory Team,” IDAPA 02.04.30, “Rules Governing Nutrient Management,” and IDAPA 02.04.31, “Rules Governing Stockpiling of Agricultural Waste.” These rules address the inspection, regulation of odor, waste stockpiling, nutrient management, and CAFO site approval for regulated facilities and the various environmental factors associated with each. In order to streamline and simplify all rules related to general environmental regulations on agriculture and livestock facilities, the ISDA is proposing to combine all four rules into a single rule titled “**02.04.30, Rules Governing Environmental and Nutrient Management.**” No substantive changes are being made to the four rules cited above.

Monday, September 16, 2019 – 2:00 p.m.

02.04.26 – Rules Governing Livestock Marketing

02.04.28 – Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots

Two rules administered by the ISDA are related to the sale, trade, exchange, identification and movement of livestock

through public livestock markets, buying stations or trader lots. These rules are IDAPA 02.04.26, “Rules Governing Livestock Marketing,” and IDAPA 02.04.28, “Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots.” Each of these rules addresses regulations pertaining to how livestock must be properly identified, quarantined and have their movement documented when being bought, sold or exchanged. In order to streamline and simplify all rules related to disease prevention, disease surveillance and reporting, the ISDA is proposing to combine all three rules into a single rule to be titled “**02.04.26, Rules Governing the Public Exchange of Livestock.**” No substantive changes are being made to the two rules cited above.

Monday, September 16, 2019 – 2:30 p.m.

02.04.03 – Rules Governing Animal Industry

02.04.22 – Rules Governing Animal Health Emergencies

Two rules administered by the ISDA are related to general health, disease surveillance and disease prevention requirements for domestic animals and livestock. These rules are IDAPA 02.04.03, “Rules Governing Animal Industry,” and IDAPA 02.04.22, “Rules Governing Animal Health Emergencies.” Each of these rules addresses regulations pertaining to various disease prevention, mitigation, testing and reporting requirements for domestic animals. In order to streamline and simplify all rules related to disease prevention, disease surveillance and reporting, the ISDA is proposing to combine these two rules into a single rule to be titled “**02.04.03, Rules Governing Animal Industry.**” No substantive changes are being made to the two rules cited above.

Wednesday, September 18, 2019 – 9:00 a.m.

02.06.04 – Phytosanitary and Post-Entry Certification Rules

02.06.34 – Rules Concerning Virus-Free Certification of Nursery Stock

02.06.40 – Rules Governing Ginseng Export

Three rules administered by the ISDA are related to plant exports. These rules are IDAPA 02.06.34, “Rules Concerning Virus-Free Certification of Nursery Stock,” IDAPA 02.06.40, “Rules Governing Ginseng Export,” and IDAPA 02.06.04, “Phytosanitary and Post-Entry Seed Certification Rules.” These rules were promulgated to carry out requirements described in Title 22, Chapters 1, 7, and 23. In order to streamline and simplify rules related to plant exports, the ISDA has decided to combine all three rules into a single rule to be titled “**02.06.04, Rules Governing Plant Exports.**” No substantive changes are being made to the three rules cited above.

Wednesday, September 18, 2019 – 9:30 a.m.

02.06.09 – Rules Governing Invasive Species

02.06.22 – Noxious Weed Rules

02.06.31 – Noxious Weed Free Forage and Straw Certification Rules

Three rules administered by the ISDA are related to the regulation of noxious weeds and invasive species, so as to prevent the spread of such species and their impacts on natural resources and crops. These rules are IDAPA 02.06.09, “Rules Governing Invasive Species,” IDAPA 02.06.22, “Noxious Weeds Rules,” and IDAPA 02.06.31, “Noxious Weed Free Forage and Straw Certification Rules.” These rules were promulgated to carry out requirements described in Title 22, Chapters 19, 20, and 24, Idaho Code. In order to streamline and simplify rules related to noxious weeds and invasive species, the ISDA has decided to combine all three rules into a single rule to be titled “**02.06.09, Rules Governing Invasive Species and Noxious Weeds.**” No substantive changes are being made to the three rules cited above.

Wednesday, September 18, 2019 – 10:00 am

02.06.02 – Rules Pertaining to the Idaho Commercial Feed Law

02.06.03 – Rules Pertaining to the Idaho Nurseries and Florists Law

02.06.12 – Rules Pertaining to the Idaho Fertilizer Law

02.06.30 – Rules Under the Idaho Bee Inspection Law

02.06.41 – Rules Pertaining to the Soil and Plant Amendment Act

Five rules administered by the ISDA either require a license or registration of certain agricultural activities or agricultural products. These rules are IDAPA 02.06.03, “Rules Pertaining to the Idaho Nurseries and Florists Law,” IDAPA 02.06.30, “Rules Under the Idaho Bee Inspection Law,” IDAPA 02.06.02, “Rules Pertaining to the Idaho Commercial Feed Law,” IDAPA 02.06.12, “Rules Pertaining to the Idaho Fertilizer Law,” and IDAPA 02.06.41, “Rules Pertaining to the Soil and Plant Amendment Act.” The rules were promulgated to carry out the requirements described in Title 22, Chapters 6, 22, 23, and 25; and Title 25, Chapter 27, Idaho Code. In order to streamline and simplify rules related to licenses and registration, the ISDA has decided to combine all five rules into a single rule to be titled “**02.06.02, Rules Governing Registrations and Licenses.**” No substantive changes are being made to the five rules cited above.

Wednesday, September 18, 2019 – 10:30 a.m.

02.06.10 – Rules Governing the Pale Cyst Nematode

02.06.26 – Rules Concerning Seed Potato Crop Management Areas

02.06.27 – Rules Governing Bacterial Ring Rot

02.06.39 – Rules Governing Minimum Standards for Planting Seed Potatoes

Four rules administered by the ISDA are related to the regulation of the planting and growing of potatoes, so as to prevent the spread of pests and disease of potatoes and their impacts on potato production. These rules are IDAPA 02.06.10, “Rules Governing the Pale Cyst Nematode;: IDAPA 02.06.26, “Rules Concerning Seed Potato Crop Management Areas,” IDAPA 02.06.27, “Rules Governing Bacterial Ring Rot,” and IDAPA 02.06.39, “Rules Governing Minimum Standards for Planting Uncertified Seed Potatoes in Idaho.” The rules were promulgated to carry out the requirements described in Title 22, Chapters 1, 5, and 20, Idaho Code. In order to streamline and simplify rules related to potato production, the ISDA has decided to combine all four rules into a single rule to be titled “**02.06.10, Rules Governing the Growing of Potatoes.**” No substantive changes are being made to the four rules cited above.

Wednesday, September 18, 2019 – 11:00 a.m.

02.06.05 – Rules Governing Diseases of Hops

02.06.07 – Rules Governing White Rot Disease of Onion

02.06.08 – Quarantine Rules Pertaining to Apples and Cherries

02.06.11 – Rules Governing European Corn Borer

02.06.15 – Rules Governing Peach Tree Diseases

02.06.17 – Rules Governing the Disposal of Cull Onions and Potatoes

02.06.18 – Rules Governing Mint Rootstock and Clone Production

02.06.20 – Rules Governing Grape Planting Stock

02.06.24 – Rules Governing the Japanese Beetle

02.06.32 – Rules Concerning the Anthracnose Disease of Lentil

02.06.38 – Rules Governing Plum Curculio

Eleven rules administered by the ISDA are related to the regulation and quarantine of certain crops to prevent the spread of plant disease and pests. These rules are IDAPA 02.06.05, “Rules Governing Diseases of Hops, IDAPA 02.06.11 (Rules Governing European Corn Borer), IDAPA 02.06.15 (Rules Governing Peach Tree Diseases),” IDAPA 02.06.18, “Rules Governing Mint Rootstock and Clone Production,” IDAPA 02.06.20, “Rules Governing Grape Planting Stock,” IDAPA 02.06.24, “Rules Governing the Japanese Beetle,” IDAPA 02.06.32, “Rules Concerning the Anthracnose Disease of Lentil,” IDAPA 02.06.38, “Rules Governing Plum Curculio,” IDAPA 02.06.08, “Quarantine Rules Pertaining to Apples and Cherries,” IDAPA 02.06.07, “Rules Governing White Rot Disease of Onion,” and IDAPA 02.06.17, “Rules Governing the Disposal of Cull Onion and Potatoes.” These rules put in place a number of restrictions, as requested by the regulated industry, to ensure that quarantine and disease free areas within and outside the state of Idaho are maintained and protected. These rules were promulgated to carry out requirements described in Title 22, Chapters 19, 20 and 38, Idaho Code. In order to streamline and simplify rules related to plant disease and quarantines, the ISDA is proposing to combine all eleven rules into a single rule to be titled “**02.06.05, Rules Governing Plant Disease and Quarantines.**” No substantive changes are being made to the eleven rules cited above.

Wednesday, September 18, 2019 – 11:30 a.m.

02.06.01 – Rules Governing the Pure Seed Law

02.06.13 – Rules Relating to Rapeseed Production and Rapeseed Districts

02.06.14 - Rules Governing Bluegrass

Three rules administered by the ISDA are related to the regulation of seed production. These rules are IDAPA 02.06.01, “Rules Governing the Pure Seed Law,” and IDAPA 02.06.13, “Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho,” and IDAPA 02.06.14, “Rules Governing Bluegrass.” The rules were promulgated to carry out the requirements described in Title 22, Chapters 1, 4, and 20, Idaho Code. In order to streamline and simplify rules related to seed production, the ISDA has decided to combine all three rules into a single rule to be titled “**02.06.01, Rules Governing the Production and Distribution of Seed.**” No substantive change are being made to the two rules cited above.

The following rule chapters are germane to this negotiated rulemaking:

02.02.02 – Department of Agriculture Controlled Atmosphere Storage Rules

02.02.04 – Idaho Standards for Grades of Apples

02.02.05 – Prune Standards

- 02.02.06 – Idaho Standards for Grades of Sweet Cherries
- 02.02.07 – Bulk Permit Procedure
- 02.02.09 – Rules Requiring the Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets
- 02.02.10 – Idaho Standards for Apricots
- 02.04.03 – Rules Governing Animal Industry
- 02.04.05 – Rules Governing Manufacture Grade Milk
- 02.04.06 – Rules Governing Licensed Dairy Plants
- 02.04.08 – Rules Governing Grade A Milk and Milk Products
- 02.04.09 – Rules Governing Milk and Cream Procurement and Testing
- 02.04.16 – Rules Governing Agriculture Odor Management
- 02.04.18 – Rules Governing CAFO Site Advisory Team
- 02.04.22 – Rules Governing Animal Health Emergencies
- 02.04.26 – Rules Governing Livestock Marketing
- 02.04.28 – Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots
- 02.04.30 – Rules Governing Nutrient Management
- 02.04.31 – Rules Governing the Stockpiling of Agricultural Waste
- 02.06.01 – Rules Governing the Pure Seed Law
- 02.06.02 – Rules Pertaining to the Idaho Commercial Feed Law
- 02.06.03 – Rules Pertaining to the Idaho Nurseries and Florists Law
- 02.06.04 – Phytosanitary and Post-Entry Certification Rules
- 02.06.05 – Rules Governing Diseases of Hops
- 02.06.07 – Rules Governing White Rot Disease of Onion
- 02.06.08 – Quarantine Rules Pertaining to Apples and Cherries
- 02.06.09 – Rules Governing Invasive Species
- 02.06.10 – Rules Governing the Pale Cyst Nematode
- 02.06.11 – Rules Governing European Corn Borer
- 02.06.12 – Rules Pertaining to the Idaho Fertilizer Law
- 02.06.13 – Rules Relating to Rapeseed Production and Rapeseed Districts
- 02.06.15 – Rules Governing Peach Tree Diseases
- 02.06.17 – Rules Governing the Disposal of Cull Onions and Potatoes
- 02.06.18 – Rules Governing Mint Rootstock and Clone Production
- 02.06.20 – Rules Governing Grape Planting Stock
- 02.06.22 – Noxious Weed Rules
- 02.06.24 – Rules Governing the Japanese Beetle
- 02.06.26 – Rules Concerning Seed Potato Crop Management Areas
- 02.06.27 – Rules Governing Bacterial Ring Rot
- 02.06.30 – Rules Under the Idaho Bee Inspection Law
- 02.06.31 – Noxious Weed Free Forage and Straw Certification Rules
- 02.06.32 – Rules Concerning the Anthracnose Disease of Lentil
- 02.06.34 – Rules Concerning Virus-Free Certification of Nursery Stock
- 02.06.38 – Rules Governing Plum Curculio
- 02.06.39 – Rules Governing Minimum Standards for Planting Seed Potatoes
- 02.06.40 – Rules Governing Ginseng Export
- 02.06.41 – Rules Pertaining to the Soil and Plant Amendment Act

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Brian Oakey, at (208) 332-8500. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Department of Agriculture’s website at the following web address: <https://agri.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Friday, September 20, 2019.

Dated this 26nd day of August, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Phone: (208) 332-8500 / Fax: (208) 334-2170

2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.12 – BONDED WAREHOUSE RULES

DOCKET NO. 02-0212-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 69-231, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 use of electronic warehouse receipts was added in Section 69-223(1)(f)(ii), Idaho Code. In addition to paper warehouse receipts issued by the department, electronic warehouse receipts are now allowed to be issued for commodities that are stored. The draft rule provides additional support and guidance regarding the use of electronic warehouse receipts. The rule will describe what type of electronic warehouse receipts are allowed and what necessary requirements need to be in place with the electronic warehouse receipt provider. IDAPA 02.02.12 was also reviewed for amendment or repeal of non-substantive sections in order to comply with the Red Tape Reduction Act

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

An annual assessment of not more than two-tenths of one percent (.2%) of the total gross dollar amount due to the producer at the time of sale of the commodities.

IDAHO CODE SECTION 22-101A STATEMENT: This rule is broader in scope than an activity regulated by the federal government in the following sections:

02.02.12.480	Broader in scope
02.02.12.482	Broader in scope
02.02.12.483	Broader in scope
02.02.12.484	Broader in scope
02.02.12.485	Broader in scope
02.02.12.486	Broader in scope

For a more detailed analysis, please see Rulemaking Record for Docket No. 02-0212-1901.

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 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6 pgs. 17-18](#).

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 Kyle Wilmot at (208) 332-8612.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0212-1901
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

The ~~Idaho State Department of Agriculture adopts the~~ definitions set forth in Section 69-202, Idaho Code, ~~in addition, and~~ the following ~~definitions~~ apply: ~~to Sections 480 through 486.~~ ~~(5-3-03)()~~

01. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

02. Commodity Indemnity Fund (CIF). Commodity Indemnity Fund is a trust fund. ~~(3-16-04)()~~

03. Credit-Sale Contract. An agreement in writing containing the provisions of Section 69-249, Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

04. Dealer. Is limited to dealers licensed by the state of Idaho. (3-15-02)

05. Deposit for Service. Deposit of a commodity by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit-sale, or open storage. (3-15-02)

06. NPE. (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (3-16-04)

07. Open Storage. The deposit of commodity by the producer for a period of time with the subsequent disposition of the same commodity or a fungible commodity as agreed to by the parties. (3-15-02)

~~08. Seed Crops. Means any seed crop regulated by Title 22, Chapter 4, Idaho Code. (3-16-04)~~

~~09. Warehouse.~~ Is limited to warehouses licensed by the state of Idaho. (3-15-02)

011. ~~ABBREVIATIONS: (RESERVED)~~

~~01. CIF. Commodity Indemnity Fund. (3-16-04)~~

~~02. NPE. No price established contract. (3-16-04)~~

~~03. SIF. Seed Indemnity Fund. (3-16-04)~~

012. LICENSING.

01. **Posting of License.** Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 2, Idaho Code, the licensed warehouseman shall post the license in a conspicuous place in each place of business or in any other place as the Director may determine. The Department will issue a duplicate license for each additional facility as needed. (5-3-03)

02. **Return of Suspended or Terminated License.** If a license issued to a warehouseman has lapsed or is suspended, revoked or canceled by the Director, the license shall be returned to the Department. ~~At the expiration of any period of suspension, revocation or cancellation the license shall be returned to the warehouseman to whom it was originally issued and be posted as prescribed these rules.~~ (5-3-03)()

03. **Suspension Due to Neglect.** If, through ~~subsequent~~ inspection ~~of stock in a licensed warehouse or place of business~~ or ~~through~~ other information, it is revealed or indicated that the commodities in storage are deteriorating due to the warehouseman's or operator's neglect, the license may be suspended until the matter has been corrected to the satisfaction of the Director. (9-1-92)()

04. **Loss of License.** Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate may be issued under the same number or a new number at the discretion of the Director. (9-1-92)

05. **Sign to Be Posted.** Each licensed warehouseman shall maintain suitable signs on the licensed property in such manner as will give ample public notice of his tenancy. These signs shall be painted on the warehouse or elevator in letters not less than six (6) inches in height and contain the following words: "State No. ____." The number of each warehouse will be assigned by the Director. (9-1-92)

06. **Bins Labeled.** All storage areas licensed for the storage of agricultural commodities shall be numbered and ~~have~~ a diagram of the storage areas ~~shall be~~ kept in the office. ~~This diagram shall~~ show ~~ing~~ the exact dimensions and the maximum capacity of the storage area. ~~All licensed warehouses shall comply with all state laws and regulations regarding the storage and sale of seed.~~ (9-1-92)()

07. **Insurance Calculations.** The director may approve a request to reduce the insurance calculation for a facility provided: (3-16-04)

~~a. The request is in writing; and (3-16-04)~~

~~b. Evidence is supplied that all agricultural commodities that are stored at any given point in time are insured pursuant to Title 69, Chapter 2, Idaho Code. (3-16-04)()~~

013. -- 049. (RESERVED)

050. RECEIPTING.

01. **Every Warehouseman.** Every warehouseman shall issue a negotiable warehouse receipt when requested to do so by the depositor. All storage and handling charges are due and payable on or before July 1 following the date of the issuance of the receipt, or as agreed upon by the parties. (9-1-92)

02. **Form of Nonnegotiable Warehouse Receipts.** Nonnegotiable warehouse receipts that contain the essential terms for warehouse receipts as set forth in Section 28-7-202, Idaho Code, and Section 69-223, Idaho Code, ~~shall be~~ are deemed sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be kept as permanent records by the warehouseman issuing them. (9-1-92)()

03. Lost Negotiable Warehouse Receipt. ~~In order to~~ cancel an outstanding warehouse receipt or issue a new warehouse receipt supplementing one that has been lost or destroyed ~~or to cancel an outstanding warehouse receipt that has been lost or destroyed,~~ the licensed warehouseman shall require the depositor or other applicant to submit to the warehouseman: (9-1-92)()

a. An affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and how the original receipt was lost or destroyed; and (9-1-92)

b. A bond in the amount double the market value of the agricultural commodity represented by the lost or destroyed receipt. The market value shall be determined at the time this bond is submitted for the lost receipt. ~~Such warehouse receipts issued in lieu of lost or destroyed receipts shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt.~~ A duplicate warehouse receipt shall clearly state that it is a duplicate receipt, the number of the receipt the duplicate is replacing, and the license number under which the original receipt was issued. (9-1-92)()

04. Electronic Warehouse Receipts. An electronic version of a warehouse receipt generated by a provider licensed and approved by the United States Department of Agriculture (USDA) that contains the same information as the paper version of a warehouse receipt may be issued instead of a paper document. The electronic version of a warehouse receipt carries the same rights and obligations as the paper version. At no time may a paper receipt and an electronic receipt represent the same lot of commodity. Electronic warehouse receipts shall be numbered and issued consecutively starting with the number specified to the provider by the department. (7-1-19)T

05. Agreements. Prior to entering into an agreement with an electronic warehouse receipt provider to issue such receipts, a warehouse licensee must provide a copy of the proposed agreement to the department for review and approval. A warehouse operator shall not issue electronic negotiable warehouse receipts until and unless the department approves its agreement with an electronic warehouse receipt provider and notifies the licensee of such approval. A provider shall be independent of any outside influence or bias in action or appearance. In order to be approved by the department, an electronic warehouse receipt provider agreement shall: (7-1-19)T

a. Only be with a provider that is first approved as an electronic warehouse receipt provider by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider's executed USDA Form WA-460 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing. (7-1-19)T

b. Provide for the department to become a joint holder on all open electronic negotiable warehouse receipt if the issuing warehouse operator's license is relinquished or revoked. (7-1-19)T

c. Require the provider to provide security as required by its provider agreement with the USDA regarding on-site security, data authorization, security plans, and facility vulnerability. (7-1-19)T

d. Prohibit the provider from deleting or altering any electronic negotiable warehouse receipts in the centralized filing system unless such actions are authorized by the department. (7-1-19)T

e. Allow the department unrestricted access to the central filing system for electronic warehouse receipts issued on behalf of warehouse operators licensed by the department. The electronic warehouse receipt data shall be maintained for six (6) years after cancellation of the receipts. Access shall be free of charge and made available in a manner that allows interaction with department warehouse examinations. (7-1-19)T

f. Require the provider, when a warehouse operator changes provider, to supply the new provider and the warehouse operator with a complete list of all the current holders of open electronic negotiable commodity warehouse receipts prior to the intended transfer date. (7-1-19)T

06. Change in Provider. A warehouse operator shall issue electronic warehouse receipts through only one (1) approved provider at a time. (7-1-19)T

a. A warehouse operator may change providers only once a year unless otherwise approved by the department. (7-1-19)T

b. A warehouse operator shall notify the department of the exact date of the proposed transfer thirty (30) calendar days prior to the intended date of any transfer to a new provider. The operator must also, thirty (30) days prior to the intended transfer date, send notices of the change to the holders of all open electronic negotiable warehouse receipts specifying the date and time period during which access to receipts will not be available.

(7-1-19)T

051. -- 079. (RESERVED)

080. FORWARDING AGRICULTURAL COMMODITIES.

Warehouses licensed under Title 69, Chapter 2, Idaho Code, receiving agricultural commodities for shipment to terminals or to other warehouses for storage or processing within the state or outside the state shall have in their possession a statement authorizing the shipment of agricultural commodities to another location for storage or processing. ~~This statement shall be~~ that is signed by the owner or producer of the agricultural commodity. The receiving warehouse shall be a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. When requested to do so by an Idaho Warehouse Examiner, the shipping warehouse shall promptly procure from the terminal or storage warehouse a statement or negotiable warehouse receipt on a form approved by the director describing the quantity, class and grade of all agricultural commodities so shipped and in storage. ~~Such statement shall be on a form approved by the Director of the Department of Agriculture.~~ The shipping warehouse shall have such forms promptly forwarded and returned to the Idaho Department of Agriculture, Bureau of Warehouse Control, within fifteen (15) days of issuance. ~~(9-1-92)()~~

081. -- 099. (RESERVED)

100. OFFICE RECORDS.

A warehouseman shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this state that are subject to Department inspection during normal business hours. Office records as set forth in Title 69, Chapter 2, Idaho Code, include, but not limited to, the following: (5-3-03)

01. Daily Position Record. This ~~shall~~ shows the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. ~~(9-1-92)()~~

02. Storage Ledger. This ~~shall~~ shows the name and address of the depositor, the date purchased, the terms of the sale, and the quality and quantity of the agricultural commodity purchased by the warehouseman. When applicable, the storage ledger shall also show the tare, grade, size, net weight, and unsold amount of agricultural commodities. ~~(9-1-92)()~~

03. Scale Weight Tickets. Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered ~~and with~~ one (1) copy of each ticket ~~shall be~~ maintained in numerical order. All scale weight tickets shall show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities, and the condition of the commodities upon delivery. ~~(3-16-04)()~~

04. Receipts and Tickets. Receipts and tickets in the warehouseman's possession that have not been issued. (5-3-03)

05. Receipts and Tickets Issued by the Warehouseman. Receipts and tickets issued by the warehouseman. (5-3-03)

06. Receipts and Tickets Returned and Cancelled. Receipts and tickets returned to and cancelled by the warehouseman. (5-3-03)

07. Insurance Documentation. (9-1-92)

08. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department ~~must be allowed~~ **is entitled** to examine them at any reasonable time and place as determined by the Department. (5-3-03)()

101. -- 129. (RESERVED)

130. LICENSE APPLICATION AND CONDITIONS OF ISSUANCE.

01. License Application. Application for a license to operate a warehouse under the provisions of Title 69, Chapter 2, Idaho Code, shall be on a form prescribed by the Department and include: (9-1-92)

a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (9-1-92)

b. The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. (5-3-03)

c. The address of the principal place of business. (5-3-03)

d. Information relating to any judgments against the applicants. (9-1-92)

e. The location of each warehouse the applicant intends to operate and the commodities expected to be stored. (9-1-92)

~~**f.** Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (9-1-92)~~

~~**02. License, Conditions of Issuance.** An application for license under Title 69, Chapter 2, Idaho Code, shall include: (9-1-92)~~

~~**a.** Application on a form prescribed by the Director. (9-1-92)~~

~~**b.f.** A current financial statement as specified by Section 69-206, Idaho Code. (9-1-92)~~

~~**eg.** A sketch or drawing as specified in Section 69-206, Idaho Code. (9-1-92)~~

~~**fh.** A bond as required by Section 69-208, Idaho Code. (9-1-92)~~

~~**ei.** Proof of insurance as required by Section 69-206, Idaho Code. (9-1-92)~~

~~**fi.** The license fee as prescribed by Section 69-211, Idaho Code. (9-1-92)~~

~~**g.** Compliance with all rules adopted pursuant to Title 69, Chapter 2, Idaho Code. (5-3-03)~~

~~**hk.** Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (9-1-92)~~

~~**032. Modification.** If a licensee wishes to add additional capacity to an existing license, the Director may modify the license if all requirements of Section 69-206, Idaho Code, are met. (9-1-92)~~

(BREAK IN CONTINUITY OF SECTIONS)

150. WAREHOUSES TO BE KEPT CLEAN.

Each warehouseman ~~shall be~~ **is** required to use such precautions and surveillance as is necessary to provide for the safe and adequate storage of all commodities stored in his warehouse and to prevent these commodities from being

contaminated in any way from chemicals, pesticides, fertilizers, adulterated seeds, animals, birds or any such thing as may contaminate or reduce the quality of stored goods. (9-1-92)()

151. -- 179. (RESERVED)

180. WAREHOUSEMAN RESPONSIBILITIES.

01. Warehouse Receipts -- Quality. A warehouseman licensed under Title 69, Chapter 2, Idaho Code, shall maintain in the facility of issuance of any negotiable warehouse receipt, for as long as the receipt is outstanding and has not been canceled, like variety, quantity, and quality of the agricultural commodity stated on the receipt. No warehouseman shall remove, deliver, direct or permit any person to remove or deliver any agricultural commodity from any warehouse for which warehouse receipts have been issued and are outstanding, without receiving and canceling the warehouse receipt that was issued for the commodity, except if the Director determines an emergency storage situation exists. A warehouseman may then forward agricultural commodities to other licensed warehouses for storage without canceling the outstanding warehouse receipt, provided the following conditions are met: (9-1-92)()

a. The warehouseman obtains written approval from the Department prior to forwarding agricultural commodities. (9-1-92)

b. The warehouseman ~~shall~~ provides written guidelines to the Department establishing how he will be back in position within the time limits set and granted by the Department. (9-1-92)()

c. The warehouseman ~~shall~~ maintains and makes available to the Department records of positions concerning the forwarding of agricultural commodities. (9-1-92)()

d. The receiving warehouse ~~shall be~~ is a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. (9-1-92)()

e. The shipping warehouse ~~shall have~~ has in their its possession a statement signed by the bearer of the warehouse receipt authorizing the shipment of agricultural commodities represented by such receipt to another location for storage. (9-1-92)()

f. When requested to do so by the Department, the shipping warehouseman shall promptly procure from the receiving warehouseman a statement describing the quantity, class and grade of all agricultural commodities so shipped and in storage. ~~Such statement shall be~~ on a form approved by the Director. The shipping warehouseman shall have such forms promptly forwarded to the receiving warehouseman for verification of quantity, class and grade of agricultural commodities forwarded. ~~This verification shall be~~ and returned the verification to the Department within fifteen (15) days of issuance. Failure to provide this statement to the Department in the above specified time, will result in a short position for the warehouseman with penalties as prescribed by law. (9-1-92)()

02. Rights and Duties of Licensees -- Unlawful Practices. It ~~shall be~~ is unlawful for a warehouseman to: (9-1-92)()

a. Issue a warehouse receipt in excess of the amount of the agricultural commodity held in the licensee's warehouse to cover such receipt. (9-1-92)

b. Sell, encumber, ship, transfer, remove or permit to be sold encumbered, shipped, transferred or removed from a warehouse any agricultural commodity received by him for deposit, shipment or handling for which scale weight tickets have been issued without the written approval of the holder of the scale weight ticket and such transfer shall be shown on the individual depositor's account and the inventory records of the warehouseman. (9-1-92)

c. Remove or permit any person to remove any agricultural commodity from a warehouse when the amount of any fairly representative grade or class of an agricultural commodity in the warehouses of such licensee is reduced below the amount for which a warehouse receipt or scale weight ticket for the particular agricultural commodity is outstanding, except as provided for in Section 69-223(2), Idaho Code, and Rule 180.01. (9-1-92)

- d. Issue a warehouse receipt or scale weight ticket that exceeds the amount of agricultural commodities delivered for storage. (9-1-92)
- e. Issue a warehouse receipt showing a grade or description different from the grade or description of the agricultural commodities delivered and for which such warehouse receipt is issued. (9-1-92)
- f. Fail to deliver agricultural commodities as required by Section 28-7-402, Idaho Code. (9-1-92)
- g. Knowingly accept for storage any agricultural commodity destined for human consumption that has been contaminated, if such agricultural commodities are commingled with any uncontaminated agricultural commodity. (9-1-92)
- h. Terminate storage of an agricultural commodity in the warehouse without giving reasonable notice to the depositor as provided in Section 28-7-206, Idaho Code. (9-1-92)
- i. Alter, falsify, or withhold records from the warehouse examiner. (9-1-92)

181. -- 199. (RESERVED)

200. INSURANCE SETTLEMENT.

When the commodities within a licensed warehouse have been damaged or destroyed, the warehouseman shall make complete settlement to all depositors having agricultural commodities stored in the warehouse within ten (10) days after a settlement with the insurance company. Failure of the warehouseman to make such settlement *shall be is* grounds for revocation of the license. However, such settlement need not be made within the ten (10) days period if the warehouseman and the depositor agree to other terms. In the case of commingled agricultural commodities where only a portion is damaged, settlement may be made on a pro rata basis to the owners of all agricultural commodities stored within the warehouse. *(9-1-92)()*

(BREAK IN CONTINUITY OF SECTIONS)

231. -- ~~270.~~ (RESERVED)

~~280. RECORDS SEPARATE.~~

All records and accounts required under Title 69, Chapter 2, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business and are subject to inspection by the Director between the hours of 8 a.m. and 5 p.m., Monday through Friday, except holidays. *(9-1-92)*

~~281. -- 299.~~ (RESERVED)

300. FINANCIAL STATEMENTS.

In order to obtain a bonded warehouse license, the applicant shall submit a current financial statement. *The statement shall have that has* been prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 2, Idaho Code, as to annual financial statements. *(9-1-92)()*

01. Statement Compliance. Each licensed warehouseman shall submit to the Department an annual financial statement that *shall have has* been audited or reviewed by an independent certified public accountant or independent licensed public accountant. *The statement shall be and* submitted to the Department no later than ninety (90) days after the end of the warehouseman's fiscal year. The warehouse license may be suspended or revoked for failure to comply with licensing requirements stated in Bonded Warehouse Rule Section 300 and Section(s) 69-206(6) and (7), Idaho Code. *(5-3-03)()*

a. The Department may grant an extension of no more than sixty (60) days, provided *sufficient* cause of an exceptional nature is provided, in writing, to the Department. *(5-3-03)*

- ~~b.~~ ~~The request must be made~~ by a certified public accountant or a licensed public accountant. (5-3-03)
- ~~e.~~ ~~The request is made~~ **and** prior to the date the financial statement is due. (5-3-03)()
- ~~b.~~ The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the State. (5-3-03)
- 02. Statement Content.** The **acceptable** statement ~~shall~~ includes: (9-1-92)()
- a.** A balance sheet. (9-1-92)
- b.** An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (9-1-92)
- c.** A statement of cash flows. (9-1-92)
- d.** All accompanying notes to the financial statement. (9-1-92)

301. -- 329. (RESERVED)

330. AMENDING TARIFF.

Tariffs may be amended by the licensed warehouseman by filing a new tariff with the Department. The previous tariff ~~shall~~ continues to apply on all commodities received prior to the effective date of the amended tariff until the anniversary date of deposit. The amended tariff ~~will~~ **applies** to any commodities received after the effective date of the amendment and on any commodities stored under the previous tariff commencing on the anniversary date of the storage period. (5-3-03)()

331. -- 379. (RESERVED)

380. LICENSE -- DURATION.

Licenses issued under the provisions of Title 69, Chapter 2, Idaho Code, expire **annually** on ~~the 30th day of~~ April **30th** of each year. (9-1-92)()

(BREAK IN CONTINUITY OF SECTIONS)

480. COMMODITY INDEMNITY FUND.

The Commodity Indemnity Fund ~~shall~~ **applies** to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-15-02)()

01. Rate of Assessment. The rate of assessment ~~shall be~~ **is** two-tenths of one percent (.2%) of the total value at the time of sale of the commodities pursuant to Section 69-257(2), Idaho Code. The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total gross dollar amount, without deductions, due the producer. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. (5-3-03)()

a. The rate of assessment on commodity withdrawn by its producer from open storage ~~shall be~~ **is** one cent (\$.01) per hundredweight (CWT) of commodity at the time of withdrawal. (3-15-02)()

b. If the amount of the assessment for a producer on all deposits made in a calendar year is calculated to be less than fifty cents (\$.50), no assessment will be collected. If deposits exceed the fifty cent (\$.50) limit, all assessments will be collected. (3-15-02)

02. Exemptions to Assessments. Producers are not eligible to participate in CIF and no assessments ~~shall~~ **can** be collected in the following cases. (5-3-03)()

- a.** If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (5-3-03)
- b.** If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (5-3-03)
- c.** If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (5-3-03)
- d.** Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

483. RECORDKEEPING AND PAYMENT SCHEDULE.

- 01. Permanent Record.** Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-02)
- 02. Payment Due Dates.** On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Chapters 2 and 5 of Title 69, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter (1/4) will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-16-04)
- 03. Notice.** The notice and rate of assessment or a copy of the official notice of suspension of assessment ~~shall~~ are to be posted in a conspicuous place in the warehouse or dealer facility. (3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

501. NPE CONTRACT CLAIMS ON THE FUND.

- NPE contracts shall be executed in writing, dated, and signed by all parties to the contract. (3-16-04)
- 01. NPE Clause.** An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." (3-16-04)
- 02. NPE Contract List.** A warehouseman shall maintain a list of all NPE contracts written in a calendar year ~~and shall~~ that reflects the producers name, contract number, agricultural commodity, and date of the contract. (3-16-04)()
- 03. NPE Contract Renewal Period.** A producer may renew an NPE contract; but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty-five (365) days from the date the original NPE contract was executed. (3-16-04)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION

DOCKET NO. 02-0301-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-3418, 22-3419, and 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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:

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. This rule establishes a process for responding to pesticide detections in ground water. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule is broader in scope than an activity regulated by the federal government as shown in the following table:

02.03.01.000-481	Broader in Scope
------------------	------------------

For a more detailed analysis, please see Rulemaking Record for Docket No. 02-0301-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.03.01 governs pesticide management plans for ground water protection. The improper use of pesticides has the potential to impact Idaho’s population and environment through contamination of Idaho’s ground water. Human and animal populations may come into contact with pesticides when pesticides leach into groundwater. Pesticide contamination of groundwater may affect Idaho’s groundwater users, wildlife and domestic animals by contaminating water sources used for drinking and other uses. Studies have shown that the upper bound risks for pesticide exposure include death.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 03.02.01, including studies done by U.S. Environmental Protection Agency, USDA, and other professional, medical, and scientific journals. However, even with such data, uncertainties remain. Uncertainties include unreported amounts of pesticides used, disposed and unreported exposure rates.

To view ISDA’s complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.03.01 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/ag-resources-temporary-rulemaking-2019-2020/>.

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

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Vic Mason, Administrator – Division of Ag Resources at (208) 332-8628.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0301-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, [Volume 19-7, July 3, 2019, pages 18 through 28.](#)

**02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION**

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-3418, 22-3419, ~~22-3420~~, and 22-3421, Idaho Code. (4-6-05)()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.03.01, “Rules Governing Pesticide Management Plans for Ground Water Protection.” (4-6-05)

02. Scope. This chapter establishes a process for responding to pesticide detections in ground water. (4-6-05)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-6-05)

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (4-6-05)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter: (4-6-05)

01. Dimethyl Tetrachloroterephthalate (DCPA) Pesticide Management Plan. The June 2007 edition published by the Idaho State Department of Agriculture. Copies of this document may be obtained from the Idaho State Department of Agriculture, ~~2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707.~~ (3-5-08)()

~~**02. IDAPA 58.01.11, “Ground Water Quality Rule,” Subsection 200.01.a. of the Department of Environmental Quality.** Copies can be obtained from the Office of the Administrative Rules Coordinator, 650 W. State St., P.O. Box 83720, Boise, ID 83720-0306 or electronically accessed at <http://adminrules.idaho.gov/rules/current/58/0111.pdf>. (4-6-05)~~

~~**03. Idaho Agricultural Pollution Abatement Plan.** The March 2003 edition published by the Idaho Soil Conservation Commission at <https://agri.idaho.gov/main/wp-content/uploads/2018/03/Agricultural-Pollution-Abatement-Plan-2003.pdf>. (4-6-05)~~

~~**04. The 2007 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Pest Management Code 595.** Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. (3-5-08)~~

~~**05. The 2004 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Agrichemical Mixing Facility Code 702.** Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. (4-6-05)~~

~~**06. The 2006 Publication by the United States Environmental Protection Agency, Office of Water, 2006 Edition of the Drinking Water Standards and Health Advisories, EPA 822-R-06-013.** Copies can be accessed electronically at https://agri.idaho.gov/main/wp-content/uploads/2018/03/epa_drinking_water_standard_2006.pdf. (3-5-08)~~

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (4-6-05)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Department. (4-6-05)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (4-6-05)

01. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (4-6-05)

02. Beneficial Uses. Current or future uses of ground water supplies including, but not limited to domestic, industrial, agricultural, aquacultural, and mining. (4-6-05)

03. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing pesticide contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (4-6-05)

04. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (4-6-05)

05. Contaminant. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (4-6-05)

06. Contamination. The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. (4-6-05)

07. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-6-05)

08. Health Advisory Level. Guidance for the maximum allowable or acceptable daily concentration of a pesticide in drinking water in the absence of or prior to a MCL being set. (4-6-05)

09. Maximum Contaminant Level. Maximum allowable or acceptable daily concentration of a pesticide in drinking water that may be consumed over a lifetime. (4-6-05)

10. Pesticide Management Standard. The United States Department of Agriculture Natural Resource Conservation Service Conservation Practice Standard, Idaho Pesticide Management Code 595, or the Idaho Agricultural Pollution Abatement Plan -- Pesticide Management Standard Component Practice. (4-6-05)

11. Pesticide Use. The mixing, application, handling, transport, storage, display, distribution, and disposal of pesticides and their containers. (4-6-05)

12. Projected Future Beneficial Uses. Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (4-6-05)

13. Reference Dose. Allowable or acceptable dose of a pesticide in terms of mg pesticide/kg body

weight that can be ingested in one day (acute reference dose) or on a daily basis over a lifetime (chronic reference dose). (4-6-05)

14. Reference Point. Numerical indicators of the toxicity of a substance based on test data and other reliable health effects information. (4-6-05)

15. Susceptibility. A method of describing the flow of water to, and through, the ground water resource based on physical factors such as hydraulic conductivity, porosity, hydraulic gradients, recharge, interactions with surface water, and transport through the unsaturated zone without considering specific natural or anthropogenic sources of contamination. (4-6-05)

16. Vulnerability. Ground water characterized by a potential for contaminants to enter and be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (4-6-05)

011. ABBREVIATIONS.

- 01. APAP.** Agricultural Pollution Abatement Plan. (4-6-05)
- 02. BMP.** Best Management Practice. (4-6-05)
- 03. DCPA.** Dimethyl Tetrachloroterephthalate. (3-5-08)
- 04. DEQ.** Department of Environmental Quality. (4-6-05)
- 05. EPA.** Environmental Protection Agency. (4-6-05)
- 06. HAL.** Health Advisory Level. (4-6-05)
- 07. MCL.** Maximum Contaminant Level. (4-6-05)
- 08. NRCS.** Natural Resources Conservation Service. (4-6-05)
- 09. PMP.** Pesticide Management Plan. (4-6-05)
- 10. QAPP.** Quality Assurance Project Plan. (4-6-05)
- 11. QMP.** Quality Management Plan. (4-6-05)
- 12. RfD.** Reference Dose. (4-6-05)
- 13. SCC.** Soil Conservation Commission. (4-6-05)
- 14. USDA.** United States Department of Agriculture. (4-6-05)

012. -- 049. (RESERVED)

050. CHEMICAL SPECIFIC PMPS.

01. Creating PMPs. The Director shall develop and implement chemical specific PMPs (Section 200) for certain pesticides in geographical areas as determined in Section 400 when: (4-6-05)

a. The level of a pesticide found in ground water is equal to or greater than fifty percent (50%) of the reference point and is scientifically validated; (4-6-05)

b. EPA restricts the sale or use of a pesticide in the state, or otherwise initiates action against a pesticide because of ground water concerns for a pesticide, unless such PMP is not deemed necessary by the Director;

- (4-6-05)
- c. EPA's action, restriction, or prohibition will be implemented unless the state develops an adequate PMP; or (4-6-05)
- d. A pesticide is conditionally registered by EPA because of ground water concerns. (4-6-05)
- 02. PMP Compliance.** No person shall use a pesticide in a manner inconsistent with the chemical specific PMP within a designated geographical area. (4-6-05)

051. -- 099. (RESERVED)

100. CONTENTS OF A CHEMICAL SPECIFIC PMP.

- 01. Required Elements of a PMP.** (4-6-05)
- a. Actions to prevent pesticide contamination that are based on beneficial uses and vulnerability that address applicable aspects of the pesticide use; and (4-6-05)
- b. Actions to prevent or minimize further presence of the pesticide in ground water and to provide protection for the present and projected future beneficial use of the ground water. (4-6-05)
- 02. Elements That May Be Included in a PMP.** A PMP may include but is not limited to the following elements: (4-6-05)
- a. Identification of geographical areas where a pesticide may be used; (4-6-05)
- b. Pesticide, soil, hydrogeological, and meteorological characteristics; (4-6-05)
- c. BMPs; (4-6-05)
- d. Identification of ground water areas with pesticide detection(s); (4-6-05)
- e. Certification, licensing, training, and education requirements for persons using the pesticide; (4-6-05)
- f. Identification and establishment of an area of pesticide restriction requiring preventative measures; (4-6-05)
- g. Pesticide application rates and timing and related use criteria; (4-6-05)
- h. Integrated pest management information; (4-6-05)
- i. Other requirements for pesticides, as set forth in the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code), and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application"; or (4-6-05)
- j. Other requirements as listed by the EPA in rule or guidance. (4-6-05)

101. MANAGEMENT PLANS ADOPTED BY RULEMAKING AND REVIEW.

- 01. Adoption Through Rulemaking.** The Director shall adopt chemical specific PMPs through rulemaking. (4-6-05)
- 02. PMP Review.** The Director shall review chemical specific PMPs every two (2) years to determine if the requirements contained in the plans need to be modified based on new scientific data and information. (4-6-05)

102. -- 149. (RESERVED)

150. GROUND WATER QUALITY REFERENCE POINTS.

01. **Reference Points.** The Director will use reference points for pesticides in ground water, based on the following order of availability: (4-6-05)

a. Idaho rules of DEQ, IDAPA 58.01.11, "Ground Water Quality," Subsection 200.01.a. specific to pesticide primary constituent standards which were adopted from EPA MCLs; or (4-6-05)

b. EPA Health Advisory Levels (HALs) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-5-08)

c. EPA Reference Dose (RfD) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-5-08)

d. A reference point based on: (4-6-05)

i. Best scientific information currently available on adverse effects of the contaminant(s); and (4-6-05)

ii. Protection of a beneficial use(s); and (4-6-05)

iii. Practical quantitation levels for the pesticides, if they exceed the levels identified in IDAPA 58.01.11, "Ground Water Quality Rule," Subsection 200.01.a. (4-6-05)

02. **HAL and RfD Guide.** The Director shall use the EPA's HAL and RfD number associated with the effects on a person weighing seventy (70) kilograms and drinking two (2) liters of water per day over a lifetime. (4-6-05)

151. -- 199. (RESERVED)

200. RESPONSE TO A PESTICIDE DETECTION.

This section describes the four (4) response levels for responding to pesticide detections in ground water. (4-6-05)

01. **Level One Response.** When a pesticide or its metabolite(s) is detected at or above the detection limit yet below twenty percent (20%) of the reference point: ()

a. The Director ~~shall~~: (4-6-05)()

~~ai.~~ ~~Shall~~ ~~n~~ Notify well users or well owners of pesticide(s) detection; (4-6-05)()

~~bii.~~ ~~Shall~~ ~~e~~ Continue ground water monitoring; (4-6-05)()

b. The Director may: ()

~~ei.~~ ~~May~~ ~~p~~ Provide additional information to pesticide applicators within vulnerable areas; (4-6-05)()

~~eii.~~ ~~May~~ ~~r~~ Review use practices, soils, hydrogeology, and vulnerability within the area of pesticide detection(s); (4-6-05)()

~~eiii.~~ ~~May~~ ~~r~~ Review state records for previous point source or potential violations in accordance with the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code); (4-6-05)()

~~fiv.~~ ~~May~~ ~~r~~ Review existing monitoring data within area to check for previous detections; (4-6-05)()

- ~~g.v.~~ ~~May e~~C Conduct outreach in local area applicable to relevant data and information; and (4-6-05)()
- ~~h.vi.~~ ~~May e~~E Encourage voluntary BMPs consistent with the APAP. (4-6-05)()
- 02. Level Two Response.** When a pesticide or its metabolite(s) is detected at twenty percent (20%) to less than fifty percent (50%) of the reference point: ()
- a.** The Director shall: (4-6-05)()
- ~~a.i.~~ ~~Shall i~~I Implement actions in Subsection 200.01 in the area of pesticide detection; (4-6-05)()
- ~~b.ii.~~ ~~Shall e~~E Establish area of pesticide concern, in accordance with Section 400, within area of pesticide detection; (4-6-05)()
- ~~e.iii.~~ ~~Shall d~~D Develop a monitoring plan and monitor to determine trends and fluctuations in pesticide concentrations; (4-6-05)()
- ~~d.iv.~~ ~~Shall d~~D Determine likely source(s) while notifying and working with the appropriate parties including but not limited to: pesticide registrant(s), dealer(s), applicator(s) and producer(s) to determine likely source(s); (4-6-05)()
- ~~e.v.~~ ~~Shall d~~D Determine if pesticide detection(s) is from point or nonpoint source; (4-6-05)()
- ~~f.vi.~~ ~~Shall p~~P Promote voluntary BMPs or other measures; evaluate BMP effectiveness, and change BMPs if needed; (4-6-05)()
- ~~g.vii.~~ ~~Shall r~~R Require the utilization of the Idaho NRCS Conservation Practice Standard, Pesticide Management Code 595. (4-6-05)()
- b.** The Director may: ()
- ~~h.i.~~ ~~May d~~D Develop a chemical specific PMP per pesticide, unless already mandated through EPA Rule to do so; (4-6-05)()
- ~~i.ii.~~ ~~May m~~M Monitor additional domestic wells in the hydrogeological up gradient and down gradient area; and (4-6-05)()
- ~~j.iii.~~ ~~May e~~C Conduct site specific pesticide use inspections within the area of detection(s). (4-6-05)()
- 03. Level Three Response.** When a pesticide or its metabolite(s) is detected at fifty percent (50%) to less than one hundred percent (100%) of the reference point, the Director shall: (4-6-05)
- a.** Implement actions in Subsections 200.02.a. through 200.02.e., and 200.02.g. through 200.02.j. in the area of pesticide detection; (4-6-05)
- b.** Establish an area of pesticide restriction, in accordance with Section 400 and Section 22-3419, Idaho Code, when the Director determines ground water contamination resulted from the application of a pesticide in accordance with the label; (4-6-05)
- c.** Restrict the use of the pesticide according to Section 22-3418, Idaho Code; (4-6-05)
- d.** Install monitoring wells as soon as possible, if the Director determines installation to be necessary based on severity of risk, to evaluate ground water quality, flow direction, and the effectiveness of preventative measures; (4-6-05)
- e.** Assist well users or well owners within the area of pesticide restriction with health information and

alternative water source information; and (4-6-05)

f. Inspect the pesticide applicator records within the restricted area. (4-6-05)

04. Level Four Response. When a pesticide or its metabolite(s) is detected at or above one hundred percent (100%) of the reference point, the Director shall: (4-6-05)

a. Implement actions in Subsection 200.03 in the area of pesticide detection; (4-6-05)

b. Establish an area of pesticide prohibition, in accordance with Section 400 of this rule and Section 22-3418, Idaho Code, when the Director has determined ground water contamination resulted from the application of a pesticide in accordance with the label; (4-6-05)

c. Implement use prohibition area(s); (4-6-05)

d. Assist persons within the use prohibition area with health and alternative water source information; (4-6-05)

e. Determine effectiveness of regulatory actions. (4-6-05)

05. Mixing and Loading Prohibited. No person shall mix or load the prohibited pesticide product in an identified pesticide prohibition area unless the mixing and loading is conducted over a spill containment surface which complies with the Idaho NRCS Conservation Practice Standard, Agrichemical Mixing Facility Code 702. (4-6-05)

06. Prohibition Areas. No person shall apply a prohibited pesticide within the corresponding pesticide area boundaries of the area of pesticide prohibition as identified in Section 400. (4-6-05)

201. -- 299. (RESERVED)

300. GROUND WATER MONITORING PROGRAMS.

01. Monitoring Programs. The Director shall conduct monitoring programs to: (4-6-05)

a. Determine whether residues of pesticides are present in ground water; (4-6-05)

b. Refine vulnerability mapping products or other assessment tools; (4-6-05)

c. Determine the effectiveness of BMPs; and (4-6-05)

d. Determine the effectiveness of regulatory approaches. (4-6-05)

02. Conduct Monitoring Programs. The Director shall conduct monitoring programs in compliance with the Department's EPA approved QMP and applicable QAPPs. (4-6-05)

03. Evaluation. The Director shall evaluate ground water pesticide(s) data from sources other than the Department for use in implementing this rule. (4-6-05)

301. -- 399. (RESERVED)

400. DETERMINING PESTICIDE AREA BOUNDARIES.

Section 400 describes the methods for determining the pesticide area boundaries for the response levels in Section 200. (4-6-05)

01. Pesticide Area Boundary Factors. In determining the area of pesticide concern, restricted area, or prohibition area the Director shall implement Section 200 and may consider but not be limited to the following factors: (4-6-05)

- a. Pesticide detections from reliable ground water test samples; (4-6-05)
- b. Number and frequency of detections; (4-6-05)
- c. Statistical trends of detections; (4-6-05)
- d. Location of detections; (4-6-05)
- e. Hydrogeology of the aquifer; (4-6-05)
- f. Well depth and construction; (4-6-05)
- g. Aquifer vulnerability and susceptibility; (4-6-05)
- h. Pesticide physical and chemical characteristics; (4-6-05)
- i. Pesticide use; or (4-6-05)
- j. Other scientifically defensible information. (4-6-05)

02. Determining Boundaries. An area of pesticide concern, restricted area, or a prohibition area may encompass land areas which, in the Director's judgment, are susceptible to pesticide contamination of ground water based on the factors identified in Subsection 400.01. The boundaries of an area of pesticide concern, restricted area, or a prohibition area shall be sufficient to meet Section 200 requirements. The boundaries may include any of the following: (4-6-05)

- a. Mapped boundaries between soil types or other hydrogeologic features; (4-6-05)
- b. Ground water or surface water divides such as watershed boundaries; (4-6-05)
- c. Legal land description boundaries; (4-6-05)
- d. Public roads; or (4-6-05)
- e. Other recognizable boundaries. (4-6-05)

401. -- 409. (RESERVED)

410. REPEALING SPECIFIC PESTICIDE AREAS.

01. Repealing an Area of Pesticide Concern. The Director may repeal or reduce the size of an area of pesticide concern in response to pesticide contamination in ground water if all the conditions in Subsection 410.01 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide concern at which the concentration of a pesticide and its metabolites previously were found at twenty percent (20%) to fifty percent (50%) of the reference point, show that the concentration at the well sites has fallen to and remains less than twenty percent (20%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of pesticide concern designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. (4-6-05)

b. Tests conducted at other well sites in the area of pesticide concern during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed twenty percent (20%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide concern is not likely to cause a renewed detection between twenty percent (20%) to fifty percent (50%) of the reference point. (4-6-05)

02. Repealing an Area of Pesticide Restriction. The Director may repeal or reduce the size of an area of pesticide restriction in response to ground water pesticide contamination if all the conditions in Subsection 410.02 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide restriction at which the concentration of a pesticide and its metabolites previously were found at fifty percent (50%) to less than one hundred percent (100%) of the reference point, show that the concentration at the well sites has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of the pesticide restriction designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide restriction are repealed, the area automatically becomes an area of pesticide concern; (4-6-05)

b. Tests conducted at other well sites in the area of pesticide restriction during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed fifty percent (50%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide restriction is not likely to cause a renewed exceedance of fifty percent (50%) of the reference point. (4-6-05)

03. Repealing an Area of Pesticide Use Prohibition. The Director may repeal or reduce the size of an area of pesticide use prohibition in response to ground water pesticide contamination if all the conditions in Subsection 410.03 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the prohibition area at which the concentration of a pesticide and its metabolites previously attained or exceeded the reference point, show that the concentration at that well site has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the pesticide use prohibition designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide prohibition are repealed, the area automatically becomes an area of pesticide concern; (4-6-05)

b. Tests conducted at other well sites in the area of pesticide prohibition during the same retesting period, if any, reveal no other concentrations of the pesticide and its metabolites that exceed fifty percent (50%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that renewed use of a pesticide product in the area of pesticide prohibition is not likely to cause a renewed violation of the reference point. (4-6-05)

411. -- 419. (RESERVED)

420. ADVISORY COMMITTEE.

When pesticide management practices are needed under Section 200, the Director's advisory committee, as established pursuant to Section 22-103, Idaho Code, shall provide appropriate guidance on this rule. This advisory committee shall include but is not limited to: applicators from the area of pesticide detection; pesticide, water user, and commodity groups; University of Idaho Extension staff and specialists; and staff from the USDA, NRCS, SCC, DEQ, and the Department. The duties of the advisory committee include but are not limited to the following: (4-6-05)

01. Review Existing Information. Review the existing information related to the area of pesticide detection and develop pesticide management practices options; (4-6-05)

02. Recommendations. Make recommendations to the Director for approval of pesticide management practices prior to implementation at the voluntary and regulatory levels; (4-6-05)

03. Research. Evaluate the potential for gaining government or private research or cost share funding; and (4-6-05)

04. Evaluate Effectiveness. Review information related to pesticide management practices effectiveness and make recommendations for changing and improving pesticide management practices. (4-6-05)

421. PESTICIDE USE AND RECORD KEEPING REQUIREMENTS.

Pursuant to Title 22, Chapter 34, Idaho Code, and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application," the Director shall inspect pesticide records to meet the need as described in Section 200. (4-6-05)

~~422. -- 449. (RESERVED)~~

~~**450. RESEARCH.**~~

~~The Director shall authorize cooperative pesticide and ground water quality protection research programs with state agencies, university systems and associated agricultural experiment stations, federal agencies, and other appropriate organizations and persons. (4-6-05)~~

~~451. — 459. (RESERVED)~~

~~**460. EDUCATIONAL PROGRAMS.**~~

~~The Department, in cooperation with the University of Idaho Extension Service, shall develop and conduct appropriate educational programs. (4-6-05)~~

~~461. — 469. (RESERVED)~~

~~**470. EXEMPTIONS.**~~

~~Notwithstanding any provision of this chapter, the Director may authorize the use of a pesticide for bona fide research purposes. A person seeking a research exemption shall apply to the Director in writing. The application shall describe the proposed research, and the amounts and locations of proposed pesticide applications. The Director may require an applicant to file other information which the Director considers necessary for review of the application. (4-6-05)~~

~~471. — 479. (RESERVED)~~

~~**480. PENALTIES.**~~

~~Any person who violates or fails to comply with any provision of these rules shall be subject to penalties listed under Section 22-3423, Idaho Code. (4-6-05)~~

~~481. — 999. (RESERVED)~~

IDAPA 02 – DEPARTMENT OF AGRICULTURE

**02.03.03 – IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING
PESTICIDE AND CHEMIGATION USE AND APPLICATION**

DOCKET NO. 02-0303-1901 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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:

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. This rule regulates the use and application of pesticides, licensing of pesticide applicators, registration of pesticides, and responsibilities for chemigation in Idaho. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

This proposed rule sets the following previously approved fees: Pesticide Registration (\$160 per product), Professional Applicator’s License (\$120 for 14 months or more, \$60 for 13 months or less), Pesticide Dealer’s License (\$100 for 14 months or more, \$50 for 13 months or less), Private Applicator’s License (\$10 for Restricted Use, \$20 for Chemigation, \$30 for both), and Examination Fee per Category (\$10).

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule is either broader in scope, more stringent than federal regulation or regulates an activity not regulated by the federal government as shown in the following table:

02.03.03.050	Broader in Scope
02.03.03.100	Broader in Scope
02.03.03.101	More Stringent
02.03.03.102	More Stringent
02.03.03.150	Broader in Scope
02.03.03.200	Broader in Scope
02.03.03.250	More Stringent
02.03.03.300	Not regulated
02.03.03.310	More Stringent
02.03.03.320	More Stringent
02.03.03.321	Not regulated
02.03.03.323	Broader in Scope
02.03.03.324	More Stringent
02.03.03.400	More Stringent
02.03.03.450	Broader in Scope

02.03.03.500	More stringent
02.03.03.550	More stringent
02.03.03.600	More stringent
02.03.03.601	More stringent
02.03.03.800	Broader in Scope
02.03.03.850	Not regulated
02.03.03.961-971	Broader in Scope

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0303-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.03.03 governs the use and application of pesticides; licensing of pesticide applicators; chemigation and the registration of pesticides in Idaho. The general public, professional applicators, pesticide handlers, agricultural workers, people who live near agricultural land and consumers of agricultural commodities may be exposed to pesticides in a number of ways. Unintended pesticide exposure is associated with the upper, central and lower bound risks of pesticide use. The upper bound risk associated with pesticides is death from acute pesticide exposure; however, other central and lower bound risks include sickness in humans, contaminated soil, contaminated commodities or damage to water sources, among other things.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.02.03 including studies done by U.S. Environmental Protection Agency, and other professional, medical, and scientific journals. However, even with such data, uncertainties remain. Uncertainties include unreported amounts of pesticides used, unreported pesticide disposal, and unreported exposure rates.

To view ISDA’s complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.03.03 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/ag-resources-temporary-rulemaking-2019-2020/>.

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to adopt the rules as temporary, and and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Vic Mason, Administrator – Division of Ag Resources at (208) 332-8628.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0303-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 19-7, July 3, 2019, pages 29 through 58.

**02.03.03 – ~~IDAHO DEPARTMENT OF AGRICULTURE~~ RULES GOVERNING
PESTICIDE AND CHEMIGATION USE AND APPLICATION**

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-3421, Idaho Code. (3-23-98)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.03.03, “~~Idaho Department of Agriculture~~ Rules Governing Pesticide and Chemigation Use and Application.” (4-5-00)()

02. Scope. This chapter ~~has the following scope: to~~ governs the use and application of pesticides; licensing of pesticide applicators; ~~and~~ registration of pesticides; ~~and responsibilities for chemigation for use in Idaho;~~ ~~registration and licensing requirements for use of the Livestock Protection Collar; testing and recertification of licensees; record keeping requirements; financial responsibilities; aerial applications of pesticides; wind restrictions; pesticide/fertilizer mix restrictions; experimental use permits; restrictions to protect pollinators; storage of pesticide containers; non-domestic pesticides; phenoxy herbicide restrictions; application of pesticides near hazard areas; microencapsulated methyl parathion restrictions; daminozide (Alar) restrictions; pesticide use on alfalfa, carrot, onion, radish, or clover seed; unusable pesticides collection and disposal; and to govern licensing and responsibilities for chemigation; signage for chemical usage; shut down requirements; pressure switch, chemical injection, metering pump, system interlock requirements, and wind speed precautions; irrigation system connections; flood, basin, furrow, border chemigation; sprinkler, drip chemigation; anti-pollution devices; irrigation line check valve model certification; use of Anhydrous Ammonia; and to include variances.~~ (4-5-00)()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-20-97)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter.

Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-20-97)

0074. INCORPORATION BY REFERENCE.

01. Incorporated Document. IDAPA 02.03.03 incorporates by reference 40 CFR Part 165 Subpart E - Standards For Pesticide Containment Structures, Sections 165.80 through 165.97 as published in the Federal Register, Volume 71, Number 158, on August 16, 2006. (5-8-09)

~~**02. Availability of Documents.** Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707 or through the U.S. Government Printing Office at <https://www.federalregister.gov/documents/2006/08/16/06-6856/pesticide-management-and-disposal-standards-for-pesticide-containers-and-containment>. (5-8-09)()~~

0065. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-30-01)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Department. ()

007. -- 009. (RESERVED)

00410. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (3-20-97)

01. Air Gap. A physical separation between the free flowing discharge end of a domestic water supply system pipeline and an open or non-pressure receiving vessel. (4-5-00)

02. Basin Irrigation. Irrigation by flooding areas of level land surrounded by dikes. (4-5-00)

03. Border Irrigation. Irrigation by flooding strips of land, rectangular in shape and cross leveled, bordered by dikes. (4-5-00)

04. Certification. Passing one (1) or more examinations, to initially demonstrate an applicant's competence, as required by the licensing provisions of this act, in order to use or distribute pesticides, or to act as a pesticide consultant. (3-20-97)

05. Check Valve. A certified valve designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (4-5-00)

06. Chemigator. Any person engaged in the application of chemicals through any type of irrigation system. (4-5-00)

07. Cross-Connection. Any connection that may have chemical injected or introduced into the domestic water supply system and has the potential of or is connected to the domestic water supply system. (4-5-00)

08. Demonstration and Research. The use of restricted use pesticides to demonstrate the action of the pesticide or conduct research. (3-20-97)

09. Domestic Water Supply System. Any system providing water for human use. (4-5-00)

10. Drip Irrigation. A method of microirrigation wherein water is applied as drops or small streams through emitters. (4-5-00)

11. **Flood Irrigation.** Method of irrigation where water is applied to the soil surface without flow controls, such as furrows, borders or corrugations. (4-5-00)
12. **Flow Rate.** The weight or volume of flowable material per unit of time. (4-5-00)
13. **Furrow Irrigation.** Method of surface irrigation where the water is supplied to small ditches or furrows for guiding the water across the field. (4-5-00)
14. **Hazard Area.** Cities, towns, subdivisions or densely populated areas. (3-20-97)
15. **High Volatile Esters.** Formulations of 2,4-D which contain methyl, ethyl, butyl, isopropyl, octylamyl and pentyl esters. (3-20-97)
16. **Injection Pump.** A pump that uses a gear, rotary, piston or diaphragm to develop the pressures exceeding the irrigation system pressure to inject a chemical. (4-5-00)
17. **Inspection Port.** An orifice or other viewing device from which the low pressure drain and check valve may be observed. (4-5-00)
18. **Low Volatile Esters.** Formulations of 2,4-D; 2,4-DP; MCPA and MCPB which contain butoxyethanol, propylene glycol, tetrahydrofurfuryl, propylene glycol butyl ether, butoxy propyl, ethylhexyl and isooctyl esters. (3-20-97)
19. **Mixer-Loader.** Any person who works under the supervision of a professional applicator in the mixing and loading of pesticides to prepare for, but not actually make, applications. (3-20-97)
20. **Pressure Switch.** A device which will stop the chemical injection pump when the water pressure decreases to the point where chemical distribution is adversely affected. (4-5-00)
21. **Recertification.** The requalification of a certified person through seminar attendance over a set period of time, or taking an examination at the end of a set period of time, to ensure that the person continues to meet the requirements of changing technology and maintains competence. (3-20-97)
22. **Reduced Pressure Principle Backflow Prevention Assembly (RP).** An assembly containing two (2) independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. (4-5-00)
23. **Seminar.** Any Department-approved meeting or activity convened for the purpose of presenting pesticide recertification information. (3-20-97)
24. **Sprinkler Irrigation.** Method of irrigation in which the water is sprayed, or sprinkled, through the air to the ground surface. (4-5-00)
25. **System Interlock.** Safety equipment used to ensure that a chemical injection pump will stop if the irrigation pumping plant stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline. The safety equipment may also be used to shut down the irrigation system if the injection system fails. (4-5-00)
26. **Vacuum Relief Valve.** A device to automatically relieve or break a vacuum. (4-5-00)
27. **Venturi.** A differential pressure injector that operates on a pressure difference between the inlet and outlet of the injector and creates a vacuum inside the body, which results in suction through the suction port. (4-5-00)
28. **Venturi Injection System.** A chemical injection system which operates with a Venturi using the suction from the Venturi that can be used to inject and mix chemicals into the water. (4-5-00)

29. **Working Pressure.** The internal operating pressure of a vessel, tank or piping used to hold or transport liquid. (4-5-00)

30. **Waters of the State.** Any surface waters such as canals, ditches, laterals, lakes, streams, or rivers. (4-5-00)

005. FINDINGS.

These rules are promulgated pursuant to Section 67-5226, Idaho Code, in compliance with the deadlines in the governing law, Title 22, Chapter 34, Idaho Code. The rule changes are necessitated by the passage of H.B. 99 in the 1999 legislative session combining the Idaho Pesticide and Chemigation Laws. These rules will combine IDAPA 02-03-03, "Idaho Department of Agriculture Rules Governing Pesticide Use and Application," and IDAPA 02-03-04, "Rules Governing Chemigation," and name the combined rule IDAPA 02-03-03, "Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application." The existing Chemigation rules (IDAPA 02-03-04, "Rules Governing Chemigation") will be repealed in their entirety. In addition, the rule adds two (2) crops to the list of non-food crops; provides for consistent licensing by issuing two (2) year Pesticide Dealer licenses so all pesticide licenses will be effective for two (2) years; revises the aquatic weed applicator category to more accurately reflect activities in this licensing category; and the livestock protection collar rule changes are incorporated pursuant to SCR 115. (4-5-00)

00811. -- 049. (RESERVED)

050. PRIVATE APPLICATOR LICENSING.

01. **Applying for a Private Applicator's License.** ~~Applicants who wish to~~ **To** obtain a private applicator's license ~~shall:~~ (4-4-13)()

a. Fill out an application prescribed by the Department; and (4-4-13)

b. Take an examination based on the Environmental Protection Agency (EPA) core manual and score a minimum of seventy percent (70%). For the purpose of becoming licensed, examination scores ~~shall be~~ **are** valid for twelve (12) months from the date of the examination. The examination procedure ~~shall be~~ **is** the same as for professional applicators (Subsection 100.03), except private applicators ~~shall~~ **are** not ~~be~~ assessed an examination fee. (3-20-14)()

02. **License Categories.** (4-4-13)

a. Private applicators shall be **are** certified and licensed in one (1) or more of the following categories: (4-4-13)()

i. **Restricted Use Pesticide (RU).** For persons who use or supervise the use of restricted use pesticides to produce agricultural commodities or forest crops on land they or their employer(s) own(s) or operate(s). (3-20-97)

ii. **Chemigation (CH).** For persons who apply chemicals through irrigation systems on land they or their employer(s) own(s) or operate(s). (3-20-97)

iii. **Soil Fumigation (SF).** For persons who apply soil fumigants on land they or their employer(s) own(s) or operate(s). In order to be certified and licensed in this category, private applicators must pass both the RU examination and the SF examination. (4-4-13)

b. Non-reading applicators may be certified to purchase and apply a single restricted use pesticide when they have demonstrated their competence in the safe and proper use of such pesticide to the Director or other designated agent. (3-20-97)

03. **License Recertification.** ~~In order for a private applicator's license to be renewed, the license holder must complete the recertification provisions of this section. Beginning July 1, 1996, licenses belonging to private applicators with last names beginning with A through L, inclusive, shall expire on the last day of the month~~

~~listed on the chart in Subsection 050.03.a. in every odd-numbered year, and licenses belonging to private applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.03.a. in every even-numbered year.~~ The recertification period shall be concurrent with the licensing period. ~~Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be reissued a private applicator license with the appropriate categories. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be grandfathered into the licensing schedule at Subsection 050.03.a.~~ Any person with less than thirteen (13) months in the initial licensing period ~~shall is not be~~ required to obtain recertification credits for the initial period. Upon issuance of the replacement license, the previous license ~~shall be is~~ null and void. ~~Any private applicator license without an expiration date shall be null and void on December 31, 1996.~~ Recertification and relicensing may be accomplished by complying with either Subsection 050.03.~~ba.~~ or 050.03.~~ec.~~ ~~(4-13)()~~

~~ff.~~ *Licensing schedule.*

Last Name		Month to License
Odd-Year	Even-Year	
A-D	M-P	March
E-H	Q-T	July
I-L	U-Z	October

~~(3-20-97)~~

~~ba.~~ A person ~~shall~~ accumulates recertification credits by attending Department-accredited pesticide instruction seminars. ~~(3-20-97)()~~

i. A minimum of six (6) credits shall be earned during each recertification period. (3-23-98)

ii. Guidelines for obtaining recertification credits ~~shall be the same as for professional applicators, as are~~ described in Subsections 100.04.a.ii. through 100.04.a.v. Any credits accumulated beyond the required six (6) in a recertification period may not be carried over to the next recertification period. ~~(3-23-98)()~~

iii. Upon earning the recertification credits ~~as described above~~, a person ~~shall be considered by the Department to be recertified and is~~ eligible for license renewal for the next licensing period, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license. ~~(3-20-14)()~~

~~eb.~~ A person ~~shall~~ passes the Department’s private applicator recertification examination(s) for all categories in which the person intends to license with a minimum score of seventy percent (70%). ~~(3-20-97)()~~

i. Recertification examinations may be taken by a person beginning the thirteenth (13th) month of the license period. (3-20-97)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed, except that ~~an~~ examination fees ~~shall are~~ not ~~be~~ assessed. ~~(3-20-97)()~~

iii. Upon passing the recertification examinations, a person ~~shall be considered by the Department to be recertified and is~~ eligible for license renewal for the next licensing period. For the purpose of becoming licensed, recertification examination scores ~~shall be are~~ valid for twelve (12) months from the date of the examination. ~~(3-20-14)()~~

051. -- 099. (RESERVED)

100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.

01. Demonstration of Competence. (3-20-97)

a. Professional applicators ~~shall not~~ may only recommend the application or make ~~any~~ pesticide applications ~~of any pesticide~~ for any purpose, ~~unless for which~~ they have demonstrated competence. ~~for that purpose, which competence must be is~~ demonstrated by passing Department examinations and becoming licensed in the ~~appropriate categories listed in~~ Subsection 100.02 categories. (3-20-97)()

- b. An applicant shall demonstrate competency in the following areas: (3-20-97)
 - i. Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)
 - ii. Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)
 - iii. Laws, rules, and regulations governing pesticides. (3-20-97)
 - iv. Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the animals and plants living in it. (3-20-97)
 - v. Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)
 - vi. Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)
 - vii. Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)
 - viii. Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)
 - ix. Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (4-5-00)
 - x. For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)
 - (1) Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)
 - (2) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)
 - (3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)
 - (4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)
 - (5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)
 - (6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)
 - (7) Safe handling, attachment, and storage of LPC collars. (3-19-99)
 - (8) The requirement to post and maintain bilingual (English/Spanish or other second language

appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)

(9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, properly positioned, and intact. (3-19-99)

(10) Knowledge of alternative controls of predation. (4-5-00)

xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)

(1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)

(2) Read and understand the labeling specific to the LPC. (3-19-99)

(3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)

(4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)

(5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)

(6) Properly dispose of the LPCs. (3-19-99)

02. Certification. A person ~~shall be~~ **is** certified by passing Department examinations with a minimum of seventy percent (70%) in the applicable pesticide categories. For the purpose of becoming licensed, examination scores ~~shall be~~ **are** valid for twelve (12) months from the date of the examination. ~~(3-20-14)~~()

a. Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)

i. Law and Safety (LS). This ~~shall~~ **includes** general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. ~~(3-20-97)~~()

ii. Agriculture. For persons conducting field crop applications. Agriculture Herbicide (AH). Certification in this category ~~shall~~ **certifies** a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category ~~shall~~ **certifies** a person to make insecticide/fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). ~~(4-5-00)~~()

iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)

iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop). Certification in the Agricultural Herbicide category ~~shall~~ **exempts** the applicant from the need to certify in this category. ~~(3-20-97)~~()

v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)

vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)

vii. Ornamental Herbicide (OH). For persons conducting outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/

Fungicide (OI). For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). (4-5-00)

viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)

ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)

x. General Vertebrate Control (GV). For Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling vertebrates such as rodents, predators, and birds. (4-5-00)

xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

xii. Aquatic Weed and Pest Control (AW). For irrigation districts, canal companies and others, for weed and pest control on aquatic sites. (4-5-00)

xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)

xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)

xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)

xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)

xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)

xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person ~~shall be~~ is eligible to license in this category by passing the Pest Control Consultant examination. ~~(3-20-97)~~ ()

xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (4-5-00)

xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)

b. Pesticide Dealers ~~shall be~~ are certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. ~~(3-23-98)~~ ()

c. ~~Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department.~~ (3-23-98)

~~d.~~ Mixer-Loaders. ~~Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire.~~ No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. ~~(3-23-98)~~ ()

i. Training ~~shall~~ will be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the

signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)()

ii. Training ~~shall~~ includes areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)()

~~iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)~~

03. Department Examination Procedures. (3-20-97)

a. Examinations ~~shall be~~ are administered by a designated agent. (3-20-97)()

b. ~~To pass a Department examination, p~~Professional applicators and pesticide dealers ~~shall pass a Department examination by~~ obtaining a score of seventy percent (70%) or higher. (3-23-98)()

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period of one (1) week ~~shall be~~ is required before an applicant may retake an examination. (4-6-05)()

04. Licensing Periods and Recertification. ~~Beginning August 31, 2000, Pesticide Dealer licenses shall expire on August 31, of even numbered years and have a twenty four (24) month duration. A Pesticide Dealer License application form shall accompany each new license or license renewal request. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even numbered year. Any professional applicator with less than thirteen (13) months in the licensing period shall is not be required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (4-5-00)()~~

a. A person ~~shall~~ accumulates recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)()

i. ~~A minimum of fifteen (15) credits shall be earned by a p~~Professional applicators ~~have a fifteen (15) credit minimum for~~ during each recertification period. (3-23-98)()

ii. A completed written request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. ~~Such a request shall be~~ submitted on a form prescribed by the Department. Under exceptional circumstances, as described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)()

iii. Credit ~~will be~~ is given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)()

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, ~~shall be~~ is tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)()

v. ~~Effective July 1, 1998, a~~ A recertification credit ~~shall be~~ is based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. ~~Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be~~

~~converted to three (3) credits for recertification purposes.~~

~~(3-23-98)()~~

vi. Verification of attendance at a seminar ~~shall be~~ **is** accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent ~~shall~~ **must** ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. ~~(3-20-97)()~~

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person ~~shall be considered by the Department to be~~ **is** recertified for the next recertification period corresponding with the next issuance of a license, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license. ~~(3-20-14)()~~

b. A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person ~~shall be~~ **is** considered by the Department to be recertified for the next recertification period. ~~(3-20-97)()~~

c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

05. Licensed Professional Applicator. Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. Licensed professional applicators that start the application of chemicals through chemigation equipment do not have to be present during the entire application, but must return to monitor the proper application at least once every four (4) hours for the duration of the application. (3-29-12)

~~**06. Interim Exemption from Pesticide Dealer Licensing and Recordkeeping.** Until such time as the director promulgates specific rules pertaining to distribution of general use pesticides (GUPs), persons selling only GUPs shall not be required to obtain a pesticide dealer license or maintain distribution records of these products. (3-30-01)~~

101. REGISTRATION AND LICENSING REQUIREMENTS FOR USE OF THE LPC.

01. Registration. Use restricted to United States Department of Agriculture, Animal and Plant Health Inspection Service, wildlife services (USDA, APHIS, WS) employees, licensing, and recordkeeping requirements for the LPC. (3-19-99)

a. Only the USDA, APHIS, WS ~~shall~~ **can** register the LPC. USDA, APHIS, WS ~~shall~~ **is** hereinafter ~~be~~ known as the registrant for the purpose of these rules. ~~(3-19-99)()~~

b. The LPC shall be transferred only by the registrant and only to professional applicators who are certified in the LC category and who are current employees of USDA, APHIS, WS. (3-19-99)

c. The LPC ~~shall be~~ **is** used only by professional applicators with certification in the LC category who are current employees of the USDA, APHIS, WS. (3-19-99)()

d. Before obtaining certification and licensing, LC applicants shall receive training and demonstrate competency in the areas listed in Subsection 100.01.b.x. and 100.01.b.xi. of these rules and satisfy Section 22-3404, Idaho Code. (3-19-99)

e. Only the manufacturer or registrant is authorized to fill collars with Compound 1080. Certified professional applicators or any other person shall not fill collars or remove the pesticide from the collars. (4-5-00)

02. Use of the LPC (Compound 1080). (3-19-99)

~~a. Use of collars shall conform to all applicable federal and state regulations.~~ (3-19-99)

~~ba. Collars shall be used to take c~~Coyotes **may be taken by collar** only. (3-19-99)()

~~eb.~~ Warning signs shall be posted at all usual points of entry to the area, including any access roads, or footpath or other walking route that enters the area. When there are no usual points of entry, signs shall be posted in the corners of the area or in any other location affording maximum visibility. (3-19-99)

i. The signs shall remain visible and legible throughout the collar use. (3-19-99)

ii. All warning signs shall be posted and inspected once a week by the certified Wildlife Services employee to ensure their continued presence and legibility, and will be removed when all collars are removed and accounted for. (3-19-99)

iii. Warning signs shall be at least fourteen (14) inches by sixteen (16) inches with letters at least one (1) inch in height. (3-19-99)

iv. All warning signs shall have a background color that contrasts with red **and feature clearly legible wording**. The words “DANGER” and “PELIGRO,” plus “PESTICIDES” and “PESTICIDAS,” shall be at the top of the sign, and the words “KEEP OUT” and “NO ENTRE” shall be at the bottom of the sign. ~~Letters for all words shall be clearly legible.~~ A circle containing an upraised hand on the left and a stern face on the right shall be near the center of the sign. The inside of the circle shall be red, except that the hand and a large portion of the face shall be in a shade that contrasts with red. The length of the hand shall be at least twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand. (3-19-99)()

v. The name of the pesticide (Compound 1080) and the date collars were placed on the sheep or goats shall appear on the warning sign. (4-5-00)

~~ac.~~ If a collar is found to have been punctured by a predator attacking a collared animal, **an complete and intensive search** shall be conducted for the predator that punctured the collar. (3-19-99)()

i. Disposal of punctured or unserviceable collars and contaminated gloves, clothing, vegetation or soil shall be as prescribed by the 1080 LPC label and technical bulletin or through the ISDA pesticide disposal program. Disposal of animal remains shall be in accordance with label directions. (4-5-00)

~~ed.~~ Prior to any intended use or application of the LPCs, the professional applicator **shall is to** submit to ISDA a written notice of intended use, ~~as prescribed by the ISDA. The notice shall contain~~ **ing the following:** (3-19-99)()

i. The professional applicator’s license number issued by the ISDA; (3-19-99)

ii. A list of the names and addresses of the owners or persons in charge of the areas to be treated and a map of the geographic location of such areas; (3-19-99)

- iii. The approximate size of the area where treatment will take place; (3-19-99)
- iv. The intended period of use; and (3-19-99)
- v. The number of collars to be used. (3-19-99)
- fe.** USDA, APHIS, WS shall accurately keep and maintain the following records and reports:(3-19-99)
 - i. Records of all collars distributed; (3-19-99)
 - ii. The name and address of each professional applicator receiving the collars; and (3-19-99)
 - iii. The dates and the number of collars received by each professional applicator. (3-19-99)
 - iv. These records shall be maintained by USDA, APHIS, WS for a period of three (3) years and ~~shall~~ **be** made available to the ISDA for inspection, duplication, and verification upon request by the ISDA. ~~(3-19-99)~~()
- gf.** The professional applicator shall accurately keep and maintain the following records and reports: (3-19-99)
 - i. Any suspected poisoning of humans, threatened or endangered species, domestic animals, or non-target wild animals shall be reported within seventy-two (72) hours or less to the ISDA and US EPA; (3-19-99)
 - ii. The name and address of the person on whose property the LPC was used or, if different from the property owner, the same information for the person in charge of the area where the collars will be used; (3-19-99)
 - iii. A map of the geographic location and size of the area in which the LPCs were used; (3-19-99)
 - iv. A summary report of the date each individual collar was obtained by the professional applicator, placed on sheep, punctured or ruptured (along with apparent cause), lost or unrecovered, or removed and put in storage, or disposed of through the ISDA Pesticide Disposal Program; (3-19-99)
 - v. The species, date, and location of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080 in LPCs; (3-19-99)
 - vi. The dates and results of each collar inspection; and (3-19-99)
 - vii. A written description of any complete and intensive search for missing collars or poisoned animals conducted as specified in these rules. (3-19-99)
 - viii. The records required by this rule shall be maintained by the professional applicator for a period of three (3) years and ~~shall be~~ made available to the ISDA for inspection, duplication and verification upon request of the ISDA. ~~(3-19-99)~~()
 - ix. A report of the records required by Subsection 101.02.g. shall be submitted to the ISDA as an annual summary report. (4-5-00)
- hg.** Collars ~~shall~~ **may** be used only upon sheep or goats within fenced pastures no larger than two thousand five hundred sixty (2,560) acres (four (4) square miles). Fenced pastures include all pastures that are enclosed by livestock fencing. In addition to wire livestock fences, and other man-made fences, such as rock walls, natural barriers such as escarpments, lakes, or large rivers may be used as fences, as long as they will prevent escape of sheep or goats. Fenced pastures and fences as herein defined ~~shall be~~ **are** referred to elsewhere in this section as “area.” Collars shall not be used on unfenced, open range. ~~(4-5-00)~~()
- ih.** All appropriate alternative control methods must be considered before implementing use of the LPC. (4-5-00)

~~j.~~ Each collar in use shall be inspected by the professional applicator once a week to ensure that it is properly positioned and unbroken. An inspection report on a form prescribed by the director shall be forwarded to ISDA following the conclusion of the project. (4-5-00)

i. If any collared animal is not accounted for in any two (2) consecutive checks, a complete ~~and intensive~~ search for the collared animal shall be conducted. (4-5-00)()

ii. If more than four (4) LPCs are unaccounted for during any thirty (30) day period, WS employees shall remove all LPCs from all animals and terminate their use. Use of collars shall not be resumed until WS employees have provided ISDA with a written protocol defining adequate steps they shall take to prevent any losses of LPCs. (4-5-00)

~~k.~~ Intact LPCs containing Compound 1080 shall be stored by USDA, APHIS, WS under lock and key in a dry place away from food, feed, domestic animals and corrosive chemicals, and in outbuildings or in outdoor storage areas attached to, but separate from, human living quarters. (4-5-00)

~~102. RESTRICTIONS AND PENALTIES.~~

~~Any person who violated or fails to comply with any provision of these rules, or Title 22, Chapter 34, Idaho Code, shall be subject to one (1) or more of the following actions. (3-19-99)~~

~~01. **Revocation, Suspension or Denial to Issue or Renew.** Revocation, suspension, or denial to issue or renew the license or certification of an applicant, licensee, or certificate holder in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3409, Idaho Code. (3-19-99)~~

~~02. **Amendment, Suspension, or Revocation of the LPC Registration.** Amendment, suspension, or revocation of the LPC registration in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3408. (3-19-99)~~

~~03. **Imposition of Civil Penalty.** Imposition of a civil penalty, in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3423, Idaho Code. (3-19-99)~~

~~04. **Initiation or Pursuit of Any Other Action.** Initiation or pursuit of any other action of an enforcement nature available through Title 22, Chapter 34, Idaho Code. (3-19-99)~~

~~103.~~ -- 149. (RESERVED)

150. RECORDS REQUIREMENTS.

01. Applicator Records. Professional applicators shall maintain pesticide application records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. The records shall be maintained in a location designated by the professional applicator. (4-5-00)

02. Record Contents. Such records shall contain: (3-20-97)

a. The name and address of the owner or operator of each property treated; and (3-20-97)

b. The specific crop, animal, or property treated; and (3-20-97)

c. The location by the address, general legal description (township, range, and section) or latitude/longitude of the specific crop, animal, or property treated; and (3-23-98)

d. The size or amount of specific crop, animal, or property treated; and (3-23-98)

e. The trade name or brand name of the pesticide applied; and (3-23-98)

f. The total amount of pesticide applied; and (3-23-98)

- g.** The dilution applied or rate of application; and (3-23-98)
 - h.** The EPA registration number of the pesticide applied; and (3-23-98)
 - i.** The date of application; and (3-20-97)
 - j.** The time of day when the pesticide is applied; and (3-20-97)
 - k.** The approximate wind velocity; and (3-20-97)
 - l.** The approximate wind direction; and (3-23-98)
 - m.** The full name of the person recommending the pesticide application; and (3-23-98)
 - n.** The full name of the professional applicator applying the pesticide; and (3-23-98)
 - o.** The license number of the professional applicator applying the pesticide; and (3-23-98)
 - p.** Worker protection information exchange, if required by the worker protection standard, prior to pesticide application, shall be documented by: (3-30-01)
 - i.** Date of contact; and (3-23-98)
 - ii.** Time of contact; and (3-23-98)
 - iii.** Name of grower or operator contacted. (3-23-98)
- 03. Pesticide Dealer Records.** Pesticide dealers shall maintain restricted use pesticide distribution records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. The records shall be maintained in a location designated by the pesticide dealer. (3-30-01)
- 04. Record Contents.** Such records shall contain: (3-30-01)
- a.** The name and address of the person purchasing or receiving the restricted use pesticide (RUP); and (3-30-01)
 - b.** The certified applicator name, license number, and expiration date of the license for the person certified to use the RUP; or (3-30-01)
 - c.** In the case of distribution of a RUP to another pesticide dealer, the name, license number, and expiration date of the license of the licensed pesticide dealer. (3-30-01)
 - d.** The brand name and Environmental Protection Agency (EPA) Registration Number for each RUP distributed; and (3-30-01)
 - e.** Date of the distribution of each RUP; and (3-30-01)
 - f.** The quantity and size of each RUP container distributed and the total quantity of RUP distributed; and (3-30-01)
 - g.** The pesticide dealer's name, address, and pesticide dealer license number distributing the RUP. (3-30-01)

151. -- 199. (RESERVED)

200. FEES.

- 01. Pesticide Registration.** ~~On and after July 1, 2006, o~~ne hundred sixty dollars (\$160) per product. ~~(3-30-06)~~()
- 02. Professional Applicator's License.** ~~On and after July 1, 1996, o~~ne hundred twenty dollars (\$120) per licensing period of fourteen (14) months or more, sixty dollars (\$60) per licensing period of thirteen (13) months or less. (3-20-97)
- 03. Pesticide Dealer's License.** ~~Beginning August 31, 2000, o~~ne hundred dollars (\$100) per licensing period of fourteen (14) months or more, fifty dollars (\$50) per licensing period of thirteen (13) months or less. ~~Prior to August 31, 2000, fifty dollars (\$50) for an annual license or partial year if the license is issued after August 31, 1999.~~ ~~(4-5-00)~~()
- 04. Private Applicator's License.** A Restricted Use Category, ten dollars (\$10); a Chemigation Category, twenty dollars (\$20); or thirty dollars (\$30) for both categories. (3-20-97)
- 05. Examination Fee per Examination Category.** Ten dollars (\$10). (3-20-97)
- 201. -- 249. (RESERVED)**
- 250. FINANCIAL RESPONSIBILITY.**
- 01. Proof of Financial Ability.** A professional applicator's license will not be issued by the Department until an applicant submits written proof of financial responsibility by any of the following methods: (3-20-97)
- a.** Liability insurance with an insurance company licensed to do business in Idaho and documented on a form approved by the Director; or (3-23-98)
 - b.** A bond that is approved by the Director; or (3-20-97)
 - c.** A cash certificate of deposit in escrow with a bank or trust company; or (3-20-97)
 - d.** An annuity; or (3-20-97)
 - e.** An irrevocable letter of credit. (3-20-97)
 - f.** Any certificate of deposit, annuity, or irrevocable letter of credit must be payable to the Director as trustee and shall remain on file with the Department until it is released, canceled or discharged by the Director. Any certificate of deposit, annuity, or irrevocable letter of credit must maintain a cash value equal to the requirements of Subsection 250.02, less any penalty for early withdrawal. Accrued interest upon a certificate of deposit or annuity shall be payable to the purchaser of the certificate or annuity. (3-20-97)
 - g.** Under the provisions of this chapter, an irrevocable letter of credit shall not be acceptable unless it is issued by a national bank in Idaho or by an Idaho state-chartered bank insured by the federal deposit insurance corporation. Under the provisions of this chapter, an annuity shall not be accepted by the Department unless it is issued by an insurance company, bank or other financial institution found acceptable by the Director. (3-20-97)
 - h.** Exclusions. Any exclusion to liability insurance, bond, cash certificate of deposit, annuity or irrevocable letter of credit coverage shall be listed on a form approved by the Director. (3-19-99)
- 02. Minimum Coverage Required.** (3-20-97)
- a.** Professional applicators. (3-20-97)
 - i.** Bodily injury - fifty thousand dollars (\$50,000) per person/one hundred thousand dollars (\$100,000) per occurrence. (3-23-98)

- ii. Property damage - fifty thousand dollars (\$50,000) per occurrence. (3-23-98)
- iii. Maximum deductible - five thousand dollars (\$5,000). (3-23-98)
- iv. All new professional applicator licenses issued on or after September 1, 1997, shall require financial responsibility at or exceeding the coverage limits as specified in Subsections 250.02.a.i. and 250.02.a.ii. (3-23-98)
- v. In order to maintain an existing professional applicator license the coverage limits specified in Subsections 250.02.a.i. and 250.02.a.ii. shall be met or exceeded on or before December 31, 1998. (3-23-98)

03. Target Property Not Required to Be Covered. The immediate property being treated is not required to be covered as prescribed in Subsection 250.02.a.ii. (3-19-99)

04. Cancellation or Reduction. The Department shall be notified by the applicator in writing immediately after cancellation or reduction of the financial coverage. (3-23-98)

05. Coverage Waived. Coverage waivers which have been issued prior to September 1, 1997, shall remain in effect until the first license expiration date subsequent to September 1, 1997. (3-23-98)

251. -- 299. (RESERVED)

300. DEVIATIONS FROM PESTICIDE LABELS AND LABELING.

Any licensed professional or private applicator may deviate from pesticide label directions for use only as EPA or state laws, rules, and regulations permit. (3-20-97)

301. -- 309. (RESERVED)

310. LOW-FLYING PROHIBITIONS.

01. Low-Flying Prohibitions. Aircraft pilots during spray operations are prohibited from turning or low-flying: (3-20-97)

a. Over cities, towns, schools, hospitals and densely populated areas unless the pilot obtains an agreement in writing for pesticide applications from the authorized agent for the city, town, school, hospital, or densely populated area in question; or (3-23-98)

b. Directly over an occupied structure without prior notification by some effective means such as daily newspapers, radio, television, telephone, or door-to-door notice. (3-23-98)

02. Restriction. The low-flying restrictions listed in Subsection 310.01 shall only pertain to persons other than those persons whose property is to be treated. (3-20-97)

311. -- 319. (RESERVED)

320. WIND VELOCITY RESTRICTIONS.

01. Restrictions. No person shall apply any pesticide in sustained wind conditions exceeding ten (10) miles per hour or in wind conditions exceeding product label directions, except as provided in Subsection 320.04. (4-5-00)

02. Exceptions. Application of pesticides by injection into application site or by impregnated granules shall be made according to label directions. (3-23-98)

03. Approval for Use of Other Application Techniques. Other pesticide application techniques or methods may be approved by the Director or his agent on a case-by-case basis. (3-23-98)

04. Chemigation Wind Speed Precautions. Chemicals shall not be applied when wind speed favors drift beyond the area intended for treatment or when chemical distribution is adversely affected. (4-5-00)

321. CHANGE OF LICENSE STATUS.

01. Change Notification. Any person who is licensed by this act shall immediately notify the Director, in writing, of any change of status of any person or agent so named, or of any change in the business name, organization, or any other information shown in the licensing application. (3-20-97)

02. Transferable. Licenses are not transferable. (3-23-98)

322. (RESERVED)

323. PESTICIDE-FERTILIZER MIX RESTRICTIONS.

No person shall distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix. (3-20-97)

324. EXPERIMENTAL PERMITS.

Any person who wishes to obtain an experimental permit to accumulate information necessary to register a pesticide for a special local need under Section 22-3402(5), Idaho Code, shall file an application with the Department which contains: (3-20-97)

01. Name. The company name. (3-20-97)

02. Applicant. The name, address, and telephone number of the applicant. (3-20-97)

03. Shipment. The proposed date of shipment or proposed shipping period not to exceed one (1) year. (3-20-97)

04. Active Ingredient. A statement listing the active ingredient. (3-20-97)

05. Quantity Statement. A statement of the approximate quantity to be tested. (3-20-97)

06. Acute Toxicity. Available data or information or reference to available data on the acute toxicity of the pesticide. (3-20-97)

07. Statement of Scope. A statement of the scope of the proposed experimental program, including the type of pests or organisms involved, the crops and animals for which the pesticide is to be used, the areas where the applicant proposes to conduct the program, and when requested by the Director, the results of previous tests. (3-20-97)

08. Temporary Tolerance. When the pesticide is to be used on food or feed, a temporary tolerance must be obtained from the EPA or evidence that the proposed experiment will not result in injury to humans or animals, or illegal residues entering the food chain. (3-20-97)

09. Proposed Labeling. Proposed labeling which must bear: (3-20-97)

a. The prominent statement “For Experimental Use Only” on the container label and any labeling that accompanies the product. (3-20-97)

b. An adequate caution or warning statement to protect those who may handle or be exposed to the experimental formulation. (3-20-97)

c. The name and address of the applicant for the permit. (3-20-97)

d. The name or designation of the formulation. (3-20-97)

- e. Directions for use. (3-20-97)
- f. A statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients. (3-20-97)

10. Quantity Limit. The Director may limit the quantity of pesticide covered by the permit or make such other limitations as he may determine to be necessary for the protection of humans or the environment. (3-20-97)

11. Experimental Use. A pesticide for experimental use shall not be offered for sale unless a written permit has been obtained from the Director. (3-20-97)

325. -- 399. (RESERVED)

400. RESTRICTIONS TO PROTECT POLLINATORS.

01. Bee Restrictions. Any pesticide that is toxic to bees shall not be applied to any agricultural crop when such crop is in bloom or when bees are actively foraging on blooming weeds in the crop being sprayed except during the period beginning three (3) hours before sunset until three (3) hours after sunrise. (3-30-01)

02. Green Pea Exception. In the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone: Green (white) pea crops may be sprayed or dusted at any time. (3-20-97)

03. Other Exceptions. Pesticides may be applied at any time to sweet corn for processing, hops, potatoes, and beans other than lima beans, subject to all other applicable regulations. (3-20-97)

401. -- 449. (RESERVED)

450. STORAGE OF PESTICIDE CONTAINERS.

01. Protecting Humans and Environment. No person shall handle, transport, display, or distribute pesticides in such a manner as to endanger humans and their environment, or to contaminate food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. (3-20-97)

02. Storage by Professional Applicators or Pesticide Dealers. Storage of pesticide containers by professional applicators and pesticide dealers: (3-20-97)

a. Empty or partially full pesticide containers which contain Class 1 - highly toxic pesticides (LD50 of 50 or below) and which require the skull and crossbones insignia and the words "Danger - Poison" on the label; and Class 2 (moderately toxic) pesticides (LD50 - 500) which carry a "Warning" statement on the label; and Class 3 (slightly toxic) pesticides (LD50 of 500-5000) and which carry a "Caution" statement on the label, shall be stored in one of the following enclosures which when unattended shall be locked to prevent unauthorized persons, livestock or animals from gaining entry: (3-20-97)

- i. Closed vehicle; (3-20-97)
- ii. Closed trailer; (3-20-97)
- iii. Building or room; (3-20-97)
- iv. Fenced area with a fence at least six (6) feet high; (3-20-97)
- v. Truck or trailer with solid sideracks and secured tailgate at least six (6) feet above ground level. (3-20-97)

b. Empty or partially full pesticide containers which contain Class 4 pesticides (LD50 over 5000) shall be stored in secured storage out of the reach of children in one of the above enclosures. (3-20-97)

c. Warning notices, visible from any direction, shall be posted around all storage areas where partially full or empty containers which hold or have held pesticides required to be labeled with the signal words “Warning” or “Danger - Poison” are stored. Each warning notice shall be of such size that it is readable at a distance of twenty-five (25) feet and be substantially as follows:

“D A N G E R”

“POISON STORAGE AREA
ALL UNAUTHORIZED PERSONS
KEEP OUT”

The notice shall be repeated in an appropriate language other than English when it may be reasonably anticipated that persons who do not understand the English language will come to the enclosure. The notice shall also contain the name and telephone number of a person to contact in case of an emergency. (3-20-97)

03. **Exceptions.** The provisions of Subsection 450.02 shall not apply to drums of petroleum oils, lime sulfur, and copper sulfate. (3-20-97)

04. **Disposal.** Any person applying pesticides shall be responsible for the proper disposal of such empty containers. (3-20-97)

451. -- 499. (RESERVED)

500. NON-DOMESTIC PESTICIDES.

01. **Home and Garden Restrictions.** The following *listed* pesticides ~~shall not be sold to home and garden users, nor shall they be applied by professional applicators around any home or garden. These pesticides shall be~~ are to be registered only when labeled, distributed, sold or held for sale and use other than home and garden use ~~and are not be sold to home and garden users or applied by professional applicators around any home or garden.~~ (3-20-97)()

a. Bidrin (Foliar applications). (3-20-97)

~~b. Disyston (two point one percent (2.1%) and above). (3-20-97)~~

~~c. Guthion (fifteen percent (15%) and above). (3-20-97)~~

~~d. Strychnine (one percent (1%) and above). (3-20-97)~~

~~e. Zinc Phosphide (two point one percent (2.1%) and above). (3-20-97)~~

~~f. All high volatile liquid ester formulations of 2,4 D. (3-20-97)~~

02. **Ester Restriction.** Low volatile liquid ester formulations of herbicides shall not be applied around any home or garden at any time when ambient air temperature exceeds or is forecasted to exceed eighty (80) degrees Fahrenheit during the day of application. (4-11-15)

501. -- 549. (RESERVED)

550. PHENOXY HERBICIDE RESTRICTIONS.

01. **High Volatile Ester Restrictions.** No aircraft pilot shall apply high volatile ester formulations of 2,4-D: (3-20-97)

a. In Latah, Nez Perce, and Clearwater Counties in Idaho; or (3-20-97)

b. Within five (5) miles of a susceptible crop or hazard area in any other county in Idaho. (3-20-97)

c. Waiver of the restriction is Subsections 550.01.a. and 550.01.b. may be issued on a project-by-project basis by the Director. (3-20-97)

02. Low Volatile Ester Restrictions. No aircraft pilot shall apply low volatile ester formulations of 2,4-D; MCPA and MCPB: (3-20-97)

a. In Latah, Nez Perce, and Clearwater Counties in Idaho, unless ambient air temperatures are not above or expected to exceed eighty-five (85) degrees fahrenheit within twenty-four (24) hours of the expected application time, or (3-30-01)

b. Within one (1) mile of a hazard area in any other county in Idaho. (3-20-97)

c. Waiver of the restriction in Subsection 550.02.a. may be issued on a project-by-project basis by the Director. (3-20-97)

03. Hazard Area. Aircraft pilots shall maintain the following spray distances from hazard areas when applying amine or acid formulations of 2,4-D; MCPA; MCPB; and Dicamba:

Mean Sustained Wind Velocity	Downwind	Upwind
0-3 MPH	1/2 mile	600 feet
4-7 MPH	1 mile	200 feet
8-10 MPH	1 mile	50 feet
Over 10 MPH	Do not apply	Do not apply

(3-23-98)

04. Airflow and Temperature Inversion Indicators. A continuous smoke column or other device satisfactory to the Director shall be employed to indicate to the pilot of any aircraft the direction and velocity of the airflow, and indicate a temperature inversion by layering of smoke, at the time and place of application when applying any formulation of 2,4-D; MCPA; MCPB and Dicamba. (3-20-97)

05. Other Spraying Equipment. If any aerial applicator wishes to use spraying equipment other than the equipment specified, such equipment must be approved by the Director prior to use. (3-20-97)

551. -- 599. (RESERVED)

600. APPLICATION NEAR HAZARD AREAS.

An aircraft pilot shall not apply any pesticide within one-half (1/2) mile of a hazard area unless there is air movement away from the hazard area. (3-20-97)

~~**601. MICROENCAPSULATED METHYL PARATHION RESTRICTION.**~~

~~An aircraft pilot shall not apply microencapsulated methyl parathion within one-half (1/2) mile of any canyon breaks or the perimeter thereof, of the Clearwater Snake River drainage within the boundaries of Latah, Lewis, Clearwater, and Nez Perce Counties in Idaho. (3-20-97)~~

~~**602.1. -- 799. (RESERVED)**~~

800. PESTICIDE USE ON SEED CROP FIELDS.

01. Nonfood and Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed crop fields are considered

nonfood and nonfeed sites for pesticide use and the following conditions shall be met: (3-20-14)

a. No portion of the seed alfalfa, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. (3-20-14)

b. The seed conditioner shall keep records of individual growers' alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. (3-20-14)

c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)

d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. (3-20-97)

e. All alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. (3-20-14)

f. No alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall be distributed for human consumption or animal feed. (3-20-14)

g. All portions of the seed alfalfa, seed carrot, seed chicory, seed clover, seed collard, seed coriander/cilantro, seed dill, seed endive, seed of garden beet, seed onion, seed parsnip, pollinator rows of hybrid canola seed, seed radish, seed rutabaga, seed of sugar beets, seed of Swiss chard, or seed turnip plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. (3-20-14)

02. Exemption. Alfalfa seed, kale seed and radish seed crops grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-29-10)

a. All pesticides used are labeled for use on alfalfa seed, kale seed, and radish seed crops and have established residue tolerances which allow food or feed use; and (3-29-10)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)

801. -- 849. (RESERVED)

850. UNUSABLE PESTICIDES COLLECTION AND DISPOSAL.

~~01. Authority~~ The Director ~~of the Idaho Department of Agriculture~~ or designated agent may, if deemed necessary for the protection of the environment, take possession and dispose of canceled, suspended, or otherwise unusable pesticides. (3-20-97)()

~~**02. Participant Transfer of Product Ownership.** Persons interested in transferring the ownership of their unusable pesticide products to the Department shall: (3-20-97)~~

~~**a.** Follow all applicable United States Department of Transportation regulations in the handling, loading, securing and transporting of their products. (3-20-97)~~

~~**b.** Over-pack all torn or leaky containers to prevent a release of product into the environment during transport. (3-20-97)~~

~~**c.** Sign a release, transferring the ownership of the product to the Department. (3-20-97)~~

~~**d.** Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)~~

~~**03. Department Possession for Disposal.** In order to take possession and dispose of unusable pesticide products, the Department shall: (3-20-97)~~

~~**a.** Secure appropriate collection site(s) in cooperation with local government and other organizations. (3-20-97)~~

~~**b.** Obtain an Environmental Protection Agency identification number as a hazardous waste generator. (3-20-97)~~

~~**c.** Provide and ensure the use of personal protective equipment for Department employees. (3-20-97)~~

~~**d.** Ensure that workers unload chemicals from participant's vehicle only in an area developed to contain possible spills. (3-20-97)~~

~~**e.** Sign a transfer of ownership, releasing the participant of the product. (3-20-97)~~

~~**f.** Transfer the unusable pesticide products as hazardous waste to a hazardous waste contractor(s) for transport and disposal. (3-20-97)~~

~~**g.** Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)~~

~~**04. Contract Transport and Disposal.** The contractor(s) providing for the transport and disposal of the hazardous waste shall: (3-20-97)~~

~~**a.** Provide a representative to participate in the collection site evaluation and selection process. (3-20-97)~~

~~**b.** Prepare the selected site collection area in such a manner as to contain possible spills. (3-20-97)~~

~~**c.** Certify to the Department that their employees handling the hazardous waste materials meet Occupational Safety and Health Administration safety and training requirements. (3-20-97)~~

~~**d.** Certify to the Department that their employees handling or transporting the hazardous waste materials meet United States Department of Transportation training requirements. (3-20-97)~~

~~**e.** Provide and ensure the use of personal protective equipment for their employees during collection events. (3-20-97)~~

~~**f.** Overpack the hazardous waste materials as required by the disposal facility and the United States Department of Transportation. (3-20-97)~~

~~**g.** Obtain and provide the Department with written approval for hazardous waste acceptance from the treatment, storage and disposal facility prior to the collection. (3-20-97)~~

- ~~h. Provide the manifest forms, labels and markings for the overpacked containers and provide the placards for the commercial hazardous waste transport vehicles. (3-20-97)~~
- ~~i. Label, manifest, mark, and placard the load for proper transportation. (3-20-97)~~
- ~~j. Transport hazardous waste materials to the approved disposal site(s). (3-20-97)~~
- ~~k. Certify to the Department that the commercial hazardous waste transporter:~~
 - ~~i. Is registered through the Environmental Protection Agency and possesses an Environmental Protection Agency identification number. (3-20-97)~~
 - ~~ii. Is registered through the Environmental Protection Agency in each state through which the hazardous waste is transported. (3-20-97)~~
 - ~~iii. Is registered with the United States Department of Transportation, Research and Special Programs Administration to transport hazardous waste. (3-20-97)~~
 - ~~iv. Has obtained an Idaho Department of Transportation hazardous waste trip permit and hazardous materials endorsement. (3-20-97)~~
 - ~~v. Has obtained a satisfactory safety rating from the United States Department of Transportation. (3-20-97)~~
- ~~l. Perform a final cleanup in such a manner as to ensure that the collection site is returned to its original condition. (3-20-97)~~
- ~~m. Provide complete documentation of collections, transportation and disposal to the Department in a timely manner. (3-20-97)~~
- ~~n. Comply with all applicable Federal, State and local laws, regulations, and ordinances. (3-20-97)~~

851. -- 960. (RESERVED)

961. GENERAL CHEMIGATION REQUIREMENTS.

This Section prescribes equipment listing requirements, posting requirements for certain types of pesticides, use of pesticide label directions, a prohibition from chemigation over waters of the state. (4-5-00)

01. Chemigation Equipment Standards. Equipment manufacturers shall provide to the Department of Agriculture verification that the equipment meets the standards established in these rules. If the equipment meets the standards, it shall be placed on the Department's list of approved chemigation equipment. (4-5-00)

02. Posting Requirements. Labels of toxicity category I pesticide products (those with the label signal word "DANGER." allow chemigation on their label and contain posting requirements specific to chemigation) shall be posted in accordance with their label. (4-5-00)

03. Pesticides Labeled for Chemigation. The chemigator shall use only pesticides labeled for chemigation when chemigating. (4-5-00)

04. Chemigating Over Waters of the State. Chemigating over waters of the state shall be prohibited, except for variances allowed in Section 971. (4-5-00)

962. IRRIGATION SYSTEMS.

This Section prescribes the equipment required for each type of irrigation system when chemigation is to be used. (4-5-00)

01. Sprinkler or Drip Irrigation. If chemicals are being chemigated through the sprinkler or drip

irrigation system, the chemigator shall verify that the system complies with either Subsection 962.01.a. or 962.01.g. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Irrigation Line Check Valve Requirement. The system shall contain a functional Irrigation Line Check Valve, (Section 966); and (4-5-00)

b. Low Pressure Drain Requirement. The system shall contain an Automatic Low Pressure Drain, (Section 970); and (4-5-00)

c. Inspection Port Requirement. The system shall contain an Inspection Port, (Section 969); and (4-5-00)

d. Vacuum Relief Valve Requirement. The system shall contain a Vacuum Relief Valve or a combination Air and Vacuum Relief Valve, (Section 968); and (4-5-00)

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963); or (4-5-00)

g. Gooseneck Pipe Loop, Downhill and Over-A-Hill Requirement. For surface water impoundments the system may use a Gooseneck Pipe Loop, Downhill and Over-A-Hill system rather than the requirements of Subsections 962.01.a. through 962.01.f., (Section 967); and (4-5-00)

h. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

i. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963). (4-5-00)

02. Flood, Basin, Furrow, or Border Irrigation. If a chemical, including anhydrous ammonia, will be applied by flood, basin, furrow, or border chemigation through a gravity flow system, the chemigator shall verify that the system complies with the following requirements: systems using a gravity flow dispensing system shall meter the chemical into the water at the head of the field and downstream of a hydraulic discontinuity such as a drop structure or weir box to decrease potential for water source contamination from backflow if water flow stops. (4-5-00)

03. Domestic Water Supply System Cross-Connected for Chemigation. Any irrigation system used for chemical application cross-connected to a domestic water supply system shall verify that the system complies with either Subsection 962.03.a. or 962.03.d. and shall include all other additionally specified equipment for each; (4-5-00)

a. Reduced Pressure Principle Backflow Prevention Assembly (RP). The irrigation system shall contain a functional reduced pressure backflow preventer assembly (RP); and (4-5-00)

i. The RP assembly shall be located on the irrigation pipeline between the water supply pump and the point of chemical injection, and downstream from any domestic water supply diversion point. (4-5-00)

ii. The purpose of a Reduced Pressure Principle Backflow Prevention Assembly (RP) is to keep contaminated water from flowing back into a domestic water supply system when some abnormality in the system causes pressure to be temporarily higher in the contaminated part of the system than in the domestic water supply system piping. (4-5-00)

iii. The RP assembly shall have been manufactured in full conformance with the American National Standards Institute (ANSI)/American Water Works Association (AWWA) ANSI/WWA C511 Standard for Reduced Pressure Principle Backflow Prevention Assemblies established by the AWWA; and have met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic

Research of the University of Southern California (USC FCCCHR); or an equivalent, Department-approved testing facility. (4-5-00)

b. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

c. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963); or (4-5-00)

d. Air Gap (AG). The water from the domestic water supply system shall be discharged into a reservoir tank prior to the chemical injection. An air gap shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel – in no case less than one (1) inch. Chemical injection shall not occur upstream of the air gap; and (4-5-00)

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963). (4-5-00)

963. CHEMICAL INJECTION LINE SHUT DOWN (SYSTEM INTERLOCK).

In every chemigation system, there shall be a functional system interlock designed and installed to shut down the chemical injection unit when chemical distribution is adversely affected. The system interlock shall connect the water supply pump and the chemical injection unit or connect the irrigation line pressure switch and the chemical injection unit if there is no water supply pump and the system is pressurized. The chemical injection line shall contain one (1) of the following options found in Subsections 963.01 through 963.05, to ensure that a chemical injection pump will stop if the irrigation pump stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline: (4-5-00)

01. Electrical Interlock. The electrical interlock shall contain one (1) of the options in Subsections 963.01.a. through 963.01.d. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Electric Motor-Driven Irrigation Pump or Power Panel: (4-5-00)

i. The electrical controls for the irrigation pump panel or power panel at the pivot or linear shall be interlocked with an electric powered chemical injection pump so that if the water pump shuts off or the pressure switch shuts off power at the panel, the chemical injection pump shall shut off (it is recommended that the interlock also be provided to shut off the irrigation system if the chemical injection pump shuts off); and (4-5-00)

ii. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)

iii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

b. Solenoid Operated Valve. A functional automatic quick-closing check valve and a functional normally closed solenoid operated valve connected to the system interlock shall be: (4-5-00)

i. Normally closed; and (4-5-00)

ii. Located on the intake side of the injection pump; and (4-5-00)

iii. Open only when there is adequate pressure in the irrigation line to insure uniform chemical distribution; and (4-5-00)

iv. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

c. A functional automatic quick-closing check valve and a functional normally closed hydraulically operated check valve. The hydraulically operated check valve shall be connected to the main water line such that the valve only opens when the main water line is adequately pressurized. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (4-5-00)

d. A functional automatic quick-closing check valve and a functional vacuum relief valve located in the chemical injection line between the positive displacement chemical injection pump and the chemical check valve. This alternative is appropriate only for those chemigation systems using a positive displacement chemical injection pump and is not for use with Venturi injection systems. This valve shall be elevated at least twelve (12) inches above the highest fluid level in the chemical supply tank and shall be the highest point in the injection line. The valve shall open at six (6) inches water vacuum or less and shall be spring-loaded or otherwise constructed such that it does not leak on closing. It shall prevent leakage from the chemical supply tank on system shutdown. The valve shall be constructed of chemically resistant materials. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

02. Mechanical Interlock. The mechanical interlock shall contain one (1) of the options in Subsections 963.02.a. or 963.01.b. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by operating the chemical injection equipment from the engine electrical system, or an electrical generator driven by the pumping plant power unit: (4-5-00)

i. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)

ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (4-5-00)

b. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by belt from the drive shaft of the irrigation pump or an accessory pulley of the engine: and (4-5-00)

i. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)

ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

03. Hydraulic Interlock. Functional, normally closed, hydraulically operated check valve. The control line must be connected to the main water line such that the valve opens only when the main water line is adequately pressurized. This valve must prevent leakage from the chemical supply tank on system shutdown. The valve must be constructed of chemically resistant materials, such as a Venturi System. (4-5-00)

04. Human Interlock. (4-5-00)

a. A human interlock shall consist of human supervision on-site during the injection of a chemical into the irrigation system for one (1) hour or less to shut down the system in case of failure of the injection pump or irrigation system; and (4-5-00)

b. Injection Line Check Valve (Section 964) shall be installed; and (4-5-00)

c. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

05. Other Approved Option. Any other option approved by the Director. (4-5-00)

964. INJECTION LINE CHECK VALVE.

01. Injection Line Check Valve. A functional, spring-loaded injection line check valve with a

minimum of ten (10) pounds per square inch (psi) opening (cracking) pressure plus one (1) psi per one (1) foot of elevation between the chemical supply tank and the point of chemical injection and shall be: (4-5-00)

- a. Located between the chemical injection pump and the point of chemical injection into the irrigation line; and (4-5-00)
- b. Made of chemically resistant material; and (4-5-00)
- c. Designed to prevent irrigation water under operating pressure from entering the chemical injection line; and (4-5-00)
- d. Designed to prevent leakage from the chemical supply tank on system shut down; and (4-5-00)

02. A Substitute System. The injection line check valve shall be a substitute for both the solenoid-operated valve and the functional, automatic, quick closing check valve in the chemical injection line. (4-5-00)

965. CHEMICAL INJECTION SYSTEM.

All chemical injection systems, except for flood, basin, furrow, or border chemigation through a gravity flow system, shall use: (4-5-00)

01. Metering Pump. A metering pump such as a positive displacement injection pump effectively designed and constructed of materials that are compatible with chemicals and capable of being fitted with a system interlock; or (4-5-00)

02. Venturi System. Venturi systems including those inserted directly into the main water line, those installed in a bypass system, and those bypass systems boosted with an auxiliary water pump. Booster or auxiliary water pumps shall be connected with the system interlock such that they are automatically shut off when the main line irrigation pump stops, or in cases where there is no main line irrigation pump, when the water pressure decreases to the point where pesticide distribution is adversely affected. Venturies shall be constructed of chemically resistant materials. The line from the chemical supply tank to the Venturi shall contain a functional, automatic, quick closing check valve to prevent the flow of liquid back toward the chemical supply tank. This valve shall be located immediately adjacent to the Venturi chemical inlet. This same supply line shall also contain either a functional normally closed solenoid-operated valve connected to the system interlock or a functional normally closed hydraulically operated valve which opens only when the main water line is adequately pressurized. In bypass systems as an option to placing both valves in the line from the chemical supply tank, the check valve may be installed in the bypass immediately upstream of the Venturi water inlet and either the normally closed solenoid or hydraulically operated valve may be installed immediately downstream of the Venturi water outlet. (4-5-00)

966. IRRIGATION LINE CHECK VALVE.

- 01. Construction.** Construction shall: (4-5-00)
 - a. Consist of at least a single check valve; (4-5-00)
 - b. Be of heavy duty construction with all materials resistant to corrosion or protected to resist corrosion; (4-5-00)
 - c. Be spring-loaded with a chemically resistant and resilient seal that provides a watertight seal against reverse flow; (4-5-00)
 - d. Not consist of metal to metal seal surfaces; (4-5-00)
 - e. Be rated at a pressure equal to or greater than the system working pressure; and (4-5-00)
 - f. Be positioned and oriented according to manufacturer specifications to ensure proper functioning. (4-5-00)

- 02. Location.** The Irrigation Line Check Valve shall: (4-5-00)
- a.** Be located in the pipeline between the irrigation pump and the point of chemical injection into the irrigation pipeline, and downstream from a vacuum relief valve and automatic low pressure drain. (4-5-00)
 - b.** When installed, be on a horizontal plane and level. A deviation of not more than ten (10) degrees from horizontal is permitted. (4-5-00)
- 03. Labeling of the Check Valve or Valve Assembly.** Shall be labeled with the following: (4-5-00)
- a.** Manufacturer's name and model; (4-5-00)
 - b.** Working pressure in pounds per square inch (psi); (4-5-00)
 - c.** Maximum flow rate in gallons per minute; and (4-5-00)
 - d.** Direction of flow. (4-5-00)
- 04. Model Certification.** The manufacturer of the irrigation line check valve shall provide verification to the director that the valve model has been tested and certified by an independent laboratory such as the Center For Irrigation Technology, Fresno, California and Great Plains Meter, Inc. Aurora, Nebraska, or other Department approved facility as meeting the following leakage test criteria: (4-5-00)
- a.** Low Pressure Drip Test. A check valve shall withstand for sixteen (16) hours without leakage at the valve seat an internal hydrostatic pressure equivalent to the head of a column of water five (5) feet (1.5m) high retained within the downstream portion of the valve body. No leakage shall occur as evidenced by wetting of paper placed beneath the valve assembly. This test is to be conducted with the valve in both the horizontal and vertical position if intended for such use. (4-5-00)
 - b.** High Pressure Test. A check valve shall withstand for one (1) minute, without leakage at joints or at the valve seat, an internal hydrostatic pressure of two (2) times the rate of working pressure of the valve. (4-5-00)

967. GOOSENECK PIPE LOOP, DOWNHILL AND OVER-A-HILL.

- 01. Location.** Shall be located in the main water line immediately downstream of the irrigation water pump. (4-5-00)
- 02. Position.** The bottom side of the pipe at the loop apex shall be at least twenty-four (24) inches above the highest sprinkler or other type of water emitting device on the highest part of the field. (4-5-00)
- 03. Pipe Loop.** The loop shall contain either a vacuum relief or combination air and vacuum relief valve at the apex of the pipe loop, and if the water pump is portable and the apex is a straight, horizontal section of pipe, the pipe shall be level. (4-5-00)
- 04. Location of Chemical Injection Port.** The chemical injection port shall be located downstream of the apex of the pipe loop and at least six (6) inches below the bottom side of the pipe at the loop apex. (4-5-00)
- 05. Use Restriction.** Shall not be allowed when pumping from a groundwater source. (4-5-00)

968. VACUUM RELIEF VALVE OR COMBINATION AIR AND VACUUM RELIEF VALVE.

- 01. Location.** Shall be located on top of the horizontal irrigation pipeline on the upstream side of the check valve. (4-5-00)
- 02. Orifice Size.** Shall have a total (individually or combined) orifice size of at least three-fourths (3/4) inch diameter for a four (4) inch pipe, a one (1) inch diameter for a five (5) to eight (8) inch pipe, a two (2) inch diameter for a nine (9) to eighteen (18) inch pipe, and a three (3) inch diameter for a nineteen (19) inch and greater pipe. (4-5-00)

969. INSPECTION PORT.

01. Inspection Port. The inspection port can be combined with a mounting of a vacuum relief or combination air and vacuum relief valve and shall: (4-5-00)

a. Be located on the pipeline between the irrigation pump and the irrigation pipeline check valve directly above the low pressure drain; (4-5-00)

b. Have a minimum diameter opening of four (4) inches from which the check valves and low pressure drain shall be visible; (4-5-00)

c. Be mounted with quick disconnects, quick coupler, ring lock or flange fittings, dresser couplings or other fittings that allow for easy removal of the inspection port. Any bolts shall be located on the outside of the irrigation water pipe; and (4-5-00)

d. Be located near the irrigation line check valve to allow for inspections and check for malfunctioning of the irrigation line check valve and low pressure drain. (4-5-00)

970. AUTOMATIC LOW PRESSURE DRAIN.

01. Automatic Low Pressure Drain. Automatic low pressure drain shall: (4-5-00)

a. Be installed upstream of the irrigation line check valve at the lowest point of the horizontal water supply pipeline; (4-5-00)

b. Not extend into the horizontal pipe beyond the inside surface of the bottom of the pipe; (4-5-00)

c. Be at least three-fourths (3/4) inch in diameter with a closing pressure of not less than five (5) psi; (4-5-00)

d. If the drain is within twenty (20) feet of the water source, contain a corrosion resistant tube, pipe, hose, or similar conduit three-fourths (3/4) inch in diameter to discharge a solution at least twenty (20) feet down slope from the irrigation water source and away from any other water sources; and (4-5-00)

e. Not have any valves located on the outlet side of the drain tube. (4-5-00)

971. VARIANCES.

The Department may grant variances with such conditions and safeguards as it determines are necessary to prevent contamination or pollution of the waters of the state. Issuance of variances shall not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. Such variances may be granted upon a request from the owner or operator of the property affected and approval by the Director. The application will state fully the grounds of the application and the facts relied upon. Upon the Department's further investigation, if certain antipollution devices otherwise required by these rules or the Pesticide and Chemigation Act, are not necessary or consequences inconsistent with the rules or act, such variances may be granted. (4-5-00)

972. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

DOCKET NO. 02-0415-1901

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 220-110 and 22-4903, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. This rule establishes standards for the storage, management and application of manure on Beef Cattle Animal Feeding Operations that manage over one thousand (1,000) cattle in Idaho. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule is broader in scope or more stringent than federal regulation in the following sections:

02.04.15.013	Broader in scope
02.04.15.030	More stringent
02.04.15.031	Broader in scope
02.04.15.032	Broader in scope
02.04.15.040	Broader in scope
02.04.15.050	Broader in scope
02.04.15.051	Broader in scope
02.04.15.080	Broader in scope
02.04.15.090	Broader in scope

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0415-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.04.15 regulates the environmental and public health effects associated with beef cattle animal feeding operations. The upper bound risks associated with phosphorus storage and application by Idaho beef cattle animal feeding operations of one thousand head or more are elevated phosphorus concentrations in phosphorus sensitive waterbodies. Elevated phosphorus can lead to blue-green algae blooms and the presence of cyanotoxins in waterbodies. Algal blooms can impair water use for industry, recreation, drinking and fisheries. Further, cyanotoxins create the upper bound risk of physical illness to approximately 400,000 private domestic well users, wildlife and domestic animals. Because the long term health and environmental effects of harmful algal blooms remain unclear, the absolute central and lower bound risks are not quantifiable.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.04.15, including studies done by U.S. Environmental Protection Agency, USDA Agricultural Resource Service, and other professional and scientific journals. However, even with such data, uncertainties remain, including variability in phosphorus sampling and testing.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.04.15 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/animal-industries-temporary-rulemaking-2019-2020/>.

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

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. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0415-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, Volume 19-7, July 3, 2019, pages 68 through 75.

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of ~~Title 22, Chapter 1 and~~ Sections 22-110 and 4922-4903, Idaho Code. ~~(3-16-01)()~~

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Beef Cattle Animal Feeding Operations.” (4-6-05)

02. Scope. These rules govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. ~~The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section’s citation is IDAPA 02.04.15.001.~~ Nothing in this rule affects the authority of the Department of Environmental Quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program. ~~(3-29-17)()~~

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-16-01)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter: (3-16-01)

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. This document can be viewed online at <http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17767.wba>. (3-16-01)

02. Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>. (3-29-17)

03. The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. This can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient_Management_code_590.pdf. (3-16-01)

005. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Department. (3-16-01)

006. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (4-6-05)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (3-16-01)

~~01. Administrator. The administrator of the Idaho State Department of Agriculture, Division of Animal Industries or his designee. (4-6-05)~~

021. Animal. Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and ratitidae. (3-16-01)

~~032. Animal Feeding Operation.~~ A lot or facility where slaughter and feeder cattle or dairy heifers are confined and fed for a total of forty-five (45) days or more during any twelve-month (12) period and crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (4-6-05)

~~04. Beef Cattle Animal Feeding Operation. An animal feeding operation that confines slaughter and feeder cattle or dairy heifers. (3-29-17)~~

~~05. Best Management Practices. As defined in Title 22, Chapter 49, Idaho Code, practices, techniques, or measures that are determined to be reasonable precautions, are a cost effective and practicable means of preventing or reducing pollutants from point or non point sources to a level compatible with state environmental goals, including water quality goals and standards for water of the state. Best management practices for water quality shall be adopted pursuant to the state water quality management plan, the Idaho ground water quality plan or Title 22, Chapter 49, Idaho Code. (3-29-17)~~

~~063. Compost.~~ A biologically stable material derived from the biological decomposition of organic matter. (3-16-01)

~~074. Concentrated Animal Feeding Operation.~~ An AFO that is defined as a large CAFO or as a medium CAFO by the terms of this section and designated by the Director. Two (2) or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other, or if they use a common area or system for the disposal of wastes. (3-29-17)

~~08. Director. The Director of the Idaho State Department of Agriculture or his designee. (4-6-05)~~

~~095. Discharge.~~ Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (3-16-01)

~~106. Idaho Pollutant Discharge Elimination System (IPDES).~~ Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-29-17)

~~107. Land Application.~~ The spreading on, or incorporation of manure or process wastewater into the soil. (3-16-01)

~~108. Large Concentrated Animal Feeding Operation.~~ An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of cattle specified in any of the following categories: (3-29-17)

a. Seven hundred (700) mature dairy cows, whether milked or dry; (3-29-17)

b. One thousand (1,000) veal calves; (3-29-17)

c. One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (3-29-17)

~~13. Manure. Animal excrement generated on a beef cattle animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-15-02)~~

~~109. Medium Concentrated Animal Feeding Operation.~~ A medium CAFO includes any AFO that has been defined or designated as CAFO and stables or confines the number of cattle that fall within any of the following

- ranges: (3-29-17)
- a. Two hundred (200) to six hundred ninety-nine (699) mature dairy cows, whether milked or dry; (3-29-17)
 - b. Three hundred (300) to nine hundred ninety-nine (999) veal calves; (3-29-17)
 - c. Three hundred (300) to nine hundred ninety-nine (999) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (3-29-17)
- ~~15. **Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (3-16-01)~~
- ~~16. **Non-Compliance.** A practice or condition that causes an unauthorized discharge, or a practice or condition, that if left uncorrected, will cause an unauthorized discharge. (3-16-01)~~
- ~~17. **Nutrient Management Plan (NMP).** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, placement, form, and timing of the land application of nutrients and soil amendments. (3-29-17)~~
- ~~18. **Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-16-01)~~
- 1910. Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. (4-6-05)
- 2011. Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (3-16-01)
- ~~21. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-16-01)~~
- ~~22. **Process Wastewater.** Liquid containing beef cattle manure, process-generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or by-products. (4-6-05)~~
- 2312. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)
- 2413. Slaughter and Feeder Cattle.** All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct." (4-6-05)
- 2514. Small Concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is not a medium or large CAFO. (3-29-17)
- ~~26. **Unauthorized Discharge.** A discharge of process wastewater or manure from a beef cattle animal feeding operation to state surface waters that does not meet the requirements of these rules or water quality standards. (3-29-17)~~
- ~~27. **Wastewater Storage and Containment Facility.** That portion of a beef cattle animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (3-16-01)~~

~~28. **Waters of the State.** All accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof that are wholly or partially within, that flow through or border upon the state. (3-29-17)~~

011. ABBREVIATIONS.

- 01. **AFO.** Animal Feeding Operation. (3-29-17)
- 02. **CAFO.** Concentrated Animal Feeding Operation. (3-29-17)
- 03. **IPDES.** Idaho Pollutant Discharge Elimination System. (3-29-17)
- 04. **NMP.** Nutrient Management Plan. (4-6-05)
- 05. **NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (4-6-05)

012. PROHIBITED DISCHARGES.

Unauthorized discharges of manure or process wastewater from beef cattle ~~animal feeding operations~~ **AFOs** or land application sites owned or controlled by a beef cattle ~~animal feeding operation~~ **AFO** are prohibited. (4-6-05)()

013. NOTIFICATION OF DISCHARGE.

01. **Notification Within Twenty-Four Hours of Discharge.** Within twenty-four (24) hours of learning of a discharge, the operator of a beef cattle ~~animal feeding operation~~ **AFO** shall verbally notify the Director of such a discharge. (3-16-01)()

02. **Written Notification Within Five Days.** If the Idaho Department of Agriculture has not begun a discharge investigation within five (5) days of the verbal notification to the Director, the operator shall submit a written report to the Director which includes: (3-16-01)

- a. A description of the discharge, a description of the flow path to the receiving water body; (3-16-01)
- b. An estimation of the flow rate and volume discharged; (3-16-01)
- c. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (3-16-01)
- d. Steps taken to reduce, eliminate and prevent recurrence of the discharge. (3-16-01)

014. -- 019. (RESERVED)

020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

01. **Wastewater Storage and Containment Facilities.** All beef cattle ~~animal feeding operation~~ **AFOs** where process wastewater leaves the confinement area and has the potential to impact surface water or be in violation of state water quality standards shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-16-01)()

- a. All process wastewater generated on the facility during the non-land application season; and (3-16-01)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-16-01)
- c. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (3-16-01)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities shall be composed of manure and process wastewater from the operation of the beef cattle ~~animal feeding operation~~ **AFO**. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-16-01)()

021. NEW OR MODIFIED BEEF CATTLE ANIMAL FEEDING OPERATIONS.

Each new or modified beef cattle ~~animal feeding operation~~ **AFO** shall design and construct wastewater storage and containment facilities completed after July 1, 2000, in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (3-16-01)()

022. -- 029. (RESERVED)

030. NUTRIENT MANAGEMENT.

Each beef cattle ~~animal feeding operation~~ **AFO** shall submit a ~~nutrient management plan~~ **NMP** for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. (4-6-05)()

~~**01. Existing Beef Cattle Animal Feeding Operations.** Beef cattle animal feeding operations that are operating on or before July 1, 2000 shall submit a NMP to the director for approval no later than January 1, 2005. The Director shall respond to or approve such plan in writing within forty-five (45) days of submission. (4-6-05)~~

021. New Beef Cattle Animal Feeding Operations. Any new beef cattle ~~animal feeding operation commencing operations after July 1, 2000~~, **AFO** shall not operate prior to the Director's approval of a NMP. The Director shall respond to or approve such plan within forty-five (45) days of submission. (4-6-05)()

~~**032. Implementation of a Nutrient Management Plan.** Failure to implement an approved NMP is a violation of these rules. (4-6-05)~~

031. NUTRIENT MANAGEMENT PLAN RETENTION.

All approved NMPs shall be maintained on site at the beef cattle ~~animal feeding operation~~ **AFO** and available to the Administrator upon request. (4-6-05)()

032. NUTRIENT MANAGEMENT RECORDS.

The operators of beef cattle ~~animal feeding operations~~ **AFOs** shall keep complete and accurate records of: (4-6-05)()

01. Land Application. The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. (4-6-05)

02. Manure Transferred to Another Person. The name and address of any third party that receives manure or process wastewater from the operation, including the dates of the transfer and the amount of manure or process wastewater transferred. (4-6-05)

03. Records Retention. All records shall be maintained for a period of five (5) years and presented to the Administrator upon request. (4-6-05)

033. -- 039. (RESERVED)

040. DESIGNATION OF BEEF CATTLE ANIMAL FEEDING OPERATIONS.

01. Designation of Animal Feeding Operations. The Director, on a case by case basis, may designate any ~~animal feeding operation~~ **AFO** that confines slaughter and feeder cattle as a beef cattle ~~animal feeding operation~~ **AFO** if, after an inspection, the Director determines that the ~~animal feeding operation~~ **AFO** is a significant

contributor of pollution to waters of the state. The designation ~~shall be~~ **is** provided to the operator of the ~~animal feeding operation~~ **AFO** in writing setting forth the basis for the Director's decision. When designated, these operations shall be considered existing beef cattle ~~animal feeding operations~~ **AFOs**. The Director ~~shall~~ **considers** the following factors when making such designation: (4-6-05)()

- a. Size of the ~~animal feeding operation~~ **AFO** and the amount of manure, process wastewater, and runoff reaching waters of the state; (3-15-02)()
- b. Location of the ~~animal feeding operation~~ **AFO** relative to waters of the state; (3-15-02)()
- c. Means of conveyance of manure, process wastewater, and runoff into waters of the state; and (3-15-02)
- d. Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state. (3-15-02)

02. Redesignation of a Beef Cattle Animal Feeding Operation. Upon request by the operator, the Director ~~shall will~~ redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation ~~shall be~~ **is** provided to the operator in writing. (3-15-02)()

041. -- 049. (RESERVED)

050. AUTHORITY TO INSPECT.

The Director is authorized to inspect any ~~animal feeding operation~~ **AFO** that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director ~~shall may~~ comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-6-05)()

- 01. Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle ~~animal feeding operation~~ **AFO**. (4-6-05)()
- 02. Access to Records.** Review or copy any records that must be kept in accordance with these rules. (4-6-05)
- 03. Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an IPDES permit. (3-29-17)

051. INSPECTIONS.

Each beef cattle ~~animal feeding operation~~ **AFO** shall be inspected annually or at intervals sufficient to determine that the facility is being operated and managed to prevent an unauthorized discharge. Inspections may include evaluating effectiveness of best management practices, collecting samples, taking photographs/~~videos of~~ ~~taping~~ facilities or collecting other information as necessary. An official inspection report form ~~shall be~~ **is** completed ~~at the time of the inspection~~ and a copy provided to the operator. (3-16-01)()

052. ADMINISTRATION OF IPDES PROGRAM.

The Director of the Department of Agriculture and the Director of the Department of Environmental Quality shall, as appropriate, establish an agreement relating to the administration of an IPDES program that recognizes the expertise of the Department of Agriculture. (3-29-17)

053. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.

The Department of Environmental Quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a beef cattle feeding operation is required to be authorized by an IPDES permit. The provisions of this rule do not define when a beef cattle feeding operations is required to obtain a permit for a discharge, do not exempt a beef cattle feeding operation from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges. (3-29-17)

~~054. -- 079. (RESERVED)~~

~~**080. COMPLIANCE ORDERS.**~~

~~When the Director identifies items of non-compliance or unauthorized discharges, the deficiencies will be noted and discussed with the operator. Unauthorized discharges shall be corrected immediately, or as soon as possible as determined by the Director. Appropriate corrective actions will be identified and scheduled informally. Formal compliance orders shall be developed, as the Director deems necessary as provided by Section 22-4909, Idaho Code.~~
~~(3-16-01)~~

~~081. — 089. (RESERVED)~~

~~**090. PENALTIES.**~~

~~Failure to comply with any provision of these rules or any formal compliance order of the Director shall be a violation of these rules. Such violation may subject the operator to an administrative enforcement action or a civil enforcement action in district court and a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation as provided in Title 22, Chapter 49, Idaho Code. Civil penalties collected shall be deposited in the state treasury and credited to the State School Building Fund.~~
~~(3-16-01)~~

~~091. — 999. (RESERVED)~~

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.17 – RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL

DOCKET NO. 02-0417-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 25-203 and 25-237, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. The Rules Governing Dead Animal Movement and Disposal establish standards for the management and disposal of dead animal bodies, carcasses and body parts to best protect the environment and human health. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule in its entirety regulates an activity not regulated by the federal government.

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0417-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.04.17 governs the movement, management and disposal of dead animals to protect human health and the environment. The decomposition of animal carcasses can create an influx of nutrients, including phosphorus into soils and water sources. The upper bound risks associated with a decomposing carcass may include elevated phosphorus concentrations in phosphorus sensitive water bodies leading to blue-green algae blooms and the presence of cyanotoxins in waterbodies. Algal blooms can impair water use for industry, recreation, drinking and fisheries. Further, cyanotoxins create the upper bound risk of physical illness to approximately 400,000 private domestic well users, wildlife and domestic animals. Because the long term health and environmental effects of harmful algal blooms remain unclear, the absolute central and lower bound risks are not quantifiable. Carcass decomposition intervals in outdoor settings beyond 30 days, cadaver depth and its effect on soil and vegetation, and insect impact on decomposition are poorly understood. In order to understand the complex associations between a decomposing carcass and the soil system, additional research must be conducted in both controlled laboratory environments and outdoor field environments. Such data would assist in establishing the lower bound risks associated with dead animal decomposition as well.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.04.17, including studies done by U.S. Environmental Protection Agency, USDA Natural Resources Conservation Service, USDA Agricultural Resource Service, and other professional and scientific journals. However, even with such data, uncertainties remain.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.04.17 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/animal-industries-temporary-rulemaking-2019-2020/>.

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

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. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0417-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, Volume 19-7, July 3, 2019, pages 86 through 92.

02.04.17 – RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of [Title Sections 25-203 and 25-237](#), [Chapter 2](#), Idaho Code. (3-15-02)()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Dead Animal Movement and Disposal.” (3-15-02)

02. Scope. These rules govern the management, movement and disposal of dead animals. (3-15-02)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-15-02)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the State Department of Agriculture under these rules. (3-15-02)

004. INCORPORATION BY REFERENCE.

IDAPA 02.04.17 does not incorporate any materials by reference. (3-15-02)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-15-02)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection at the State Department of Agriculture and on the internet. Official copies may be obtained from the Department of Administration, Office of Administrative Rules. (3-15-02)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Abandon. To desert or intentionally leave a dead animal without proper disposal as provided in these rules. (3-15-02)

~~**02. Administrator.** The administrator of the Idaho State Department of Agriculture, Division of Animal Industries. (3-15-02)~~

~~**03. Air Curtain Incineration.** A mechanical process of incineration by which super-heated air is continuously circulated to enhance combustion. (3-15-02)~~

~~**04. Burial.** Interment of a dead animal below the natural surface of the ground. (3-15-02)~~

~~**05. Burning.** The act of consuming or destroying by fire with or without the use of an accelerant. (3-15-02)~~

~~**06. Composting.** The biological decomposition of organic matter under controlled conditions. (3-15-02)~~

~~076.~~ **Dead Animals.** Carcasses and parts of carcasses from dead animals including domesticated livestock, sheep, goats, poultry, pets, and commercial fish. (3-15-02)

~~087.~~ **Dead Animal Emergencies.** Those situations involving dead animals that may require extenuating disposal measures as determined by the Administrator. (3-15-02)

~~098.~~ **Decomposition.** The decay of dead animals under natural conditions. (3-15-02)

~~109.~~ **Digestion.** A process by which organic matter is hydrolyzed. (3-15-02)

~~11.~~ **Director.** *The director of the Idaho State Department of Agriculture.* (3-15-02)

~~1210.~~ **Disposal.** The management of a dead animal. (3-15-02)

~~1311.~~ **Domesticated Livestock.** Bovidae, suidae, equidae, captive cervidae, camelidae, ratitidae, gallinaceous birds and captive waterfowl. (4-2-08)

~~1412.~~ **Harvested.** Domesticated livestock killed by a person if any portion of the carcass is salvaged. (4-2-08)

~~1513.~~ **Incineration.** The controlled and monitored combustion of dead animals for the purposes of volume reduction and pathogen control. (3-15-02)

~~16.~~ **Person.** *Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal government department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.* (3-15-02)

~~1714.~~ **Pets.** Cats, dogs, and other non-human species of animals that are kept as household companions. (3-15-02)

~~1815.~~ **Rendering.** The process or business of recycling dead animals and animal by-products. (3-15-02)

~~1916.~~ **Sanitary Landfill.** A solid waste disposal site permitted or approved by the Idaho Department of Environmental Quality. (3-15-02)

011. EXCLUSIONS.

The following establishments and animals shall be excluded from the provisions of these rules. (3-15-02)

01. Slaughter Establishments. Establishments that slaughter livestock for human consumption. (3-15-02)

02. Free-Ranging Wildlife. Non-captive wildlife or wild fish. (3-15-02)

03. House Pets. House pets less than one hundred (100) pounds in weight. (3-15-02)

04. Pets Buried in a Licensed Pet Cemetery. Pets of any weight buried in a licensed pet cemetery. (3-15-02)

012. -- 019. (RESERVED)

020. ABANDONMENT OF DEAD ANIMALS.

No person who owns or is caring for an animal that has died shall abandon the dead animal. Animals that are being disposed of by decomposition in accordance with these rules shall not be considered abandoned. (3-15-02)

021. -- 029. (RESERVED)

030. DISPOSAL OF DEAD ANIMALS.

Dead animals shall be disposed of within seventy-two (72) hours after knowledge of the death of the animal or as provided by the Administrator. No person shall dispose of a dead animal on the land of another without the permission of the property owner. Disposal shall be by one (1) of the following methods: (3-15-02)

01. Dead Animals on Federally Managed Land. Animals that die on federally managed rangeland from causes other than significant infectious or contagious diseases or agents shall be disposed of as provided by the rules and regulations of the responsible land management agency. (3-15-02)

02. Disposal Methods Determined by the Administrator. The Administrator may determine the appropriate method of disposal for animals that die of significant infectious or contagious diseases or agents. (3-15-02)

03. Rendering. If a licensed and approved rendering facility accepts the dead animal, rendering is an approved method of disposal. (3-15-02)

a. When carcasses are held for pickup, the site shall be screened from public view, in a dry area and not in a water runoff or drainage area. (3-15-02)

b. Run-off from the holding area must be contained. (3-15-02)

04. Burial. Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three (3) feet of earth. The location of a burial site shall be: (3-15-02)

a. At least three hundred (300) feet from any wells, surface water intake structures, and public or private drinking water supply lakes or springs. (3-15-02)

b. At least three hundred (300) feet from any existing residences. (3-15-02)

c. At least fifty (50) feet from property lines. (3-15-02)

d. At least one hundred (100) feet from public roadways. (3-15-02)

e. At least two hundred (200) feet from any body of surface water such as a river, stream, lake, pond, intermittent stream, or sinkhole. (3-15-02)

f. Burial sites shall not be located in low-lying areas subject to flooding, or in areas with a high water table where the seasonal high water level may contact the burial pit. (3-15-02)

05. Disposal in an Approved Sanitary Landfill. Arrangements shall be made with a city, county, regional, or private landfill official in order to dispose of a dead animal in a city, county, regional, or private landfill. (3-15-02)

06. Composting. (3-15-02)

a. Composting of dead animals shall be accomplished in a manner approved by the Administrator. (3-15-02)

b. No composters that have been approved by other agencies shall begin composting dead animals without the approval of the Administrator. (3-15-02)

07. Digestion. Digestion of dead animals shall be accomplished in a properly designed and sized dead animal digester approved by the Administrator. (3-15-02)

08. Incineration. (3-15-02)

a. Incineration of dead animals shall be accomplished in an approved incineration facility, or by a mobile air curtain incinerator at a site approved by the Administrator. (3-15-02)

b. The incineration shall be thorough and complete, reducing the carcass to mineral residue. (3-15-02)

09. Burning. Open burning of dead animals is not allowed, except as authorized by the Administrator, in coordination with the Department of Environmental Quality. (3-15-02)

10. Decomposition. Animals that die on private or state rangeland, except domesticated livestock that are harvested, from causes other than significant infectious or contagious diseases or agents may be left to decompose naturally provided that: (4-2-08)

a. They are at least one thousand three hundred twenty (1,320) feet from any wells, lakes, ponds, streams, surface water intake structures, public or private drinking water supply lakes, springs or sinkholes. (3-15-02)

b. They are at least one thousand three hundred twenty (1,320) feet from any public roadways. (3-15-02)

c. They are at least one thousand three hundred twenty (1,320) feet from any residence not owned by the owner of the dead animal. (3-15-02)

11. Allowance for Variances by the Administrator. The Administrator may grant written variances to the requirements of Section 030 on a case-by-case basis. (4-2-08)

031. -- 039. (RESERVED)

040. MOVEMENT OF DEAD ANIMALS.

No dead animals shall be loaded into the same vehicle with live animals. (3-15-02)

01. Vehicles Used for Transporting Dead Animals. Vehicles used for transporting dead animals shall be constructed and maintained, or be prepared prior to receiving dead animals into the vehicle, so that no liquid or fluid from the dead animals is allowed to drip or seep from the vehicle during transport. (3-15-02)

02. Dead Animals Concealed from View. Dead animals shall be concealed from public view during transportation. (3-15-02)

03. Direct to Destination. Vehicles hauling dead animals shall travel to their destination directly. (3-15-02)

04. Disinfection. Vehicles that have hauled dead animals off an owner's property shall not be used to haul live animals, feeds or similar commodities to the property of another person until they have been thoroughly cleaned and disinfected. (3-15-02)

05. Transport of Dead Animals. No person shall transport a dead animal across or through the property of another person without the landowner's permission. (3-15-02)

041. -- 049. (RESERVED)

050. DEAD ANIMAL EMERGENCIES.

Dead animal emergencies are those situations involving dead animals that have been determined by the Administrator to require extraordinary disposal measures. (3-15-02)

01. Situations Requiring Extraordinary Disposal Measures. These situations include, but are not limited to, the following: (3-15-02)

a. Situations where one (1) or more animals die of an infectious or contagious disease or agent that may pose a significant threat to humans or animals; (3-15-02)

b. Situations wherein the number of dead animals is large enough to require extraordinary disposal measures. (3-15-02)

02. Administrator to Determine Disposal Methods. The Administrator may employ exceptional or extraordinary methods of dead animal disposal as necessary to protect the health and welfare of the human and animal populations of the state of Idaho. Such methods may include, but *shall* not be limited to: (3-15-02)()

- a. Open burning; (3-15-02)
- b. Pit burning; (3-15-02)
- c. Burning with accelerants; (3-15-02)
- d. Pyre burning; (3-15-02)
- e. Air curtain incineration; (3-15-02)
- f. Mass burial; or (3-15-02)
- g. Natural decomposition. (3-15-02)

~~051. -- 089. (RESERVED)~~

~~**090. PENALTIES.**~~

~~Pursuant to 25-237, Idaho Code.~~

~~(3-15-02)~~

~~**01. Civil Penalty.** Any person violating any of the provisions of these rules may be assessed a civil penalty by the department or its agent of not more than five thousand dollars (\$5,000) for each offense. Persons against whom civil penalties are assessed are liable for reasonable attorney's fees. (3-15-02)~~

~~**a.** Civil penalties may be assessed in conjunction with any other department administrative action. Civil penalties may not be assessed unless the person charged has been given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, Chapter 52, Title 67, Idaho Code. If the department is unable to collect an assessed civil penalty or if any person fails to pay all or a set portion of a civil penalty as determined by the department, the department may recover such amount by action in the appropriate district court. (3-15-02)~~

~~**b.** Any person against whom the department has assessed a civil penalty under these rules may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of Chapter 52, Title 67, Idaho Code. (3-15-02)~~

~~**c.** Moneys collected for violations of these rules shall be deposited in the state treasury and credited to the Livestock Disease Control and T.B. Indemnity Fund. (3-15-02)~~

~~**d.** If the Director determines that a person has not complied with these rules, the director shall identify appropriate corrective actions. The Director may develop a formal compliance schedule to correct deficiencies caused by noncompliance. The Director may, through a formal compliance schedule, allow all or part of the value of the assessed civil penalties to apply toward correction of the deficiencies. (3-15-02)~~

~~**02. Criminal Penalty.** Any person violating any of the provisions of these rules shall be guilty of a misdemeanor. Upon conviction, violators are subject to a fine of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) for each offense, or by imprisonment in the county jail not exceeding six (6) months. (3-15-02)~~

~~**03. Minor Violations.** Nothing in this section requires the Director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action. (3-15-02)~~

~~**091. — 999. (RESERVED)**~~

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.20 – RULES GOVERNING BRUCELLOSIS

DOCKET NO. 02-0420-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 25-203 and 25-601, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This rule change will reduce the Brucellosis test eligible age of cattle/bison from 18 months to 12 months. This recommendation was made following the 2018 USDA audit of Idaho's brucellosis program and is necessary to minimize restrictions on interstate market access for Idaho cattle producers and maintain eligibility for federal cooperative funding to operate the program. The second rule change will remove "Idaho origin" as a prerequisite for adult brucellosis vaccination of cattle/bison. This is an unnecessary regulation that no longer poses a risk to the cattle industry. IDAPA 02.04.20 was also reviewed for amendment or repeal of non-substantive sections in order to comply with the Red Tape Reduction Act.

IDAHO CODE SECTION 22-101A STATEMENT: This rule is broader in scope or regulates an activity not regulated by the federal government in the following sections:

02.04.20.027	Not regulated
02.04.20.028.03-04	Not regulated
02.04.20.029	Broader in scope
02.04.100-102	Not regulated
02.04.20.105	Broader in scope
02.04.20.120-123	Broader in scope
02.04.20.200-204	Not regulated
02.04.20.250-256	Not regulated
02.04.20.321	Broader in scope
02.04.20.421	Broader in scope

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0420-1901.

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

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6 pgs. 24-25](#). Negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on June 27, 2019. There were several comments received from the meeting attendees

entered into the record that were taken into consideration when drafting this proposed rule. Meeting attendees also participated in amending or repealing sections of this rule to comply with the Red Tape Reduction Act.

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. Bill Barton, Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0420-1901
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (5-3-03)

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (5-3-03)

02. Approved Brucella Vaccine. A vaccine product that is approved by and produced under license of the USDA for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to *brucellosis*. (5-3-03)

03. Approved Feedlot. A feedlot approved by the Administrator to feed female cattle and domestic bison, which have not been officially vaccinated against *brucellosis*. (5-3-03)

04. Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (5-3-03)

05. Brucellosis Emergency. The declaration of an animal health emergency by the director as the result of the diagnosis of *brucellosis* in cattle, domestic bison, swine or domestic cervidae in the state of Idaho or in areas outside the state that could result in transmission of *brucellosis* to Idaho cattle, domestic bison, swine, or domestic cervidae. (5-3-03)

06. Brucellosis Herd Management Plan. A written document outlining management practices a livestock producer will take to minimize the exposure of cattle or domestic bison to *brucellosis*. The herd

- management plan shall be valid when signed by the owner and the State Veterinarian or his designee. (3-29-12)
- 07. Cattle.** All bovidae. (5-3-03)
- 08. Commuter Herd.** A herd of cattle or domestic bison that moves from Idaho to another state pursuant to the provisions of IDAPA 02.04.21, "Rules Governing the Importation of Animals," Section 220. (3-30-07)
- 09. Designated Surveillance Area.** An area of Idaho, as ordered by the director or his designee, where brucellosis positive wildlife are known or believed to exist and where commingling of wildlife and livestock may lead to transmission of brucellosis from wildlife to livestock. (3-29-12)
- 10. Domestic Bison.** All animals in the genus *Bison* that are owned by a person. (5-3-03)
- 11. Domestic Cervidae.** Elk, fallow deer and reindeer that are owned by a person. (5-3-03)
- 12. Exposed.** Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by *Brucella*. (5-3-03)
- 13. Federal Animal Health Official.** An employee of USDA, APHIS, VS who is authorized to perform animal health activities. (5-3-03)
- 14. Infected Animals or Herds.** Animals that are classified as reactors by the designated *brucellosis* epidemiologist or herds that contain one or more reactor animals. (5-3-03)
- 15. Negative.** Cattle, domestic bison, swine or domestic cervidae are classified negative: (5-3-03)
- a.** When their blood serum has been subjected to official serological tests and the test results fail to disclose evidence of *Brucella* infection; and (5-3-03)
- b.** If blood, milk or tissues are subjected to bacteriological methods for cultivating field-strain *Brucella* and none are recovered. An animal is classified as negative when all tests that are performed fail to disclose evidence of *brucellosis*. (5-3-03)
- 16. Official Identification.** The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with these rules. (5-3-03)
- 17. Official Vaccinate.** A bovine or domestic bison female that was inoculated, in accordance with these rules and the *brucellosis* Eradication UM&R, with an approved *Brucella* vaccine. (5-3-03)
- 18. Operator.** The person who has authority to manage or direct a cattle, domestic bison, swine, or domestic cervidae premises, or conveyance and the animals thereon. (3-30-07)
- 19. Parturient.** Visibly prepared to give birth or within two (2) weeks before giving birth. (3-30-07)
- 20. Postparturient.** Having already given birth. (3-30-07)
- 21. Premises.** The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. (3-30-07)
- 22. Quarantine.** A written order, executed by the Administrator, to confine or hold animals on a premise or any other location, and to prevent movement of animals from a premise or any other location when the administrator has determined that the animals have been found to be or are suspected to be exposed to or infected with *Brucella*, or the animals are not in compliance with the provisions of this chapter. (3-30-07)
- 23. Reactor.** Cattle, domestic bison, swine or domestic cervidae are classified as reactors when their blood serum has been subjected to official serological tests and the test results indicate that the animal has been

exposed to and infected with Brucella. Cattle, domestic bison, swine or domestic cervidae are also classified as reactors in the absence of significant serologic test results when other diagnostic methods, such as bacteriologic methods, result in the recovery of field-strain Brucella organisms, or a significant rise in the serologic titer occurs, or when other epidemiologic evidence of *Brucella* infection is demonstrated. (5-3-03)

24. Re-Identification of Official Vaccinates. The identification of female cattle or other animals which have been officially vaccinated and identified, as provided in this chapter, and which have lost the official identification device or the tattoo has faded to the extent that it cannot be discerned. (5-3-03)

25. Restrain. The confinement of cattle, domestic bison, swine, or domestic cervidae in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (5-3-03)

26. Restricted Movement Permit. A VS Form 1-27, or other document approved by the Administrator for movement of reactor or exposed animals in commerce. (5-3-03)

27. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication programs. (5-3-03)

28. State/Federal Animal Health Laboratory. The official laboratory in Idaho that is approved by the Administrator and USDA/APHIS/VS, to conduct serologic and bacteriologic tests to detect Brucella. (5-3-03)

29. Suspect. Cattle, domestic bison, swine, or domestic cervidae are classified as suspects when their blood serum has been subjected to official serologic tests and the results suggest infection but are inconclusive. If bacteriologic methods to culture Brucella from blood, milk or tissues were used, they did not yield field-strain Brucella. (5-3-03)

30. Swine. All animals in the family suidae. (5-3-03)

31. Test Eligible. Unless otherwise specifically provided in these rules, all sexually intact cattle and domestic bison ~~eighteen~~ twelve (~~18~~12) months of age and over, and all parturient, and postparturient cattle and domestic bison regardless of age. (~~3-30-07~~)()

32. Wild Bison. All animals in the genus Bison that are not owned by a person. (5-3-03)

33. Wild Elk. All elk that are not owned by a person. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

101. OFFICIAL VACCINATION. Female cattle and domestic bison may be officially vaccinated through one (1) of the following methods: (5-3-03)

01. Calfhood Vaccination. Female cattle and domestic bison native to the state of Idaho or imported into the state of Idaho shall be calfhood vaccinated while not less than one hundred twenty (120) days of age or more than three-hundred sixty-five (365) days of age or be consigned to an approved feedlot, for finish feeding for slaughter only, prior to becoming three hundred sixty-five (365) days of age. (5-3-03)

02. Adult Vaccination. ~~Idaho origin~~Female cattle or domestic bison may be vaccinated as adults with the approval of the Administrator. (~~4-11-06~~)()

a. Female cattle or bison which are three hundred sixty-five (365) days of age or older shall be negative to an official brucellosis test within ten (10) days prior to being vaccinated. ~~Vaccinal dose to be administered shall be determined by the administrator, in consultation with the designated brucellosis epidemiologist and the USDA brucellosis program manager.~~ (~~4-11-06~~)()

b. The Administrator may make exceptions to the provisions of Section 101 of this rule on a case-by-case basis. (4-11-06)

03. Approval for Adult Vaccination. Accredited veterinarians representing owners, or accredited veterinarians authorized to perform services for specifically approved livestock markets who desire to have female cattle or domestic bison, which are over three hundred sixty-five (365) days of age vaccinated shall request approval from the Administrator. The Administrator may grant or deny the request to adult vaccinate the cattle based upon origin, history, age, pregnancy status and the potential of the cattle or domestic bison to spread other diseases of concern, such as tuberculosis or trichomoniasis. Approval or denial of the request to adult vaccinate the cattle shall be made within seven (7) working days of the date of the request. (4-11-06)

04. Adult Vaccinations Required. The Administrator may require animals at risk of becoming infected with brucellosis to be adult vaccinated. The animals shall be vaccinated at intervals and with the vaccinal dose determined by the designated brucellosis epidemiologist. Such vaccination shall be accomplished whether or not the animals have been previously vaccinated. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

121. TEST ELIGIBLE CATTLE AND DOMESTIC BISON IN AN ERADICATION AREA. Test eligible cattle and domestic bison in an eradication area are: (3-30-07)

01. Unvaccinated or Vaccinated with Brucella Abortus Strain RB 51 Vaccine. Intact male and female cattle and domestic bison that are ~~not vaccinated against brucellosis with Brucella abortus strain 19 vaccine and are~~ six (6) months of age or older; ~~or~~. (5-3-03)()

~~02. Strain 19 Dairy Vaccinates. brucellosis strain 19 vaccinated female cattle of dairy breeds that are:~~ (5-3-03)

~~a. Twenty (20) months of age or older; or~~ (5-3-03)

~~b. Parturient; or~~ (5-3-03)

~~c. Post parturient; or~~ (5-3-03)

~~03. Strain 19 Beef or Domestic Bison Vaccinates. brucellosis strain 19 vaccinated female cattle of beef breeds or domestic bison that are:~~ (5-3-03)

~~a. Twenty-four (24) months of age or older; or~~ (5-3-03)

~~b. Parturient; or~~ (5-3-03)

~~c. Post parturient.~~ (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

200. IDAHO APPROVED FEEDLOT. ~~Female cattle and domestic bison that have not been officially vaccinated for brucellosis may be fed for slaughter in an Idaho approved feedlot, with no provisions for pasturing or grazing.~~ Female cattle and domestic bison that have not been officially vaccinated for brucellosis shall not be fed for slaughter except in Idaho approved feedlots, with no provisions for pasturing or grazing. (5-3-03)()

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.21 – RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1901
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 25-203, 25-305, 25-401, 25-601, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This rule change will amend the Extended Validity Equine Certificate to allow participation in an electronic certificate program and modify the requirements of the certificate. The second rule change will amend entry permit language to allow for the use of Idaho’s online livestock entry permit database. The third rule change will remove the brucellosis testing requirement for import of domestic cervidae that originate from a state/region that is declared free of brucellosis. This is an unnecessary entry requirement for domestic cervidae producers, as the only remaining reservoir of brucellosis left in the United States is located in Yellowstone Park. IDAPA 02.04.21 was also reviewed for amendment or repeal of non-substantive sections in order to comply with the Red Tape Reduction Act.

IDAHO CODE SECTION 22-101A STATEMENT: This rule is more stringent than federal regulation or regulates an activity not regulated by the federal government in the following sections:

02.04.21.100.03	More stringent
02.04.21.104-105	Not regulated
02.04.21.108	More stringent
02.04.21.108-109	Not regulated
02.04.21.111	More stringent
02.04.21.201	More stringent
02.04.21.202	More stringent
02.04.21.210	More stringent
02.04.21.260	Not regulated
02.04.21.300	More stringent
02.04.21.301	More stringent
02.04.21.302	More stringent
02.04.21.500	Not regulated
02.04.21.600	More stringent
02.04.21.601	More stringent
02.04.21.603	More stringent
02.04.21.604	More stringent
02.04.21.605	More stringent
02.04.21.650	More stringent
02.04.21.660-670	More stringent
02.04.21.705-707	More stringent
02.04.21.710	More stringent
02.04.21.720	More stringent

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0421-1901.

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

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, **Vol. 19-6 pgs. 26-27**. Negotiated rulemaking meeting was held at the Idaho State Department of Agriculture on June 27, 2019. There were several comments received from the meeting attendees entered into the record that were taken into consideration when drafting this proposed rule. Meeting attendees also participated in amending or repealing sections of this rule to comply with the Red Tape Reduction Act.

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. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0421-1901
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office. IDAPA 02.04.21 incorporates by reference: (4-11-06)

01. The October 1, 2003 Edition of the Brucellosis Eradication Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf. (3-29-17)

02. The September 30, 2003 Edition of the Brucellosis in Cervidae: Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/

[downloads/bcervumr.pdf](#). (3-29-17)

03. The April 1998 Edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_dis_spec/swine/downloads/sbruumr.pdf. (3-29-17)

04. The Code of Federal Regulations Title 9, Parts 71, 75, 77, 78, 85, 145, 147, and 161, January 1, 2016. This document can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?SID=9e3e2eff1a42367841dc92eee8d5324d&mc=true&tpl=/ecfrbrowse/Title09/9cfrv1_02.tpl#0. (3-29-17)

05. The January 1, 2005 Edition of the Bovine Tuberculosis Eradication Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf. (3-29-17)

06. The November 1, 2003 Edition of the Pseudorabies Eradication, State-Federal-Industry Program Standards. This document can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stds.pdf. (4-11-06)

~~**07. The April 19, 2004 Edition of the Equine Viral Arteritis Uniform Methods and Rules.** This document can be viewed online at http://www.aphis.usda.gov/vs/nahss/equine/eva/eva_umr.pdf. (5-8-09)~~

~~**08. The January 10, 2007 Edition of the Equine Infectious Anemia: Uniform Methods and Rules.** This document can be viewed online at https://www.aphis.usda.gov/vs/nahss/equine/eia/eia_umr_jan_10_2007.pdf. (3-29-17)~~

(BREAK IN CONTINUITY OF SECTIONS)

101. CONTENTS OF CERTIFICATES.

All certificates shall provide a written, legible record attesting the animal(s) meet the importation requirements of the state of Idaho. The certificate shall be on an official form of the state of origin, if applicable, be approved by its livestock sanitary official and be issued by an accredited veterinarian. ~~An equivalent form of the USDA issued by a federal animal health official is acceptable in lieu of a certificate of veterinary inspection or other approved certificate.~~ All certificates shall contain the following information: (5-3-03)()

01. Name and Address. Name and address of the consignor and consignee; and (5-3-03)

02. Origin of Shipment. Including city and state; and (5-3-03)

03. Final Destination of Shipment. Including city and state; and (5-3-03)

04. Description of Animals. An accurate description and identification of each animal if required; and (5-3-03)

05. Purpose of Shipment. The purposes for which the animals were shipped, and method of transportation; and (5-3-03)

06. Health Status. The certificate shall indicate the health status of the animals involved including dates and results of inspection and of tests and vaccinations, if any, required by the state of Idaho; and (5-3-03)

07. Signature. The signature of the accredited veterinarian, or state or federal animal health official, conducting the veterinary inspection. (5-3-03)

08. Mailing Certificate to Idaho. The required copies of certificates of veterinary inspection or other approved certificates shall be mailed, within ~~thirty seven (307)~~ days of inspection, to the Division of Animal Industries, P.O. Box 7249, Boise, ID 83707. (5-3-03)()

09. **Period of Certificate Validity.** Certificates of veterinary inspection shall be valid for no longer than thirty (30) days after the date ~~of inspection~~ issued. (5-3-03)()

102. EXTENDED VALIDITY EQUINE CERTIFICATES.

Equidae from other states may enter the state of Idaho for shows, rides or other equine events and return to the state of origin on an extended validity equine certificate provided there is a written agreement between the Administrator and the chief livestock ~~sanitary~~ official of the state of origin or the provider of an approved electronic extended validity equine certificate system. (5-3-03)()

01. **Valid for One Animal.** An extended validity equine certificate shall be valid for only one (1) animal. Each animal shall have a separate certificate. (5-3-03)

02. **Contents.** Extended validity equine certificates shall contain the following information: name and address of the owner, location at which the animal is stabled, housed, pastured or kept, if different from that of the owner, an accurate description and identification of the animal, date of veterinary inspection, dates and results of EIA or other required tests or vaccinations, EVA statement, if applicable, and signature of inspecting veterinarian. (4-4-13)()

03. **Period of Validity.** Extended validity equine certificates are valid for no longer than six (6) months from date of veterinary inspection for the certificate. (3-30-07)

04. **Travel Itinerary.** Recipients of extended validity equine certificates shall submit ~~a completed~~ travel itinerary information to the Division of Animal Industries ~~within ten (10) working days of the end of the six (6) month period of validity of the certificate~~ or electronic certificate provider prior to movement into Idaho or to a new destination within Idaho. The travel itinerary shall provide a listing of all travel into the state of Idaho, including travel dates, purpose for travel, and destinations, during the period of validity of the certificate. (5-3-03)()

05. **Cancellation.** Extended validity equine certificates may be canceled at any time by the Administrator in the event of serious or emergency disease situations or for non-compliance with the provisions of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

104. IMPORT PERMITS.

Request for permits to import animals, ~~other than sheep and goats~~ when applicable, into the state of Idaho shall be directed to the Division of Animal Industries, ~~P.O. Box 7249, Boise, Idaho, 83707;~~ online Import Permit System at <https://www.isda.idaho.gov/AnimalImport/> or by telephone (208) 332-8540. (5-3-03)()

01. **Telephone Requests.** Import permits may be requested by telephone ~~or facsimile~~ during office hours as stated in Section 005. (5-3-03)()

02. **Contents of a Permit Request.** The request for an import permit shall include the following information: (5-3-03)

- a. Name, ~~and~~ physical address, and phone number of the consignor and consignee; (5-3-03)()
- b. Number and kind of animals; (5-3-03)
- c. Origin of shipments; (5-3-03)
- d. Final destination; (5-3-03)
- e. Purpose of shipment; (5-3-03)

f. ~~Method~~ Date of shipment; ~~and~~ (5-3-03)()

g. Results of any required tests, inspections or vaccinations: ~~and~~ (5-3-03)()

h. Issuing veterinarian contact information. ()

03. Timeframe for Requesting a Permit. Permits may be requested no more than seventy-two (72) hours in advance of the shipment of the animals. (5-3-03)

04. Period of Validity. Permits are valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. (5-3-03)

~~05. Sheep and Goats. Request for permits for sheep and goats shall be directed to the Idaho Sheep and Goat Health Board, P. O. Box 825, Emmett, ID 83617; telephone (208) 803-5084.~~ (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

109. VESICULAR STOMATITIS.

No livestock may enter Idaho from another state if Vesicular Stomatitis has been diagnosed on the premises of origin of the shipment within the last thirty (30) days. (4-11-15)

01. Certificate of Inspection. Any livestock entering Idaho from a state where Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a certificate of veterinary inspection with the following statement written by the accredited veterinarian on the certificate: "All animals identified on this certificate of veterinary inspection have ~~been examined and found to be free from Vesicular Stomatitis. During the last thirty (30) days, these animals have~~ neither been exposed to Vesicular Stomatitis nor located within an area where Vesicular Stomatitis has been diagnosed." (5-3-03)()

02. Permit for Entry. Livestock from states in which Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a permit for entry into Idaho. The permit number shall be written on the certificate of veterinary inspection. (5-3-03)

110. GENERAL DUTIES OF CARRIER.

All owners and operators of railroads, trucks, airplanes, or other conveyances shall conform to all rules and statutes of the state of Idaho in transporting or moving any animals into, within or through the state of Idaho. (5-3-03)

01. Duties of Carrier Regarding Certificates of Veterinary Inspection or Permits. All owners and operators of ~~railroads, trucks, airplanes, or other~~ conveyances used in the transportation of animals into or within the state of Idaho shall assure ~~themselves~~ each consignment or shipment is in conformity with the applicable statutes and rules of the state of Idaho, and ~~that each consignment~~ is accompanied by an official certificate of veterinary inspection, ~~when required,~~ or ~~by a~~ permit, or by both, where so required. Such certificate of veterinary inspection or permit, ~~or both,~~ shall be ~~attached to the waybill accompanying the shipment or be~~ in the possession of the attendant in charge of the animals. (5-3-03)()

02. Sanitary Condition of Cars, Trucks and Airplanes. All railroad cars, trucks, airplanes, or other conveyances used in the transportation of animals shall be maintained in a clean and sanitary condition. (5-3-03)

03. Disinfection of ~~Cars, Trucks and Airplanes~~ Conveyances. All owners and operators of ~~railroad cars, trucks, airplanes, or other~~ conveyances which have been used for movement of animals infected with or exposed to any infectious, ~~contagious, or communicable~~ disease shall have such ~~cars, trucks, airplanes or other~~ conveyances thoroughly cleaned and disinfected under official supervision by any accredited veterinarian or state or federal animal health official, at the point of destination or by permit from the sanitary officials, may be moved to some other point for cleaning and disinfecting. (5-3-03)()

(BREAK IN CONTINUITY OF SECTIONS)

200. IMPORTATION OF CATTLE INTO IDAHO.

All cattle that enter the state of Idaho shall possess appropriate official individual identification, if required, and be accompanied by a certificate of veterinary inspection ~~or other approved certificate~~ attesting they are free from evidence of any infectious, ~~contagious, or communicable~~ disease, or exposure thereto, and by a permit if required, except: (3-29-17)()

01. Approved Slaughter Establishments. Cattle consigned directly to approved slaughter establishments shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

02. Specifically Approved Livestock Market. Cattle consigned directly to specifically approved livestock markets shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

03. Feedlots Approved by the Administrator. Cattle consigned directly to feedlots approved by the Administrator for conducting veterinary inspections upon the arrival of the cattle. (5-3-03)

04. Post-Entry Inspection. All cattle entering Idaho may be subject to a post-entry inspection by state or federal animal health officials. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

202. WHEN PERMITS ARE REQUIRED FOR CATTLE.

01. Dairy. For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. All dairy cattle shall be officially identified as provided in Section 203 of these rules. (3-29-17)

02. Beef Bulls. All bulls of beef breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (5-3-03)

03. Female Beef Cattle. All intact female cattle of beef breeds not consigned directly to an approved slaughter establishment or to a specifically approved livestock market that are: (5-3-03)

a. From states or areas that are not Brucellosis Class Free; or (5-3-03)

b. Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis," except calves over one hundred twenty (120) days of age accompanying their dam; or (4-11-06)

c. Under one hundred twenty (120) days of age, except calves accompanying their dam. (5-3-03)

04. Restricted Areas. All cattle from areas or states on which Idaho or USDA has imposed restrictions. (5-3-03)

05. Domestic Bison. ~~All~~ Domestic bison imported into Idaho shall ~~require an entry permit from the Division of Animal Industries prior to importation and~~ be in compliance with the same requirements as cattle contained in this chapter and Title 9, Parts 71, 77, and 78, CFR. (4-4-13)()

06. Canadian Cattle and Canadian Domestic Bison. All cattle and Canadian domestic bison imported into Idaho from Canada, except those imported directly to slaughter, must have an import permit prior to

- importation. (4-4-13)
07. **Other.** Cattle of any classification that do not meet other entry requirements. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

210. BRUCELLOSIS VACCINATION REQUIREMENTS.

All intact female cattle entering Idaho shall have been officially vaccinated for brucellosis except: (5-3-03)

01. **Cattle Consigned to Slaughter.** Female cattle consigned directly to an approved slaughter establishment; or (5-3-03)
02. **Cattle Consigned to Specifically Approved Livestock Markets.** Female cattle consigned directly to a specifically approved livestock market; or (5-3-03)
03. **Approved Feedlot.** Female cattle consigned directly to an Idaho approved feedlot, by permit; or (5-3-03)
04. **Calves.** Female calves less than one hundred twenty (120) days of age by permit; or (5-3-03)
05. **Vaccination on Arrival.** Non-vaccinated females ~~between one hundred twenty (120) and three hundred sixty-five (365) days of age~~ may, by permit, be consigned to a qualified destination approved by the Administrator to be officially vaccinated on arrival pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis"; or ~~(4-11-06)~~ ()
06. **Show Cattle.** Female cattle may enter Idaho for the purpose of participating in shows or exhibitions, by permit. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

212. TEST ELIGIBLE CATTLE.

Test eligible cattle are: (5-3-03)

01. **Unvaccinated or Vaccinated with Brucella Abortus Strain RB 51 Vaccine.** All intact male and female cattle, ~~eighteen~~ twelve (~~18~~12) months of age or older; ~~that are not vaccinated against brucellosis with Brucella abortus strain 19 vaccine; or~~ (5-3-03) ()
- ~~02. **Strain 19 Dairy Vaccinates.** Brucellosis strain 19 vaccinated female cattle of dairy breeds that are:~~ (5-3-03)
- ~~a. Twenty (20) months of age or older; or~~ (5-3-03)
- ~~b. Within two (2) weeks prior to calving or already calved.~~ (5-3-03)
- ~~03. **Strain 19 Beef Vaccinates.** Brucellosis strain 19 vaccinated female cattle of beef breeds that are:~~ (5-3-03)
- ~~a. Twenty-four (24) months of age or older; or~~ (5-3-03)
- ~~b. Within two (2) weeks prior to calving or already calved.~~ (5-3-03)
- ~~04. **All Test Eligible Cattle Entering Idaho.** All test eligible cattle entering Idaho shall be officially identified on the certificate of veterinary inspection.~~ (5-3-03)

213. -- 219. (RESERVED)

220. GRAZING CATTLE.

Cattle herds moved into Idaho or from Idaho to other states for seasonal grazing periods shall be moved only under special grazing permits issued jointly by the Division of Animal Industries and the chief livestock sanitary official in a state which reciprocates with Idaho in honoring grazing permits. (3-30-07)

01. Grazing Permits. Grazing permits shall be for one (1) specified season only and be issued prior to movement on a case-by-case basis. ~~(3-20-04)~~ ()

02. Tests. The Administrator, in cooperation with the appropriate agency of the reciprocating state, shall have the authority to impose tuberculosis, brucellosis, trichomoniasis, or other tests on cattle entering for grazing purposes. This test requirement shall be evaluated on an annual basis by the Administrator and the chief livestock sanitary official of the reciprocating state. (4-2-08)

03. Herd Ownership. Cattle herds permitted to move under the provisions of Section 220 shall be established herds. Change of ownership of the herd shall not be allowed while the herd is under the requirements of the grazing permit, and the cattle shall be moved interstate with such certification, identification and testing requirements as the Administrator may require. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

240. TUBERCULOSIS TEST REQUIREMENTS.

Cattle and domestic bison may enter the state of Idaho provided: (5-3-03)

01. Tuberculosis Accredited Free State or Zone. Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may be imported upon meeting the following requirements: (4-11-06)

a. Cattle of beef breeds may enter the state without a tuberculosis test. (4-11-06)

b. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, shall be officially identified and tested negative for tuberculosis, within sixty (60) days prior to entry into the state of Idaho except intact male and female cattle of dairy breeds consigned directly to a feedlot approved for finish feeding of cattle for slaughter only relative to tuberculosis may enter by permit without a tuberculosis test provided the cattle have been individually identified on a certificate of veterinary inspection. ~~(4-2-08)~~ ()

c. All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, may enter Idaho for the purpose of participating in shows or exhibitions, by permit, without a tuberculosis test. (4-11-06)

02. Tuberculosis Accredited Free Herd. Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (5-3-03)

03. Tuberculosis Modified Accredited Advanced State or Zone. Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (5-3-03)

a. Steers, spayed heifers, and intact heifers of beef and dairy breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef and dairy breeds that are consigned directly to a feedlot approved for finish feeding of cattle or bison relative to tuberculosis, may

enter without individual identification or testing for tuberculosis; and

~~(4-11-15)~~()

b. All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned directly to slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (3-29-17)

c. Tuberculosis testing requirements in Subsection 240.03 may be waived, with administrator-approval, for feeder animals of beef breeds and bison originating from a modified accredited advanced state or zone previously classified as accredited free if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous twelve (12) months and the herd of origin is not under hold order, quarantine, or epidemiological investigation for tuberculosis. (4-7-11)

04. Tuberculosis Modified Accredited State or Zone. Cattle and bison that originate in a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison ~~relative to tuberculosis~~ and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or ~~(5-3-03)~~()

b. The cattle and bison are consigned directly to slaughter at an approved slaughter establishment; or (3-29-17)

c. The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (5-3-03)

05. Tuberculosis Accredited Preparatory State or Zone. Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

a. The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison ~~relative to tuberculosis~~ and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days, but not more than six (6) months apart, with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or ~~(5-3-03)~~()

b. The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

c. The cattle and bison are individually identified, are from a herd that has been subjected to a complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (5-3-03)

06. Tuberculosis Non-Accredited State or Zone. Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (5-3-03)

07. Rodeo Stock. All cattle six (6) months of age or older imported into Idaho for rodeo or timed events must have been tested negative for bovine tuberculosis within twelve (12) months prior to importation into Idaho. (4-7-11)

241. -- ~~249.~~ ~~(RESERVED)~~

250. SCABIES.

~~All cattle not known to be infected with Scabies consigned to Idaho from any state or area designated as a Scabies quarantined area are to be accompanied by a certificate of veterinary inspection from the state of origin indicating that such animals have been treated with an approved scabicide. Such cattle shall be accompanied by an entry permit from the Division of Animal Industries. The only exceptions to the above requirements are as follows: (5-3-03)~~

~~**01. Treatment After Arrival.** Cattle may be moved, by permit from the Division of Animal Industries, to an Idaho location for treatment for Scabies within twenty-four (24) hours after arrival. Such cattle shall not be mixed or allowed to intermingle with resident cattle prior to official treatment. (5-3-03)~~

~~**02. Direct to Slaughter.** Cattle may be shipped without permit directly to an approved slaughter establishment. (5-3-03)~~

~~**03. Inspection.** Female cattle of dairy breeds over eighteen (18) months of age may be shipped into Idaho by permit, without treatment for Scabies, provided a hands-on inspection by an accredited veterinarian, or a state or federal animal health official, is conducted to ascertain that the cattle are not infected. (5-3-03)~~

~~251.— 259. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

300. EQUIDAE.

All horses, mules, asses and other equidae that are to be transported or moved into the state of Idaho shall be accompanied by an official certificate of veterinary inspection or extended validity equine certificate, from the state of origin, stating that the equidae are free from evidence of any communicable disease and have completed EIA test requirements, except as provided in this section. (4-4-13)

01. EIA Test Requirements. An official EIA test is a blood test conducted by a USDA approved laboratory, within twelve (12) months prior of entry of the equidae into Idaho. (3-30-07)

a. Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Administrator. (5-3-03)

b. A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (5-3-03)

02. Working Horses Included on Grazing Permits. “Working horses” used for seasonal ranching purposes may be exempt from the requirements of this section if the horses have been included on a current grazing permit which has received prior approval from the Administrator and the chief livestock ~~sanitary~~ official in a ~~western~~ state which reciprocates with Idaho in honoring grazing permits. (5-3-03)

03. Approved Equine Feedlot. Equids imported to be fed for slaughter in an equine feedlot approved by the Administrator may be exempt from EIA test requirements provided: (3-29-17)

a. Horses qualified into the approved facility must be sent directly to slaughter within sixty (60) days; (3-29-17)

b. A distance of no less than two hundred (200) yards is maintained at all times between designated slaughter horses and all other equids; (3-29-17)

c. Feedlot owners maintain complete and accurate records of the disposition of all equids qualified into the approved equine feedlot; and (3-29-17)

d. Feedlot owners annually apply for renewal of approved feedlot status prior to expiration on

December 31st of each calendar year. (3-29-17)

04. Reciprocal Agreements. The Administrator may enter into cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (5-3-03)

~~301. EQUINE VIRAL ARTERITIS.~~

~~Intact male equidae twelve (12) months of age and older may enter Idaho when accompanied by an official interstate certificate of veterinary inspection or extended validity equine certificate from the state of origin, and one (1) of the following statements on the certificate: (5-8-09)~~

~~**01. Vaccinated for EVA.** A copy of the animal's official EVA Test and Vaccination Certificate from a USDA approved lab, signed by an accredited veterinarian, is attached to the official interstate certificate of veterinary inspection. (5-8-09)~~

~~**02. Seropositive Carrier of EVA.** The EVA test date is listed on the interstate certificate of veterinary inspection. (5-8-09)~~

~~**03. Seropositive Non-Shedder of EVA.** A copy of the stallion's negative semen EVA virus isolation test result conducted in a USDA approved lab is attached to the official interstate certificate of veterinary inspection. (5-8-09)~~

~~**04. Unknown EVA Status.** Each stallion listed on the health certificate must have the EVA status statement recorded adjacent to the stallion's name or official identification. (5-8-09)~~

~~302. IMPORTATION OF EQUINE SEMEN.~~

~~Equine semen may be imported into Idaho if one (1) of the following statements from the stallion's owner, agent, or veterinarian concerning the EVA status of the donor is included with the shipment: (5-8-09)~~

~~**01. Stallion is Vaccinated for EVA.** A copy of the stallion's official EVA Test and Vaccination Certificate from a USDA approved lab, signed by an accredited veterinarian, is included with the statement of EVA status for each semen shipment. (5-8-09)~~

~~**02. Stallion is EVA Carrier.** The EVA test date is listed on the statement of EVA status for each semen shipment. (5-8-09)~~

~~**03. Stallion is Seropositive Non-Shedder of EVA.** A copy of the stallion's negative semen EVA virus isolation test result conducted in a USDA approved lab is included with the statement of EVA status for each semen shipment. (5-8-09)~~

~~**04. Stallion EVA Status is Unknown.** Each shipment of equine semen must include a statement of EVA status of the donor stallion. (5-8-09)~~

~~303~~1. -- 399. (RESERVED)

400. IMPORTATION OF SWINE.

Swine may enter the state of Idaho provided, they are individually identified by official ear tags or other approved techniques indicating the state and herd of origin, a permit has been issued for their entry by the Division of Animal Industries, and they are accompanied by a certificate of veterinary inspection attesting to the following: (3-30-07)

01. Animals Inspected. All swine have been inspected within thirty (30) days prior to the date of shipment, and that they are free from evidence of all infectious, ~~contagious, or communicable~~ diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)()

02. Vaccination. The swine have not been vaccinated with any pseudorabies vaccine; and (5-3-03)

03. Garbage. The swine have not been fed raw garbage. (5-3-03)

04. Slaughter Swine Exceptions. Swine directly to slaughter that are apparently healthy may enter the state of Idaho without a certificate of veterinary inspection, provided the applicable permit requirements are met and the swine are consigned directly to an approved slaughter establishment, or to a specifically approved livestock market for sale to an approved slaughter establishment. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

500. DOGS AND CATS.

01. Dogs. All dogs imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such dogs are apparently free from any infectious, ~~contagious or communicable~~ disease, ~~and have been officially vaccinated for rabies in accordance with the current recommendations of the National Association of State Public Health Veterinarian's Compendium of Animal Rabies Prevention and Control.~~ Dogs three (3) months of age or older shall have been vaccinated for rabies. Dogs three (3) months of age or older originating from a rabies quarantined area must have a permit from the Division of Animal Industries prior to importation. (4-2-08)()

02. Cats. All cats imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such cats are apparently free from any infectious, ~~contagious or communicable~~ disease. Cats three (3) months of age or older shall have been vaccinated for rabies ~~according to the recommendations of the current National Association of State Public Health Veterinarian's Compendium on Animal Rabies Prevention and Control.~~ (4-2-08)()

03. Permits Required. The Administrator may require any dog or cat, from an area that has been determined to pose a significant threat of disease, to have an import permit prior to movement into Idaho. (5-3-03)

501. -- 599. (RESERVED)

600. IMPORTATION OF DOMESTIC CERVIDAE.

Domestic cervidae may enter the state of Idaho, by permit, provided: (5-3-03)

01. Certificate of Veterinary Inspection. The cervidae are accompanied by a certificate of veterinary inspection certifying that they have been inspected within thirty (30) days prior to the date of shipment, that they are free from evidence of infectious, ~~contagious, or communicable~~ diseases, or known exposure thereto during the preceding sixty (60) days; and (5-3-03)()

02. Meet Testing Requirements. The cervidae shall meet the testing requirements of Section 601. (5-3-03)

03. National CWD Herd Certification Program Participation. All cervidae must originate from a herd that is in good standing and actively participating in the National CWD Herd Certification Program. (3-20-14)

04. Deworming Requirement. All cervidae, except those consigned directly to slaughter at an approved slaughter establishment, are required to receive anthelmintic, approved for treatment of *P. tenuis*, within thirty (30) days prior to import into Idaho. Treatment must be documented on the certificate of veterinary inspection. (3-29-17)

05. *P. tenuis* Statement. The certificate of veterinary inspection accompanying the cervidae shipment must contain the following written statement from the accredited veterinarian on the certificate: "No cervids identified on this certificate of veterinary inspection have displayed symptoms consistent with *P. tenuis* infection. These cervids have neither been exposed to *P. tenuis* or originated from a premises where *P. tenuis* has been identified." (4-11-15)

601. TESTING REQUIREMENTS.

All cervidae imported into Idaho shall meet the following test requirements: (3-29-17)

01. Brucellosis. Animals six (6) months of age and older originating from a brucellosis surveillance area or brucellosis high risk area shall be negative to at least two (2) different official brucellosis tests from a single blood sample, one (1) of which shall be the BAPA/BPAT and the other shall be the FPA, within ~~thirty~~ sixty (~~30~~) days prior to entry, or the animals shall originate directly from a Brucellosis certified free herd or a brucellosis class free state for cervidae. ~~(3-29-17)~~ ()

02. Red Deer Genetic Factor. Elk shall have either tested negative for red deer genetic factor (RDGF) by a laboratory approved by the Division of Animal Industries, or shall have been registered with NAEBA or the Canadian Food Inspection Agency, or a state with an ISDA approved RDGF prevention program. (4-4-13)

03. Tuberculosis. Cervid imports shall comply with all provisions of the “Uniform Methods and Rules – Bovine Tuberculosis Eradication” and Title 9, Part 77 CFR, which is incorporated by reference in Subsection 004.05 of this Chapter. (3-29-17)

04. Exceptions. Domestic cervids consigned directly to slaughter at an approved slaughter establishment. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

702. POULTRY HATCHING EGGS.
All poultry hatching eggs being imported into Idaho shall: (5-3-03)

01. NPIP Flock. Originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment; or (5-3-03)

02. Negative Birds. Come from birds that have been tested negative to *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, ~~and~~ *Mycoplasma synoviae*, and *Mycoplasma gallisepticum* within the past thirty (30) days prior to shipment and the test results for the parent birds shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the egg shipment. ~~(5-3-03)~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

~~**705. WATERFOWL.**
Waterfowl imported into the state of Idaho shall be tested negative for Salmonella pullorum-typhoid, Salmonella enteritidis, Mycoplasma synoviae, and Mycoplasma gallisepticum within the past thirty (30) days and have a valid certificate of veterinary inspection accompanying the shipment. Test results shall be recorded on the certificate of veterinary inspection. (5-3-03)~~

~~**706. WILDFOWL HATCHING EGGS.**
All wildfowl hatching eggs imported into the state of Idaho shall come from birds that have been tested negative for Salmonella pullorum typhoid, Salmonella enteritidis, Mycoplasma synoviae, and Mycoplasma gallisepticum within the past thirty (30) days prior to shipment and the test results for the parent birds shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the egg shipment. (5-3-03)~~

~~**707. PSITTACINE BIRDS.**
Parakeets and other psittacine birds that will not be commercially exchanged in any manner may enter the state of Idaho with a certificate of veterinary inspection. Parakeets and other psittacine birds that are being imported for the purposes of commercial sale or exchange shall have both a permit and a certificate of veterinary inspection. (5-3-03)~~

~~**708. -- 709. (RESERVED)**~~

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.23 – RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

DOCKET NO. 02-0423-1901

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 22-103(15) and 22-110, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. This rule establishes standards for the permitting and management of commercial livestock truck washing facilities in Idaho. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule in its entirety regulates an activity not regulated by the federal government.

For a more detailed analysis, please see Rulemaking Record for IDAPA 02-0423-1901.

IDAHO CODE SECTION 22-101A (4)STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.04.23 regulates commercial livestock truck washing facilities in order to protect human health and the environment. The upper bound risks associated with phosphorus storage and application by Idaho commercial livestock truck washing facilities are elevated phosphorus concentrations in phosphorus sensitive water bodies which can lead to blue-green algae blooms and the presence of cyanotoxins in waterbodies. Algal blooms can impair water use for industry, recreation, drinking and fisheries. Further, cyanotoxins create the upper bound risk of physical illness to approximately 400,000 private domestic well users, wildlife and domestic animals. Because the long term health and environmental effects of harmful algal blooms remain unclear, the absolute central and lower bound risks are not quantifiable.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.04.23, including studies done by U.S. Environmental Protection Agency, USDA Agricultural Resource Service, and other professional and scientific journals. However, even with such data, uncertainties remain, including variability in phosphorus sampling and testing.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.04.23 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-laws/rules/rulemaking/isda-rulemaking-2019-2020/animal-industries-temporary-rulemaking-2019-2020/>.

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

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. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0423-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

**The original text of the temporary rule was published in the Idaho Administrative Bulletin,
[Volume 19-7, July 3, 2019, pages 93 through 99.](#)**

02.04.23 – RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title Sections 22, ~~Chapter~~ 103(175) and 22-110, Idaho Code. (5-3-03)()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.23, “Rules Governing Commercial Livestock Truck Washing Facilities.” (5-3-03)

02. Scope. These rules govern the permitting, construction, and management of commercial livestock truck washing facilities. (5-3-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (5-3-03)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (5-3-03)

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture central office and the State Law Library. (5-3-03)

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. (5-3-03)

02. The 2000 American Society of Agricultural Engineers Standard EP393.3. (5-3-03)

03. The 1999 Publication by the United States Department Of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. (5-3-03)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (5-3-03)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records available for inspection and copying at the central office of ISDA and the State Law Library. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (5-3-03)

01. Commercial Livestock Truck Washing Facilities. Livestock truck washing facilities that charge a fee to wash livestock trucks and trailers, or those facilities where the process wastewater is not regulated pursuant IDAPA 02.04.14 “Rules Governing Dairy Waste,” or 02.04.15 “Rules of the Department of Agriculture Governing Beef Cattle Animal Feeding Operations.” (5-3-03)

- 02.** **Compost.** A biologically stable material derived from the biological decomposition of organic matter. (5-3-03)
- ~~**03.** **Director.** *The Director of the Idaho State Department of Agriculture or his designee.* (5-3-03)~~
- 043.** **Discharge.** Release of process wastewater or manure from a commercial livestock truck washing facility to waters of the state. (5-3-03)
- ~~**054.** **Land Application.** The spreading on, or incorporation of manure or process wastewater into the soil. (5-3-03)~~
- ~~**065.** **Livestock.** Bovidae, ovidae, suidae, and equidae. (5-3-03)~~
- ~~**076.** **Livestock Truck Washing Facilities.** Those facilities utilized primarily for washing and cleaning trucks and trailers that haul livestock. (5-3-03)~~
- ~~**08.** **Manure.** *Livestock excrement that may also contain bedding, spilled feed, water, or soil.* (5-3-03)~~
- ~~**097.** **Modified.** Structural or management changes, or alterations to the livestock truck washing facility which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (5-3-03)~~
- ~~**108.** **Non-Compliance.** A practice or condition that causes an unauthorized discharge or a practice or condition that if left uncorrected will cause an unauthorized discharge. (5-3-03)~~
- ~~**109.** **Non-Land Application Season.** The portion of the year during which land application is not allowed pursuant to an approved NMP. (5-3-03)~~
- ~~**1210.** **Nutrient Management Plan.** A plan prepared in conformance with the nutrient management standard or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or soil amendments. (5-3-03)~~
- ~~**13.** **Nutrient Management Standard.** *The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director.* (5-3-03)~~
- ~~**1411.** **Operate.** Washing or cleaning livestock trucks. (5-3-03)~~
- ~~**1512.** **Operator.** The person who has power or authority to manage, or direct, or has financial control of a commercial livestock truck washing facility. (5-3-03)~~
- ~~**16.** **Person.** *Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.* (5-3-03)~~
- ~~**1713.** **Process Wastewater.** Any water generated on a commercial livestock truck washing facility that comes into contact with manure, compost, bedding, or feed. (5-3-03)~~
- ~~**1814.** **Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a commercial livestock truck washing facility. (5-3-03)~~
- ~~**1915.** **Unauthorized Discharge.** A discharge of process wastewater or manure from a commercial livestock truck washing facility to surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency. (5-3-03)~~
- ~~**2016.** **Wastewater Storage and Containment Facility.** That portion of a CLTWF where manure or process wastewater is stored or collected. This includes, but is not limited to, waste collection systems, waste~~

conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (5-3-03)

~~417~~. **Waters of the State.** All surface and ground water located within the boundaries of the state or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (5-3-03)

011. ABBREVIATIONS.

01. CLTWF. Commercial Livestock Truck Washing Facility. (5-3-03)

02. FEMA. Federal Emergency Management Agency. (5-3-03)

03. ISDA. Idaho State Department of Agriculture. (5-3-03)

04. NMP. Nutrient Management Plan. (5-3-03)

05. NPDES. National Pollutant Discharge Elimination System. (5-3-03)

06. NRCS. Natural Resources Conservation Service. (5-3-03)

07. USDA. United States Department of Agriculture. (5-3-03)

012. APPLICABILITY.

These rules apply to all CLTWF. (5-3-03)

013. -- 049. (RESERVED)

050. INSPECTIONS.

In order to ascertain compliance with this chapter, the Director shall have reasonable access to: (5-3-03)

01. Inspect Facilities. Inspect any facility or land application site listed in the CLTWF's NMP. (5-3-03)

02. Inspect Records. Inspect, review, or copy any CLTWF's records deemed necessary, during normal business hours. (5-3-03)

051. -- 099. (RESERVED)

100. PERMIT REQUIRED.

No person shall construct or operate a CLTWF without first obtaining a permit to do so from the Director. (5-3-03)

101. APPLICATION FOR PERMIT.

Applications for permits submitted to the Director shall contain the following: (5-3-03)

01. Name, Telephone Number, and Address. The name, telephone number, and address of the owner and operator of the CLTWF. (5-3-03)

02. Physical Address. The physical address of the CLTWF. (5-3-03)

03. Scaled Vicinity Map With Site Location. A detailed sketch of the proposed or existing CLTWF site location, on an aerial photograph if available, which includes the following: (5-3-03)

a. The location of all homes, schools, churches, etc. within a one (1) mile radius of the proposed CLTWF; and (5-3-03)

b. Private and community domestic water wells, irrigation wells, existing monitoring wells, and existing injection wells as documented by Idaho Department of Water Resources or other sources, which are within a one (1) mile radius of the proposed or existing CLTWF; and (5-3-03)

c. Irrigation canals, irrigation laterals, rivers, streams, springs, lakes, reservoirs, and designated wetlands, which are within a one (1) mile radius of the proposed CLTWF; and (5-3-03)

d. Location of all land application sites; and (5-3-03)

e. FEMA flood zones or other appropriate flood data for the CLTWF site and all land application sites. (5-3-03)

04. Scaled Site Plan. A site plan showing all buildings, process wastewater and manure storage areas, piping, and roadways. (5-3-03)

05. Land Application System. A detailed description of the current or proposed management practices and methods used to make land application including: (5-3-03)

a. Timing, frequency, and duration of practices. (5-3-03)

b. Proximity of land application sites to residential and public use areas. (5-3-03)

06. Nutrient Management Plan. A NMP for all land where manure or process wastewater from the CLTWF is land applied. (5-3-03)

102. -- 109. (RESERVED)

110. DURATION OF PERMIT.

Permits issued pursuant to this chapter ~~shall be~~ are valid for a period of two (2) years. (~~5-3-03~~)()

111. RENEWAL OF PERMIT.

The operator of a CLTWF shall submit an application to renew the permit to the Director for approval ninety (90) days prior to the expiration of the existing permit. (5-3-03)

112. -- 119. (RESERVED)

120. REVOCATION OF PERMIT.

The Director may revoke the permit of any CLTWF that violates any of the provisions of this Chapter. (5-3-03)

121. -- 199. (RESERVED)

200. UNAUTHORIZED DISCHARGES.

Unauthorized discharges of manure or process wastewater from CLTWF or land application sites owned or controlled by a CLTWF are prohibited. (5-3-03)

201. -- 209. (RESERVED)

210. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge, the operator of a CLTWF shall verbally notify the Director of such a discharge. (5-3-03)

211. WRITTEN NOTIFICATION.

If the ISDA has not begun a discharge investigation within five (5) days of the verbal notification to the director, the operator shall submit a written report to the Director which includes: (5-3-03)

01. A Description of the Discharge. A description of the flow path to the receiving water body; and (5-3-03)

02. Flow Rate. An estimation of the flow rate and volume discharged; and (5-3-03)

03. Dates and Time. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (5-3-03)

04. Steps Taken. Steps taken to reduce, eliminate, and prevent recurrence of the discharge. (5-3-03)

212. -- 299. (RESERVED)

300. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

All CLTWF shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (5-3-03)

01. Process Wastewater. All process wastewater generated on the CLTWF during the non-land application season; and (5-3-03)

02. Rainfall. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (5-3-03)

03. Winter Precipitation. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (5-3-03)

301. -- 309. (RESERVED)

310. CONSTRUCTION REQUIREMENTS.

All CLTWF shall have wastewater storage and containment facilities designed and constructed in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (5-3-03)

311. -- 319. (RESERVED)

320. SUBSTANCES ENTERING WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

Only manure and process wastewater from the operation of the CLTWF shall be allowed to enter wastewater storage and containment facilities. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to oil, grease, heavy metals, chlorinated solvents, and human waste is prohibited. (5-3-03)

321. -- 329. (RESERVED)

330. NUTRIENT MANAGEMENT.

Each CLTWF shall submit, to the Director for approval, a NMP that conforms to the nutrient management standard. (5-3-03)

01. Odor. Each NMP shall address odors generated on the CLTWF, and land application sites. Odors shall not be generated in excess of odors normally associated with livestock production in Idaho. (5-3-03)

02. Land Application. Each NMP shall include all land to which manure or process wastewater from the CLTWF is land applied. (5-3-03)

03. Duty of Operator. It shall be the duty of the operator of a CLTWF to ensure that the NMP, for any land included in the NMP, is implemented. (5-3-03)

04. Implementation of NMP. Failure to implement and abide by an approved NMP is a violation of this chapter. (5-3-03)

331. -- ~~349.~~ (RESERVED)

~~350. EXISTING CLTWF.~~

~~CLTWF that are operating on or before July 1, 2002 shall submit a NMP to the director for approval no later than January 1, 2003.~~ (5-3-03)

~~351.~~ 359. (RESERVED)

360. NEW CLTWF.

Any new CLTWF, ~~commencing operations after July 1, 2002,~~ shall submit a NMP to the Director for approval with its application for a permit to operate a CLTWF. The Director ~~shall~~ respond~~s~~ to or approve~~s~~ such NMP within sixty (60) days of submission. (5-3-03)()

361. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.32 – RULES GOVERNING POULTRY OPERATIONS
DOCKET NO. 02-0432-1901 (FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-4012, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This proposed rule adopts a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture. The Rules Governing Poultry Operations establish standards for the storage, management and application of nutrients from commercial poultry facilities. This rule was reviewed for amendment or repeal of non-substantive sections to comply with the Red Tape Reduction Act.

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

An annual fee or assessment for each permittee of no more than three cents (\$0.03) per square foot of containment area.

IDAHO CODE SECTION 22-101A(1) STATEMENT: This rule is broader in scope than an activity regulated by the federal government in the following sections:

02.04.32.100	Broader in scope
02.04.32.110	Broader in scope
02.04.32.120	Broader in scope
02.04.32.130	Broader in scope
02.04.32.140	Broader in scope
02.04.32.150	Broader in scope
02.04.32.160	Broader in scope
02.04.32.170	Broader in scope
02.04.32.250	Broader in scope
02.04.32.251	Broader in scope
02.04.32.252	Broader in scope
02.04.32.253	Broader in scope
02.04.32.260	Broader in scope
02.04.32.300	Broader in scope
02.04.32.310	Broader in scope
02.04.32.400	Broader in scope
02.04.32.500	Broader in scope
02.04.32.550	Broader in scope

For a more detailed analysis, please see Rulemaking Record for Docket No. 02-0432-1901.

IDAHO CODE SECTION 22-101A(4) STATEMENT: Idaho Code § 22-101A(4) requires that in proposing any rule necessary to protect human health and the environment, the Director shall include a summary of information in the rulemaking record by Idaho Code § 22-101A(3). This summary of Idaho Code § 22-101A(3) information is as follows:

IDAPA 02.04.32 regulates the public health and environmental effects associated with poultry operations. The upper bound risks associated with phosphorus storage and application by Idaho poultry operations are elevated phosphorus concentrations in phosphorus sensitive water bodies which can lead to blue-green algae blooms and the presence of cyanotoxins in waterbodies. Algal blooms can impair water use for industry, recreation, drinking and fisheries. Further, cyanotoxins create the upper bound risk of physical illness to approximately 400,000 private domestic well users, wildlife and domestic animals. Because the long term health and environmental effects of harmful algal blooms remain unclear, the absolute central and lower bound risks are not quantifiable.

ISDA uses the best available, peer reviewed studies to support and implement IDAPA 02.04.32, including studies done by U.S. Environmental Protection Agency, USDA Agricultural Resource Service, and other professional and scientific journals. However, even with such data, uncertainties remain, including variability in phosphorus sampling and testing.

To view ISDA's complete Idaho Code § 22-101A analysis and a comprehensive list of studies supporting and directly relevant to this Rule, please see the IDAPA 02.04.32 Rulemaking Record located at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/rulemaking/isda-rulemaking-2019-2020/animal-industries-temporary-rulemaking-2019-2020/>.

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this existing chapter of IDAPA is being re-published and re-authorized as previously promulgated and approved by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules would have inhibited the agency from executing its responsibilities to serve the citizens of Idaho and to protect their health, safety, and welfare.

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. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

DATED this 2nd day of August, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 02-0432-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
[Volume 19-7, July 3, 2019, pages 110 through 121.](#)

02.04.32 – RULES GOVERNING POULTRY OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 25-4012, Idaho Code. (3-21-12)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.32, “Rules Governing Poultry Operations.” (3-21-12)

02. Scope. These rules govern the design, function and management practices of waste systems on poultry concentrated animal feeding operations. These rules also establish the procedures and requirements for issuance of a permit to construct, operate, or expand poultry concentrated animal feeding operations. (3-21-12)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-21-12)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the department of Agriculture under these rules. (3-21-12)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (3-21-12)

01. The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b). This document can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv20_04.html. (3-21-12)

02. Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS). This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/2008_Appendix_10D.pdf. (3-21-12)

03. Nutrient Management Standard (NMS). The June 2007 publication by the United States Department of Agriculture (USDA) Idaho Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/june_2007_NRCS_590.pdf. (3-21-12)

04. Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/nrcs_313_Dec_2004.pdf. (3-21-12)

05. American Society of Agricultural and Biological Engineers Specification ASAE EP393.3

Manure Storages February 2004. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/asae_EP393.3_Feb_04.pdf. (3-21-12)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-21-12)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (3-21-12)

007. -- 009. (RESERVED)

010. DEFINITIONS.

~~In addition to~~ the definitions set forth in Section 25-4002, Idaho Code, ~~must~~ the following definitions apply in the interpretation and the enforcement of this chapter. (~~3-21-12~~)()

01. Discharge. Release of process wastewater or manure from a poultry animal feeding operation, including its land application area, to waters of the state or beyond the poultry facility's property boundaries or beyond the property boundary of any facility. Contract manure haulers, producers and other persons who haul manure beyond the operator's property boundaries are responsible for releases of manure between the property boundaries of the operator and the property boundaries at the point of application. A discharge does not include aerosolized matter, or manure that has been reasonably incorporated on the land application area. (3-21-12)

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

03. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a poultry feeding operation and flows off the production area or flows off land application areas where the manure, compost, bedding, or feed has not been reasonably incorporated into the soil. (3-21-12)

011. ABBREVIATIONS.

- 01. AFO.** Animal Feeding Operation. (3-21-12)
- 02. ASABE.** American Society of Agricultural and Biological Engineers. (3-21-12)
- 03. CAFO.** Concentrated Animal Feeding Operation. (3-21-12)
- 04. DEQ.** Department of Environmental Quality. (3-21-12)
- 05. FEMA.** Federal Emergency Management Agency. (3-21-12)
- 06. IPDES.** Idaho Pollutant Discharge Elimination System. (3-29-17)
- 07. NMP.** Nutrient Management Plan. (3-21-12)
- 08. NMS.** Nutrient Management Standard. (3-21-12)
- 09. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (3-21-12)
- 10. USGS.** United States Geological Survey. (3-21-12)

012. -- ~~099.~~ (RESERVED)

~~100. PERMIT REQUIRED.~~

~~No person may construct, operate, or expand a poultry CAFO after April 6, 2011, without first obtaining a permit issued by the director as provided in these rules. (3-21-12)~~

~~01. Common Control. Two (2) or more poultry CAFOs under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than a large or medium poultry CAFO, if they use a common animal waste system or land application site. (3-21-12)~~

~~02. Existing Poultry Facilities. Poultry operations that existed on or before April 6, 2011, are not required to obtain a permit unless the facility is expanding to the extent that it will meet the definition of a poultry CAFO. Existing poultry facilities must register and submit an NMP in accordance with Section 170 of these rules, and must otherwise comply with these rules. (3-21-12)~~

~~101.~~ 109. (RESERVED)

110. PERMIT APPLICATION.

01. **Permit Application.** Every person required by [these rules Section 25-4003, Idaho Code](#), to obtain a permit must submit a permit application to the department. The permit application will be used to determine if the construction and operation of the poultry CAFO will be in conformance with these rules. (3-21-12)()

02. **Contents of Application.** Each application must include, in the format set forth by the director ~~and when determined applicable by the director, the information set forth in Section 110~~ in sufficient detail to allow the director to make necessary application review decisions concerning design and environmental protection. ~~by providing the following:~~ (3-21-12)()

~~03. Relevant Information. (3-21-12)~~

- a. Name, mailing address and phone number of the facility owner. (3-21-12)
- b. Name, mailing address and phone number of the facility operator. (3-21-12)
- c. Name and mailing address of the facility. (3-21-12)
- d. Legal description of the facility location. (3-21-12)
- e. The one-time animal capacity, by head, of the facility. (3-21-12)
- f. The type of animals to be confined at the facility. (3-21-12)
- g. The facility's biosecurity and sanitary standards. (3-21-12)

~~043.~~ **Construction Plans.** Plans and specifications for the facility's animal waste management system that include the following information: (3-21-12)

- a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (3-21-12)
 - i. Layout of the facility, including buildings and animal waste management system; (3-21-12)
 - ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; and (3-21-12)
 - iii. Private and community domestic water wells, irrigation wells, monitoring wells, and injection wells, irrigation conveyance and drainage structures, wetlands, streams, springs, and reservoirs that are within a one

- (1) mile radius of the facility. (3-21-12)
- b.** A site plan showing: (3-21-12)
 - i. Building locations; (3-21-12)
 - ii. Waste facilities; (3-21-12)
 - iii. All waste conveyance systems; and (3-21-12)
 - iv. All irrigation systems used for land application, including details of approved water supply protection devices. (3-21-12)
 - c.** Building plans showing: (3-21-12)
 - i. All wastewater collection systems in housed units; (3-21-12)
 - ii. All freshwater supply systems, including details of approved water supply protection devices; (3-21-12)
 - iii. Detailed drawings of wastewater collection and conveyance systems and containment construction. (3-21-12)
 - d.** If a CAFO Site Advisory Team suitability determination was not conducted for the facility, the following additional information must be provided: (3-21-12)
 - i. Idaho DEQ delineated source water assessment areas within a one (1) mile radius of the facility and land application area; (3-21-12)
 - ii. Idaho DEQ delineated nitrate priority areas that intersect the facility or land application area; (3-21-12)
 - iii. Soil characteristics from NRCS; and (3-21-12)
 - iv. Well logs associated with wells listed in Subsection 110.04.a.iii. (3-21-12)
 - e.** All construction plans will specify how the facility will meet the engineering standards outlined in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. (3-21-12)
- 05. Nutrient Management Plan.** NMPs must be prepared in conformance with the Nutrient Management Standard or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. (3-21-12)

~~**06. Other Information.** An applicant must provide any other information required by Section 110 as deemed necessary by the director to assess whether the facility poses or will pose a threat to the state's water resources. (3-21-12)~~

~~**111. -- 119. (RESERVED)**~~

~~**120. APPLICATION PROCESSING PROCEDURE.**~~

~~**01. Application Completeness.** Within thirty (30) days of receipt of an application, the department will provide written notice to the applicant as to whether the application contains all of the information required in Section 110. If the application is incomplete, the department will provide a specific list of the missing information.~~

~~The application will not be processed until it is deemed complete by the department. (3-21-12)~~

~~02. **Application Processing.** Within sixty (60) days of receiving a complete application, the department will review the application materials and determine whether the design of the facility is in accordance with the engineering standards and specifications provided by the NRCS or ASABE. The department will notify the applicant of the results of that review. (3-21-12)~~

~~121.~~ 129. (RESERVED)

130. PERMIT CONDITIONS.

The following conditions will apply to all permittees: (3-21-12)

01. **Compliance Required.** The permittee must comply with all conditions of the permit. The permit must not relieve the permittee of the responsibility of complying with all applicable local, state, and federal laws. (3-21-12)

02. **Construction, Operation, and Maintenance of the Facility.** The permittee must ensure that construction, operation, and maintenance of the facility proceed according to the construction plans and specifications and the approved nutrient management plans, and comply with the following: (3-21-12)

a. Within thirty (30) days of construction completion, submit as-built construction plans. (3-21-12)

b. Apply best management practices as approved by the director. (3-21-12)

c. The facility or operations associated with the facility must not adversely affect waters of the state or create nuisance conditions including odor. (3-21-12)

d. The removal of animal waste from an impoundment or storage structure must be performed in a manner not to damage the integrity of the liner. (3-21-12)

e. Dead animals must be handled in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-21-12)

f. Nutrient management plans must be amended in accordance with IDAPA 02.04.30.000 et seq. "Rules Governing Nutrient Management." (3-21-12)

g. Soil tests must be conducted annually on all land application sites owned or leased by the permittee to determine compliance with the NMP and NMS. The director may require more frequent soil tests if he deems it necessary. (3-21-12)

03. **Information to be Provided.** The permittee must furnish to the director, within a reasonable time, any information which the director may reasonably require to determine whether causes exists to modify or revoke the permit, or to determine compliance with the permit or applicable rules. (3-21-12)

04. **Entry and Access.** The permittee must allow the director entry and access in accordance with Section 25-4008, Idaho Code. (3-21-12)

05. **Reporting.** Permittees must report discharges or noncompliance issues within the following time frames: (3-21-12)

a. Within twenty-four (24) hours of the time the permittee knows or should have known of a discharge or unauthorized discharge, the permittee must verbally report the discharge. (3-21-12)

b. Within five (5) working days from the time a permittee knows or reasonably should have known of any event which has resulted or which may result in noncompliance with these rules, the permittee must file a written report with the director. ~~The report must contain~~ing: (3-21-12)()

- i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (3-21-12)
 - ii. The period of the event including, to the extent possible, times and dates; (3-21-12)
 - iii. Measures taken to mitigate or eliminate the event; and (3-21-12)
 - iv. Steps taken to prevent recurrence of the event. (3-21-12)
- c. Immediately, whenever the permittee knows or learns or should reasonably know of material relevant acts not submitted or incorrect information submitted in a permit application or any report or notice to the director. (3-21-12)

06. Construction Commencement. If a permittee fails to begin construction or expansion of a facility within five (5) years of the effective date of the permit, the director may void the permit and require a new permit application. (3-21-12)

07. Permit Renewal. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee must apply for a new permit at least one hundred eighty (180) days prior to the expiration of the permit. (3-21-12)

08. Specific Permit Conditions. The director may establish specific permit conditions on a case by case basis. Specific conditions will be established in consideration of facility's specific characteristics and will be designed to protect the state's water resources. (3-21-12)

131. -- 139. (RESERVED)

140. FEES AND ASSESSMENTS.

01. Annual Fees or Assessments. The director may establish annual fees or assessments for each permittee of no more than three cents (\$0.03) per square foot of containment area. (3-21-12)

02. Payment of Annual Fees or Assessments. ~~The director must notify each permittee with a fee or assessment invoice by December 20th of each calendar year.~~ Annual fees or assessments are due annually by January 20th of the next calendar year. ~~(3-21-12)~~ ()

~~**03. Adjustment in Fees or Assessments.** The director will provide at least thirty (30) days written notice to each permittee before fees or assessments are increased or decreased.~~ (3-21-12)

141. -- 149. (RESERVED)

150. PERMIT MODIFICATION.

01. Minor Modifications. Minor permit modifications are those which do not have a potential effect on the state's water resources. Such modifications will be made by the director, and are generally limited to: (3-21-12)

- a. The correction of typographical or clerical errors; (3-21-12)
- b. Transfer of ownership or operational control in accordance with Section 160; or (3-21-12)
- c. Certain minor changes in monitoring or operational conditions. (3-21-12)

02. Major Modifications. All permit modifications not considered minor will be deemed major. The procedure for making major modifications is the same as that used for a new permit under these rules. (3-21-12)

151. -- 159. (RESERVED)

160. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility must submit a transfer application to the director that includes at least the following: (3-21-12)

- a. The relevant information required by Subsection 110.03; and (3-21-12)
- b. Any change of conditions at the facility resulting from the ownership or operation transfer. (3-21-12)

02. Transfer Application Review. The director will review the transfer application and either approve or deny the application within sixty (60) days of its receipt. (3-21-12)

a. An approved transfer will be considered a minor modification pursuant to Subsection 150.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at the facility are subject to Subsection 150.02. (3-21-12)

b. If the director denies the transfer application, he will set forth the specific reasons for the denial, the steps necessary to meet the requirements for a permit transfer, and the opportunity to request a hearing. (3-21-12)

161. -- ~~169.~~ **(RESERVED)**

~~170. REGISTRATION OF EXISTING POULTRY CAFOS.~~

~~All large and medium poultry CAFOs in existence on or before April 6, 2011, must register with the department no later than January 1, 2012, upon forms furnished by the department. (3-21-12)~~

~~**01. Information Required.** The following information must be provided to the department in order to register an existing medium or large poultry CAFO. (3-21-12)~~

~~a. Name, mailing address, phone number and email address (if applicable) of the facility owner; (3-21-12)~~

~~b. Name, mailing address, phone number and email address (if applicable) of the facility operator; (3-21-12)~~

~~c. Physical address of the facility; (3-21-12)~~

~~d. Facility site map; (3-21-12)~~

~~e. Facility capacity; and (3-21-12)~~

~~f. Average poultry population over the twelve (12) months preceding the date the registration information is provided by the operator. (3-21-12)~~

~~**02. Nutrient Management Plan.** No later than April 6, 2012, existing medium and large poultry CAFOs must submit an NMP, prepared in conformance with the NMS or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. The NMP must accurately reflect the operation of the facility. (3-21-12)~~

~~**03. Permit Allowed.** An existing medium or large CAFO may, in the alternative, seek a permit pursuant to Section 110. (3-21-12)~~

~~**04. Permit Required.** An existing facility must obtain a permit in accordance with Section 110, prior to increasing the one-time animal capacity of the facility by ten percent (10%) or more. (3-21-12)~~

~~**05. Ownership Transfer.** If an existing poultry CAFO has registered with the department and~~

~~ownership is subsequently transferred to a new owner, the new owners must apply for and obtain a new permit in accordance with Section 110. (3-21-12)~~

~~171.~~ 199. (RESERVED)

200. WASTE STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All poultry AFOs where process wastewater leaves the confinement area and has the potential to impact water of the state or be in violation of state water quality standards or ground water quality standards must have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-21-12)

- a. All process wastewater generated on the facility during the non-land application season; (3-21-12)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-21-12)
- c. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (3-21-12)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities must be composed of manure and process wastewater from the operation of the poultry AFO. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-21-12)

03. Waste Storage. Storage areas for poultry waste including compost and solid manure storage areas must be located on approved soils and appropriately protected to prevent run on and run off. (3-21-12)

04. Waste and Wastewater System Maintenance. Waste and wastewater storage and containment systems must be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-21-12)

05. Additional Ground Water Protection Requirements. The permittee must construct and maintain all waste containment structures within the parameters of this rule, including the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 (see Section 004, Incorporation by Reference). After inspection, if the Department has information that the waste containment structure(s) has been compromised severely enough to no longer meet the requirements of this rule, the Department may require an evaluation to be conducted by a licensed professional engineer. The engineer will make recommendations on steps needed to bring the facility into compliance with this rule. The permittee is responsible for engineering and reconstruction costs. If the permittee has a repeat waste containment compromise, as determined by the department, the Director may require ground water monitoring by the permittee. (3-21-12)

201. -- 249. (RESERVED)

250. NUTRIENT MANAGEMENT.

Each poultry CAFO must submit an NMP for land owned or controlled by the operator to the director for approval. The NMP must conform to the NMS and address odors generated in excess of odors normally associated with raising poultry in Idaho. (3-21-12)

~~**01. Existing Poultry CAFOs.** Poultry CAFOs that are operating on or before April 6, 2011, must submit an NMP to the director for approval no later than April 6, 2012. (3-21-12)~~

~~**02. New Poultry CAFOs.** Any poultry CAFO which commences operations after April 6, 2011, must not operate prior to the director's approval of the NMP. (3-21-12)~~

031. Designated Poultry CAFOs. Any poultry AFO which is designated as a CAFO by the department in accordance with Section 400 must submit an NMP within forty-five (45) days of designation. (3-21-12)

042. NMP Approval. The director will respond to or approve an NMP in writing within forty-five (45) days of submission. (3-21-12)

053. NMP Updates or Amendments. Nutrient management plans must be updated as needed to accurately reflect the facility and its nutrient management system. (3-21-12)

251. NUTRIENT MANAGEMENT PLAN RETENTION.

All NMPs which have been approved by the department and returned to the CAFO must be maintained on site at the CAFO and available to the department upon request. The department will retain a copy of the NMP. (3-21-12)

252. NUTRIENT MANAGEMENT RECORDS.

01. Required Nutrient Management Records. The CAFO operator must keep complete and accurate records of: (3-21-12)

- a.** Land application records, consisting of, at a minimum: (3-21-12)
 - i.** The dates, methods and approximate amounts of any manure or process wastewater applied on land owned or controlled by the operator. (3-21-12)
 - ii.** Weather conditions and soil moisture at the time of application. (3-21-12)
 - iii.** The lapsed time to manure incorporation, rainfall or irrigation event. (3-21-12)
 - iv.** Documentation of the actual rate at which nutrients were applied. When the actual rate used differs from the recommended and planned rates, nutrient management records must indicate the rationale for the difference. (3-21-12)
- b.** The name and address of any third party receiving manure or process wastewater from the facility, including the dates of the transfer and the amount of manure or process wastewater transferred. (3-21-12)
- c.** Nutrient Application. The quantities, analyses and sources of nutrients applied. (3-21-12)
- d.** Soil Analysis. Complete soil analysis to create nutrient budget. (3-21-12)
- e.** Crops. Crops planted, planting and harvest dates, yields and crop residues removed. (3-21-12)
- f.** Record Review. Dates of annual review, person performing the review, and recommendations determined from the review. (3-21-12)

02. Records Retention. All nutrient management records must be maintained for a period of five (5) years and provided to the department upon request. (3-21-12)

253. NMP VIOLATIONS.

The failure to implement an approved NMP, failure to retain and maintain an NMP at the CAFO, or failure to retain nutrient management records is a violation of these rules. (3-21-12)

254. -- 259. (RESERVED)

260. GROUND WATER QUALITY MONITORING.

At least annually, the department will sample and test the facility's production well water for nitrogen. (3-21-12)

261. -- 299. (RESERVED)

300. PROHIBITED DISCHARGES.

Discharges or unauthorized discharges of manure or process wastewater from poultry CAFO or land application sites owned or controlled by a poultry CAFO are prohibited. (3-21-12)

301. -- 309. (RESERVED)

310. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge or unauthorized discharge, the operator of a poultry CAFO must verbally notify the department of the discharge or unauthorized discharge. (3-21-12)

311. -- 399. (RESERVED)

~~400. DESIGNATION OF POULTRY CONCENTRATED ANIMAL FEEDING OPERATIONS.~~

~~**01. Designation of Animal Feeding Operations.** The director may designate any poultry AFO as a CAFO if, after inspection, the director determines that the AFO is a significant contributor of pollution to waters of the state. The director will consider the following factors when making a designation: (3-21-12)~~

~~**a.** The size of the AFO and the amount of manure, process wastewater and runoff reaching waters of the state; (3-21-12)~~

~~**b.** Location of the AFO relative to waters of the state; (3-21-12)~~

~~**c.** Means of conveyance of manure, process wastewater, and runoff into waters of the state; (3-21-12)~~

~~**d.** Slope, vegetation, precipitation and other factors that affect the likelihood or frequency of discharge of manure, process wastewater and runoff into waters of the state; (3-21-12)~~

~~**e.** Unauthorized discharges into waters of the state through a man made ditch, flushing system, or other similar man made device; (3-21-12)~~

~~**f.** Unauthorized discharges directly into waters of the state that originate outside of and pass over, across or through the facility or otherwise come into contact with the animals confined in the AFO; and (3-21-12)~~

~~**g.** Repeated instances of noncompliance. (3-21-12)~~

~~**02. Effect of Designation.** Upon designation, a poultry facility will be required to follow all permit requirements for a medium poultry CAFO. (3-21-12)~~

~~**03. Redesignation of a Poultry CAFO.** The operator may request that the director redesignate a facility previously designated under Subsection 400.01. The director will redesignate the CAFO only if the facility is no longer a significant contributor of pollution to waters of the state. If granted, the redesignation will be provided to the operator in writing. No fees or assessments paid by the facility after designation will be refunded. (3-21-12)~~

~~401. -- 499. (RESERVED)~~

500. INSPECTIONS.

Pursuant to Title 25, Chapter 40, Idaho Code, the director or his designee is authorized to inspect any poultry AFO, and to have access to and copy any facility records deemed necessary to ensure compliance with Title 25, Chapter 40, Idaho Code, and these rules. (3-21-12)

01. Frequency. All poultry CAFOs will be inspected at least annually, or at intervals sufficient to determine that waste has been managed to prevent an unauthorized discharge or contamination of waters of the state. (3-21-12)

02. Inspection Methods. Inspections may include, but are not limited to, evaluating effectiveness of best management practices, collecting samples, taking photographs, video recording or collecting other information

as necessary. (3-21-12)

~~**03. Inspection Report Forms.** An official inspection report form will be completed at the time of the inspection and provided to the operator. (3-21-12)~~

501. -- 549. (RESERVED)

550. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition is a violation of these rules. (3-21-12)

02. Falsification of Statements and Records. It is a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (3-21-12)

03. Discharge. Any discharge or unauthorized discharge from a facility is a violation of these rules. (3-21-12)

551. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY
DOCKET NO. 07-0000-1900
NOTICE OF PUBLIC HEARING FOR OMNIBUS RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section 54-1006, Idaho Code.

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

PUBLIC HEARING	
Wednesday, October 1, 2019 - 11:00 a.m. (MDT)	
Idaho Division of Building Safety 1090 E Watertower St., Suite 150 Meridian, ID 83642	
Via VIDEO TELECONFERENCE (same date and time as above) At the following Division of Building Safety locations:	
Coeur d’Alene Regional Office 1250 Ironwood Drive, Suite 220 Coeur d’Alene, ID 83814	Pocatello Regional Office 2055 Garrett Way, Bldg. 1, Suite 4 Pocatello, ID 83201

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 summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 793-722](#).

The Division and Idaho Electrical Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters of the IDAPA code related to the electrical rules including amendments made at the pending stage of this rulemakings that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rule makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat (consolidate) them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 793-794](#) and [795-813](#).

The Division and Plumbing Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters of the IDAPA code related to the plumbing rules including amendments made at the pending stage of this rulemakings that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rules makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 793-794](#) and [814--828](#).

The Division and Factory Built Structures Advisory Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters 07.03.09, Rules Governing Manufactured Homes - Consumer Complaint – Dispute Resolution, and 07.03.13, Rules Governing Mobile Home Rehabilitation including amendments made at the pending stage of these rulemakings that were consistent with [Executive Orders](#)

2019-01 and **2019-02** related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rules makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 793-794** and **829-835**.

The Division will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapter 07.04.01, Rules Governing Safety Inspections, 07.06.01, Rules Governing Uniform School Building Safety and 07.08.01, Idaho Minimum Safety Standards and Practices for Logging including amendments made at the pending stage of this rulemaking that were consistent with **Executive Orders 2019-01** and **2019-02** related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rulemaking that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 793-794** and **836-922**.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Patrick Grace, Regional Manager, Division of Building Safety at (208) 332-7120.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before October 1, 2019.

Dated this 30th day of July, 2019.

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
ron.whitney@dbs.idaho.gov

IDAPA 07 – DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0000-1900F

NOTICE OF PUBLIC HEARING FOR OMNIBUS FEE RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section 54-1006, Idaho Code.

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

PUBLIC HEARING	
Wednesday, October 1, 2019 - 9:00 a.m. (MDT)	
Idaho Division of Building Safety 1090 E Watertower St., Suite 150 Meridian, ID 83642	
Via VIDEO TELECONFERENCE (same date and time as above) At the following Division of Building Safety locations:	
Coeur d’Alene Regional Office 1250 Ironwood Drive, Suite 220 Coeur d’Alene, ID 83814	Pocatello Regional Office 2055 Garrett Way, Bldg. 1, Suite 4 Pocatello, ID 83201

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 summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-1025](#).

The Division and Idaho Electrical Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters of the IDAPA code related to the electrical rules including amendments made that are consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rules makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat (consolidate) them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-936](#)

The Division and Plumbing Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters of the IDAPA code related to the plumbing rules including amendments made at the pending stage of this rulemakings that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rule makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-924](#) and [937-943](#).

The Division and Building Code Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters 07.03.01, Rules of Building Safety including amendments made at the pending stage of this rulemakings that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rules makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-924](#) and [944-965](#).

The Division and Factory Built Structures Advisory Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters 07.03.03, Rules for Modular Buildings, 07.03.11, Rules Governing Manufactured/Mobile Home Industry Licensing, and 07.03.12, Rules Governing Manufactured Or Mobile Home Installations including amendments made at the pending stage of these rulemakings that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rules makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-924](#) and [966-985](#).

The Division and Public Works Contractors License Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapter 07.05.01, Rules of the Public Contractors License Board, including amendments made at the pending stage of this rulemaking that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rulemaking that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-924](#) and [989-1008](#).

The Division and Heating, Ventilation, and Air Conditioning Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters 07.07.01, Rules Governing the Installation of Heating, Ventilation, and Air Conditioning Systems including amendments made at the pending stage of this rulemakings that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rules makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-924](#) and [1009-1020](#).

The Division and Damage Prevention Board will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapters 07.10.01, Rules of the Damage Prevention Board including amendments made at the pending stage of this rulemakings that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rules makings that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-924](#) and [1021-1025](#).

The Division will conduct a hearing and provide the public with an opportunity to testify about any of the amendments made to chapter 07.04.02, Safety Rules for Elevators, Escalators, and Moving Walks including amendments made at the pending stage of this rulemaking that were consistent with [Executive Orders 2019-01](#) and [2019-02](#) related to the Licensing Freedom Act and the Red Tape Reduction Act. This may include amendments to the rulemaking that were made to eliminate unnecessary, outdated, duplicative rule provisions, or to simplify or reformat them. The summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 923-924](#) and [986-988](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Patrick Grace, Regional Manager, Division of Building Safety at (208) 332-7120.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before October 1, 2019.

Dated this 30th day of July, 2019.

Ron Whitney, Deputy Administrator
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbb.idaho.gov

Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.01.01 – RULES OF THE IDAHO ELECTRIC BOARD

DOCKET NO. 07-0101-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1006, Idaho Code.

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

PUBLIC MEETING	
Wednesday, October 1, 2019 - 9:00 a.m. (MDT)	
Idaho Division of Building Safety 1090 E Watertower St., Suite 150 Meridian, ID 83642	
Via VIDEO TELECONFERENCE (same date and time as above) At the following Division of Building Safety locations:	
Coeur d’Alene Regional Office 1250 Ironwood Drive, Suite 220 Coeur d’Alene, ID 83814	Pocatello Regional Office 2055 Garrett Way, Bldg. 1, Suite 4 Pocatello, ID 83201

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

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

This proposed rulemaking will consolidate ten (10) chapters of Idaho Electrical Board rules (07.01.01 through 07.01.11) into a single new chapter (07.01.01). Additionally, this proposed rulemaking will amend those chapters consistent with executive orders 2019-01 (the Licensing Freedom Act) and 2019-02 (the Red Tape Reduction Act). These amendments may eliminate unnecessary, outdated, duplicative rule provisions, or simplify or reformat rule provisions. With this proposed rulemaking, the Board and Division of Building Safety will vacate the proposed promulgation of IDAPA rule chapters 07.01.01 through 07.01.11 contained in rulemakings 07-0000-1900 and 07-0000-1900F published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 794-813](#), and [925-936](#). The Board and Division will notice the vacation of the proposed promulgation of these rule chapters in the Notice of Rulemaking - Adoption of Pending Rule for Dockets Nos. 07-0000-1900 and 07-0000-1900F.

This proposed rulemaking also incorporates proposed changes that were negotiated under Docket No. 07-0103-1901. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking for Docket No. 07-0103-1901 was published in the May 1, 2019, Idaho Administrative Bulletin, [Vol. 19-5, on pages 45 and 46](#). These proposed changes align the rules proposed in Subchapter C of this rulemaking with Senate Bill 1008 (2019) and Senate Bill 1138 (2019) by requiring apprentices to register and report work experience every year instead of every five years, allowing an apprentice to test for a journeyman electrician license by proving 16,000 hours of work experience, and providing a path to licensure for provisional journeyman license applications.

This proposed rulemaking also defines continuation training as required in Idaho Code Section 54-1007(2), removes a requirement that a journeyman test applicant show industrial, residential, and commercial work

experience, and removes requirements that a journeyman license applicant from a reciprocal state prove licensure in the reciprocal state for at least one year and that the applicant has not previously failed the Idaho journeyman examination.

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 substantive changes proposed in Subchapter C of this rulemaking were negotiated under Docket No. 07-0103-1901 and the Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, pages 45 through 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: The rulemaking incorporates by reference the previously approved and codified 2017 National Electrical Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Warren Wing, Electrical Program Manager, at (208) 334-3950 or at warren.wing@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 1, 2019.

Dated this 30th day of July, 2019.

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
ron.whitney@dbs.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0101-1901
(Only Those Sections With Amendments Are Shown.)**

**IDAPA 07 – DIVISION OF BUILDING SAFETY
07.01.01 – RULES OF THE IDAHO ELECTRICAL BOARD**

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho Electrical Board and the Division of Building Safety under Title 54, Chapter 10, Idaho Code. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 07.01.01, “Rules of the Idaho Electrical Board.” These rules include criteria for the use of electrical permits for electrical installations, inspections, the criteria and fees for licenses, continuing education, adoption of the National Electrical Code, and civil penalties. ()

002. INCORPORATION BY REFERENCE.

The National Electrical Code, 2017 Edition, is incorporated by reference into these rules as further specified in Section 250. ()

003. DEFINITIONS.

01. Associated Buildings. All buildings, structures, and fixtures used for domestic purposes and in connection with the primary or secondary residence, such as garages, sheds, barns, or shops. ()

02. Board. Idaho Electrical Board. ()

03. Division. Idaho Division of Building Safety. ()

04. Person. Includes an individual, company, firm, partnership, corporation, association or other organization. ()

05. Recognized License. A license from another jurisdiction that is recognized by the Board as requiring qualifications at least equal to the qualifications for a license contained in Title 54, Chapter 10, Idaho Code, and these rules. ()

06. Registration Card. The registration certificate referred to in Title 54, Chapter 10, Idaho Code. ()

004. – 010. (RESERVED)

**Subchapter A – Electrical Permits and Inspections
(Rules 011 through 049)**

011. ELECTRICAL PERMITS.

Electrical permits as authorized by Section 54-1005, Idaho Code are available for purchase online or at the Division by those legally authorized to make electrical installations. Each permit shall bear a serial number registered in the name of the permit holder to whom they are issued and are transferable only as provided in these rules. Electrical permits shall be used only for the electrical installations identified in the permit application and for which said permit holder shall assume full responsibility. ()

01. Completion of Electrical Installation. For each electrical installation made by a permit holder and coming under the provisions of Section 54-1001, Idaho Code, said permit holder or his authorized representative shall request an inspection from the Division. ()

02. Purchase of Electrical Permit. All electrical permits shall be purchased before work is commenced. Where the total cost of installation is unknown, the minimum permit fee as listed in the fee schedule of these rules applies. In all cases, payment of the total permit fee shall be made prior to completion of the installation and a final inspection. ()

a. The Division may refuse to extend credit to any person with outstanding fines, violations or unpaid permit fees recorded with the Division. Permit holders will not be allowed to purchase further electrical permits unless and until all outstanding fees due have been paid in full. ()

b. No electrical inspections will be provided prior to the purchase of an electrical permit. ()

03. Power Supply Company. Pursuant to Section 54-1005, Idaho Code, a power supply company may connect and energize an electrical installation made by an electrical contractor without delay and before the installation has passed inspection if the contractor submits to the power supply company a copy of an electrical permit purchased by the contractor and the power supply company deems the connection and energization necessary to preserve life or property. The contractor shall request that the Division conduct an inspection on the next business day. ()

012. ELECTRICAL PERMITTING AND INSPECTION REQUIREMENTS FOR PERSONS EXEMPT FROM LICENSING.

Persons exempt from licensing pursuant to Section 54-1016, Idaho Code, shall secure all electrical permits required by Section 54-1005, Idaho Code, before making any electrical installation. No electrical wiring or equipment may be concealed in any manner from access or sight until the work has been inspected and approved for cover by the electrical inspector. A final inspection shall be made upon the completion of all electrical work. The procedure for obtaining electrical permits follows: ()

01. Electrical Permit. Any exempt person shall obtain an electrical permit from the Division with the proper permit fee as provided for in rule. ()

02. Notice to Power Supplier. The Division shall provide notice to the power supplier to connect installations requiring energization once an installation has passed inspection. ()

013. ELECTRICAL PERMIT AND INSPECTION REQUIREMENTS FOR FACILITY ACCOUNTS.

An electrical facility employer account licensee, as defined by Section 54-1003A, Idaho Code, who uses licensed or registered employees to make electrical installations coming under the provisions of Section 54-1001, Idaho Code, on the licensee's own premises, shall obtain a facility account license and purchase electrical permits from the Division with the proper permit fee as provided in these rules. Employees performing electrical installations under a facility account shall be licensed electrical journeymen or master electricians or registered electrical apprentices under the constant on-the-job supervision of a licensed journeyman or master electrician as provided in Title 54, Chapter 10, Idaho Code. One (1) properly licensed journeyman or master electrician shall be designated the supervising electrician for the facility account with the Division. Individuals employed as maintenance electricians may only perform maintenance electrical installations in accordance with Section 54-1016, Idaho Code. ()

014. TEMPORARY INSTALLATIONS CONNECTED PRIOR TO INSPECTION.

Only a licensed electrical contractor may have a power supply company connect and energize a temporary service for construction prior to an inspection being performed. Any contractor energizing a temporary service prior to inspection shall assume full responsibility for the installation of the temporary service. A power supply company may only connect and energize a temporary service upon receipt of a copy of an electrical permit purchased from the Division. ()

015. -- 049. (RESERVED)

Subchapter B – Fees for Electrical Permits and Inspections

(Rules 050 through 099)

050. FEES FOR ELECTRICAL PERMITS AND INSPECTIONS.

Electrical permit fees are to cover the cost of electrical inspections as provided by Section 54-1005, Idaho Code; any person making an electrical installation coming under the provisions of Section 54-1001, Idaho Code, shall pay to the Division a permit fee as provided in the following schedule. The type of electrical permit a person may purchase is limited to the scope of work for which the person is licensed. ()

01. Temporary Construction Service (Temporary Power) Permit. To be installed for construction purposes only, for a period not to exceed one (1) year: ()

a. Two hundred (200) amp or less, one (1) location: sixty-five dollars (\$65). ()

b. All others to be calculated using Subsection 050.06, Other Installation (Including Industrial and Commercial) Permit, of these rules. ()

02. New Residential. Includes associated buildings with wiring being constructed on each property.

New – One-Family Dwellings		
Up to 1,500 square feet of living space	-	\$130
1,501 to 2,500 square feet of living space	-	\$195
2,501 to 3,500 square feet of living space	-	\$260
3,501 to 4,500 square feet of living space	-	\$325
Over 4,500 square feet of living space	-	\$325 plus \$65 for each additional 1,000 square feet or portion thereof
New – Two- and Multi-Family Dwellings		
Two-family dwellings	-	\$260
Multi-family dwellings		\$130 per building plus \$65 per unit

a. Existing dwelling unit permit: sixty-five dollars (\$65) plus ten dollars (\$10) for each additional branch circuit up to the maximum of the corresponding square footage of the dwelling unit. ()

b. Residential Dwelling unit spa, hot tub, hydro massage tub, and swimming pool permit: sixty-five dollars (\$65) for each trip to inspect. (For all other installations of spas, hot tubs, hydro massage tubs, and swimming pools, use Subsection 050.06, Other Installation (including Industrial and Commercial) Permit, of these rules.)()

03. Residential Electric Space Heating and Air Conditioning. When not part of a new residential construction permit, or heat/ventilating/air conditioning permit with no additional wiring: sixty-five dollars (\$65). ()

04. Domestic Water Pump Permit. See Subsection 050.06 - Pump (Water, Domestic Water, Irrigation, Sewage) -- Each Motor Permit, of these rules. ()

05. Mobile/Manufactured Home Permit. Sixty-five dollars (\$65) basic fee plus ten dollars (\$10) for each additional circuit. Mobile home and RV parks for distribution wiring including pedestal, service conductors and lot supply to individual units come under Subsection 050.06, Other Installation (Including Industrial and Commercial) Permit, of these rules. ()

06. Other Installation (Including Industrial and Commercial) Permit. The permit fees listed in this section apply to any and all electrical installations not specifically mentioned elsewhere in this schedule. The

electrical cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all electrical wiring and equipment installed as part of the electrical system, factory assembled industrial machinery to be operated by electrical energy shall not be included in calculating these fees. ()

a. Wiring cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of total wiring cost. ()

b. Wiring cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of wiring cost in excess of ten thousand dollars (\$10,000). ()

c. Wiring cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one-half of one percent (.5%) of the portion of wiring costs exceeding one hundred thousand dollars (\$100,000). ()

d. All fees calculated under this schedule must be calculated on the total wiring cost of the job, and this figure must be shown on the permit. The permit fees listed in this Subsection apply to any and all electrical installations not specifically mentioned elsewhere in this schedule. The wiring cost shall be the cost to the owner of all labor charges and all wiring materials and equipment installed as part of the wiring system. When labor is performed by the owner, such labor cost shall be based upon the market value of said labor and used or reused materials shall be based at fifty percent (50%) of the column 3 pricing as published by Trade Service Publication or National Price Service Pricing or the actual cost, whichever is greater. For all owner-supplied, factory assembled electrical infrastructural equipment to be installed, the inspection will be based on one-half of one percent (.5%) of total cost of the equipment OR an hourly rate of one hundred thirty dollars (\$130) for the first hour of each inspection and sixty-five dollars (\$65) for each subsequent hour. Factory assembled machinery to be operated by electrical energy shall not be included when calculating these fees. ()

e. Small work not exceeding two hundred dollars (\$200) in cost and not involving a change in service connections: ten dollars (\$10). ()

07. Pump (Water, Domestic Water, Irrigation, Sewage) -- Each Motor Permit.

To 25 HP	-	\$65
26 to 200 HP	-	\$95
Over 200 HP	-	\$130
For phase inverters and roto phase equipment, use Subsection 050.06, in addition to the pump motor fee.		

()

08. Electrically-Driven Irrigation Machine Permit. Center Pivot: sixty-five dollars (\$65) plus ten dollars (\$10) per tower or drive motor. Other types: sixty-five dollars (\$65) plus ten dollars (\$10) per motor. (Note: No additional fee required for underground feeder). ()

09. Electric Sign and Outline Lighting Permit. Electric signs: sixty-five dollars (\$65) per sign; Outline lighting: sixty-five dollars (\$65) per each occupancy. ()

10. Requested Inspection Permit. A base fee of sixty-five dollars (\$65) plus an additional sixty-five dollars (\$65) for each hour, or portion thereof, in excess of one (1) hour including travel time. Out-of-state travel expenses shall be paid by the requesting party. ()

11. Additional Fees and Reinspection Fees. A base fee of sixty-five dollars (\$65) plus an additional sixty-five dollars (\$65) for each additional hour, or portion thereof, in excess of one (1) hour including travel time, shall also be paid before approval of the installation if the following services are necessary: ()

a. Trips to inspect when the permit holder had given notice to the inspector that the work is ready for inspection when it was not. ()

b. Trips to inspect when the permit holder has not clearly or correctly given the location of the installation either by directions, maps, coordinates, or correct address and posting a copy of the permit at the service or other conspicuous location on the property or the inspector cannot gain access to make the inspection. ()

c. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. ()

d. Each trip necessary to remove a red tag from the jobsite. ()

e. Trips to conduct a reinspection because corrections have not been made in the prescribed time, unless an extension has been requested and granted. ()

12. No Permit. Failure to purchase an electrical permit before work is commenced, may result in the imposition of a double permit fee. ()

13. Plan Check Fee. Sixty-five dollars (\$65) minimum for one (1) hour or less. Over one (1) hour: sixty-five dollars (\$65) plus sixty-five dollars (\$65) for each hour, or portion thereof, in excess of one (1) hour. ()

14. Fees for Temporary Amusement/Industry Electrical Inspections. Each time a ride, concession, or generator is set up: sixty-five dollars (\$65) base fee plus ten dollars (\$10) for each ride, concession, or generator. ()

15. Expiration of Permits. Every permit issued by the Electrical Bureau shall expire by limitation and become null and void if the work authorized by such permit is not commenced within ninety (90) days from the date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred eighty (180) days. A permit may be renewed for an additional year upon receipt of Bureau approval and sixty-five dollars (\$65) renewal fee. ()

16. Transferring a Permit. An electrical permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself and assignment of all the responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the electrical work is to be performed and for which the permit was issued, or such owner's designated legal agent, in cases where such owner has terminated his legal relationship with the electrical contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of the permit shall be assessed by the Division. ()

17. Refunds of Permits. The administrator of the Division may authorize a refund for any permit fee paid on the following bases: ()

a. The administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installations or electrical work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division; and ()

b. The administrator cannot authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner's representative not less than one hundred eighty (180) days after the date the permit was issued. ()

051. -- 099. (RESERVED)

**Subchapter C –Electrical Licensing and Registration
(Rules 100 through 149)**

100. LICENSURE HISTORY.

An applicant for any electrical registration or license who has previously obtained a Recognized License as a journeyman or master electrician shall upon application to the Division disclose such license and provide sufficient proof thereof. An applicant for any electrical registration, license, or certificate of competency who has previously obtained a Recognized License as a journeyman or master electrician shall not be issued an electrical apprentice registration. ()

101. LICENSE AND REGISTRATION APPLICATION.

Application forms will be available at the Division's offices and electronically on the Division's website. ()

01. Application Form. Each applicant shall properly complete and submit to the Division the applicable form, giving all pertinent information and obtaining notarization of all signatures. ()

02. Application Fee. Each applicant shall pay to the Division the applicable fee provided in Section 54-1014, Idaho Code, with the application form. For registrations, the application fee set forth in Section 54-1014, Idaho Code, may satisfy the initial registration fee or any portion thereof. ()

03. Examination and Licensure Approval. The Division must approve each application before examination and licensure. ()

04. Examination. An applicant who does not take the applicable examination within ninety (90) days of the date of approval must reapply. ()

05. License. Upon application approval and successful completion of the applicable examination, each license applicant must purchase a license. A license applicant who does not purchase a license within ninety (90) days of successful completion of the applicable examination must reapply, obtain application approval again, and re-examine. ()

06. License or Registration Period. The license or registration period set forth in Section 54-1008, Idaho Code, for each license or registration shall begin upon satisfaction of the applicable fee provided in Section 54-1013, Idaho Code. Each license or registration period shall expire at midnight on the last day of the final month of the license or registration period. Notwithstanding the foregoing, the license or registration period for each expired license or registration revived in accordance with Section 54-1013, Idaho Code, shall begin on the day the license or registration previously expired. ()

102. APPRENTICE ELECTRICIAN REGISTRATION.

01. Registration Requirements. To become an apprentice electrician, a person shall comply with Section 54-1010(3), Idaho Code. Each apprentice electrician shall carry a current Registration Card while performing electrical work and present the Registration Card upon request by the Division for examination. ()

02. Renewal Requirements. To renew an apprentice registration, an apprentice electrician shall submit to the Division sufficient evidence demonstrating the apprentice electrician has successfully completed one (1) of the following during the prior registration period: ()

a. One (1) year of a Board-approved sequence of instruction and one (1) year, defined as a minimum of two thousand (2,000) hours of work experience, under the constant, on-the-job supervision and training of a journeyman electrician. Verification of work experience shall consist of a notarized letter from each employer with which the apprentice electrician obtained the experience. ()

b. Continuation training, defined as eight (8) hours of NFPA 70E training and sixteen (16) hours of code-update training, code-related training, or industry-related training. ()

103. JOURNEYMAN ELECTRICIAN EXAMINATION AND LICENSE.

01. Examination Requirements. To take the journeyman examination, an applicant shall submit to the Division sufficient evidence demonstrating the applicant has successfully completed one (1) of the following: ()

a. Four (4) years of a sequence of instruction approved by the Board and the Idaho Division of Career-Technical Education and three (3) years, defined as a minimum of six thousand (6,000) hours, of work experience under the constant on-the-job supervision and training of a journeyman electrician. ()

b. Eight (8) years, defined as a minimum of sixteen thousand (16,000) hours, of work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. Verification of work experience shall consist of a notarized letter from each employer with which the applicant obtained the experience. ()

02. License Requirements. ()

a. To obtain a provisional journeyman license, an applicant shall submit to the Division evidence demonstrating the applicant has successfully completed eight (8) years, defined as a minimum of sixteen thousand (16,000) hours, of work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. Verification of work experience shall consist of a notarized letter from each employer with which the applicant obtained the experience. ()

b. To obtain a journeyman license, an applicant shall submit to the Division sufficient evidence demonstrating the applicant has successfully completed the journeyman examination; and ()

i. Four (4) years, defined as a minimum of eight thousand (8,000) hours, of work experience under the constant on-the-job supervision and training of a journeyman electrician; or ()

ii. Eight (8) years, defined as a minimum of sixteen thousand (16,000) hours, of work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ()

c. To obtain a journeyman license, an applicant with a Recognized License shall comply with Section 54-1007(5), Idaho Code, and submit to the Division sufficient evidence demonstrating: ()

i. The applicant's Recognized License is current, active, and in good standing; and ()

ii. The applicant obtained the Recognized License by testing from the issuing jurisdiction. ()

03. Unacceptable Work Experience. The Division will not accept work experience in appliance repair, motor winding, or communications to meet the requirements to take the journeyman examination or obtain a provisional journeyman or journeyman license. ()

104. MASTER ELECTRICIAN.

An applicant for a master electrician license must have at least four (4) years' experience as a licensed journeyman electrician as provided in Section 54-1007, Idaho Code. Any person having these qualifications may make application at any time by remitting to the Division the application fee. Upon approval, the applicant will be notified and may apply to take the next examination. Upon notification of passing the examination, the applicant must remit the required fee for the issuance of a master license. A person holding a current master license shall not be required to hold a journeyman license. ()

105. ELECTRICAL CONTRACTOR.

01. Qualifications for Electrical Contractor. ()

a. On and after July 1, 2008, except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the following requirements: ()

i. Applicant shall have at least one (1) full-time employee who holds a valid master electrician license issued by the Division. Licensed electrical contractors who are current and active prior to July 1, 2008, shall not be required to have a master electrician as the supervising electrician until a new supervising electrician is designated. A

master electrician license will be required for a new supervising electrician designated after July 1, 2008. ()

ii. The master electrician shall be designated the supervising electrician and shall be available during working hours to carry out the duties of supervising, as set forth herein, and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. ()

iii. An individual electrical contractor may act as his own supervising master electrician upon the condition that he holds a valid master electrician license. ()

iv. Applicant must pass a contractor examination administered by the Division or its designee. Any applicant which purports to be a non-individual (such as, corporation, partnership, company, firm, or association), must designate in writing an individual to represent it for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. ()

v. Applicant shall provide proof of liability insurance to the Division in the amount of three hundred thousand dollars (\$300,000) from an insurance company licensed to do business in the state of Idaho. The liability insurance shall be in effect for the duration of the applicant's contractor licensing period. ()

vi. Applicant shall provide to the Division proof of Idaho's worker's compensation insurance unless specifically exempt from Idaho law. The Division will provide written confirmation of exemption status. ()

b. Any person designated under Paragraph 105.01.a. of these rules, and the contractor he represents, shall each notify the Division in writing if the supervising master's or the designee's working relationship with the contractor has been terminated within ten (10) days of the date of termination. If the supervising master's or the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising master is qualified by the Division, or unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor, as applicable. ()

02. Required Signatures on Application. An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application countersigned by the supervising master electrician. ()

03. Electrical Contracting Work Defined. An electrical contractor license issued by the Division must be obtained prior to acting or attempting to act as an electrical contractor in Idaho. ()

a. Electrical contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. ()

b. Any person or entity performing or offering to perform electrical contracting services, including, but not limited to, advertising or submitting a bid shall be considered as acting or attempting to act as an electrical contractor and shall be required to be licensed. Advertising includes, but is not limited to: newspaper, telephone directory, community flier ads or notices, telephone, television, radio, internet, business card, or door-to-door solicitations. ()

c. Any person or entity, not otherwise exempt, who performs or offers to perform electrical contracting work, is acting as an electrical contractor, whether or not any compensation is received. ()

d. Registered general contractors who submit a bid on a multi-trade construction project that includes a licensed electrical contractor's pricing shall not be considered to be acting or attempting to act as an electrical contractor. ()

04. Previous Revocation. Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. ()

05. Reviving an Expired License. Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violates any of the laws or rules applicable to electrical contractors. ()

06. Qualification and Duties for Supervising Journeyman or Master. ()

a. A master electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising master, nor shall said application be approved if he does countersign said application as the supervising master, if said master has had his Idaho electrical contractor license revoked for cause under Section 54-1009, Idaho Code. ()

b. A supervising master shall not countersign for more than one (1) contractor. ()

c. A journeyman who is a full-time employee of a company, corporation, firm or association with a facility account may sign as supervising journeyman for that facility account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Paragraphs 105.01.a. and 01.b. of these rules. ()

d. Duties include: assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Division. ()

07. Failure to Correct Defects in Electrical Installations. If a master countersigns an electrical contractor license application pursuant to Subsection 105.02 of these rules and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the Division shall have the power to suspend or revoke said master's license pursuant to Section 54-1009, Idaho Code. ()

08. Overcharging of Fees. It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Division, and the fee remitted by the contractor to the Division is less than the fee actually charged and collected by him. ()

09. Direct Supervision and Training. It shall be the responsibility of the employing electrical contractor to ensure that each apprentice electrician and provisional journeyman electrician perform electrical work only under the constant on-the-job supervision and training of a journeyman electrician. ()

a. Journeyman-to-Apprentice Ratio. One (1) journeyman electrician shall not supervise and train more than two (2) apprentice electricians. ()

b. Any electrical contractor violating the journeyman-to-apprentice ratio is presumed to be in violation of the direct supervision requirement of Section 54-1010(1), Idaho Code, and the constant on-the-job supervision requirement of Section 54-1003A(3), Idaho Code. The journeyman-to-apprentice ratio may be adjusted on a case-by-case basis by a showing by an electrical contractor of special circumstances that are peculiar to the work done by that electrical contractor and that allow for effective supervision and training by each journeyman electrician. An electrical contractor must obtain permission from the Division to adjust the journeyman-to-apprentice ratio. Failure to comply with this requirement will be grounds for suspension or revocation of the electrical contractor's license. ()

106. -- 149. (RESERVED)

**Subchapter D – Limited Electrical Licensing and Registration
(Rules 150 through 199)**

150. QUALIFIED JOURNEYMAN ELECTRICIANS.

Qualified journeyman electricians, as defined in Section 54-1003A(2), Idaho Code, shall be permitted to make all installations as subsequently described herein without securing an additional license for said installation. ()

151. MINIMUM EXPERIENCE REQUIREMENTS.

Experience gained by an individual while engaged in the practice of one (1) or more of the limited categories named below shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman electrician. ()

152. LIMITED EXPERIENCE REQUIREMENT.

01. Limited Electrical Installer. An applicant for a limited electrical installer license must have at least two (2) years of experience, or more as specified for the individual category, with the type of installation for which the license is being applied for, in compliance with the requirements of the state in which the experience was received, or as a limited electrical installer trainee making electrical installations in accordance with the requirements as stated herein. ()

02. Limited Electrical Installer Trainee. A limited electrical installer trainee shall be required to work not less than two (2) years, defined as a minimum of four thousand (4,000) hours of work experience, under the constant on-the-job supervision of a limited electrical installer of the same limited category to qualify for testing as a limited electrical installer. A person wishing to become a limited electrical installer trainee shall register with the Division for a period of three (3) years and pay the applicable fee prior to going to work. Said person shall carry a current registration certificate on his person at all times and present it upon request to personnel. A limited electrical installer trainee registration shall only be renewed by the Division upon receipt of sufficient evidence demonstrating that the trainee has worked at least one (1) year defined as a minimum of two thousand (2,000) hours of work experience under the constant on-the-job supervision of a limited electrical installer; provided however, that in no case shall a limited electrical installer trainee registration be renewed more than one (1) time by the Division without a recommendation from the Board to do so. A limited electrical installer trainee may only petition the Board for registration renewals subsequent to the first renewal. If application to the Division or petition to the Board is made pursuant to this Subsection, the Division and the Board, as applicable, shall consider whether extenuating circumstances exist which prevent the completion of the instruction or work experience requirements for renewal. Time shall not be credited while the trainee is inactive or not registered. ()

153. ELECTRICAL INSTALLATIONS REQUIRING A LIMITED ELECTRICAL INSTALLER LICENSE.

The following categories of electrical installations shall be considered limited electrical installations, the practice of which shall require a journeyman electrician, master electrician, or limited electrical installer license: ()

01. Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical. Any person qualifying for and having in his possession a current elevator electrical license may install, maintain, repair, and replace equipment, controls, and wiring beyond the disconnect switch in the machine room of the elevator and pertaining directly to the operation and control thereof when located in the elevator shaft and machine room. He shall be employed by a licensed elevator electrical contractor or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as a supervising limited electrical installer for work within this category. ()

02. Sign Electrical. Any person qualifying for and having in his possession a current sign electrical license may install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; providing the disconnecting means is located on the sign or within sight therefrom. He shall be employed by a licensed sign electrical contractor or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as supervising limited electrical installer for work within this category. ()

03. Manufacturing or Assembling Equipment. ()

a. A licensed limited electrical manufacturing or assembling equipment installer must be employed by a licensed limited electrical manufacturing or assembling equipment contractor or electrical contractor, and his

installation shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as a supervising limited electrical installer for work within this category. ()

b. Any person licensed pursuant to Paragraph 153.03.a. of these rules may install, maintain, repair, and replace equipment, controls, and accessory wiring, integral to the specific equipment, on the load side of the equipment disconnecting means. Electrical service and feeder are to be installed by others. The licensee may also install circuitry in modules or fabricated enclosures for the purpose of connecting the necessary components which individually bear a label from a nationally recognized testing laboratory when such equipment is designed and manufactured for a specific job installation. All wiring completed shall meet all requirements of Title 54, Chapter 10, Idaho Code, all rules promulgated pursuant thereto, and the most current edition of the National Electrical Code. ()

c. Subsection 153.03 of these rules does not apply to a limited electrical manufacturing or assembling equipment installer installing electrical wiring, equipment, and apparatus in modular buildings as that term is defined in Section 39-4105, Idaho Code. Only journeyman electricians and electrical apprentices, employed by an electrical contractor, may perform such installations. ()

04. Limited Energy Electrical. ()

a. Limited energy systems are defined as fire and security alarm systems, class 2 and class 3 signaling circuits, key card operators, nurse call systems, motor and electrical apparatus controls and other limited energy applications covered by the NEC. ()

b. Limited energy systems do not include, and no license of any type is required for, the installation of landscape sprinkler controls or communication circuits, wires and apparatus that include telephone systems, telegraph facilities, outside wiring for fire and security alarm systems which are used for communication purposes, and central station systems of a similar nature, PBX systems, audio-visual and sound systems, public address and intercom systems, data communication systems, radio and television systems, antenna systems and other similar systems. ()

c. Unless exempted by Section 54-1016, Idaho Code, any person who installs, maintains, replaces or repairs electrical wiring and equipment for limited energy systems in facilities other than one (1) or two (2) family dwellings shall be required to have a valid limited energy limited electrical license and must be employed by a licensed limited energy limited electrical contractor or electrical contractor. The holder of such limited license may only countersign a limited electrical contractor's application as a supervising limited electrical installer for work within this category. ()

05. Irrigation Sprinkler Electrical. Any person qualifying for and having in his possession, an irrigation system electrical license may install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. All such installations performed by individuals under this Subsection shall be done in accordance with the applicable provisions of the National Electrical Code. He shall be employed by a licensed limited electrical contractor whose license is contingent upon the granting of a limited electrical license to an employee, and his installations shall be limited to this category. The holder of such limited license may not countersign a limited electrical contractor's license application as supervising limited electrical installer except for work within this category. ()

06. Well Driller and Water Pump Installer. All installations performed by individuals under this Subsection shall be done in accordance with the applicable provisions of the approved National Electrical Code. A license holder in this category shall be employed by a licensed well driller and water pump installer limited electrical contractor or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as supervising limited electrical installer for work within this category. Any person currently licensed in this category may perform the following types of installations: ()

a. Single or three (3) phase water pumps: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

b. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt, single phase, sixty (60) amps or less: Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. ()

c. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. ()

d. Individual residential wastewater pumping units. Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device for systems that serve one-family, two-family, or three-family residential installations. ()

07. Refrigeration, Heating, and Air-Conditioning Electrical Installer. All installation, maintenance, and repair performed by individuals under this Subsection shall be done in accordance with applicable provisions of the National Electrical Code. A license holder in this category shall be employed by a licensed limited electrical contractor whose license shall be covered by this category or electrical contractor, and his installations shall be limited to this category. The holder of such limited license may only countersign a limited electrical contractor's license application as a supervising limited electrical installer for work in this category. Any person currently licensed in this category may perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: ()

a. Heating Units (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

b. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

c. Refrigeration, Air-Conditioning and Heating Systems (three (3) phase): install, maintain, and repair all electrical equipment and accessories up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

08. Outside Wireman. All installation, maintenance, and repair not exempt under the provisions of Section 54-1016, Idaho Code, performed by individuals under this Subsection shall be done in accordance with the applicable provisions of the National Electrical Code. A license holder in this category shall be employed by a licensed limited electrical contractor whose license shall be covered by this category or electrical contractor, and his installations shall be limited to this category. The holder of such limited electrical license may only countersign a limited electrical contractor's license application as a supervising limited electrical installer for work in this category. Applicants for this license category shall provide documentation of having completed an electrical lineman apprenticeship program or similar program approved by the U.S. Department of Labor, Office of Apprenticeship. Any person currently licensed in this category may perform the following types of installations: ()

a. Overhead distribution and transmission lines in excess of six hundred (600) volts. ()

b. Underground distribution and transmission lines in excess of six hundred (600) volts. ()

c. Substation and switchyard construction in excess of six hundred (600) volts. ()

09. Solar Photovoltaic. All installation, maintenance, and repair not exempt under the provisions of Section 54-1016, Idaho Code, performed by individuals under this Subsection shall be done in accordance with the applicable provisions of the National Electrical Code. A license holder in this category shall be employed by a licensed limited electrical contractor whose license shall be covered by this category or electrical contractor, and his

installations shall be limited to this category. The holder of such limited electrical license may only countersign a limited electrical contractor's application as a supervising limited electrical installer for work in this category. Applicants for this license category shall provide proof of photovoltaic installer certification by the North American Board of Certified Energy Practitioners (NABCEP) or equivalent. Any person licensed in this category may perform the following types of installations: ()

a. Solar Photovoltaic DC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the inverter. ()

b. Solar Photovoltaic micro-inverter/AC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the AC combiner box. ()

154. APPLICATIONS FOR LIMITED ELECTRICAL INSTALLER LICENSE.

An application for a limited electrical installer license may be obtained from the Division. The forms shall be returned with the application fee, as provided by Section 54-1014, Idaho Code, with proof of the required two (2) years of experience in the field of limited electrical category and notarized signature. Upon receiving a passing grade, the applicant may remit the license fee for issuance of the license. ()

155. LICENSURE PERIOD AND FEES.

All original limited electrical licenses and registrations shall be issued by the Division immediately upon receipt of the licensure fee and other necessary documentation from the applicant which date will be designated as the original license anniversary date and signify the commencement of the licensing period. All specialty license and registration renewals shall be effective in the year renewed as of the original license anniversary date. All license and registration periods end at midnight on the last day of the final month of the licensing or registration period. Limited electrical licenses and registrations not renewed by this date are expired. Any expired license revived within the twelve-month period following the expiration date will continue to have the original license anniversary date for the purposes of subsequent renewal. The license fee and renewal fee for each type of limited electrical license is provided for by Section 54-1014, Idaho Code, for other journeyman licenses. ()

156. LIMITED ELECTRICAL CONTRACTOR LICENSE.

01. Qualifications for Limited Electrical Contractor. Except as herein provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for a limited electrical contractor license upon the condition that such applicant will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. The supervising limited electrical installer shall be available during working hours to carry out the duties of supervising limited electrical installer, as set forth herein. In addition, the applicant shall meet or have at least one (1) full-time employee who meets one (1) of the following criteria: ()

a. Holds a valid limited electrical installer license issued by the Division, in the same category as the limited electrical contractor, and has held a valid limited electrical installer license for a period of not less than two (2) years, during which time he was employed as a limited electrical installer for a minimum of four thousand (4,000) hours; ()

b. Holds a valid limited electrical installer license issued by the Division, in the same category as the limited electrical contractor, and has at least four (4) years of experience in the limited electrical category with a minimum of two (2) years practical experience in planning, laying out, and supervising electrical installations in the category. ()

02. Modification to Qualifications. Applicants for limited electrical contractor licenses, or individuals countersigning such applications, shall be subject to the same requirements, restrictions, and fees applicable to other electrical contractors and countersigning master, as set forth in the current electrical statutes and rules with the exception that an electrical contractor requires a master electrician to countersign as a supervising master whereas a supervising limited electrical installer for a limited electrical contractor must meet the requirements of Subsection 156.01 of these rules. ()

157. -- 199. (RESERVED)

**Subchapter E –Examinations
(Rules 200 through 249)**

200. EXAMINATIONS.

01. Frequency of Conducting of Examinations. Board-approved examinations for all classifications under the Electrical Laws and Rules will be offered a minimum of four (4) times each year at the Division’s three (3) office locations. The applicant will be notified in writing of the date, time, and location at which the examination will be given, following approval of the application. ()

02. Professional Testing Services. In lieu of the administration by the Board of the examination for licenses pursuant to this rule, the Board may contract with a professional testing service to administer the examination and require license applicants to pay to the testing service the fee that they have set for the examination, take such examination at the time set by such service, and provide the Division acceptable verification of the test score. If the examination is conducted in this fashion, the Board may charge and retain the application fee provided for by Section 54-1014, Idaho Code, to cover the cost of reviewing the applicant's application. ()

03. Required Scores. The following scores are considered minimum for passing and are required to be achieved by the applicant prior to issuance of the appropriate license or certification.

Required Scores
Journeyman Electrician - 70%
Limited Electrical Installer - 70%
Electrical Contractor - 75%
Limited Electrical Contractor - 70%
Electrical Inspector - 75%
Master Electrician - 75%

()

04. Failed Examinations. ()

a. An applicant receiving less than a passing score on a first or second examination attempt may be reexamined. ()

b. Before being reexamined after failing an examination the third time, an applicant must: ()

i. Wait until the expiration of one (1) year from the date of the failed third examination; or ()

ii. Provide proof, satisfactory to the Board, of completion of a minimum of twenty-four (24) hours of Board-approved, related electrical training or continuing education since the date of the failed third examination. ()

c. Before being reexamined after any further failures, an applicant for reexamination must: ()

i. Wait until the expiration of an additional one (1) year from the date of the failed examination; or ()

ii. Provide proof, satisfactory to the Electrical Board, of completion of thirty-two (32) hours of Board-approved, related electrical training or continuing education since the date of the failed examination. ()

201. -- 249. (RESERVED)

**Subchapter F – Use of the National Electrical Code
(Rules 200 through 299)**

250. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2017 Edition, (herein NEC) is hereby adopted and incorporated by reference for the state of Idaho and are in full force and effect on and after July 1, 2017, with the following amendments: ()

a. Article 110.3(A) and 110.3(B) shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ()

b. Article 210.8(A)(7) Sinks. Delete article 210.8(A)(7) and replace with the following: Sinks - located in areas other than kitchens where receptacles are installed within one and eight tenths (1.8) meters (six (6) feet) of the outside edge of the sink. ()

c. Article 210.8(A)(10). Delete article 210.8(A)(10). ()

d. Article 210.8(D). Delete article 210.8(D). ()

e. Article 210.52(E)(3). Delete article 210.52(E)(3) and replace with the following: Balconies, Decks, and Porches. Balconies, decks, and porches having an overall area of twenty (20) square feet or more that are accessible from inside the dwelling unit shall have at least one (1) receptacle outlet installed within the perimeter of the balcony, deck, or porch. The receptacle shall not be located more than two (2.0) meters (six and one half (6½) feet) above the balcony, deck, or porch surface. ()

f. Add a new Article 225.30(F) – One (1)- or Two (2)-Family Dwelling Unit(s). For a one (1)- or two (2)-family dwelling unit(s) with multiple feeders with conductors one aught (1/0) or larger, it shall be permissible to install not more than six (6) disconnects grouped at one (1) location where the feeders enter the building, provided that the feeder conductors originate at the same switchboard, panelboard, or overcurrent protective device location. ()

g. Where the height of a crawl space does not exceed one and four tenths (1.4) meters or four and one half (4.5) feet it shall be permissible to secure NM cables, that run at angles with joist, to the bottom edge of joist. NM cables that run within two and one tenth (2.1) meters or seven (7) feet of crawl space access shall comply with Article 320.23. ()

h. Article 334.10(3). Delete Article 334.10(3) and replace with the following: Other structures permitted to be of Types III, IV, and V construction. Cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a fifteen (15)-minute finish rating as identified in listings of fire-rated assemblies. For the purpose of this section, cables located in attics and underfloor areas that are not designed to be occupied shall be considered concealed. ()

i. Article 675.8(B). Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. ()

j. Article 682.10 shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ()

k. Article 682.11. Add the following exception to Article 682.11: This article shall not apply to service equipment that is located on or at the dwelling unit and which is not susceptible to flooding. ()

- I.** Article 682.13. Add the following exceptions to Article 682.13: ()
- i.** Exception No 1. Wiring methods such as HDPE schedule eighty (80) electrical conduit or its equivalent or greater, and clearly marked at a minimum “Caution Electrical” to indicate that it contains electrical conductors shall be approved. It shall be buried whenever practical, and in accordance with the requirements of the authority having jurisdiction. The use of gray HDPE water pipe rated at two hundred (200) PSI (e.g. SIDR-7 or DR-9) is suitable for use as a chase only when the following conditions are met: ()
- (1) When internal conductors are jacketed submersible pump cable. ()
- (2) When used in continuous lengths, directly buried, or secured on a shoreline above and below the water line. ()
- (3) When submersible pump wiring terminations in the body of water according to 682.13 Exception No. 2 are met. ()
- ii.** Exception No 2. Any listed and approved splices required to be made at the submersible well pump itself, outside of a recognized submersed pump sleeve or housing, when wires are too large to be housed inside such sleeve, shall be covered with a non-metallic, impact resistant material, no less than one quarter (.25) inches thick, such as heavy duty heat shrink or other equivalent method approved by the authority having jurisdiction. (Eg. install a heat shrink over the sleeve or housing that the submersible well pump is installed in, and then recover (apply heat) the heat shrink over both the HDPE and the water line). At least six (6) inches shall be over the sleeve and at least twelve (12) inches over the HDPE and water line. ()
- iii.** Exception No. 3. Pipe, conduit, PVC well casing, or other electrically unlisted tubing may be used as a chase, but not as a raceway, to protect conductors or cables from physical damage. Conductors or cables within a chase shall be rated for the location. ()
- m.** Article 682.14. Add the following additional exception to Article 682.14: For installations of submersible well pumps installed in public swimming and marine areas, submersible well pumps shall be considered directly connected and shall be anchored in place. Ballast is an acceptable form of anchoring. ()
- n.** Article 682.14(A). Add the following exception to Article 682.14(A): For installations of submersible well pumps installed in public swimming and marine areas, motor controller circuits such as remotely located stop pushbutton/s, disconnect/s, relay/s or switches shall be permitted as a required disconnecting means. Such circuits shall be identified at a minimum as “Emergency Pump Stop”, or “Emergency Stop” with other obvious indications on the visible side of the enclosure, that it controls a submersible pump in the body of water. ()
- o.** Article 682.15. Add the following exceptions to Article 682.15: ()
- i.** Exception No. 1. Submersible pumps, and their motor leads, located in bodies of water, and that are rated sixty (60) amperes maximum, two hundred fifty (250) volts maximum of any phase, shall have GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, protected by means selected by a licensed installer, meeting listing or labeling requirements, and inspected by the AHJ prior to submersion in bodies of water. ()
- ii.** Exception No. 2. Installations or repair and replacement of submersible pumps located in bodies of water, that are rated over sixty (60) amperes, and rated at any voltage, shall be evaluated by a qualified designer or experienced licensed contractor, or involve engineering or be engineered, for each specific application, with the goal of public safety. Whenever possible, GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, meeting listing or labeling requirements, shall be installed, and inspected by the AHJ prior to submersion in bodies of water. ()
- p.** Article 550.32(B). Compliance with Article 550.32(B) shall limit installation of a service on a manufactured home to those homes manufactured after January 1, 1992. ()

q. Poles used as lighting standards that are forty (40) feet or less in nominal height and that support no more than four (4) luminaires operating at a nominal voltage of three hundred (300) volts or less, shall not be considered to constitute a structure as that term is defined by the National Electrical Code (NEC). The disconnecting means shall not be mounted to the pole. The disconnecting means may be permitted elsewhere in accordance with NEC, Article 225.32, exception 3. SEC special purpose fuseable connectors (model SEC 1791-DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to Article 230-Services. Overcurrent protection shall be provided by a (fast-acting – minimum - 100K RMS Amps 600 VAC) rated fuse. Wiring within the pole for the luminaires shall be protected by supplementary overcurrent device (time-delay – minimum - 10K RMS Amps 600 VAC) in break-a-away fuse holder accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, shall be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire-supporting poles shall be appropriately grounded and bonded per the NEC. ()

r. Compliance with Article 210.12 Arc-Fault Circuit-Interrupter Protection. Article 210.12 shall apply in full. Exception: In dwelling units Arc-Fault Circuit-Interrupter Protection shall only apply to all branch circuits and outlets supplying bedrooms. All other locations in dwelling units are exempt from the requirements of Article 210.12. ()

02. Availability. A copy of the National Electrical Code is available at the offices of the Division. ()

251. --299. (RESERVED)

**Subchapter G – Continuing Education Requirements
(Rules 300 through 349)**

300. CONTINUING EDUCATION REQUIREMENTS.

Journeyman and master electricians must complete at least twenty-four (24) hours of continuing education instruction in every three (3) year period between renewals of such licenses. The twenty-four (24) hours of instruction shall consist of eight (8) hours of code update covering changes included in the latest edition of the National Electrical Code. The remaining sixteen (16) hours may consist of any combination of code-update training, code-related training, or industry-related training. Proof of completion of these continuing education requirements must be submitted to the Division prior to or with the application for license renewal by any such licensee in order to renew a journeyman or master electrician license for the code change year. ()

301. COURSE APPROVAL REQUIREMENTS.

Continuing education courses for electricians must cover technical aspects of the electrical trade. Courses will be approved as either code update, code related or industry related based on the criteria as defined in this section. ()

01. General Course Requirements. ()

a. Courses must be at least four (4) hours in length. ()

b. Courses must be taught by an instructor approved by the Division. ()

c. The presentation should be delivered orally with the assistance of power point or other means of visual media. Pre-taped video or audio shall be held to a minimum. ()

d. A course evaluation card shall be provided to all participants to evaluate course and presentation. The completed evaluation cards must be submitted to the Division. ()

e. All programs are subject to audit by representatives of the Division or Board for content and quality without notice and at no charge. Course and instructor approval are subject to revocation if the minimum requirements of course content or instructor qualifications are not met. ()

02. Code-Update Programs. Code-update programs must cover changes to the National Electrical Code utilizing pre-approved materials such as the NFPA-IAEI Analysis of Changes. ()

03. Code-Related Programs. Code-related programs must cover portions of NFPA 70 other than changes to the National Electrical Code. ()

04. Industry-Related Programs. Industry-related programs shall be technical in nature and directly related to the electrical industry. Electrical theory, application of the National Electrical Code, grounding, photovoltaic systems, programmable controllers, and residential wiring methods are examples of industry-related programs. ()

05. Program Approval Procedures. ()

a. Program approvals are effective for one (1) code cycle. Subsequent applications for the same program may incorporate by reference all or part of the original application. An application for course approval must be on a form obtained from the Division and include all requirements specified on the form. ()

b. Certificates of Completion. Certificates of completion must contain the following: the date of the program the title of the program; the location of the program the name of the sponsor; the number of hours of credit completed; the name of the attendee; the license number of the attendee; the name of the instructor; and the Idaho course approval number. ()

c. Evaluation Cards. Evaluation cards or forms must be pre-addressed to the Division and must include the following: the date; title; and location of the program; the instructors name; and an evaluation of the course and of the instructor's presentation skills. ()

06. Appeals. Appeals for courses that have been denied approval shall be submitted in writing to the Board within thirty (30) days for review. ()

07. Instructor Approval Procedures. ()

a. Instructor approvals shall be effective for one (1) code cycle. ()

b. An application for instructor approval may be obtained from the Division. Documentation of the instructor qualifications must be included with the instructor application. The minimum qualification for an instructor shall be established by providing proof of one (1) of the following: ()

i. Current and active master or journeyman electrician license; ()

ii. An appropriate degree related to the electrical field; or ()

iii. Other recognized experience or certification in the subject matter to be presented. ()

c. Any person denied instructor approval may appeal to the Board within thirty (30) days. ()

08. Revocation of Approval. ()

a. The Board may revoke, suspend, or cancel the approval of any continuing education program or instructor if the Board determines that the program or instruction does not meet the intent of furthering the education of electricians. Grounds for revocation of approval include, but are not limited to: ()

i. Failure of the instructor to substantially follow the approved course materials; ()

ii. Failure to deliver instruction for the full amount of time approved for the course; or ()

iii. Substantial dissatisfaction with the instructor's presentation or the content of the course or materials by the class attendees or representatives of the Division or Board. ()

09. Board and Negotiated Rulemaking Meetings. Licensees may receive up to eight (8) hours of industry-related continuing education credits by attending eight (8) hours of board meetings or electrical-board negotiated rulemaking meetings. ()

10. Schedule of Approved Classes. The Division shall publish a list of approved classes at a minimum of once a year. This list shall be forwarded to all states that are members of the continuing education reciprocal agreement and shall be made available to any licensee through the Division. ()

302. -- 349. (RESERVED)

**Subchapter H – Electrical Inspection Appeals
(Rules 350 through 399)**

350. APPEALS.

In order to determine the suitability of materials and methods of wiring and to provide for interpretations of the provisions of the National Electrical Code NFPA 70, the creation of an electrical appeals board is hereby authorized by the administrator of the Division, to be composed of three (3) members of the Board, or an electrical supervisor and two (2) members of the Board, as determined and selected by the administrator upon receipt of a written notice of appeal as set forth below. ()

01. Notice of Appeal. A person, firm, or corporation making an electrical installation subject to the provisions of Title 54, Chapter 10, Idaho Code, may appeal, to the administrator, a decision by the Electrical Program Manager or other electrical inspector, that a particular electrical installation is not in conformance with Idaho Code, these rules, or the National Electrical Code as adopted by Idaho law. An appeal must be lodged by filing a written notice of appeal with the administrator within ten (10) days of the date of issuance of a notice of correction issued pursuant to Section 54-1004, Idaho Code. The notice of appeal shall state in particular the reasons why the appellant contends that the notice of defects is incorrect. ()

02. Filing Date. If mailed, the notice of appeal shall be considered filed as of the date of postmark. ()

03. Appeals Board. The members of the Board and other persons appointed by the administrator to act as the appeals board, are authorized to hold hearings at the Division in Meridian, Idaho, to determine the merits of an appeal filed pursuant to this rule. ()

04. Function of Appeals Board. The members of the Board, acting as an appeals board, shall not have the authority to grant variances from the National Electrical Code; its sole function as an appeals board shall be to determine whether the materials or method of wiring utilized by the appellant meets the requirements of the National Electrical Code. ()

05. Appeals Hearing Fee. An appeals hearing fee of one hundred dollars (\$100) shall be charged to an appellant for each appeal brought before the appeals board and accompany the notice of appeal. When the appeal is found in favor of the appellant, the appeals hearing fee shall be returned to the appellant. ()

06. Conditions Disqualifying Board Member. No Board member shall sit on an appeals board in which he or his employer, employee, business partner or any person related to him, is the appellant in the matter. or where he has a pecuniary interest in the outcome of the matter to be decided by the appeals board. ()

07. Rules of Evidence. The rules of evidence for the hearing are governed by the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. ()

08. Limitations of Appeal. The filing of an appeal does not stay or discontinue a red tag, disconnect order, or notification to the power company not to connect or energize, in situations where the defect is of a nature so as to be an imminent threat to life or property. ()

09. Preliminary Order. Within five (5) days of the conclusion of the administrative hearing, the

appeals board shall issue a preliminary order. The preliminary order will become a final order without further notice unless reviewed by the administrator, or review is requested by any party to the inspection appeal, pursuant to the provisions of Section 67-5245, Idaho Code. When a preliminary order is reviewed by the administrator, the administrator will issue a final order pursuant to the requirements of Sections 67-5245 and 67-5246, Idaho Code. ()

10. Motions for Reconsideration. Motions for reconsideration of the appeal board’s preliminary order or of the administrator’s final order are not allowed. ()

351. -- 399. (RESERVED)

**Subchapter I – Certification and Approval of Electrical Products and Materials
(Rules 400 through 449)**

400. CERTIFICATION AND APPROVAL OF ELECTRICAL PRODUCTS AND MATERIALS.

In the state of Idaho, all materials, devices, fittings, equipment, apparatus, luminaires, and appliances installed or to be used in installations that are supplied with electric energy shall be approved as provided in one (1) of the following methods: ()

01. Testing Laboratory. Be tested, examined, and certified (Listed) by a Nationally Recognized Testing Laboratory (NRTL). ()

02. Field Evaluation. Non-listed electrical equipment may be approved for use through a field evaluation process performed in accordance with recognized practices and procedures such as those contained in the 2012 edition of NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA). Such evaluations shall be conducted by: ()

a. The authority having jurisdiction; ()

b. A field evaluation body approved by the authority having jurisdiction. The field evaluation body shall meet minimum recognized standards for competency, such as NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies, 2012 edition, published by the National Fire Protection Association (NFPA); or ()

c. In the case of industrial machinery only, as defined by NFPA 79 - Electrical Standard for Industrial Machinery, 2012 edition, a field evaluation may be performed by a professional engineer currently licensed to practice electrical engineering by the state of Idaho and who is not involved in the design of the equipment being evaluated or the facility in which the equipment is to be installed. ()

03. Availability of NFPA Standards. The most recent edition of NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies, and NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA) are available at the Division. ()

401. -- 449. (RESERVED)

**Subchapter J – Civil Penalties
(Rules 450 through 499)**

450. CIVIL PENALTIES.

Except for the acts described in Subsections 450.01 and 450.10 of this rule, the acts described in this section shall subject the violator to a civil penalty of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense that occurs thereafter within one (1) year of an earlier violation. ()

01. Electrical Contractor. Except as provided by Section 54-1016, Idaho Code, any person who acts, or purports to act as an electrical contractor, as defined by Section 54-1003A, Idaho Code, without a valid Idaho state electrical contractor’s license shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the

first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ()

02. Employees. Any person, who knowingly employs a person who does not hold a valid Idaho state electrical license or registration as required by Section 54-1010, Idaho Code, to perform electrical installations. ()

03. License or Registration. Except as provided by Section 54-1016, Idaho Code, any person performing electrical work as a journeyman electrician as defined by Section 54-1003A(2), Idaho Code, limited electrical installer as defined by Section 54-1003A(6), Idaho Code, apprentice electrician as defined by Section 54-1003A(3), Idaho Code, or a limited electrical installer trainee as defined by Section 54-1003A(8), Idaho Code, without a valid license or registration. ()

04. Journeyman to Apprentice Ratio. Any electrical contractor or facility account employing electricians in violation of the journeyman to apprentice ratio established by the Board. ()

05. Supervision. Any contractor failing to provide constant on-the-job supervision to apprentice electricians or trainees by a qualified journeyman electrician or limited electrical installer. ()

06. Performance Outside Scope of License. Any limited electrical contractor or limited electrical installer performing electrical installations, alterations or maintenance outside the scope of the contractor's or installer's limited electrical license. ()

07. Fees and Permits. Any person failing to pay applicable fees or properly post an electrical permit. ()

08. Corrections. Any person who fails to make corrections in the time allotted in the notice on any electrical installation as set forth in Section 54-1004, Idaho Code. ()

09. Failure to Disclose. Any applicant for an electrical registration, license, or certificate of competency who upon request fails to disclose any required information including, but not limited to, their complete licensure history or the fact that they have been previously licensed as a journeyman or master electrician in any recognized jurisdiction. ()

10. Gross Violation. In the case of continued, repeated or gross violation of Title 54, Chapter 10, Idaho Code, or these rules, a license revocation shall be initiated for licensees under this chapter and non-licensees shall be subject to prosecution by the appropriate jurisdiction under Idaho law. ()

451. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.05.01 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1901

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 15, 2019.

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 54-1904 and 54-1907, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This rulemaking provides a twenty percent (20%) reduction in renewal fees for public works contractor licenses. The Idaho Public Works Contractors License Board (Board) has been monitoring a steady increase in the balance of the Public Works Contractors License Fund. The fund increase is a result of efficiencies in the processing of public works licenses at the Division of Building Safety (Division). The Board and the Division are satisfied that the renewal fee reduction will benefit the industry while leaving the Public Works Contractors License Fund adequately funded.

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

This rulemaking confers a benefit to public works contractor licensees. Licensees will collectively pay \$122,040 less over the course of the year to renew their licenses. Licensees can use these savings to compete in the market.

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 rulemaking will have a negative fiscal impact of approximately \$122,040 over the course of a year on the public works contractors license program and Public Works Contractors License Fund. The fund is made up entirely of dedicated funds. This renewal fee reduction is designed to cap future increases in the fund while leaving it adequately funded for the continued operation of the public works licensing program.

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 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, pages 57 through 58](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ron Whitney, Deputy Administrator, at (208) 332-7150 or at ron.whitney@dbs.idaho.gov.

Anyone may submit written comments regarding this rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 30th day of July, 2019.

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
ron.whitney@dbs.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
 OF DOCKET NO. 07-0501-1901
 (Only Those Sections With Amendments Are Shown.)**

201. FEES.

01. Public Works Contractor Licensing Fees. In accordance with Section 54-1904, Idaho Code, ~~initial licensing and renewal~~ fees for each class of public works contractor licenses are as provided ~~in Table 201.01, Initial and Renewal Licensing Fees~~ below.

TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES		
License Class	Initial Fee	Renewal Fee
Unlimited	\$550	\$550 <u>440</u>
AAA	\$450	\$450 <u>360</u>
AA	\$350	\$350 <u>280</u>
A	\$250	\$250 <u>160</u>
B	\$150	\$150 <u>120</u>
CC	\$125	\$125 <u>100</u>
C	\$100	\$100 <u>80</u>
D	\$50	\$50 <u>40</u>

~~(6-30-19)T~~ (7-15-19)T

02. Construction Manager Licensing Fees. ~~Initial licensing and renewal~~ Fees for construction manager licenses are, in accordance with Section 54-4510, Idaho Code, as follows: ~~(4-9-09)~~ (7-15-19)T

- a. ~~The fee for i~~Initial examination and licensing ~~is~~ is two hundred dollars (\$200). ~~(3-19-99)~~ (7-15-19)T
- b. ~~The fee for l~~icense renewal ~~is~~ is two hundred dollars (\$200). ~~(3-19-99)~~ (7-15-19)T
- c. ~~The fee for an i~~nactive license ~~is~~ is fifty dollars (\$50). ~~(3-19-99)~~ (7-15-19)T

- d. ~~The fee for~~ License reinstatement ~~is~~ = two hundred dollars (\$200). ~~(3-19-99)~~ (7-15-19)T
- e. ~~The fee for~~ a Administering the examination ~~is~~ = the standard fee established for taking that examination. ~~(3-19-99)~~ (7-15-19)T
- f. ~~The fee for~~ issuing and ~~for~~ reinstating a certificate of authority ~~is~~ = one hundred dollars (\$100). ~~(3-19-99)~~ (7-15-19)T
- 03. Payment of Fees.** Fees are payable to “Division of Building Safety -- Public Works Contractors.” (3-20-04)
- 04. Application Filed With Fees.** ~~Required fees must accompany all applications.~~ An application filed without the ~~required~~ listed fees is deemed incomplete and returned to the applicant. ~~(3-20-04)~~ (7-15-19)T

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

DOCKET NO. 07-0701-1902 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-5001, 54-5004, and 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 September 18, 2019.

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:

Currently, the Division calculates HVAC permit fees based on the square footage of a home. Specialty contractors have complained that this method of calculating fees gives HVAC contractors an unfair advantage. For example, a specialty contractor must pay the same amount to install one gas fireplace as a contractor must pay to install an entire heating and cooling system, duct work, and exhaust ducts. This proposed rulemaking would remove this advantage by calculating fees based on the number of systems, fixtures, appliances, zones, outlets, or ducts instead of square footage.

Currently, an apprentice must enroll in or successfully complete a Board-approved training course to renew his or her registration. This proposed rulemaking would provide a way for an apprentice to renew his or her registration and stay in the trade without enrolling in or successfully completing school.

In addition, this proposed rulemaking will eliminate or simplify provisions in IDAPA 07.07.01 in compliance with the Red Tape Reduction Act ([Executive Order 2019-02](#)).

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

The Division has the authority to establish fees pursuant to Idaho Code section 54-5005. This proposed rulemaking would change the way the Division calculates residential HVAC permit fees. Instead of calculating permit fees based on the square footage of a home, this rulemaking will charge a base permit fee for each home plus additional fees for each system, fixture, appliance, zone, outlet, or duct. This proposed rulemaking would also add fees for services and permits the Division already offers, such as inspection of mobile and manufactured homes and modular buildings, technical service, fuel gas piping systems, and hydronic systems. In some cases, the proposed amendments would reduce permit fees. Although the proposed amendments would raise permit fees in some instances, the fee for each permit will not exceed the cost of processing the permit and inspecting the work performed under the permit.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, pages 147 through 148](#).

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 or at john.nielsen@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

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
ron.whitney@dbs.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0701-1902
(Only Those Sections With Amendments Are Shown.)

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY AND EXAMINATION REQUIREMENTS.

01. Experience Certificate of Competency Requirements. *Demonstrate, to the satisfaction of the board, a minimum of* **To obtain a journeyman certificate of competency, an applicant shall submit to the Division sufficient evidence demonstrating the applicant has successfully completed the journeyman examination and** four (4) years~~-, defined as a minimum of eight thousand (8,000) hours of work~~ 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. (4-11-19)()

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

~~**032. Examination Requirement. 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, an applicant must submit to the Division sufficient evidence demonstrating the applicant has successfully** complete~~d~~ 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.* (4-11-19)()~~

~~**b. The Division will 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.** (4-11-19)~~

~~**043. 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 must include satisfactory proof of licensure in such jurisdiction. The applicant must 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 must include evidence that demonstrates that the applicant has four (4) years, defined as a minimum of eight thousand (8,000) hours of HVAC work experience or a nature at least equivalent to that which an an HVAC apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which an an 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 an an HVAC apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant must also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)()

(BREAK IN CONTINUITY OF SECTIONS)

025. HVAC APPRENTICE REQUIREMENTS FOR REGISTRATION.

~~Requirements for HVAC Apprentice.~~

(4-11-06)()

01. ~~Age-Registration.~~ To become an apprentice, a person shall comply with Section 54-5012, Idaho Code, and be a ~~M~~minimum of eighteen (18) years of age ~~unless~~ or sixteen (16) years of age if registered ~~in a~~ by the Bureau of Apprenticeship and Training (BAT) certified HVAC training program of the United States Department of Labor. To renew a registration, an apprentice shall show proof of enrollment in a Board-approved training course or completion of eight (8) hours of Board-approved continuing education for each year of the prior registration period.

(4-11-06)()

~~board.~~ **02. ~~Training.~~ Maintain enrollment in or successfully complete a training program approved by the**

(4-11-06)

03.2. ~~Supervision.~~ Each apprentice must ~~work~~ under the supervision of a certified HVAC journeyman.

(4-11-06)()

(BREAK IN CONTINUITY OF SECTIONS)

051. HVAC PERMIT FEES ~~FOR HVAC INSPECTIONS SCHEDULE.~~

~~HVAC inspection Permit~~ fees are to cover the cost of HVAC inspections as provided by Section 54-5017, Idaho Code. ~~A~~Any person, partnership, company, firm, association, or corporation making an HVAC installation must pay to the Division ~~of Building Safety an inspection~~ a permit fee as provided in the following schedule: (3-26-08)()

01. ~~New-Residential—Single-Family Dwelling.~~ Includes all buildings with HVAC systems being ~~constructed~~ installed on each property. The following permit fees apply to all residential installations:

New Residential—Single-Family Dwelling	
Up to 1,500 Square feet of living space	- \$130
1,501 to 2,500 Square feet of living space	- \$195
2,501 to 3,500 Square feet of living space	- \$260

<i>3,501 to 4,500 Square feet of living space</i>	- \$325
<i>Over 4,500 Square feet of living space</i>	- \$325 plus \$65 for each additional 1,000 square feet or portion thereof

Type	Fee
<u>Base permit</u>	\$100
<u>Furnace, furnace-air conditioner combination, heat pump, air conditioner, evaporative cooler, unit heater, space heater, decorative gas-fired appliance, incinerator, boiler, pool heater, mini-split system, free-standing solid-fuel stove, factory-built gas fireplace, or similar fixture or appliance, including ducts, vents, and flues attached thereto</u>	Plus \$30 per first fixture or appliance Plus \$15 per additional fixture or appliance
<u>Exhaust duct or ventilation duct, including dryer vents, range hood vents, cook stove vents, bath fan vents, and similar exhaust ducts or ventilation ducts</u>	Plus \$15 per first duct Plus \$5 per additional duct
<u>Fuel gas piping system</u>	Plus \$5 per appliance outlet
<u>Hydronic systems</u>	Plus \$5 per zone

(4-9-09)()

02. ~~New Residential—Multi-Family Dwellings~~ Miscellaneous. The following permit fees apply for the types of permits listed:

<i>New Residential—Multi-Family Dwellings</i>	
<i>Duplex Apartment</i>	- \$260
<i>Three (3) or more multi-family units</i>	- \$130 per Building plus \$65 per Unit

Type	Fee
<u>Requested inspection</u>	\$65 per hour or portion thereof plus costs of out-of-state travel
<u>Mobile or manufactured home</u>	\$65 per inspection
<u>Modular building</u>	
<u>Plain check or technical service</u>	\$65 per hour or portion thereof

(3-26-08)()

03. ~~Existing Residential~~. ~~Sixty five dollars (\$65) plus ten dollars (\$10) for each additional piece of HVAC equipment being installed up to a maximum of the corresponding square footage of the residential building.~~
 (3-26-08)

043. Other Installations Including Industrial and Commercial. The inspection permit fees listed in this Subsection apply to any and all HVAC installations not specifically mentioned elsewhere in this schedule. The HVAC system cost is the cost to the owner of all labor charges and all other costs that are incurred in order to

complete the installation of ~~any and all HVAC~~ equipment and materials installed as part of the HVAC system. All permit fees calculated under this Subsection are based on the total HVAC system cost, which must be listed on the permit.

HVAC System Cost	Fee
<u>Up to \$10,000</u>	<u>\$60 plus 2% of HVAC system cost</u>
<u>\$10,000 to \$100,000</u>	<u>\$260 plus 1% of HVAC system cost exceeding \$10,000</u>
<u>Over \$100,000</u>	<u>\$1,160 plus .5% of HVAC system cost exceeding \$100,000</u>

~~(3-26-08)~~()

~~a. HVAC system cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of the total HVAC system cost. (3-26-08)~~

~~b. HVAC system cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of the HVAC system cost exceeding ten thousand dollars (\$10,000). (3-26-08)~~

~~c. HVAC system cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one half of one percent (.5%) of the HVAC system cost exceeding one hundred thousand dollars (\$100,000). (3-26-08)~~

~~d. All fees calculated under this schedule must be calculated on the total HVAC cost of the job, and this figure must be shown on the permit. (3-26-08)~~

~~05. Requested Inspections A fee of sixty-five dollars (\$65) per hour or portion of an hour applies, with the requesting party responsible for all costs incurred in out-of-state travel. (3-26-08)~~

064. Additional Fees and Re-Inspection Fees. A fee of sixty-five dollars (\$65) per hour or portion thereof applies to trips to inspect: ~~(3-26-08)~~()

a. Trips to inspect wWhen the submitter of the permit had holder has given notice to the Division of Building Safety that the work is ready for inspection and it is not: ()

b. if the submitter permit holder has not accurately identified the work location, ~~or:~~ ()

c. if the inspector cannot gain access to make the inspection: ~~(3-26-08)~~()

d. Trips to inspect eCorrections required by the inspector as a result of the submitter permit holder improperly responding to a corrective notice: or ~~(3-26-08)~~()

e. Each trip necessary to remove a red tag from the jobsite. (3-26-08)

d.e. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)

e05. No pPermit. ~~f~~Failure to post or send purchase a permit and required fee in the prescribed time will, at the discretion of the Division, before commencing work may result in the assessment of a double fee. ~~(3-26-08)~~()

07. Plan-Check Fee. ~~Sixty-five dollars (\$65) per hour or portion thereof. (3-26-08)~~

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.11.01 – RULES OF THE DIVISION OF BUILDING SAFETY
DOCKET NO. 07-1101-1901 (NEW CHAPTER)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-9401 and 67-9407, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 implements the provisions of Title 67, Chapter 94, Idaho Code, and provides processes, criteria, or both to accept military education, training, or service from military members, former military members discharged under honorable conditions, veterans, or their spouses (Military Applicants) toward the requirements for a professional license with the Division of Building Safety; and issue licenses by endorsement to Military Applicants.

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:

This rulemaking will not have a fiscal impact on any general, dedicated, or federal funds because this rulemaking merely provides processes and criteria regarding the qualifications, expedited applications, and licensure by endorsement of Military Applicants.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are required pursuant to Title 67, Chapter 94, Idaho Code.

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 or at ron.whitney@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 2nd day of August, 2019.

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
ron.whitney@dbs.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-1101-1901
(New Chapter)

IDAPA 07
TITLE 11
CHAPTER 01

07.11.01 – RULES OF THE DIVISION OF BUILDING SAFETY

000. LEGAL AUTHORITY.

The Division of Building Safety is authorized under Title 67, Chapter 94, Idaho Code, and Section 67-2601A, Idaho Code, to promulgate rules for the issuance of licenses in the professions devolved for administration upon the Division. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.11.01, “Rules of the Division of Building Safety.” ()

02. Scope. These rules are applicable to licenses administered by the Division pursuant to Title 54, Chapters 10, 19, 26, 45, and 50, and Title 44, Chapter 21. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of these rules. Any such statements are available for public inspection and copying pursuant to the Public Records Act, Title 74, Chapter 1, Idaho Code. ()

003. ADMINISTRATIVE APPEALS.

All agency actions may be appealed in accordance with the Administrative Procedures Act at Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

005. OFFICE – MAILING ADDRESS - STREET ADDRESS – OFFICE HOURS - WEB ADDRESS.

The Division of Building Safety’s central office is located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Division’s satellite offices are located at 1250 Ironwood Drive, Suite 220, Coeur d’Alene, Idaho 83814, and at 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. All Division offices are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. The Division’s telephone number is (208) 334-3950 and facsimile number is (877) 810- 2840. The Division’s web address is <http://dbs.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to and in compliance with the Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. DEFINITIONS.

01. Division. The Idaho Division of Building Safety. ()

02. Licensing Program. The electrical program, plumbing program, HVAC program, manufactured home program, or public works contractor license program within the Division. ()

03. Military Applicant. A member of the military, former member of the military discharged under honorable conditions, veteran, or spouse of any such person applying for any initial or renewal license or registration issued by any Licensing Program. ()

008. -- 010. (RESERVED)

011. MILITARY, VETERAN, AND SPOUSE LICENSE APPLICATIONS

01. Qualifications for Licensure. Each Licensing Program within the Division will determine which and to what extent any military education, training, or service that has been completed is relevant or applicable toward the requirements to receive a license for an occupation administered by such respective Licensing Program. The Division will accept and identify on its website military education, training, or service determined by the Division to be relevant and applicable. Each Licensing Program will at a minimum consider the following criteria when determining whether to accept any type of training, education, or work experience, whether Military Applicants received such from the armed forces or other sources: ()

a. The nature of the training, education, or work experience, including whether it involved the installation of equipment, materials, fixtures, apparatuses, controls, wires, piping, systems, or other related or like components the installation of which the statutes and rules of Idaho require a person to be licensed. ()

b. Whether the scope of the training, education, or work experience addressed the installation of equipment, materials, fixtures, apparatuses, controls, wires, piping, systems, or other related or like components the installation of which is prescribed by a nationally recognized code adopted in the state of Idaho. ()

02. Licensure by Endorsement. Upon review, each Licensing Program may grant a license by endorsement to any Military Applicant who at the time of application to the Division possesses a current, valid, and unrestricted license from another state, district, territory of the United States, or from any branch of the armed forces or national guard that is equivalent in nature to the license for which the applicant has applied. Each Licensing Program will at a minimum consider the following criteria when determining whether to grant a license by endorsement: ()

a. The nature of the license held by the Military Applicant, including the scope of actual occupational work the license allows the applicant to perform in the other jurisdiction, and the scope of work the applicant has actually performed under authority of the license; ()

b. The length of time the Military Applicant has held the license from another jurisdiction; ()

c. The requirements of the other jurisdiction to obtain the license, including schooling or education, work experience, and on-the-job training and hours of such; examination and passing score requirements; or licensure disciplinary history. ()

03. Records Verification and Affidavits. The Division may require a Military Applicant to provide records or other documentation verifying the completion of military education, training, or service or the issuance of a previous license. The Division may also require a Military Applicant to provide a sworn affidavit attesting to the veracity of the information provided in an application for licensure or registration. ()

012. -- 999. (RESERVED)

IDAPA 09 – IDAHO DEPARTMENT OF LABOR
09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES
DOCKET NO. 09-0130-1902
NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 intended changes to 09.01.30.175.20 will:

1. Define the circumstances under which an unemployment insurance claimant can leave the local labor market area to attend training or school; and
2. Specify unemployment insurance claimants cannot leave the country while collecting benefits.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, pages 156-157](#) and in the May 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, page 61](#).

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 Josh McKenna, UI Benefits Bureau Chief at (208) 332-3577 x 3919.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 2nd day of August, 2019.

Josh McKenna, UI Benefits Bureau Chief
Idaho Department of Labor – UI Division
219 Main Street
Boise, ID 83735
Phone: (208) 332-3577 x 3919
Fax: (208) 639-3256

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 09-0130-1902
(Only Those Sections With Amendments Are Shown.)

175. AVAILABLE FOR WORK.

The phrase “available for work” is defined as a state of mind which involves a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one’s services in the claimant’s area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired for, suitable work. Ref. Sec. 72-1366(4), Idaho Code. (3-19-99)

01. Availability Requirements. The type of work for which the claimant is available must exist in the claimant’s area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (3-19-99)

02. Child Care. Child care must be arranged so as not to restrict a claimant’s availability for work or for seeking work. (3-19-99)

03. Compelling Personal Circumstances. For the purposes of this rule, compelling personal circumstances are defined as: (6-30-19)T

- a.** A situation in which the claimant required the assistance of emergency response personnel; (4-11-06)
- b.** The serious illness or death or funeral of an immediate family member; or (4-11-06)
- c.** The wedding of the claimant or an immediate family member. (4-11-06)
- d.** For the purposes of this rule, “immediate family member” is defined as a claimant's spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (4-11-06)
- e.** For the purposes of this rule, “workweek” is defined: (6-30-19)T
 - i.** Code R, U, or X. The claimant's normal work week as defined by the employer. (6-30-19)T
 - ii.** Code B or C. Monday through Friday, 8 a.m.-5 p.m. (6-30-19)T
 - iii.** Code D. Regular class hours. (6-30-19)T
- f.** Claimant work availability requirements are waived on Independence Day, Thanksgiving Day, Christmas Day, and New Year's Day. (6-30-19)T

04. Conscientious Objection. No person may be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (3-19-99)

05. Contract Obligation. A person who is bound by a contract that prevents him from accepting other employment is not eligible for benefits. (3-19-99)

06. Distance to Work. A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (3-19-99)

07. Domestic Circumstances. A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant’s availability for work or for seeking work. (3-19-99)

08. Equipment. Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant's availability for work, unless he will accept other work. (3-19-99)

09. Evidence. A claimant is responsible for providing proof of his availability for work and for seeking work if his availability is questioned or proof is required by these rules. (3-19-99)

10. Experience or Training. A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (3-19-99)

11. Full-Time/Part-Time Work. To be eligible for benefits, a claimant must be available for a full workweek and a full, normal workday unless the claimant establishes that a majority of the weeks worked in his base period were for less than full-time work or the claimant establishes eligibility under the Americans with Disabilities Act. An individual who restricts his availability to part-time work pursuant to Section 72-1366(4)(c), Idaho Code, will be considered fully employed and ineligible to receive benefits if the individual works hours comparable to his part-time work experience in his base period. (3-29-10)

12. Incarceration/Work Release. A claimant who is incarcerated for any part of the claimant's normal workweek is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. (3-19-99)

13. Jury Duty/Subpoenas. A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period. A claimant is not ineligible if he must refuse work because of the jury duty or subpoena. (3-19-99)

14. Licensing or Government Restrictions. A claimant prohibited by law from engaging in certain work must be available for other employment to be eligible for benefits. (3-19-99)

15. Moving to Remote Area. A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (3-19-99)

16. Public Official. A public official who receives pay and performs "full-time" service is not unemployed or eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. Ref. Sec. 72-1312(1). (3-19-99)

17. Public Service. Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (3-19-99)

18. Restricting Work to Within the Home. A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (3-19-99)

19. School Attendance or a Training Course. A person who is attending school or a training course may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or for seeking work and if he will discontinue attendance upon receipt of an offer of employment if there is a conflict between employment and the schooling or training. (3-19-99)

20. Temporary Absence from Local Labor Market to Seek Work. All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market; ~~provided, however,~~ eClaimants otherwise eligible to receive benefits while participating in an approved training program or course are not deemed ineligible when the training or course occurs outside of their local labor market due to the unavailability of similar programs or courses within their local labor market. (6-30-19)T()

a. To remain eligible for benefits, claimants will remain within the state, territory, or country included in the USDOL Interstate Benefit Payment Plan. ()

21. Time. (3-19-99)

a. Time Restrictions. A claimant may not impose restrictions on his time, including either hours of the day or days of the week, which will limit his availability to seek or accept suitable work. (3-19-99)

b. Shift Restrictions. A claimant who restricts his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming employed. (3-19-99)

22. Transportation Difficulties. Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (3-19-99)

23. Unreasonable Restrictions on Working Conditions. A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (3-19-99)

24. Vacation. A person on a vacation approved by his employer during time when work is available is not considered available for work nor eligible for benefits. (3-19-99)

25. Wages. A claimant is not ineligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. (3-19-99)

a. Demanding Higher Wages. A claimant is ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (3-19-99)

b. Prior Earnings. The claimant's prior earnings and past experience are considered in determining whether he is available for suitable work. (3-19-99)

26. Waiver of Two-Year Training Limitation. For purposes of approving a waiver of the two (2) year limitation on school or training courses, specified by Idaho Code Section 72-1366(8)(c)(ii), for claimants who lack skills to compete in the labor market, the following criteria must be met: (6-30-19)T

a. Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (3-19-99)

b. Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A "demand occupation" is one in which work opportunities are available and there is not a surplus of qualified applicants. (3-19-99)

c. Duration of Training. At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (3-19-99)

d. Denial. No claimant will be denied a waiver of the two (2) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. (6-30-19)T

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1903

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 intended changes to IDPA 09.01.30 will:

1. Clarify unemployment insurance benefit eligibility for individuals with disabilities as determined by Idaho law;
2. Identify unemployment insurance claimants as responsible for providing competent evidence they are qualified individuals with disabilities under the Americans with Disabilities Act; and
3. Remove language concerning long- term disability inconsistent with the definition of disability under the Americans with Disabilities Act.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, pages 158-159](#) and in the May 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, page 62](#).

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 Josh McKenna, UI Benefits Bureau Chief at (208) 332-3577 x 3919.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 2nd day of August, 2019.

Josh McKenna, UI Benefits Bureau Chief
Idaho Department of Labor – UI Division
219 Main Street
Boise, ID 83735
Phone: (208) 332-3577 x 3919
Fax: (208) 639-3256

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 09-0130-1903
(Only Those Sections With Amendments Are Shown.)

100. ABLE TO WORK.

“Able to work” is defined as the physical and mental ability to perform work under conditions ordinarily existing during a normal workweek. It does not mean that a person must be able to perform work in his customary occupation or the same kind of work he last performed. Ref. Sec. 72-1366(4), Idaho Code. (3-19-99)

01. Able to Perform Some Type of Work. A person must be able to perform work of some type for which he can qualify at the time he files an initial claim for unemployment insurance. (6-30-19)T

02. Able to Work Part-Time. A person who is able to work only part of the workday or part of the workweek is not considered “able to work” for the purposes of Section 72-1366(4), Idaho Code. This rule does not apply to claimants who establish eligibility under ~~the Americans~~ Section 150 of these rules, “Claimants with Disabilities Act.” (3-19-99)()

03. Disability Compensation. A claimant’s receipt of disability compensation does not in itself establish that he is unable to work or unavailable for work, even though the payee has been declared totally disabled. (3-19-99)

04. Illness Provision. A person who claims benefits under the illness provision must remain available for local office job referral; however, he may leave the area for treatment of his illness and continue to be eligible under the illness provision. (6-30-19)T

05. Illness Provision as Applied to Transitional or Reopened Claim. Receipt of benefits during the same illness continues throughout a spell of unemployment, even though the current benefit year has ended and a transitional claim is filed the following year or the claim is reopened after a period of not filing with no intervening employment. (3-19-99)

06. Mental Illness. A person who, after filing a valid claim, becomes unable to work because of mental illness is entitled to the same benefits under the illness provision as claimants who suffer from other types of illness or disability. (3-19-99)

07. Withdrawing from Labor Market Because of Illness. A claimant who withdraws from the labor market because of illness or injury prior to filing a claim is not eligible until he is able to work and available for work. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

150. ~~AMERICANS CLAIMANTS WITH DISABILITIES ACT (ADA).~~

An individual with a ~~medically verifiable long term or permanent physical or mental~~ disability under the Americans with Disabilities Act (2008) (as defined at 29 C.F.R. Sec 1630.2(g)), and whose disability that prevents the ~~individual claimant~~ individual claimant from working full time or during particular shifts is not deemed unable to work or unavailable for work for so long as ~~he~~ the claimant is able to perform some work and remains available for work to the full extent of his ability. ~~Claimants meeting the above criteria must be exempt from complying with eligibility requirements found elsewhere in these Rules which would be in conflict with the intent of this provision.~~ (3-19-99)()

01. Availability Requirement. ~~For purposes of this rule, a~~ A qualified claimant with a disability who is able to work with or without a reasonable accommodation will be considered as having complied with the requirement of being available for work provided the claimant if ~~he~~ is willing to work the maximum number of hours

~~that he has established through medically verifiable evidence that he~~ the claimant is able to work. (3-19-99)()

~~02. **Full-Time Employment Burden of Proof.** An individual claiming benefits under this provision will be considered fully employed and ineligible to receive benefits in any week that the individual works the maximum number of hours that he is able to work~~ Claimant has the burden of proving eligibility under this provision with competent evidence. (3-19-99)()

~~03. **Long Term**~~ **Additional Eligibility Requirements.** For purposes of this rule, “long term” is defined as twelve (12) months or longer Qualified claimants with disabilities must meet all other eligibility requirements, including the illness provision of Section 100 of these rules.

(3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

175. AVAILABLE FOR WORK.

The phrase “available for work” is defined as a state of mind which involves a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one’s services in the claimant’s area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired for, suitable work. Ref. Sec. 72-1366(4), Idaho Code. (3-19-99)

01. Availability Requirements. The type of work for which the claimant is available must exist in the claimant’s area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (3-19-99)

02. Child Care. Child care must be arranged so as not to restrict a claimant’s availability for work or for seeking work. (3-19-99)

03. Compelling Personal Circumstances. For the purposes of this rule, compelling personal circumstances are defined as: (6-30-19)T

a. A situation in which the claimant required the assistance of emergency response personnel; (4-11-06)

b. The serious illness or death or funeral of an immediate family member; or (4-11-06)

c. The wedding of the claimant or an immediate family member. (4-11-06)

d. For the purposes of this rule, “immediate family member” is defined as a claimant's spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (4-11-06)

e. For the purposes of this rule, “workweek” is defined: (6-30-19)T

i. Code R, U, or X. The claimant's normal work week as defined by the employer. (6-30-19)T

ii. Code B or C. Monday through Friday, 8 a.m.-5 p.m. (6-30-19)T

iii. Code D. Regular class hours. (6-30-19)T

f. Claimant work availability requirements are waived on Independence Day, Thanksgiving Day, Christmas Day, and New Year's Day. (6-30-19)T

04. Conscientious Objection. No person may be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (3-19-99)

05. Contract Obligation. A person who is bound by a contract that prevents him from accepting other

employment is not eligible for benefits. (3-19-99)

06. Distance to Work. A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (3-19-99)

07. Domestic Circumstances. A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant's availability for work or for seeking work. (3-19-99)

08. Equipment. Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant's availability for work, unless he will accept other work. (3-19-99)

09. Evidence. A claimant is responsible for providing proof of his availability for work and for seeking work if his availability is questioned or proof is required by these rules. (3-19-99)

10. Experience or Training. A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (3-19-99)

11. Full-Time/Part-Time Work. To be eligible for benefits, a claimant must be available for a full workweek and a full, normal workday unless the claimant establishes that a majority of the weeks worked in his base period were for less than full-time work or the claimant establishes eligibility under ~~the Americans~~ Section 150 of these rules, "Claimants with Disabilities Act." An individual who restricts his availability to part-time work pursuant to Section 72-1366(4)(c), Idaho Code, will be considered fully employed and ineligible to receive benefits if the individual works hours comparable to his part-time work experience in his base period. ~~(3-29-10)~~ ()

12. Incarceration/Work Release. A claimant who is incarcerated for any part of the claimant's normal workweek is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. (3-19-99)

13. Jury Duty/Subpoenas. A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period. A claimant is not ineligible if he must refuse work because of the jury duty or subpoena. (3-19-99)

14. Licensing or Government Restrictions. A claimant prohibited by law from engaging in certain work must be available for other employment to be eligible for benefits. (3-19-99)

15. Moving to Remote Area. A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (3-19-99)

16. Public Official. A public official who receives pay and performs "full-time" service is not unemployed or eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. Ref. Sec. 72-1312(1). (3-19-99)

17. Public Service. Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (3-19-99)

18. Restricting Work to Within the Home. A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (3-19-99)

19. School Attendance or a Training Course. A person who is attending school or a training course may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or for seeking work and if he will discontinue attendance upon receipt of an offer of employment if there is a conflict between employment and the schooling or training. (3-19-99)

20. Temporary Absence from Local Labor Market to Seek Work. All claimants, regardless of their

attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market; provided, however, claimants otherwise eligible to receive benefits while participating in an approved training program or course are not deemed ineligible when the training or course occurs outside of their local labor market due to the unavailability of similar programs or courses within their local labor market. (6-30-19)T

21. Time. (3-19-99)

a. Time Restrictions. A claimant may not impose restrictions on his time, including either hours of the day or days of the week, which will limit his availability to seek or accept suitable work. (3-19-99)

b. Shift Restrictions. A claimant who restricts his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming employed. (3-19-99)

22. Transportation Difficulties. Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (3-19-99)

23. Unreasonable Restrictions on Working Conditions. A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (3-19-99)

24. Vacation. A person on a vacation approved by his employer during time when work is available is not considered available for work nor eligible for benefits. (3-19-99)

25. Wages. A claimant is not ineligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. (3-19-99)

a. Demanding Higher Wages. A claimant is ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (3-19-99)

b. Prior Earnings. The claimant's prior earnings and past experience are considered in determining whether he is available for suitable work. (3-19-99)

26. Waiver of Two-Year Training Limitation. For purposes of approving a waiver of the two (2) year limitation on school or training courses, specified by Idaho Code Section 72-1366(8)(c)(ii), for claimants who lack skills to compete in the labor market, the following criteria must be met: (6-30-19)T

a. Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (3-19-99)

b. Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A "demand occupation" is one in which work opportunities are available and there is not a surplus of qualified applicants. (3-19-99)

c. Duration of Training. At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (3-19-99)

d. Denial. No claimant will be denied a waiver of the two (2) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. (6-30-19)T

IDAPA 13 – DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0000-1900

NOTICE OF PUBLIC HEARING FOR OMNIBUS RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the public comment period. The action is authorized pursuant to Sections 36-103, 36-104, 36-105, 36-111, 36-201, 36-301, 36-401, 36-408, 36-409, 36-412, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, 36-804, 36-901, 36-1101, 36-1102, 36-1508, 36-2201, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing to allow the public to provide oral testimony consistent with 67-5222 will be held at the following time and location:

PUBLIC HEARING

Wednesday, October 1, 2019 – 1:00 p.m. (MDT)

Idaho Department of Fish & Game
Headquarters Office
600 S. Walnut Street
Boise, ID 83712

CONFERENCE CALL-IN

To participate via teleconference from a Department Regional Office, contact Mary Boyer at mary.boyer@idfg.idaho.gov or at (208) 334-3771 no later than September 25, 2019 to make arrangements

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. The Idaho Department of Fish and Game is conducting the public hearing on behalf of the Idaho Fish and game Commission.

DESCRIPTIVE SUMMARY: A summary of the proposed omnibus rulemaking is found in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 1,616 to 1,750. The hearing will provide an opportunity for the public to provide input on Docket Number 13-0000-1900. Consistent with recommendations in the Red Tape Reduction Act and the Licensing Freedom Act, public comment on the proposed rulemaking may include but is not limited to:

1. Changes to simplify, streamline, consolidate and reduce unnecessary restrictions. For example, the agency has identified the following items for further consideration related to consistency with the Acts and wording differences between the proposed rules and immediately preceding version of final rules on the subject matter:

- 13.01.09.300.01 Allowable method of firearm take for dusky (blue) grouse
- 13.01.10.200. Allowance for captive possession of up to four (4) native reptiles or amphibians
- 13.01.11.08.035/13.01.11.200.01 Requirement for attendance of fishing lines

2. Outdated or ineffective proposed rules that should not be adopted as pending rules. For example, the agency has identified the following proposed rule for further consideration of whether to adopt as a pending rule:

- 13.01.06.150 Threatened or Endangered Species (classification duplicative in effect of other protected classifications for game and nongame species)

3. Integration into pending rules for the omnibus rulemaking of proposed rules adopted by the agency in separate dockets, as published in the September 4, 2019 Administrative Bulletin. The agency has identified the following dockets for integration: Dockets 13-0108-1903, and 13-0108-1904, and 13-0109-1902.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Paul Kline, Deputy Director as (208) 334-3771.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such. All written comments must be directed to the undersigned and must be delivered on or before October 1, 2019.

Dated this 22nd day of August, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208)334-3771
Fax: (208)334-4885
Email: rules@idfg.idaho.gov

IDAPA 13 – DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0000-1900F

NOTICE OF PUBLIC HEARING FOR OMNIBUS FEE RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized by Sections 36-104, 36-303, 36-404, 36-407, 36-409, 36-412, 36-701, 36-703, and 36-708, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing to allow the public to provide oral testimony consistent with 67-5222 will be held at the following time and location:

PUBLIC HEARING

Wednesday, October 1, 2019 – 1:00 p.m. (MDT)

Idaho Department of Fish & Game
Headquarters Office
600 S. Walnut Street
Boise, ID 83712

CONFERENCE CALL-IN

To participate via teleconference from a Department Regional Office, contact Mary Boyer at mary.boyer@idfg.idaho.gov or at (208) 334-3771 no later than September 25, 2019 to make arrangements

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. The Idaho Department of Fish and Game is conducting the public hearing on behalf of the Idaho Fish and game Commission.

DESCRIPTIVE SUMMARY: A summary of proposed omnibus fee rulemaking is found in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 1,751 to 1,759. The hearing will provide an opportunity for the public to provide input on Docket Number 13-0000-1900F. Consistent with the Red Tape Reduction Act and the Licensing Freedom Act, the public comment on the proposed rulemaking may include but is not limited to:

1. Changes to simplify, streamline, consolidate or reduce unnecessary restrictions.
2. Outdated or ineffective proposed fee rules that should not be adopted as pending rules.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Paul Kline, Deputy Director as (208) 334-3771.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such. All written comments must be directed to the undersigned and must be delivered on or before October 1, 2019.

Dated this 22nd day of August, 2019.

Paul Kline, Deputy Director
Idaho Department of Fish and Game
Phone: (208)334-3771 / Fax: (208)334-4885
Email: rules@idfg.idaho.gov

600 S. Walnut Street
P.O. Box 25
Boise, ID 83707

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-1903

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-408, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

This proposed rule would allow the Fish and Game Commission to make a controlled hunt applicant wait up to five (5) days to buy a general hunt tag for the same species in the same calendar year for specific hunts having limited tag numbers. For example, this rule would allow the Commission to make all applicants for controlled elk hunts in 2021 wait for a period of up to five (5) days to buy a 2021 general elk tag in a zone having limited tags available, such as the Sawtooth Zone.

FEE SUMMARY: The proposed rule has no associated fee.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 49](#). The agency received 160 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rule, contact Toby Boudreau at (208) 334-2920. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208)334-3771
Fax: (208)334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0108-1903
(Only Those Sections With Amendments Are Shown)

251. (RESERVED)

252. DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.

When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same calendar year for the same species is not eligible to buy a tag for that limited hunt. ()

~~253.~~ -- 254. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-1904

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-408, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

The proposed rule change would allow the Fish and Game Commission to limit the number of non-resident deer or elk tags available in a specific general hunt unit or zone to address hunter crowding to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the preceding five (5) year period. If the Commission limited the number of nonresident general hunt tags without limiting for resident hunters, the options for allocation of outfitter tags in the proposed rule would be those that currently apply to controlled hunts, including controlled hunts limited for nonresidents and unlimited for residents.

FEE SUMMARY: Section 36-416, Idaho Code, identifies fees for Fish and Game licenses and tags to hunt deer and elk. This rule does not change those fees.

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: Not Applicable

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 49](#). The agency received 366 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated opinions not suited to negotiation. The agency initiated proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Toby Boudreau at (208) 334-2920. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208)334-3771
Fax: (208)334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13.108.1904
(Only Those Sections With Amendments Are Shown)

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. (6-30-19)T

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. Outfitter allocated hunts are exempt from the limitation of this Subsection. ~~(6-30-19)T~~()

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. (6-30-19)T

~~e. Outfitter allocated hunts are exempt from the limitation of this Subsection.~~ ~~(6-30-19)T~~

~~c.~~ For each species, the total number of outfitter allocated controlled hunt tags shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of ~~this~~ Subsection 255.01.a, the resulting net number shall be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. ~~(6-30-19)T~~()

d. In general hunts, the Commission may limit by proclamation the number of tags available for nonresident hunters in a zone or big game hunting unit to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the previous five (5) year period. If the Commission adopts tag limits in a zone or big game hunt unit for non-residents under this subsection 01.d, without limiting residents, the provisions of IDAPA 13.01.04.505.02, "Rules Governing Licensing," applicable to controlled hunts with limited nonresident tags and unlimited resident tags will apply to deer and elk tag allocation instead of the provisions of IDAPA 13.01.04.505.01. ()

e. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose shall be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (6-30-19)T

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-1902

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104, 36-408, and 36-1102, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

The proposed rule involves two changes. It would allow Hunting Passport holders ages eight (8) through seventeen (17) to hunt turkey in general season turkey hunts, youth-only general hunts, turkey landowner permission hunts, and depredation hunts with the appropriate tag. The proposed rule also replaces references in this chapter related to requirements for the Department's stocked pheasant program; it replaces specific references to the "WMA Upland Game Bird Permit" and "Wildlife Management Areas" with more generic references, such as "Upland Game Bird Permit" and "locations where an Upland Game Bird Permit is required," to support potential expansion of the Department's pheasant stocking program to locations in addition to WMAs.

FEE SUMMARY: Section 36-416, Idaho Code, sets fees for license, tag and permits to hunt turkeys or stocked pheasants or to obtain a hunting passport. The proposed rule does not change these fees.

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: Not Applicable

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 52](#). The agency received 131 responses via on-line submissions during a 21-day public comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Knetter at (208) 334-2920. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

Paul Kline, Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25, Boise, ID 83707
Phone: (208) 334-3771 / Fax: (208) 334-4885
Email: rules@idfg.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0109-1902
(Only Those Sections With Amendments Are Shown)**

102. WILD TURKEY TAGS, STAMPS, PERMITS, AND VALIDATIONS.

No person may hunt wild turkey without having in possession the appropriate hunting license, tag, and controlled hunt permit. (6-30-19)T

01. Tags. There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission. (6-30-19)T

02. Youth General Hunts. ()

a. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (6-30-19)T

b. Hunting passport holders eight (8) to seventeen (17) years of age are eligible to participate in general season hunts, youth-only general hunts, landowner permission hunts with the appropriate landowner permission tag, and depredation hunts. ()

03. Controlled Hunts. A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. (6-30-19)T

a. Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: (6-30-19)T

i. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (6-30-19)T

ii. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than seventy-nine (79) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (6-30-19)T

iii. Any person applying for a youth-only controlled hunt must be nine (9) to seventeen (17) years of age, provided they are ten (10) to seventeen (17) years of age during the hunt for which they are applying, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth-only controlled hunt permits. (6-30-19)T

b. Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices office, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. Applications must comply with the following requirements: (6-30-19)T

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (6-30-19)T

ii. Only one (1) application per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (6-30-19)T

iii. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (6-30-19)T

iv. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (6-30-19)T

- v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (6-30-19)T
- c. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (6-30-19)T
- 04. Tag Validation.** (6-30-19)T
- a. Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. (6-30-19)T
- b. To validate the tag and permit, the hunter must cut out and completely remove two (2) triangles on the border of the tag and permit, one (1) for the month and one (1) for the day of the kill. (6-30-19)T
- c. The tag and permit must remain attached so long as the turkey is in transit or storage. (6-30-19)T
- 05. Tag Designation.** (6-30-19)T
- a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her resident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (6-30-19)T
- b. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (6-30-19)T
- c. Designation of the controlled hunt permit shall be made on a form prescribed by the Department and may be submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (6-30-19)T
- d. Any child cannot be designated more than one (1) control hunt permit per calendar year. (6-30-19)T
- e. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (6-30-19)T
- 06. Landowner Permission Tags.** Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. (6-30-19)T

103. PHEASANT TAGS, PERMITS, AND VALIDATIONS.

No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. (6-30-19)T

- 01. ~~WMA~~ Upland Game Bird Permit.** (~~6-30-19~~)T()
- a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, or at other locations where the Department stocks pheasants, as identified by Commission proclamation, must have a valid ~~WMA~~ Upland Game Bird Permit in possession. (~~6-30-19~~)T()
- b. Permit Limit. Each ~~WMA~~ Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. (~~6-30-19~~)T()
- c. Permit Validation. Any person harvesting a pheasant where a ~~WMA~~ Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. (~~6-30-19~~)T()

02. Youth Pheasant Season. The youth pheasant season is open only to hunters ten (10) to seventeen (17) years of age with a valid hunting license and hunting passport holders eight (8) to seventeen (17) years of age, and each youth hunter must be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

300. UPLAND GAME BIRD METHODS OF TAKE.

- 01. Upland Game Birds.** No person shall take upland game birds: (6-30-19)T
- a.** With a trap, snare, net, crossbow, or firearm. (6-30-19)T
 - i.** EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, or hand-held or thrown missile; (6-30-19)T
 - ii.** or, EXCEPT, for taking forest grouse only, a crossbow may be used by a person who possesses a Disabled Persons Archery Hunting Permit or a Special Weapon Reasonable Modification Hunting Permit authorizing use of a crossbow, or by a person hunting in an area where crossbow is a lawful method of take for big game. (6-30-19)T
 - b.** From any watercraft. (6-30-19)T
 - c.** By the use or aid of any electronic call. (6-30-19)T
 - d.** By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (6-30-19)T
 - e.** When hunting on ~~Wildlife Management Areas~~ locations where ~~pheasants are stocked~~ an Upland Game Bird permit is required, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ~~(6-30-19)T~~ ()
- 02. Wild Turkey.** In addition to the methods listed above, wild turkey may not be taken: (6-30-19)T
- a.** With lead shot exceeding BB size. (6-30-19)T
 - b.** With steel shot exceeding T size. (6-30-19)T
 - c.** By the use of dogs, except during fall hunts. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

500. OFFICIAL SHOOTING HOURS.

No person shall take game birds outside of official shooting hours. (6-30-19)T

01. Migratory Game Birds and Wild Turkey. Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunrise until sunset. (6-30-19)T

02. Upland Game Birds and American Crow. Official shooting hours for upland game birds and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of a ~~WMA~~ Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ~~(6-30-19)T~~ ()

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104(b)(6), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

Under the proposed rule, the Department would not issue any permit to import into Idaho any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture because of the threat of chronic wasting disease. The change would affect import of cervids under Fish and Game authority, including mule deer, white-tailed deer, moose, and wild-origin elk.

FEE SUMMARY: The proposed rule does not impose or increase fees.

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: Not Applicable

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 53](#). The agency received 101 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

INCORPORATION BY REFERENCE: Not Applicable

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Toby Boudreau at (208) 334-2920. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208)334-3771
Fax: (208)334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0110-1901
(Only Those Sections With Amendments Are Shown)

100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, RELEASE, AND SALE OF LIVE WILDLIFE. No person may import into, export from, sell, or transport, cause to be transported, or release within the state of Idaho any living wildlife, including eggs thereof, without having first obtained a permit from the Department. (6-30-19)T

01. Exemptions for Import, Export, Transport, Possession or Sale. No permit is required from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): (6-30-19)T

- a. Agricultural or domestic animals. (6-30-19)T
- b. Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. (6-30-19)T
- c. Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. (6-30-19)T
- d. Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). (6-30-19)T
- e. Domestic Game birds produced in captivity and lawfully obtained, as shown by proof maintained and presented in accordance with Section 36-709, Idaho Code. (6-30-19)T
- f. Birds of prey, provided actions comply with IDAPA 13.01.14, "Rules Governing Falconry." (6-30-19)T

02. Exemptions for Unprotected and Predatory Wildlife. No permit from the Department is required to sell, export, or transport any unprotected or predatory wildlife legally taken in Idaho. Lawfully taken native unprotected or predatory wildlife may be released on private lands in the county of origin in accordance with Section 36-502, Idaho Code and with written landowner consent in possession while such wildlife is in transit to the release site. The Idaho Department of Agriculture may restrict the possession, sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code. (6-30-19)T

03. Restriction on Permit Issuance. The Department will not issue any permit for import, export, transport, release or sale of live wildlife or eggs thereof, if the wildlife or eggs thereof would pose a threat to the state of Idaho, including threat of disease, genetic contamination or displacement of or competition with existing species. Because of the threat of chronic wasting disease, the Department will not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture, including mule deer, white-tailed deer, moose, and wild-origin elk. (6-30-19)T()

**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING**

DOCKET NO. 15-0100-1900

NOTICE OF PUBLIC HEARING FOR OMNIBUS RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

PUBLIC HEARING

**Wednesday, September 18, 2019
9:00 a.m – 11:00 a.m. (MDT)**

**Idaho Commission on Aging Office
341 W. Washington Street
Boise, ID 83702**

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 summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 1780 - 1781](#). This hearing is on vacating 15.01.30, Rules Governing the Senior Community Services Employment Program. This rule was previously re-published as a proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Vicki Yanzuk, (208) 577-2847.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before September 19th, 2019.

Dated this 16th day of August, 2019.

Judy B. Taylor
Administrator
Idaho Commission on Aging
341 W. Washington Street
P.O. Box 83720
Boise, ID 83720
(208) 334-3800

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.01.02 – EMERGENCY MEDICAL SERVICES (EMS) – RULE DEFINITIONS
DOCKET NO. 16-0102-1901
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

The Department is updating the definition of “EMS” in this chapter to align it with the changes made to Section 56-1012, Idaho Code, under House Bill 9, passed by the 2019 Idaho Legislature.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted and deemed not feasible since this rulemaking is being done simply to align with changes in statute passed by the 2019 Idaho Legislature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Wayne Denny at (208) 334-4000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5564
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0102-1901
(Only Those Sections With Amendments Are Shown.)

011. DEFINITIONS AND ABBREVIATIONS C THROUGH E.

For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply:

(7-1-14)

01. Call Volume. The number of requests for service that an agency either anticipated or responded to during a designated period of time. (7-1-14)

02. Candidate. Any individual who is requesting an EMS personnel license under Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, “Emergency Medical Services (EMS) - Personnel Licensing Requirements.” (7-1-14)

03. Certificate of Eligibility. Documentation that an individual is eligible for affiliation with an EMS agency, having satisfied all requirements for an EMS Personnel Licensure except for affiliation, but is not licensed to practice. (7-1-14)

04. Certification. A credential issued by a designated certification body for a specified period of time indicating that minimum standards have been met. (7-1-16)

05. Certified EMS Instructor. An individual approved by the Department, who has met the requirements in IDAPA 16.01.05, “Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements,” to provide EMS education and training. (7-1-16)

06. CoAEMSP. Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions. (7-1-16)

07. Cognitive Exam. Computer-based exam to demonstrate knowledge learned during an EMS education program. (7-1-16)

08. Compensated Volunteer. An individual who performs a service without promise, expectation, or receipt of compensation other than payment of expenses, reasonable benefits or a nominal fee to perform such services. This individual cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. (7-1-14)

09. Conflict of Interest. A situation in which a decision by personnel acting in their official capacity is influenced by or may be a benefit to their personal interests. (7-1-16)

10. Consolidated Emergency Communications System. Facilities, equipment, and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service defined in Section 31-4802, Idaho Code. (7-1-16)

11. Core Content. Set of educational goals, explicitly taught (and not taught), focused on making sure that all students involved learn certain material tied to a specific educational topic and defines the entire domain of out-of-hospital practice and identifies the universal body of knowledge and skills for emergency medical services providers who do not function as independent practitioners. (7-1-16)

12. Course. The specific portions of an education program that delineate the beginning and the end of an individual's EMS education. A course is also referred to as a “section” on the NREMT website. (7-1-16)

13. Course Physician. A physician charged with reviewing and approving both the clinical and didactic content of a course. (7-1-16)

14. Credentialing. The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. (7-1-14)

15. Credentialed EMS Personnel. Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (7-1-14)

16. Critical Care. The treatment of a patient with continuous care, monitoring, medication, or procedures requiring knowledge or skills not contained within the Paramedic curriculum approved by the State Health Officer. Interventions provided by Paramedics are governed by the scope of practice defined in IDAPA 16.02.02, “Rules of the Idaho Emergency Medical Services (EMS) Physician Commission.” (7-1-14)

17. Critical Care Agency. An ambulance or air medical EMS agency that advertises and provides all of the skills and interventions defined as critical care in IDAPA 16.02.02, “Rules of the Idaho Emergency Medical Services (EMS) Physician Commission.” (7-1-14)

18. Department. The Idaho Department of Health and Welfare. (7-1-14)

19. Director. The Director of the Idaho Department of Health and Welfare or his designee. (7-1-14)

20. Division. The Division of Public Health, Idaho Department of Health and Welfare. (7-1-14)

21. Emergency. A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person’s health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (7-1-14)

22. Emergency Medical Care. The care provided to a person suffering from a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person’s health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (7-1-14)

23. Emergency Medical Responder (EMR). An EMR is a person who: (7-1-14)

a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, “Emergency Medical Services - Personnel Licensing Requirements”; (7-1-14)

b. Is licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)

c. Carries out the practice of emergency medical care within the scope of practice for EMR determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, “Rules of the Idaho Emergency Medical Services (EMS) Physician Commission”; and (7-1-14)

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

24. Emergency Medical Services (EMS). Under Section 56-1012(1-26), Idaho Code, emergency medical services or EMS is aid rendered by an individual or group of individuals who do the following: (4-11-15)()

a. Respond to a perceived need for medical care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury; (4-11-15)

b. Are prepared to provide interventions that are within the scope of practice as defined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, “Rules of the Idaho Emergency Medical Services (EMS) Physician Commission”; (4-11-15)

- c. Use an alerting mechanism to initiate a response to requests for medical care; and (4-11-15)
- d. Offer, advertise, or attempt to respond as described in Subsection 56-1012(12), (a) through (e), Idaho Code 011.24.a. through 011.24.c. of this rule. (4-11-15)()
- ~~e. Aid rendered by a ski patroller, as described in Section 54-1804(1)(h), Idaho Code, is not EMS. (4-11-15)~~
- 25. Emergency Medical Services Advisory Committee (EMSAC).** The statewide advisory board of the Department as described in IDAPA 16.01.01, “Emergency Medical Services (EMS) - Advisory Committee (EMSAC).” EMSAC members are appointed by the Director of the Idaho Department of Health and Welfare to provide counsel to the Department on administering the EMS Act. (7-1-14)
- 26. Emergency Medical Technician (EMT).** An EMT is a person who: (7-1-14)
- a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, “Emergency Medical Services - Personnel Licensing Requirements”; (7-1-14)
- b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)
- c. Carries out the practice of emergency medical care within the scope of practice for EMT determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, “Rules of the Idaho Emergency Medical Services (EMS) Physician Commission”; and (7-1-14)
- d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)
- 27. Emergency Scene.** Any setting outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. (7-1-14)
- 28. EMS Agency.** Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, “Emergency Medical Services (EMS) - Agency Licensing Requirements,” that operates an air medical service, ambulance service, or non-transport service. (7-1-14)
- 29. EMS Bureau.** The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare. (7-1-14)
- 30. EMS Education Program.** The institution or agency holding an EMS education course. (7-1-16)
- 31. EMS Education Program Director.** The individual responsible for an EMS educational program or programs. (7-1-16)
- 32. EMS Education Program Objectives.** The measurable outcome used by the program to determine student competencies. (7-1-16)
- 33. EMS Medical Director.** A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. (7-1-14)
- 34. EMS Physician Commission (EMSPC).** The Idaho Emergency Medical Services Physician Commission created under Section 56-1013A, Idaho Code, also referred to as “the Commission.” (7-1-14)
- 35. EMS Response.** A response to a request for assistance that would involve the medical evaluation or treatment of a patient, or both. (7-1-17)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.03 – EMERGENCY MEDICAL SERVICES (EMS) – AGENCY LICENSING REQUIREMENTS

DOCKET NO. 16-0103-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

The Department is updating this rule chapter to address Time Sensitive Emergency (TSE) designation of EMS agencies. The TSE EMS designation was developed to recognize EMS agencies that have met predetermined criteria for stroke, STEMI (ST-Elevation Myocardial Infarction, commonly known as a “heart attack”), and trauma responses. These criteria were established based on nationally recognized best practices to improve patient outcomes.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2019, Idaho Administrative Bulletin, [Volume 19-5, pages 63-64](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the “Time Sensitive Emergency System Standards Manual,” Edition 2020-1, is being incorporated to give it the force and effect of law and to align with what is incorporated under IDAPA 16.02.01, “Rules of the Idaho Time Sensitive Emergency System Council.” The document is not being published in this chapter of rules due to its length and format, but it is available upon request from Idaho EMS. Once the docket has been finalized and adopted, the manual will be available online at: <https://tse.idaho.gov/>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Wayne Denny at (208) 334-4000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5564
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0103-1901
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

01. Minimum Equipment Standards for Licensed EMS Services. The Board of Health and Welfare has adopted the “Minimum Equipment Standards for Licensed EMS Services,” edition 2016, version 1.0, as its standard for minimum equipment requirements for licensed EMS Agencies and incorporates it by reference. Copies of these standards may be obtained from the Department, as described in Section 005 of these rules, or online at: <http://www.idahoems.org>. ~~(3-29-17)~~ ()

02. Time Sensitive Emergency System Standards Manual. The Board of Health and Welfare has adopted the “Time Sensitive Emergency System Standards Manual.” Edition 2020-1, as its standard for certifying EMS Agencies as TSE Designated EMS Agencies. Copies of these standards may be obtained from the Department, as described in Section 005 of these rules, or online at: <https://tse.idaho.gov/>. ()

(BREAK IN CONTINUITY OF SECTIONS)

982. -- ~~989~~. (RESERVED)

990. TIME SENSITIVE EMERGENCY CERTIFICATION.
The Department’s EMS Bureau will certify an EMS Agency as a TSE Designated EMS Agency when such agency, upon proper application and verification, is found to meet the applicable designation criteria established in the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. ()

991. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.07 – EMERGENCY MEDICAL SERVICES (EMS) – PERSONNEL LICENSING REQUIREMENTS

DOCKET NO. 16-0107-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code; also H0248 (2019).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking – The Department is proposing rule changes that do the following:

1. Update the Recognition of EMS Personnel Licensure Interstate CompAct (REPLICA) Section to allow providers from other REPLICA states to obtain reciprocity in Idaho. These changes will expedite the reciprocity licensure process for out-of-state providers.

2. Adjust the timeframe for a candidate to successfully complete all components of the standardized exam from 12 months to 24 months to reflect changes in policy put in place by the vendor for the national exam, the National Registry of Emergency Medical Technicians (NREMT).

3. Add rules to align with the Occupational Licensing Reform Act. The Occupational Licensing Reform Act requires the EMS Bureau to provide rules for EMS personnel licensure by endorsement for the military, veterans, and their spouses. These changes are directed by H0248 (2019).

4. Clarify issues related to reinstatement of lapsed EMS Personnel Licenses.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2019, Idaho Administrative Bulletin, [Vol. 19-5, pages 65-66](#).

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 Wayne Denny at (208) 334-4000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

Tamara Prisock, DHW - Administrative Rules Unit
Phone: (208) 334-5564 phone / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0107-1901
(Only Those Sections With Amendments Are Shown.)

103. RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA).

01. Licensed EMS Personnel from a REPLICA **Member** State. ~~Licensed EMS personnel~~ An individual who possesses a current, valid, and unrestricted EMS personnel license from a REPLICA member state whose primary affiliation is an Idaho-licensed EMS agency: ()

a. ~~Must~~ Must apply for Idaho EMS licensure within ninety (90) days of affiliation with an Idaho EMS agency. (3-29-17)()

b. May affiliate and respond with the Idaho-licensed EMS agency during the initial ninety (90) day period. ()

c. Will be issued an Idaho EMS personnel license at the same level of licensure as the REPLICA home state license upon payment of any applicable licensure fee in accordance with Section 111 of these rules. ()

02. **Out-of-State Primary Affiliation.** If EMS personnel licensed in another REPLICA state ~~and they~~ claim an EMS agency in that state as their primary affiliation, Idaho licensure is not required. (3-29-17)()

(BREAK IN CONTINUITY OF SECTIONS)

106. TIME FRAME FOR PERSONNEL LICENSURE AFTER SUCCESSFUL COMPLETION OF EDUCATION COURSE.

An individual who has successfully completed an EMS education course is eligible to attempt the standardized examination for the appropriate level of licensure. (7-1-16)

01. **Complete Standardized Examination.** A candidate must successfully complete all components of the standardized examination ~~in a twelve (12) month period~~ within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. (7-1-16)()

02. **Standardized Examination Not Completed.** If all components of the standardized examination are not successfully completed ~~in a twelve (12) month~~ period within twenty-four (24) months of course completion, the candidate must repeat the initial training course and all components of the standardized examination in order to be eligible for an Idaho EMS personnel license. (7-1-16)()

107. LICENSURE OF MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES.

A member of the military, a veteran, or a spouse of any such person who possesses a current, valid, and unrestricted EMS personnel license in another state, district, or territory of the United States is eligible for EMS personnel licensure in Idaho as follows: ()

01. **Licensure in REPLICA Member State.** A member of the military, a veteran, or a spouse of such a person who possesses a REPLICA member state EMS personnel license is eligible for licensure in Idaho under Section 103 of these rules. ()

02. **Licensure in Non-REPLICA Member State.** A member of the military, a veteran, or a spouse of such a person who possesses an EMS personnel license from a state that is not a REPLICA member state is eligible for licensure by endorsement in Idaho under Section 108 of these rules. ()

108. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT -- MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES.

Members of the military, veterans, and their spouses may apply to the EMS Bureau for licensure by endorsement provided they meet the following: ()

01. Military, Veteran, or Spouse. Are a member of the military, a veteran, or a spouse of any such person. ()

02. Graduation Required. Have successfully completed an education program that is substantially equivalent to the approved education course recognized by the EMS Bureau under IDAPA 16.01.05, "Emergency Medical Services -- Education, Instructor, and Examination Requirements." ()

03. Licensing Examination. Successfully complete, or have successfully completed, the same standardized examination for the level of licensure on the application required under IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." ()

04. License from Another Jurisdiction. Possess a current, valid, and unrestricted EMS personnel license, at the same or higher level as the Idaho license being requested, from another state, district, or territory of the United States. The license of any individual subject to official investigation or disciplinary proceedings is not considered current, valid, and unrestricted. ()

05. Criminal History and Background Check. Successfully complete a criminal history and background check in accordance with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," will result in denial or revocation of licensure. ()

06. Declaration of Previous Applications and Licensures. Declare each state or jurisdiction in which they have ever applied for, been denied, or held an EMS license or certification. ()

07. Authorization for Release of Information. Provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. ()

08. Provide Current Affiliation with EMS Agency. Declare all organizations in which they are allowed to practice as licensed personnel. A candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. ()

09. Valid Identification. Have a valid state driver's license, an Idaho identification card issued by a county driver's license examining station, or an identification card issued by the armed forces of the United States. ()

10. Submit Required Licensure Fee. Submit the applicable initial licensure fee provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. ()

~~107.~~ 109. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

131. REINSTATEMENT OF A LAPSED EMS PERSONNEL LICENSE.

An individual desiring to reinstate a lapsed personnel license must provide documentation that he meets the following requirements: (3-29-12)

01. Declaration of Previous Applications and Licensures. A reinstatement candidate must declare each state or jurisdiction in which he has applied for, been denied, or held an EMS license or certification. (3-29-12)

02. Authorization for Release of Information. A reinstatement candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate’s registration, licensure, and certification information to the Idaho EMS Bureau. (3-29-12)

03. Provide Current Affiliation with EMS Agency. A reinstatement candidate must declare all organizations in which they are allowed to practice as licensed personnel. The candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. (3-29-12)

04. Documentation of Continuing Education for Lapsed License Reinstatement. A candidate for reinstatement of a lapsed license must provide documentation of continuing education consistent with the license holder’s lapsed license. Continuing education requirements are provided in Sections 300 through 325 of these rules. The time frame for meeting the continuing education requirements for reinstatement are as follows: (7-1-16)

a. The candidate must meet continuing education requirements under Sections 320 through 325 of these rules for the last valid licensure cycle; and (7-1-16)

b. Additional continuing education hours in any combination of categories and venues, proportionate to the amount of time since the expiration date of the lapsed license, as follows: (3-29-12)

i. EMR -- Three-quarters (3/4) of one (1) hour of continuing education per month of lapsed time. (3-29-12)

ii. EMT -- One and one-half (1 ½) hours of continuing education per month of lapsed time. (3-29-12)

iii. AEMT -- Two and one-quarter (2 ¼) hours of continuing education per month of lapsed time. (3-29-12)

iv. Paramedic -- Three (3) hours of continuing education per month of lapsed time. (3-29-12)

05. Valid Identification for Reinstatement of Lapsed License. A reinstatement candidate must have a valid state driver’s license, an Idaho identification card which is issued by a county driver’s license examining station, or identification card issued by the Armed Forces of the United States. (3-29-12)

06. Criminal History and Background Check for Reinstatement of Lapsed License. A reinstatement candidate must successfully complete a criminal background check under the provisions in IDAPA 16.05.06, “Criminal History and Background Checks.” Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of licensure. (3-29-12)

07. ~~Pass Standardized Examination for Reinstatement~~ Competency Certification. ~~A reinstatement candidate must successfully complete the standardized examination for the lapsed level of licensure required under IDAPA 16.01.05, “Emergency Medical Services (EMS) – Education, Instructor, and Examination Requirements.” A candidate for reinstatement must successfully complete the standardized examination within the time period during which the license was lapsed~~ The Medical Director of the reinstatement candidate’s affiliating EMS agency must certify that he has actively assessed the reinstatement candidate’s competency in both the psychomotor and cognitive domains and found that the reinstatement candidate meets the baseline competency requirements for the level of the lapsed license. (7-1-16)()

~~**08. Standardized Exam Attempts For Reinstatement.** A candidate for licensure reinstatement is allowed to attempt to successfully pass the standardized exam as follows: (3-29-12)~~

~~**a.** An EMR candidate is allowed three (3) attempts to pass the exam, after which the initial EMR course must be successfully completed again before another three (3) attempts are allowed. (3-29-12)~~

~~**b.** An EMT candidate is allowed three (3) attempts to pass the exam, after which twenty four (24) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)~~

~~e. An AEMT candidate is allowed three (3) attempts to pass the exam, after which thirty-six (36) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)~~

~~d. A Paramedic candidate is allowed three (3) attempts to pass the exam, after which forty-eight (48) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)~~

098. Submit Required Licensure Fee for Reinstatement. A candidate must submit the applicable reinstatement license fee provided in Section 111 of these rules. A candidate for reinstatement of an EMR or EMT level of licensure has no fee requirement. (3-29-12)

402. Expiration Date of a Reinstated License. The expiration date for a lapsed license that is reinstated is determined as provided in Section 115 of these rules. (3-29-12)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.08 – VITAL STATISTICS RULES

DOCKET NO. 16-0208-1901

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing. The action is authorized pursuant to Section 39-242, Idaho Code.

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

PUBLIC HEARING SCHEDULE	
Thursday, September 19, 2019 1:00 - 3:00 p.m. (PDT) Lewiston State Office Bldg. 1118 F Street 3rd Floor Conf. Room Lewiston, ID 83501	Friday, September 20, 2019 9:00 - 11:00 a.m. (PDT) Region I Office 1120 Ironwood Drive Large Conf. Room Coeur d'Alene, ID 83814
Monday, September 23, 2019 9:00 - 11:00 a.m. (MDT) Medicaid Central Office 3232 Elder Street Conf. Rooms D East & D West Boise, ID 83705	Tuesday, September 24, 2019 2:00 - 4:00 p.m. (MDT) Region V Office 601 Poleline Road Conf. Room A Twin Falls, ID 83301
Wednesday, September 25, 2019 9:00 - 11:00 a.m. (MDT) Region VII Office 150 Shoup Avenue 2nd Floor Conference Room Idaho Falls, ID 83402	

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 summary of this action is found in July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 164-168](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Elke Shaw-Tulloch, (208) 334-5950.

The public comment period has been extended and will close on Wednesday, September 25th, 2019. Anyone may submit written comments regarding this rulemaking. Any written comments submitted carry the same weight as oral testimony.

Dated this 8th day of August, 2019.

Tamara Priscock, DHW - Administrative Rules Unit
Phone: (208) 334-5564 phone / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

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

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.19 – RULES GOVERNING CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1005 and 39-3505, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 increases protection for vulnerable adults in certified family homes by preventing exposure to others who have criminal convictions, substantiated adult protection or child protection complaints, or have had disciplinary issues regarding child care or foster care licenses. The proposed changes would:

1. Add requirement to renew criminal history and background check clearances on a recurring basis; and
2. Add as a cause for denying a certificate that the applicant had disciplinary issues with a child care or foster care license.

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

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking. Providers pay for their fingerprinting appointments. This will not incur costs for any changes to automated systems.

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 1, 2019, Idaho Administrative Bulletin, [Vol. 19-5, pages 67-68](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Millward, (208) 334-0706.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

Tamara Prisock, DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0319-1901
(Only Those Sections With Amendments Are Shown.)

IDAPA 16
TITLE 03
CHAPTER 19

16.03.19 – ~~RULES GOVERNING~~ CERTIFIED FAMILY HOMES

(BREAK IN CONTINUITY OF SECTIONS)

001. TITLE, SCOPE, AND EXCEPTIONS.

01. **Title.** These rules are titled IDAPA 16.03.19, “~~Rules Governing~~ Certified Family Homes.” (4-11-06)()
02. **Scope.** These rules set the minimum standards and administrative requirements for any care provider who is paid to care for an adult living in the care provider’s home, when the adult is elderly or has a developmental disability, mental illness, or physical disability, and needs assistance with activities of daily living. (7-1-18)
03. **Exceptions to These Rules.** These rules do not apply to the following: (4-11-06)
- a. Any individual who provides only housing, meals, transportation, housekeeping or recreational and social activities. (7-1-18)
- b. Any health facility defined by Title 39, Chapter 13, Idaho Code. (4-11-06)
- c. Any residential care or assisted living facility defined by Title 39, Chapter 33, Idaho Code. (4-11-06)
- d. Any arrangement for care in a relative’s home that is not compensated through a publicly-funded program. (7-1-18)
- e. Any home approved by the Department of Veterans Affairs as a “medical foster home” described in 38 CFR Part 17 and Sections 39-3502 and 39-3512, Idaho Code. Care providers who provide care to both veterans and non-veterans living in a “medical foster home” are not exempt from these rules. (7-1-18)
04. **State Certification to Supersede Local Regulation.** These rules will supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. These rules do not supersede any other local regulations. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Department Criminal History and Background Check Clearance. The provider, substitute caregivers, and all adults living in the home are required to complete a Department criminal history and background check and receive a clearance in compliance with IDAPA 16.05.06, "Criminal History and Background Checks." The resident is exempt from criminal history check requirements. (7-1-18)

02. When Certification Can Be Granted. Prior to certification being granted: (7-1-18)

a. The provider must have a completed criminal history check, including clearance; and (7-1-18)

b. Any other adult living in the home must have completed a self-declaration form, ~~must~~ be fingerprinted, and ~~must~~ not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-18)()

03. New Adults in the Home After Certification Is Granted. A new adult who plans to live in the home must complete a self-declaration form, ~~must~~ be fingerprinted, and ~~must~~ not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," before moving into the home. Any adult who is a visitor in the home and leaves within thirty (30) days is not required to have a criminal history check but must not have unsupervised contact with the resident. (7-1-18)()

04. Minor Child Turns Eighteen. A minor child turning eighteen (18) and living in the home must complete a self-declaration form, ~~must~~ be fingerprinted, and ~~must~~ not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of his eighteenth birthday. (4-11-06)()

05. Substitute Caregiver. A substitute caregiver must complete a self-declaration form, be fingerprinted, and ~~must~~ not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. (4-11-06)()

06. Additional Criminal Convictions, Pending Investigations, or Charges. Once criminal history clearances have been received, the provider must report to the Department any additional criminal convictions, pending investigation or charges for himself, any other adult living in the home or a substitute caregiver as described in Section 210 of these rules. (7-1-18)

07. Renewal of Clearance. Any adult who needs to clear a Department criminal history and background check according to these rules must obtain a new clearance from the Department at least every five (5) years. ()

(BREAK IN CONTINUITY OF SECTIONS)

113. DENIAL OF APPLICATION FOR CERTIFICATE.

The Department may deny the application for issuance of a certificate when conditions exist that endanger the health, safety, or welfare of any resident or when the home ~~or provider~~ is not in ~~substantial~~ compliance with these rules. ()

01. Additional Causes For Denial. Additional causes for denial of an application for a certificate include the following: (7-1-18)()

~~01a. False or Incomplete Information.~~—The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (7-1-18)()

~~02b. Convictions.~~—The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation; (7-1-18)()

~~03c. Other Criminal Offense.~~ The applicant or provider has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or similar minor offense; (7-1-18)()

~~04d. Denial or Revocation of Health Care License.~~ The applicant or provider has been denied or has revoked any child care (including foster home) or health facility license, residential care or assisted living facility license, or certified family home certificate; (7-1-18)()

~~05e. Operation Without a License.~~ The applicant or provider has been found to have operated a health facility, residential care or assisted living facility, or certified family home without a license or certificate; (7-1-18)()

~~06f. Court Ordered.~~ A court has ordered that the applicant or provider must not operate a health facility, residential care or assisted living facility, or certified family home; (7-1-18)()

~~07g. Registries or Exclusion List.~~ The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; or (7-1-18)()

~~08h. Control or Influence.~~ The applicant or provider is directly under the control or influence of any person who is described in Subsections 113.01 ~~through 113.07~~ of this rule. (7-1-18)()

~~092. Procedure for Appeal~~ **Notice of Denial of a Certificate.** Immediately upon denial of any application for a certificate, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, including the reason(s) for the Department's decision and how to appeal the decision. (7-1-18)()

~~a. Immediately upon denial of any application for a certificate, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision.~~ (7-1-18)

~~b. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."~~ (4-11-06)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.22 – RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO
DOCKET NO. 16-0322-1901
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-3305, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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

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

The proposed changes include:

1. Correct grammar and punctuation errors; Update references and definitions;
2. Eliminate verbiage that repeats requirements already outlined in statute or incorporated references;
3. Clarify, eliminate or relax existing requirements;
4. Strengthen certain requirements that directly impact resident health and safety; and
5. Allow accreditation by a Department-approved accreditation entity in lieu of regular re-licensure inspections.

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:

Proposed changes won't impact the state general fund, with the exception of required changes in automation, which will cost approximately \$10,000, (\$5,000 in federal funds and \$5,000 in general funds). Offering accreditation to assisted living facilities in lieu of regular licensure surveys will likely not result in decreased costs for the program; rather, any surveys the program does not have to complete due to accreditation of some facilities will allow the program to decrease the backlog of approximately 50 overdue re-licensure surveys. Automation changes are required to accommodate the accreditation choice facilities may make.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 236-237](#).

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 Tamara Prisock, (208) 364-1959.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

Tamara Prisock, DHW - Administrative Rules Unit
Phone: (208) 334-5500 / Fax: (208) 334-6558
dhwrules@dhw.idaho.gov

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0322-1901
(Only Those Sections With Amendments Are Shown.)

IDAPA 16
TITLE 03
CHAPTER 22

16.03.22 – RESIDENTIAL ~~CARE OR~~ ASSISTED LIVING FACILITIES ~~IN IDAHO~~

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section 39-3305, Idaho Code, to adopt and enforce rules to protect the health, safety, and ~~the~~ individual~~s~~ rights for residents in residential care or assisted living facilities.

(3-30-06)()

001. TITLE, SCOPE, AND RESPONSIBILITIES.

01. Title. The title of this chapter of rules is IDAPA 16.03.22, “Residential ~~Care or~~ Assisted Living Facilities ~~in Idaho~~.”

(3-30-06)()

02. Scope. The purpose of a residential care or assisted living facility in Idaho is to provide choice, dignity, and independence to residents while maintaining a safe, humane, and home-like living arrangement for individuals needing assistance with daily activities and personal care. These rules set standards for providing services that maintain a safe and healthy environment.

(3-30-06)()

03. General Provider Responsibilities. The facility must ~~assure~~ ensure quality services by providing choices, dignity, and independence to residents. The facility must have an administrator and staff who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The facility must be operated consistent with the rules and statutes as it conducts its work.

(3-30-06)()

04. General Department Responsibilities. The Department is responsible for monitoring and enforcing the provisions of the statute and this chapter to protect residents in these facilities by providing information, education, and evaluating providers to ~~assure~~ ensure compliance with statute and these rules. This responsibility includes: licensing facilities and monitoring the condition of ~~the facility~~ facilities.

(3-30-06)()

05. Exemptions. The provisions of these rules do not apply to any of the following: (3-30-06)

a. Health Facility. The provisions of these rules do not apply to hospitals, nursing facilities, intermediate care facilities for persons with intellectual disabilities, or any other health facility as defined by Title 39, Chapter 13, Idaho Code. (3-30-06)

b. Alternate Living Arrangements. The provisions of these rules do not apply to any house, institution, hotel, congregate housing project, retirement home, or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities, or that have residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the entity operating the facility. (3-30-06)

c. Relatives. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the ~~caretaker~~ caregiver is paid for the care through a state or federal program, in

which case the ~~caretaker~~ caregiver's relative and the care setting must meet all applicable requirements. (3-30-06)()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 004, 005, and 006 of these rules. (3-30-07)()

003. ADMINISTRATIVE APPEALS, ~~AND~~ CONTESTED CASES, AND INFORMAL DISPUTE RESOLUTION.

01. Administrative Appeals and Contested Cases. Administrative appeals and contested cases are governed by IDAPA 16.05.03, "~~Rules Governing~~ Contested Case Proceedings and Declaratory Rulings." (3-30-06)()

02. Informal Dispute Resolution Meeting. If a facility disagrees with a ~~deficiency cited for~~ finding of a core issue, it may request an informal dispute resolution meeting ~~to~~ with the ~~Licensing and Certification Unit Residential Assisted Living Facilities Program~~. The policy and procedure for requesting informal dispute resolution is posted on the ~~Licensing and Certification Residential Assisted Living Facilities Program~~ website at ~~www.healthandwelfare.idaho.gov~~ <http://www.assistedliving.dhw.idaho.gov>. (3-29-10)()

004. INCORPORATION BY REFERENCE.

The documents, referenced in ~~Subsection 004.01 through 004.08 of these~~ ~~this~~ rules, are incorporated by reference as provided by Section 67-5229-(a), Idaho Code. These incorporated documents are available for public review upon request at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702, or when available online at the websites provided in these rules. (3-30-06)()

01. National Fire Protection Association (NFPA) Documents. ~~The NFPA documents referenced in these regulations are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908; 1-800-344-3555; and online at http://www.nfpa.org.~~ (3-30-06)

a. National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, 2018 edition, the occupancy chapters and all mandatory referenced documents contained therein under "Mandatory References." ()

b. National Fire Protection Association (NFPA) Standard 99, Health Care Facilities Code, 2018 edition. ()

02. Idaho Diet Manual. This manual is available from the Idaho ~~Academy of Nutrition & Dietetics Association, Ninth Eleventh~~ Edition, 20015, online at <http://eatrightidaho.org>. (3-30-06)()

03. Idaho Food Code. IDAPA 16.02.19, "~~Food Safety and Sanitation Standards for Idaho~~ Food Establishments ~~Code~~." These rules are available online at <http://adminrules.idaho.gov/rules/current/16/160219.pdf>. (3-30-06)()

04. Americans with Disabilities Act Accessibility Guidelines. 28 CFR Part 36, Appendix A. This code is available online at ~~http://www.ada.gov/publicat.htm~~ <http://www.ada.gov/1991standards/adastd94-archive.pdf>. ~~Contact phone number is 1-800-514-0301.~~ (3-30-06)()

05. Idaho Board of Nursing Rules. IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." These rules are available online at <http://adminrules.idaho.gov/rules/current/23/>. (3-30-06)

~~**06. Idaho Board of Pharmacy Rules. IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy."** These rules are available online at <http://adminrules.idaho.gov/rules/current/27/>. (3-30-06)~~

~~**07. International Building Code.** Edition 2003. This code is available from the International Code Council, 4051 West Flossmoor Rd., Country Club Hills, IL 60478-5795, phone: 888-422-7233 and IDAPA 07.03.01,~~

“Rules of Building Safety.” These rules are available online at ~~http://www.icesafe.org~~ <https://adminrules.idaho.gov/rules/current/07/070301.pdf>. (3-30-06)()

~~08. Idaho Medical Assistance Program Rules. IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Section 665. These rules may be found online at http://adminrules.idaho.gov/rules/current/16/160309.pdf. (3-30-06)~~

005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – TELEPHONE -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (3-30-06)

02. Mailing Address. ()

a. The mailing address for of the ~~business office is~~ Idaho Department of Health and Welfare, is P.O. Box 83720, Boise, Idaho 83720-0036. (3-30-06)()

b. The mailing address of the Residential Assisted Living Facilities Program is P.O. Box 83720, Boise, Idaho 83720-0009. ()

03. Street Address. ()

a. The ~~business office~~ street address of the Idaho Department of Health and Welfare is ~~located at~~ 450 West State Street, Boise, Idaho 83702. (3-30-06)()

b. The street address of the Residential Assisted Living Facilities Program is 3232 Elder Street, Boise, Idaho 83705. ()

04. Telephone. ()

a. The telephone number of the Idaho Department of Health and Welfare is (208) 334-5500. (3-30-06)()

b. The telephone number of the Residential Assisted Living Facilities Program is (208) 364-1962. ()

05. Internet Website Address. ()

a. The Department Internet website is <http://www.healthandwelfare.idaho.gov>. (3-30-06)()

b. The Residential Assisted Living Facilities Program internet website is <http://www.assistedliving.dhw.idaho.gov>. ()

c. The public portal internet website is <http://www.flareslive/portal/searchfacility.aspx>. ()

~~06. Division of Licensing and Certification. The Department’s Division of Licensing and Certification Unit is located at 3232 Elder Street, Boise, ID 83705; Phone: 208 334 6626. (3-29-10)~~

~~07. Division of Licensing and Certification’s website is http://lc.dhw.idaho.gov/. (3-29-10)~~

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, “Use and Disclosure of Department Records.” (3-30-06)

02. Public Records Act. The Department of Health and Welfare will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Public records in the custody

of the Department ~~of Health and Welfare~~ are subject to disclosure, unless otherwise exempted by state ~~and~~ or federal law. (3-30-06)()

03. Disclosure of Resident Identity. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, will not be disclosed publicly in such a manner as to identify individual residents ~~of facilities~~ except as necessary in a proceeding involving a question of licensure. (3-30-06)()

04. Public Availability of ~~Deficiencies~~ Survey Documents. ~~The survey documents relating to a facility will be available to the public upon written request to the Department and posted on the Licensing and Certification website at <http://le.dhw.idaho.gov/>~~ In accordance with Section 39-3355(6), Idaho Code, survey findings are posted on the public portal at <http://www.flareslive/portal/searchfacility.aspx>. The related survey documents are available to the public upon written request to the Department. (3-29-10)()

(BREAK IN CONTINUITY OF SECTIONS)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. A residential ~~care or~~ assisted living facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007~~5~~, who have direct ~~patient resident~~ access to residents in the residential care or assisted living facility. The Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement. Other criminal history and background checks may be acceptable provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (3-26-08)()

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be fingerprint-based and include a search of the following record sources: (3-26-08)

- a. Federal Bureau of Investigation (FBI); (3-26-08)
- b. Idaho State Police Bureau of Criminal Identification; (3-26-08)
- c. Sexual Offender Registry; (3-26-08)
- d. Office of Inspector General List of Excluded Individuals and Entities; and (3-26-08)
- e. Nurse Aide Registry. (3-26-08)

03. Availability to Work. Any direct ~~patient resident~~ access individual hired or contracted with on or after October 1, 2007~~5~~, must self-disclose all arrests and convictions before having access to residents. (7-1-15)()

a. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual must not have direct resident access to any resident. ()

#b. The individual is only allowed to ~~only~~ work under another employee who has a cleared criminal history and background check that meets the criteria in this rule. The cleared employee must keep the individual waiting for clearance in line-of-sight when the individual has direct resident access supervision until the criminal history and background check is completed; and the results are obtained by the facility, unless: (7-1-15)()

i. The individual has completed an alternative criminal history and background check that includes a search of the record sources listed in Subsections ~~009.02.b. through 009.02.e. of~~ except for Subsection 009.02.a. in this rule; ~~and~~ (7-1-15)()

ii. The facility determines there is no potential danger to residents; ~~and~~ (7-1-15)()

~~biii.~~ This alternative criminal history and background check is only in effect until the required criminal history and background check that meets the criteria in this rule is completed. The results must state whether the individual was cleared or denied ~~Department has issued a clearance or denial~~ based on the ~~Department's~~ completed fingerprint-based background check. (7-1-15)()

~~e.~~ If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident. (7-1-15)

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of ~~his~~ their date of hire. (3-26-08)()

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (3-26-08)

a. Accepting employment with a new employer; and (3-26-08)

b. ~~His~~ The individual's last criminal history and background check was completed more than three (3) years prior to ~~his~~ their date of hire. (3-26-08)()

06. Use of Previous Criminal History and Background Check. Any employer ~~may~~ is allowed to use a previous criminal history and background check ~~subsection 009-02 of obtained under these~~ that meets the criteria in this rule if: (3-26-08)()

a. The individual has received a criminal history and background check within three (3) years of ~~his~~ their date of hire; (3-26-08)()

b. The Prior to the individual being granted unsupervised direct resident access, the employer has documentation of the criminal history and background check findings obtains and retains the individual's previous criminal history and background check results; (3-26-08)()

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification ~~and,~~ within thirty (30) days after obtaining the previous criminal history and background check results; (3-26-08)()

d. No disqualifying crimes are found; ~~and~~ (3-26-08)()

e. The facility maintains the individual's previous criminal history background check and state-only background check results in the employee's personnel file. ()

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within three (3) years of ~~his~~ their date of hire. (3-26-08)()

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

01. Abuse. ~~The~~ A non-accidental act of sexual, physical, or mental mistreatment, or injury of a resident through the action or inaction of another individual. (3-30-06)()

02. Accident. An unexpected, unintended event that can cause a resident injury. (3-30-06)

03. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (3-30-06)

04. Activities of Daily Living. ~~The performance of basic self-care~~ Self-care activities in meeting actions necessary to sustain an individual's ~~needs to sustain him~~ in a daily living environment, including bathing, ~~washing,~~ dressing, toileting, grooming, eating, communicating, ~~continence, and mobility~~ and managing medications. (3-30-06)()

05. Administrator. An individual, ~~properly~~ licensed by the Idaho Bureau of Occupational Licensing Licenses as a Residential Care Facility Administrator, ~~who is responsible for day-to-day operation of a residential care or assisted living facility.~~ (3-30-06)()

06. Administrator's Designee. An administrator's designee is a person authorized in writing to act in the absence of the administrator and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency. (7-1-15)()

07. Adult. A person who has ~~attained the age of~~ reached eighteen (18) years of age. (3-30-06)()

08. Advance Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates related to the provision of medical care when the individual is unable to communicate. (3-30-06)()

09. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. (3-30-06)

10. Ambulatory Person. A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (3-30-06)

11. Assessment. ~~The conclusion reached using uniform criteria~~ Information gathered which that identifies resident strengths, weaknesses, risks, and needs, to include functional, social, medical, and behavioral needs. (3-30-06)()

12. Authentication. ~~Proof of authorship~~ The process or action of proving or showing authorship to be true, genuine, or valid. (3-30-06)()

13. Authorized Provider. An individual who is a nurse practitioner or clinical nurse specialist or physician assistant. (3-30-06)

~~**14. Basement.** That portion of a building that is partly or completely below grade plane. A basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) More than six (6) feet (1829 mm) above grade plane; (2) More than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) More than twelve (12) feet (3658 mm) above the finished ground level at any point. International Building Code 2003. (3-30-06)~~

~~**154. Behavioral Plan.** A written plan which that decreases the frequency, duration, or intensity of maladaptive behaviors, and increases the frequency of adaptive behaviors ~~and introduces new skills.~~ (3-30-06)()~~

~~**165. Call System.** A signaling system whereby a resident can contact staff directly from their sleeping room, toilet room, and bathing area. The system may be voice communication, or an audible or visual signal, and may include wireless technology. The call system cannot be configured in such a way as to breach a resident's right to privacy at the facility, including but not limited to, in the resident's living quarters, in common areas, during medical treatments, and while receiving other services, in written and telephonic communications, or in visits with family, friends, advocates, and resident groups. (3-29-10)()~~

~~**176. Chemical Restraint.** A medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition. (3-30-06)~~

~~**187. Client of the Department Cognitive Impairment.** Any person who receives financial aid, or services, or both from an organized program of the Department When a person experiences loss of short or long-term~~

memory, orientation to person, place, time, safety awareness, or loses the ability to make decisions that affect everyday life. (3-30-06)()

198. Complaint. A formal expression of dissatisfaction, discontent, or unhappiness by, or on behalf of, a resident concerning the care or conditions at the facility. This expression could be oral, in writing, or by alternative means of communication. (3-30-06)()

2019. Complaint Investigation. A survey to investigate the validity of allegations of noncompliance with applicable state requirements. Allegations will be investigated by the Licensing Agency as described in Section 39-3355, Idaho Code. (3-30-06)()

210. Core Issue. A core issue is any one (1) of the following: ()

a. ~~A~~Abuse; ()

b. ~~N~~Neglect; ()

c. ~~E~~Exploitation; ()

d. ~~I~~Inadequate care; ()

e. ~~A~~ situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day-to-day operations of the facility; ()

f. ~~I~~noperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or ()

g. ~~S~~urveyors denied access to records, residents, or facilities. (3-30-06)()

221. Criminal Offense. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section ~~441-2(e)~~ 4B1.2(a), and 18 U.S.C. Sections 1001 through 1027. (3-30-06)()

232. Deficiency. A determination of non-compliance with a specific rule or part of a rule. (3-30-06)

243. Dementia. A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living and instrumental activities of daily living. (3-30-06)()

254. Department. The Idaho Department of Health and Welfare. (3-30-06)

265. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before ~~the age of~~ twenty-two (22) years of age and: (3-30-06)()

a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism, or other conditions found to be closely related ~~to~~ or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (3-30-06)()

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: ; self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and (3-30-06)()

c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment, or other services which are of life-long or extended duration, and individually planned and coordinated. (3-30-06)()

26. Direct Resident Access. In person access with any resident who resides at the facility, any access

to the residents' personal belongings, financial records, or health information. ()

27. **Director.** The Director of the Idaho Department of Health and Welfare ~~or his designee.~~ (3-30-06)()

28. **Electronic Signature,** ~~E-Signature.~~ The system for signing electronic documents by entering a unique code or password that verifies the identity of the person signing and creates an individual "signature" on the record. (3-30-06)()

29. Elopement. When a resident who is cognitively, physically, mentally, emotionally or chemically impaired, or physically leaves the facility premises or the secured unit or yard without personnel's knowledge. ()

~~2930. Exit Conference.~~ A meeting with the facility administrator or designee to: (1) provide review, discussion, and written documentation of non-core issues (~~Punch List~~), and (2) to provide preliminary findings of core issues. (3-30-06)()

301. Exploitation. The misuse of a resident's funds, property, resources, identity, or person for profit or advantage, ~~for example:~~ This includes charging a resident for services or supplies not provided or disclosed in the written admission agreement, and staff accepting gifts or money for extra services. (3-29-10)()

~~a. Charging a resident for services or supplies not provided; or~~ (3-29-10)

~~b. Charging a resident for services or supplies not disclosed in the written admission agreement between the resident and the facility.~~ (3-29-10)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH ~~M~~N.

01. **Follow-Up Survey.** A survey conducted to confirm that the facility is in compliance and has the ability to remain in compliance. (3-30-06)

~~02. Functional Abilities Assessment. An assessment of the resident's degree of independence with which the resident performs activities of daily living and instrumental activities of daily living.~~ (3-30-06)

~~032. Governmental Unit.~~ The state, any county, ~~municipality, or other political subdivision~~ any city, or any ~~D~~department, division, board, or other agency ~~thereof.~~ (3-30-06)()

~~04. Grade Plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane will be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1829 mm) from the building, between the building and a point six (6) feet (1829 mm) from the building. International Building Code—2003.~~ (3-30-06)

~~05. Hands On. Physical assistance to the resident beyond verbal prompting.~~ (3-30-06)

063. **Hourly Adult Care.** Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence(s) for a portion of the day. (3-30-06)()

~~074. Immediate Danger.~~ Any resident is subject to an imminent or substantial danger. (3-30-06)

~~085. Inadequate Care.~~ When a facility fails to provide the services required to meet the terms of the Negotiated Service Agreement, or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment, ~~or~~ engages in violations of resident rights, or takes residents who have been admitted in violation of the provisions of Section ~~39-3307, Idaho Code~~ 152 of these rules. (3-30-06)()

~~096. Incident.~~ An event that can cause a resident injury. (3-30-06)

~~10. Incident, Reportable.~~ A situation when a facility is required to report information to the Licensing and Certification Unit. (3-29-10)

~~a. Resident injuries of unknown origin. This includes any injury, the source of which was not observed by any person or the source of the injury could not be explained by the resident; or the injury includes severe bruising on the head, neck, or trunk, fingerprint bruises anywhere on the body, laceration, sprains, or fractured bones. Minor bruising and skin tears on the extremities need not be reported. (3-30-06)~~

~~b. Resident injury resulting from accidents involving facility-sponsored transportation. Examples: falling from the facility's van lift, wheel chair belt coming loose during transport, or an accident with another vehicle. (3-30-06)~~

~~c. Resident elopement of any duration. Elopement is when a resident who is unable to make sound decisions physically leaves the facility premises without the facility's knowledge. (3-30-06)~~

~~d. An injury due to resident to resident incident. (3-30-06)~~

~~e. An incident that results in the resident's need for hospitalization, treatment in a hospital emergency room, fractured bones, IV treatment, dialysis, or death. (3-30-06)~~

~~107. Independent Mobility.~~ A resident's person's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (3-30-06)()

~~12. Instrumental Activities of Daily Living.~~ The performance of secondary level of activities that enables a person to live independently in the community, including preparing meals, access to transportation, shopping, laundry, money management, housework, and medication management. (3-30-06)

~~108. Legal Guardian or Conservator.~~ A court-appointed individual ~~who~~ designated to manages the affairs or finances ~~or both~~ of another person who has been found to be incapable of handling ~~his~~ their own affairs. (3-30-06)()

~~109. License.~~ A permit to operate a residential care or assisted living facility. (3-30-06)()

~~150. Licensing and Certification Unit Agency.~~ The ~~Department's Division of Licensing and Certification is responsible for licensing and surveying~~ Residential Assisted Living Facilities Program, a unit of the Division of Licensing and Certification within the Department of Health and Welfare, that conducts inspections and surveys of residential care or assisted living facilities and issues licenses based on compliance with ~~in this chapter of rules; in which "Residential Assisted Living Facilities Program" and "Licensing Agency" "Licensing and Certification Unit" and "Licensing and Survey Agency" are synonymous.~~ (7-1-15)()

~~11. Maladaptive Behavior.~~ Any behavior that interferes with resident care, infringes on any resident's rights, or presents a danger to the resident or others. Involuntary muscle movements are not considered maladaptive behaviors. ()

~~162. Medication.~~ Any substance ~~or drug~~ used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally, and is available through prescription or over-the-counter. (3-30-06)()

~~173. Medication Administration.~~ ~~It is a~~ The process where a prescribed medication is given by a licensed nurse to a resident ~~by through~~ one (1) of several routes ~~by licensed nurses.~~ (3-30-06)()

~~184. Medication Assistance.~~ The process whereby a non-licensed care provider is delegated tasks by a licensed nurse, to aid a person who cannot independently self-administer medications. IDAPA 23.01.01. "Rules of the Idaho State Board of Nursing," Section 010. (3-30-06)

~~19. Medication Dispensing.~~ The act of filling, labeling and providing a prescribed medication to a resident. (3-30-06)

~~20. Medication, Self Administration. The act of a resident taking a single dose of his own medication from a properly labeled container and placing it internally in, or externally on, his own body as a result of an order by a authorized provider. (3-30-06)~~

~~214. Mental Disorders. Health conditions that are characterized by alterations in thinking, mood, or behavior, (or some combination thereof), that are all mediated by the brain and associated with distress and or impaired functioning. (3-30-06)()~~

~~2215. Mental Illness. Refers collectively to all diagnosable mental disorders. (3-30-06)~~

~~23. Monitoring Visit. A visit by a representative of the Licensing and Certification Unit for the purpose of assuring residents are not in immediate danger. (3-29-10)~~

~~2416. Neglect. Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. (3-30-06)~~

~~2517. Negotiated Service Agreement. The plan reached by the resident and/or their representative and the facility based on the assessment, physician or authorized provider's orders, admission records, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (3-30-06)()~~

~~18. Non-Ambulatory. The inability of a person to move about freely of their own choice. It includes any person who is unable to physically and mentally respond in an emergency to a sensory signal, to an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. ()~~

~~2619. Non-Core Issue. Any finding of deficiency deficient practice that is not a core issue. (3-30-06)()~~

~~20. Nursing Assessment. Information gathered related to a resident's health or medical status that has been reviewed, signed, and dated by a licensed registered nurse, as described in Section 305 of these rules. ()~~

012. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.

~~01. Outside Services. Services provided to a resident by someone that is not a member of facility personnel. ()~~

~~042. Owner. Any person or entity, having legal ownership of the facility as an operating business, regardless of who owns the real property. (3-30-06)()~~

~~023. Personal Assistance. The provision by the staff of the facility of one (1) or more of the following services as outlined in the Negotiated Service Agreement: (3-30-06)()~~

~~a. Assisting the resident with activities of daily living and instrumental activities of daily living. (3-30-06)()~~

~~b. Arranging for supportive outside services. (3-30-06)()~~

~~c. Being aware of the resident's general whereabouts and supervision. or (3-30-06)()~~

~~d. Monitoring the activities of the resident while on the premises of the facility to assure ensure the resident's health, safety, and well-being. (3-30-06)()~~

~~e. Assisting residents with self administration of medication. (3-30-06)~~

034. Personnel. Paid individuals assigned the responsibility of providing care, ~~and~~ supervision, and services to the facility and its residents. In this chapter of rules, "personnel" and "staff" are synonymous. (3-30-06)()

045. Physical Restraint. Any device or physical force that restricts the free movement of, normal functioning of, or normal access to, a portion or portions of an individual's body, except for the temporary treatment of a medical condition, such as the use of a cast for a broken bone. (3-30-06)()

056. Portable Heating Device. Any device designed to provide heat on a temporary basis; ~~that~~ is not designed as part of a building's heating system; is not permanently affixed to the building; and, if electrical, is not hardwired to the building's electrical service. This does not include the use of therapeutic devices of such as heating pads, heated mattress pads, and electric blankets, which require a physician or authorized provider's order. (3-30-06)()

067. PRN. Indicates that a medication or treatment prescribed by a medical professional to an individual may be given as needed. (3-30-06)

078. Pressure Ulcer. Any lesion caused by unrelieved pressure that results in damage to the underlying tissue(s). ~~Although friction and shear are not primary causes of pressure ulcers, friction and shear are important contributing factors to the development of pressure ulcers.~~ (3-30-06)()

089. Provisional License. A license which may be issued to a facility not in compliance with the rules pending the satisfactory correction of all deficiencies. (3-30-06)

~~**09. Psychosocial History.** A combined summary of psychological and social histories of an individual designed to inform a care giver of a person's abilities and limitations which will assist in identifying appropriate resources. (3-30-06)~~

10. Publicly Funded Programs. Any program funded in whole, or in part, by an appropriation of the U.S. Congress, the Idaho Legislature, or other governmental body. (3-30-06)()

11. Punishment. ~~Any action in which~~ The use of an adverse consequence ~~is presented to~~ with a resident, ~~that is designed to produce a decrease in the rate, intensity, duration or probability of the occurrence of a behavior; or~~ the administration of any noxious or unpleasant stimulus, or deprivation of a resident's rights or freedom ~~for the purpose of reducing the rate, intensity, duration, or probability of a particular behavior.~~ (3-30-06)()

12. Relative. A person related by birth, adoption, or marriage ~~to the first degree and grandparent and grandchild.~~ (3-30-06)()

13. Repeat Deficiency. A deficiency found on a licensure ~~re~~survey, complaint investigation, or follow-up survey that was also found on the previous survey or visit. (3-30-06)()

14. Reportable Incident. A situation when a facility is required to report information to the Residential Care or Assisted Living Facilities Program, including: ()

a. Any resident injury of unknown origin (i.e., an injury, the source of which was not observed by any person and could not be explained by the resident); ()

b. Any resident injury of significant or suspicious nature (i.e., an injury that includes severe bruising, fingerprint bruises, laceration(s) larger than a minor skin tear, sprains, or fractured bones); ()

c. Resident injury resulting from accidents involving facility-sponsored transportation. Examples include falling from the facility's van lift, a wheelchair belt coming loose during transport, or a collision; ()

d. Resident elopement of any duration; ()

e. Any injury resulting from a resident-to-resident incident; ()

- f.** An incident that results in the resident's need for assessment or treatment outside of the facility; or ()
- g.** An incident that results in the resident's death. ()
- 145.** **Resident.** An adult, other than the owner, administrator, their immediate families, or employees, who lives in a residential ~~care or~~ assisted living facility. (3-30-06)()
- 156.** **Residential ~~Care or~~ Assisted Living Facility.** A facility or residence, however named, licensed in the state of Idaho, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. ~~In this chapter, Residential Care or Assisted Living Facilities are referred to as "facility." Distinct segments of a facility may be licensed separately, provided each segment functions independently and meets all applicable rules.~~ (3-30-06)()
- 167.** **Room and Board.** Lodging, meals, and utilities. (3-30-06)
- 178.** **Scope.** The frequency or extent of the occurrence of a deficiency in a facility. (3-30-06)
- 19.** Self-Administration of Medication. The act of a resident taking a single dose of their own medication from a properly labeled container and placing it internally in, or externally on, their own body as a result of an order by an authorized provider. ()
- 18.** ~~Self-Evacuating Resident. A resident who is able to leave the building without one-on-one (1 on 1) or hands-on assistance and can remain at a designated location.~~ (3-30-06)
- 19.** ~~Self-Preservation. The ability of a person to independently avoid situations and circumstances in which he might be easily taken advantage of, and to protect themselves and property.~~ (3-30-06)
- 20.** ~~Short Term. A treatment window designed to allow a resident to receive treatment for a short term acute episode, usually fourteen (14) days or less, as determined by a licensed registered nurse.~~ (3-30-06)
- 20.** Staff. See "Personnel" in this rule. ()
- 21.** **Story.** A level of rooms in ~~That portion of a building, included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.~~ (3-30-06)()
- 22.** ~~Story Above Grade Plane. Any story having its finished floor surface entirely above grade plane, except that a basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) more than six (6) feet (1829 mm) above grade plane; (2) more than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) more than twelve (12) feet (3658 mm) above the finished ground level at any point.~~ (3-30-06)
- 232.** **Substantial Compliance.** The status of Aa facility that has no core issue deficiencies is in substantial compliance with these rules when no core issues have been cited as a deficiency during any survey. (3-30-06)()
- 243.** **Substantial Evening Meal.** An offering of three (3) or more menu items at one-time, one (1) of which includes is a high-quality protein such as meat, fish, eggs, or cheeses. The meal should represent no less than twenty percent (20%) of the day's total nutritional requirements. (3-30-06)()
- 254.** **Supervision.** A critical watching and directing activity which provides protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's Negotiated Service Agreement or other legal requirements. (3-30-06)

- ~~26. **Supportive Services.** Services provided to the resident in the community. (3-30-06)~~
- ~~275. **Survey.** A review conducted by a surveyor to determine compliance with statutes and rules. There are two (2) components to a survey: (1) health care and (2) fire, life, and safety and sanitation. (3-30-06)()~~
- ~~286. **Surveyor.** A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. (3-30-06)~~
- ~~29. **Syringe—Oral Feeding.** Use of a syringe to deliver liquid or pureed nourishment directly into the mouth. (3-30-06)~~
- ~~3027. **Therapeutic Diet.** A diet ordered by a physician or authorized provider as part of treatment for a clinical condition or disease, or to eliminate or decrease specific nutrients in the diet; (e.g. sodium), or to increase specific nutrients in the diet (e.g. potassium), or to provide food the resident is able to eat (e.g. a mechanically altered diet). (3-30-06)()~~
- ~~28. **Toxic Chemical.** A substance that is hazardous to health if inhaled, ingested, or absorbed through skin. ()~~
- ~~3129. **Traumatic Brain Injury (TBI).** An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed-head injuries resulting in impairments in one (1) or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. (3-30-06)()~~
- ~~32. **Trust Account.** An account maintained by the facility separate from its own accounts, to deposit, hold, or disburse monies belonging to a resident. The facility is the trustee of such accounts and the residents are the beneficiaries. (3-30-06)~~
- ~~33. **Uniform Assessment Instrument (UAI).** A set of standardized criteria to assess functional and cognitive abilities of the resident. (3-30-06)~~
- ~~340. **Unlicensed Assistive Personnel (UAP).** Unlicensed assistive personnel (UAP) Staff, with or without formal credentials, employed to perform nursing care services under the direction and supervision of licensed nurses. UAP also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. (3-30-06)()~~
- ~~351. **Variance.** Permission by the Department to do something contrary to rule. (3-30-06)~~
- ~~36. **Waiver Services.** Home and Community Based (HCBS) Services. (3-30-06)~~
- ~~37. **Waivered Level Three Small Facility.** An existing facility, licensed prior to July 1, 1992, that:~~
- ~~a. Serves residents who require extensive assistance with mobility; (3-30-07)~~
 - ~~b. Houses nine (9) or fewer residents on the first story only; and (3-30-07)~~
 - ~~c. Complies with the requirements of Chapter 21, Residential Board and Care Section for Prompt Evacuation Capability, of the National Fire Protection Association (NFPA), Life Safety Code, 1988 Edition. (3-30-07)~~

(BREAK IN CONTINUITY OF SECTIONS)

050. VARIANCES.

The Licensing ~~and Survey~~ Agency may grant a variance provided the following criteria ~~in Subsection 050.01 of these rules~~ are met. (3-30-06)()

01. Written Request. A written request for a variance must be sent to the Licensing ~~and Survey~~ Agency. The request must include the following: (3-30-06)()

a. Reference to the ~~section of the rules~~ for which the variance is requested; (3-30-06)()

b. Reasons that show good cause why the variance should be granted, the extenuating circumstances which caused the need for the variance, any compensating factors or conditions that may have bearing on the variance such as additional floor space or additional staffing; and (3-30-06)

c. Written documentation that ~~assures~~ ensures residents' health and safety will not be jeopardized if a variance is granted. (3-30-06)()

02. Temporary Variance. A temporary variance may be granted for a specific resident or situation. The variance expires when the resident no longer lives at the facility or when the situation no longer exists. (3-30-06)

03. Continuing Temporary Variance. The Licensing ~~and Survey~~ Agency reviews the appropriateness of continuing a variance during the survey process. If the facility administrator wishes to continue the variance, an annual request must be submitted to the Licensing ~~and Survey~~ Agency in writing. (3-30-06)()

~~**04. Permanent Variance.** A permanent variance may be granted provided the provisions of Subsections 050.01.a. through 050.01.c. of these rules are met. (3-30-06)~~

054. Decision to Grant a Variance. The decision to grant a variance will not be considered as a precedent or be given any force or effect in any other proceeding. (3-30-06)

~~**065. Revocation of Variance.** The Licensing ~~and Survey~~ Agency may revoke a variance if circumstances identify a risk to resident health and safety. (3-30-06)()~~

(BREAK IN CONTINUITY OF SECTIONS)

100. LICENSING REQUIREMENTS ~~FOR A LICENSE.~~

01. Current License. No person, firm, partnership, association, corporation, or governmental unit can operate, establish, manage, conduct, or maintain a residential care or assisted living facility in Idaho without a license issued by the Department as required in Section 39-3340, Idaho Code. Any entity found operating as a residential care or assisted living facility without a license is subject to Section 39-3352, Idaho Code. (3-30-06)()

02. Issuance of License. Upon completion of the application process requirements, the Department will issue: a residential care or assisted living license. (3-30-06)()

~~**a.** A residential care or assisted living license, in the name of the licensee applying for the license and to the address of the facility stated in the application; (3-30-06)~~

~~**b.** The residential care or assisted living license will specify the maximum allowable number of beds. All occupants other than the owner, administrator, immediate family, or employees will be included in the licensed bed capacity of the facility. (3-30-06)~~

03. Distinctive Business Name. Every facility must use a distinctive name, which is registered with the Idaho Secretary of State of Idaho. If a facility decides to change its name, it will only be changed upon written

notification to the Licensing ~~and Survey~~ Agency confirming the registration of the name change with the Idaho Secretary of State ~~of Idaho~~. This notification needs to be received by the Licensing ~~and Survey~~ Agency at least thirty (30) calendar days prior to the date the proposed name change is to be effective. (3-30-06)()

04. ~~Licensed Administrator.~~ Each facility must have an administrator, ~~licensed by the Bureau of Occupational Licensing, who is responsible for the day-to-day operation of the facility.~~ (3-30-06)()

05. Display of Facility License. The current facility license must be posted in the facility and clearly visible to the general public. (3-30-06)

06. Change in Corporate Shares. When there is a significant change in shares held by a corporate licensee of a residential care or assisted living facility, which does not alter the overall ownership or operation of the business, that change must be communicated to the Licensing ~~and Survey~~ Agency within (60) days of the effective date of change. (3-30-06)()

07. Licensee Responsibility. The licensee of the facility is responsible for the operation of the residential care or assisted living facility, even when a separate administrator is employed. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

105. CHANGE OF OWNERSHIP.

01. Non-Transfer of Facility License. A facility license is not transferable from one (1) individual to another, from one (1) business entity to another, or from one (1) location to another. When a change of licensee, ownership, lease or location occurs, the facility must be re-licensed. The new licensee must follow the application procedures, and obtain a license, before commencing operation as a facility. (3-30-06)

02. Application for Change of Ownership. The application for a change of ownership must be submitted to the Licensing ~~and Survey~~ Agency at least ninety (90) days prior to the proposed date of change. (3-30-06)()

03. Change of Ownership for a Facility ~~in~~ Litigation. An application for change of ownership of a facility from a person who is in litigation for failure to meet licensure standards, or who has had a license revoked, must include evidence that there is a bona fide, arms-length agreement and relationship between the two (2) parties. An entity purchasing a facility with an enforcement action acquires the enforcement action. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

110. FACILITY LICENSE APPLICATION.

01. ~~Facility License~~ Application. License application forms are available ~~upon written request or~~ online at the Licensing ~~and Survey~~ Agency's website at <http://www.assistedliving.dhw.idaho.gov/>. The applicant must provide the following information: (3-30-06)()

a. A written statement that the applicant has thoroughly read and reviewed the statute, Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, ~~“Rules for “Residential Care or Assisted Living Facilities in Idaho,”~~ and is prepared to comply with both; (3-30-06)()

b. ~~The applicant must provide a~~ written statement and documentation that demonstrate no license revocation or other enforcement action has been taken, or is in the process of being taken, against a license held, or previously held, by the applicant in Idaho or any other state or jurisdiction; (7-1-15)()

c. When the applicant is a firm, association, organization, partnership, business trust, corporation, government entity, or company, the administrator and other members of the organization who directly influence the facility's operation must provide the information contained in ~~Subsections 110.01.a. and 110.01.b. of these~~ **this** rules. ~~(7-1-15)~~()

d. Each shareholder or investor holding ten percent (10%) or more interest in the business must be listed on the application; (3-30-06)

e. A copy of the Certificate of Assumed Business Name from ~~the Idaho~~ Secretary of State ~~of Idaho~~; ~~(3-30-06)~~()

f. A statement from the local fire authority that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; (3-30-06)

g. A statement from a licensed electrician or the local or state electrical inspector that all wiring in the facility complies with current electrical codes; (3-30-06)

h. When the facility does not use an approved municipal water or sewage treatment system, a statement from a local environmental health specialist with the public health district indicating that the water supply and sewage disposal system meet the Department's requirements and standards; (3-30-06)

i. A complete set of printed operational policies and procedures ~~as described in Sections 150 through 162 of these rules;~~ ~~(3-30-06)~~()

j. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings ~~must be submitted for evaluation by the Licensing and Survey Agency.~~ See Sections 250-260, 400-410, and 430 of these rules. ~~(3-30-06)~~()

k. A copy of the Purchase Agreement, Lease Agreement, or Deed; ~~and~~ ~~(3-30-06)~~()

l. For facilities with nine (9) beds or more, signatures must be obtained from the following: (3-30-06)

i. The local zoning official documenting that the facility meets local zoning codes for occupancy; (3-30-06)

and ii. The local building official documenting that the facility meets local building codes for occupancy; (3-30-06)

iii. The local fire official documenting that the facility meets local fire codes for occupancy. (3-30-06)

02. Written Request for Building Evaluation. The applicant must request in writing to the Licensing ~~and Survey~~ Agency for a building evaluation of existing buildings. The request must include the physical address of the building that is to be evaluated; ~~and~~ the name, address, and telephone number of the person who is to receive the building evaluation report. ~~(3-30-06)~~()

03. Building Evaluation Fee. This application and request must be accompanied by a five hundred dollar (\$500) initial building evaluation fee. (3-30-06)

04. Identification of the Licensed Administrator. The applicant must provide ~~the following information for the licensed administrator:~~ a copy of the administrator's license and criminal history background check, and the current address for the primary residence of the administrator. ~~(3-30-06)~~()

a. ~~A copy of the administrator license;~~ ~~(3-30-06)~~

b. ~~A current primary residence of the administrator.~~ ~~(3-30-06)~~

05. **Failure to Complete Application Process.** Failure of the applicant to complete the Licensing ~~and Survey~~ Agency's application process within six (6) months, of the original date of application, may result in a denial of the application. If the application is denied, the applicant is required to initiate a ~~second new~~ licensing ~~application~~ process. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

115. EXPIRATION AND RENEWAL OF LICENSE.

01. **Application for License Renewal.** The facility must submit ~~a to the~~ Licensing ~~and Survey~~ Agency ~~an annual report and~~ application for renewal of a license at least thirty (30) days prior to the expiration of the license. (3-30-06)()

02. **Existing License.** The existing license, unless suspended, surrendered, or revoked, remains in force and effect until the Licensing ~~and Survey~~ Agency has acted upon the application renewal, when such application for renewal has been filed. (7-1-15)()

116. -- ~~1-19-25~~. (RESERVED)

~~120. FACILITY OPERATING WITHOUT A LICENSE.~~

~~01. Facility Without a License. An operation is considered an unlicensed facility if it meets the definition of a facility stated in these rules, or is represented to provide care and serve the population of a residential or assisted living facility, is not licensed and is not exempt from licensure. (3-30-06)~~

~~02. Residents in Facility Without a License. Upon discovery of a facility operating without a license, the Department will refer residents to an appropriate placement or adult protective services agency if either of the following conditions exist: (3-30-06)~~

~~a. There is an immediate threat to the resident's health and safety; or (3-30-06)~~

~~b. The unlicensed facility does not cooperate with the Department to apply for a license and meet licensing standards requirements. (3-30-06)~~

~~03. Operator of a Facility Operating Without a License. A person found to be operating a facility without a license is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed five thousand dollars (\$5000), according to Section 39-3352(4), Idaho Code. (3-30-06)~~

~~04. Prosecution of Violators. In the event the county attorney in the county where the alleged violation occurred fails or refuses to act within thirty (30) days of notification of the violation, the Attorney General is authorized to prosecute violations under the provisions of Section 39-3352(5), Idaho Code. (3-30-06)~~

~~121. -- 125. (RESERVED)~~

126. EFFECT OF ENFORCEMENT ACTION AGAINST A LICENSE.

The Department will not review an application of an applicant who has an action, either current or in process, against a license held by the applicant either in Idaho or any other state or jurisdiction. (7-1-15)

(BREAK IN CONTINUITY OF SECTIONS)

130. ~~LICENSURE SURVEYS~~ **INSPECTION OF FACILITIES.**

01. **Surveys of Facilities.** ~~As described in Section 39-3355, Idaho Code,~~ ~~the Licensing and Survey Agency will assure that surveys are conducted~~ **conduct inspections and investigations** at specified intervals ~~in order to determine compliance with this chapter and applicable rules and statutes of rules and Title 39, Chapter 33, Idaho Code.~~ The intervals ~~of for~~ surveys ~~will be~~ **are as follows:** (3-30-06)()

a. ~~Initial surveys will be conducted~~ ~~within ninety (90) days from initial of licensure,~~ followed by a **licensure** survey within fifteen (15) months. ~~Facilities receiving no core issue deficiencies during both the initial and the subsequent survey will then enter the three (3) year survey cycle.~~ (3-30-06)()

b. ~~Facilities without core issue deficiencies during two (2) consecutive surveys, either initial or licensure surveys, will be inspected at least every thirty-six (36) months. Once every twelve (12) months, or more frequently at the discretion of the Licensing and Survey Agency~~ ~~for those facilities receiving with core issue deficiencies during any survey, surveys will be conducted at the discretion of the Licensing Agency, at least every twelve (12) months. Surveys will be conducted until the facility attains two (2) consecutive surveys, excluding follow-up surveys, without a core issue deficiency.~~ (3-30-06)()

~~c. At least every thirty-six (36) months, for those facilities having attained no core issue deficiencies for two (2) or more consecutive surveys, regardless of survey type.~~ (3-30-06)

~~d.~~ Complaint investigation surveys **will occur** based on the potential severity of the complaint. (3-30-06)()

02. **Unannounced Surveys-Inspections.** Surveys are made unannounced and without prior notice ~~at the discretion of the Department.~~ (3-30-06)()

03. **Inspection or Survey Services.** The Department may ~~use~~ **accept** the services of any qualified person or organization, either public or private, to examine, survey, or inspect any entity requesting or holding a facility license. ~~including as described in Section 39-3355(7), Idaho Code.~~ (3-30-06)()

04. **Access and Authority to Entire Facility.** A surveyor must have full access and ~~has the~~ authority to examine: ()

a. ~~Quality of care;~~ ()

b. ~~Services delivery;~~ ()

c. ~~Resident records;~~ ()

d. ~~Facility's~~ records including any records or documents pertaining to any financial transactions between residents and the facility or any of its employees, resident accounts, physical premises, including ~~the condition of~~ buildings, grounds, ~~and~~ equipment, food service, water supply, ~~sanitation, maintenance,~~ housekeeping ~~practices;~~ and ()

e. ~~Any other areas necessary to determine compliance with applicable statute, rules, and standards.~~ (3-30-06)()

05. **Interview Authority.** A surveyor has the authority to interview any individual associated with the facility or the provision of care, including the licensee ~~holder,~~ administrator, staff, residents, residents' families, ~~outside~~ service providers, ~~and~~ authorized providers ~~or other legally responsible person.~~ Interviews are confidential and conducted privately unless otherwise specified by the interviewee. (3-30-06)()

06. **Access to Staff Living Quarters.** ~~The~~ ~~A~~ surveyor has full authority to inspect the facility, including personal living quarters of ~~operators~~ ~~the licensee,~~ administrator, or staff living in the facility, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on compliance with these rules. (3-30-06)()

07. **Written Report of Deficiencies.** The Licensing ~~and Survey~~ Agency will provide the facility a written report to support any deficiencies ~~found~~ identified. (3-30-06)()

a. ~~Core Issue Deficiency. The Licensing and Survey Agency will provide, within ten (10) business days from the exit conference or from the last day of receipt of additional material, a written Statement of Deficiencies and Plan of Correction form to the facility when core deficiencies are identified during the survey. The Licensing Agency will provide the facility a written report specifying the non-core issue deficiencies at the time of the exit conference.~~ (3-30-06)()

b. ~~Non-Core Issue Deficiency. The Licensing and Survey Agency will provide the facility a written report specifying the non-core issue deficiencies at the time of the exit conference. When core issues are identified during a survey, the Licensing Agency will provide a written report within ten (10) business days after the exit conference or the last day of receipt of additional material.~~ (3-30-06)()

08. **Plan of Correction for Core Issues** ~~Deficiencies~~. The facility must develop ~~a plan of correction and return~~ submit an acceptable plan of correction to the Licensing ~~and Survey~~ Agency, ~~for all core issue deficiencies, within ten (10) calendar days of receipt of the Statement of Deficiencies and Plan of Correction form written report of identified core issues. If an acceptable plan of correction is not submitted within the required time frame, the Department may initiate or extend enforcement actions as described in Sections 900 through 940 of these rules.~~ An acceptable plan of correction must include: (3-30-06)()

a. A plan to ~~assure~~ ensure correction of each deficient practice and ~~to assure~~ ongoing compliance; (3-30-06)()

b. ~~Describe~~ A description of how, and ~~the at what~~ frequency, ~~that the~~ corrective actions will be monitored to ~~assure~~ ensure that each deficient practice is corrected and will not recur, such as what program will be put into place to monitor the continued effectiveness of the systemic change; and (3-30-06)()

c. ~~State~~ The completion date for correcting each deficiency, except in unusual circumstances, and only with the written approval of the Licensing and Survey Agency. No correction date may be more than ~~sixty (60) forty-five (45)~~ days from the ~~inspection~~ exit date ~~as~~ printed on the ~~“Statement of Deficiencies and Plan of Correction” form; and~~ written report except in unusual circumstances and only with the written approval of the Licensing Agency. (3-30-06)()

~~d. The administrator's signature and the date submitted.~~ (3-30-06)

09. ~~Evidence of Resolution for Correction of Non-Core Deficiencies~~ Issues. The facility must ~~provide evidence of resolution of correct~~ non-core issues ~~to the Licensing and Survey Agency, within thirty (30) calendar days of the exit conference. The facility may show evidence of resolution by providing receipts, pictures, and completed policies, training, schedules, and other records.~~ If there are non-core issues that the facility is unable to resolve due to extenuating circumstances, a written request for the delay must be submitted for Licensing ~~and Survey~~ Agency approval within thirty (30) days of the exit conference. The request must contain the following information: (3-30-06)()

a. The reason for the delay; (3-30-06)

b. A plan for resolution; (3-30-06)

c. The date of the expected resolution, which may not exceed six (6) months; and (3-30-06)

d. A plan for ~~assuring~~ ensuring the safety of the residents until resolution. (3-30-06)()

10. **Follow-Up Surveys.** The Licensing ~~and Survey~~ Agency will conduct follow-up surveys to ascertain corrections to ~~core issues and non-core issue deficiencies~~ that are made according to the time frames established in the plan of correction ~~and evidence of resolution for core issues and within thirty (30) days for non-core issues. If the Department identifies repeat deficient facility practice(s) during any follow-up survey, the Department~~

~~may initiate or extend enforcement actions as described in Sections 900 through 940 of these rules. (3-30-06)(____)~~

131. -- 1349. (RESERVED)

~~140. COMPLAINTS AND INVESTIGATIONS.~~

~~01. Filing a Complaint. Any person who believes that the facility has failed to meet any provision of the rules or statute may file a complaint with the Department. All complaints must have a basis in rule or statutory requirements. In the event that it does not, the complainant will be referred to the appropriate entity or agency. (3-30-06)~~

~~02. Investigation Survey. The Licensing and Survey Agency will investigate, or cause to be investigated the following: (3-30-06)~~

~~a. Any complaint alleging a violation of the rules or statute; and (3-30-06)~~

~~b. Any reportable incident which indicates there was a violation of the rules or statute. (3-30-06)~~

~~03. Disclosure of Complaint Information. The Department will not disclose the name or identifying characteristics of a complainant unless: (3-30-06)~~

~~a. The complainant consents in writing to the disclosure; (3-30-06)~~

~~b. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (3-30-06)~~

~~c. The disclosure is essential to prosecution of a violation. The complainant is given the opportunity to withdraw the complaint before disclosure. (3-30-06)~~

~~04. Method of Investigation. The nature of the complaint will determine the method used to investigate the complaint. (3-30-06)~~

~~05. Notification to Complainant. The Licensing and Survey Agency will inform the complainant of the results of the investigation survey when the complainant has provided a name and address. (3-30-06)~~

~~141. -- 149. (RESERVED)~~

150. POLICIES AND PROCEDURES.

~~Each~~ The facility must develop a written, dated set of policies and procedures that are specific to the population served in the facility which and are available to all staff at all times and include the facility policies described in Sections 151 through 162 of these rules to direct and ensure compliance with these rules. Policy topics must include abuse, neglect, exploitation, incidents and accidents, activities, admissions, emergency preparedness, infection control, nursing, resident rights, staffing, and medications. (3-30-06)(____)

151. ACTIVITY ~~POLICIES~~ REQUIREMENTS.

01. Activity Policy and Opportunities-Plan. Each facility must develop and implement a written activity policy that assists, encourages, and promotes residents to maintain and develop their highest potential for independent living through their participation in planned, recreational, and other activities. (3-30-06)(____)

02. Activity Opportunities Requirements. The ~~policy must include~~ facility must provide opportunities ~~from~~ for the following activities: (3-30-06)(____)

a. Socialization through group discussion, conversation, recreation, visiting, arts and crafts, and music; (3-30-06)(____)

~~b. Daily living activities to foster and maintain independent functioning; (3-30-06)~~

~~e~~**b.** Physical activities such as games, sports, and exercises which develop and maintain strength, coordination, and range of motion; and (3-30-06)()

~~d~~**c.** Education through special classes or ~~activities; and~~ events. (3-30-06)()

~~e.~~ Leisure time so residents may engage in activities of their own choosing. (3-30-06)

03. **Community Resources** ~~for Activities.~~ The facility will utilize community resources to promote resident participation in integrated activities of their choice both in and away from the facility. (3-30-06)()

152. ADMISSION ~~POLICIES~~ REQUIREMENTS.

01. **Admissions Policies.** Each facility must develop and implement written admission policies and procedures; which must include: ~~The written admission policy must include;~~ (3-30-06)()

a. The purpose, quantity and characteristics of available services; (3-30-06)

~~b.~~ Any restrictions or conditions imposed because of religious or philosophical reasons. (3-30-06)

~~e~~**b.** Limitations concerning delivery of routine personal care by persons of the opposite gender; (3-30-06)()

~~d~~**c.** Notification ~~of~~ to potential and existing residents and responsible parties if the facility accepts any residents who are on the sexual offender registry and who live in the facility. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html; and (3-30-06)()

~~e~~**d.** ~~Appropriateness of placement to meet the needs of the resident, when there are~~ Notification to potential and existing residents if non-resident adults or children residing reside in the facility. (3-30-06)()

~~02.~~ ~~**Fee Description.** A written description of how fees will be handled by the facility.~~ (3-30-06)

~~03.~~ ~~**Resident Funds Policies.** When a resident's funds are deposited with the facility or administrator, the facility must manage the residents' funds as provided in Sections 39-3316 (1), (5) & (6), Idaho Code, and Section 505 and Subsections 550.05 and 550.06 of these rules. Each facility must develop written policies and procedures outlining how residents' funds will be handled.~~ (3-30-06)

~~a.~~ A statement if the facility does not manage resident funds. (3-30-06)

~~b.~~ If the facility manages resident funds, how funds are handled and safeguarded. (3-30-06)

~~04.~~ **Resident Admission, Discharge, and Transfer.** The facility must have policies addressing admission, discharge, and transfer of residents to, from, or within the facility. (3-30-06)

~~05.~~ **Policies of Acceptable Admissions.** Written descriptions of the conditions for admitting residents to the facility must include: (3-30-06)

a. A resident will be admitted or retained only when: ()

~~i.~~ The facility has the capability, capacity, and services to provide appropriate care; ~~or;~~ ()

~~ii.~~ The resident does not require a type of service for which the facility is not licensed to provide or which the facility does not provide or arrange for; ~~or~~ ()

~~iii.~~ if ~~The facility does not have the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services;~~ (3-30-06)()

- b. No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include: (3-30-06)
- i. A resident who has a gastrostomy tube, arterial-venous (AV) shunts, or supra-pubic catheter inserted within the previous twenty-one (21) days; (3-30-06)
- ii. A resident who is receiving continuous total parenteral nutrition (TPN) or ~~intravenous (IV)~~ therapy; (3-30-06)()
- iii. A resident who requires physical restraints, including bed rails, ~~an exception is a chair with locking wheels or chair in which the resident cannot get out of;~~ (3-30-06)()
- iv. A resident who is comatose, except for a resident who has been assessed by a physician or authorized provider who has determined that death is likely to occur within ~~fourteen (14) to~~ thirty (30) days; (3-30-06)()
- v. A resident who is on a mechanically supported breathing system, except for residents who use positive airway pressure devices only for sleep apnea, such as CPAP or BiPAP; (7-1-15)
- vi. A resident who has a tracheotomy who is unable to care for the tracheotomy independently; (3-30-06)
- vii. A resident who ~~is fed by~~ requires the use of a syringe to receive liquid or pureed nourishment directly into the mouth; (3-30-06)()
- viii. A resident with open, draining wounds for which the drainage cannot be contained; (3-30-06)
- ix. A resident with a Stage ~~III~~ or ~~IV~~ pressure ~~ulcer injury or a pressure injury that is unstageable;~~ (3-30-06)()
- x. A resident with any type of pressure ~~ulcer injury~~ or open wound that is not improving bi-weekly; (3-30-06)()
- ~~e.xi.~~ For any resident who ~~has needs requiring a nurse~~ is assessed to require nursing care, the facility must ~~assure~~ ensure a licensed nurse is available to meet the needs of the resident. (3-30-06)()
- ~~dc.~~ A resident will not be admitted or retained who has physical, emotional, or social needs that are not compatible with the other residents in the facility; (3-30-06)
- ~~ed.~~ A resident will not be admitted or retained that who is violent or a danger to ~~himself themselves~~ or others; (3-30-06)()
- ~~fe.~~ Any resident requiring assistance in ambulation must reside on the first story ~~unless the facility complies with~~ as described in Sections ~~401 402~~ through 404 of these rules; (3-30-06)()
- ~~gf.~~ Residents who are not capable of self evacuation must not be admitted or retained by a facility which does not comply with the NFPA Standard #101, ~~“Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Impracticable Evacuation Capability;”~~ and as referenced in Section 004 of these rules. (3-30-06)()

153. FINANCIAL REQUIREMENTS.

Each facility must develop and implement financial policies and procedures that include: ()

01. Statement. A statement specifying that the facility does not manage resident funds. ()

02. Safeguarding of Funds. Policies should specify how residents' funds will be handled and safeguarded, if the facility does manage resident funds. Policies must address the following: ()

a. When a resident's funds are deposited with, or handled by the facility, the funds must be managed as described in Section 39-3316, Idaho Code, and Section 550 of these rules; ()

b. A description of how facility fees are handled; ()

c. Resident accounts and funds must be separate from any facility accounts; ()

d. The facility cannot require a resident to purchase goods or services from the facility, other than items specified in the admission agreement and facility policies; ()

e. Each transaction with resident funds must be documented at the time to include signatures of the resident and facility representative with copies of receipts; ()

f. Residents must have access to their personal funds during normal business hours; and ()

g. When a resident permanently leaves the facility, the facility can only retain room and board funds prorated to the last day of the thirty (30) day notice, except in situations described in Sections 217 and 550 of these rules. All remaining funds are the property of the resident. In the event of the resident's death, the resident's facility's fees cease accruing fifteen (15) days after death. ()

~~1534.~~ **ADDITIONAL POLICIES REQUIRED- STAFF TRAINING REQUIREMENTS.**
The facility must develop and implement policies and procedures to address the following; ()

01. Response of Staff to Accidents, Incidents, or Allegations of Abuse, Neglect, or Exploitation of Residents. The facility must develop policies and procedures to ~~assure~~ ensure that accidents, incidents, or allegations of abuse, neglect, and exploitation are identified, documented, reported, investigated, and followed-up with interventions to prevent re-occurrence and ~~assure~~ ensure protection, ~~and documented.~~ (3-30-06)()

02. Response of Staff to Emergencies. How staff are to respond to emergency situations, including: (3-30-06)()

a. Medical and psychiatric emergencies; (3-30-06)

b. Resident absence; (3-30-06)

c. Criminal situations; and (3-30-06)

d. Presence of law enforcement officials at the facility. (3-30-06)

03. Notification of Changes to Resident Health or Mental Status. Who and how staff are to notify of any changes in residents' health or mental status. (3-30-06)

04. Provided Care and Services by Staff. How staff are to provide care and services to residents in the following areas: (3-30-06)

a. Activities of daily living; (3-30-06)

b. Dietary and eating, including when a resident refuses to eat or follow a prescribed diet; (3-30-06)

c. Dignity; (3-30-06)

d. ~~Assuring~~ Ensuring each individual's rights; (3-30-06)()

e. Medication assistance; (3-30-06)

f. Provision of privacy; (3-30-06)

- g. Social activities; (3-30-06)
 - h. Supervision; (3-30-06)
 - i. Supporting resident independence; and (3-30-06)
 - j. Telephone access. (3-30-06)
- ~~05. Resident Property Identified and Safe. Identification of resident property and assuring that personal items are kept safe and used only by the resident. (3-30-06)~~
- ~~065. Intervention Procedures to Assure-Ensure Safety of Residents and Staff. How to intervene to assure ensure resident and staff safety in unsafe situations- that are physically or behaviorally caused. (3-30-06)()~~
- ~~076. Behavior Management for Residents. The facility must have policies and procedures to assure ensure timely assessment, plan development, and documentation as described in Section 330 of these rules which implements the least restrictive intervention to address the behavior and document the effect of interventions. (3-30-06)()~~
- ~~08. Staff Procedures for Accidents, Incidents, and Complaints. The facility must develop policies and procedures to assure that accidents and incidents are identified, reported, investigated, and followed up with interventions to prevent reoccurrence and assure protection, and documented. (3-30-06)~~
- ~~097. Facility Operations, Inspections, Maintenance, and Testing. Plans and procedures for the operation, periodic inspection, and testing of the physical plant, which includes utilities, fire safety, and plant maintenance for all areas of the facility's campus. (3-30-06)()~~
- ~~108. Hazardous Materials. Policies and procedures for The handling of hazardous materials. (3-30-06)()~~
- ~~109. Mechanical Equipment. Policies and procedures for The handling of potentially dangerous mechanical equipment. (3-30-06)()~~
- 1545. EMERGENCY PREPAREDNESS POLICIES REQUIREMENTS.**
Each facility must develop and implement an emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency. ()
- ~~01. Emergency Preparedness Plan-Relocation Agreements. Each facility must develop and implement an emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency. Each facility must have a written agreement developed between the facility and two (2) separate locations to which residents would be relocated in the event the building is evacuated and cannot be reoccupied. The facility will review the plan annually. (3-30-06)()~~
- 02. Written Procedures.** The facility must have written procedures outlining steps to be taken in the event of an emergency including: (3-30-06)
- ~~a. Who is to respond; (3-30-06)~~
 - ~~ba. Each person's responsibilities; (3-30-06)~~
 - ~~eb. Where and how residents are to be evacuated; and (3-30-06)~~
 - ~~ec. Notification of emergency agencies. (3-30-06)~~
- 03. Emergency Generators.** Facilities that elect to have an emergency generator must ensure that the

~~system is designed to meet the applicable codes in NFPA Standard 110 (within NFPA Standard 101 as incorporated in Section 004 of these rules). ()~~

1556. HOURLY ADULT CARE ~~POLICIES~~ REQUIREMENTS.

Facilities offering hourly adult care must develop and implement written policies and procedures which include the following: ~~(3-30-06)~~()

~~01. Services Offered for Hourly Adult Care. A description of hourly adult care services offered, including transportation services (if offered), meals, activities, and supervision. ~~(3-30-06)~~()~~

~~02. Acceptable Hourly Care Individuals Accepted. Types of individuals who may or may not be accepted for hourly adult care, this excludes residents who require skilled nursing or, for whom the facility cannot adequately provide services or supervision. ~~(3-30-06)~~()~~

~~03. Cost of Program Hourly Adult Care. Cost of program to individual Details of the cost of hourly adult care for the person receiving services. ~~(3-30-06)~~()~~

~~04. Health and Other Individual Needs. Health and other pertinent information regarding the individual's needs. ~~(3-30-06)~~~~

~~05. Emergency Information. Emergency telephone numbers of family members and physician or authorized provider, and other identification information. ~~(3-30-06)~~~~

~~064. Hours for Care. The specific ~~Time~~ periods of program hourly adult care cannot to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period. ~~(3-30-06)~~()~~

~~05. Assistance with Medications. Assistance with medications in the facility must comply with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," including: ()~~

~~a. Copies of all physician or authorized provider orders, including orders for all prescribed medications and treatments. ()~~

~~b. Appropriately labeled medications and treatments the facility safeguards while the person receives hourly adult care. ()~~

~~06. Staffing. Staffing must be based on the needs of the entire facility, including those receiving hourly adult care and residents. Hourly adult care may be provided to as many individuals as possible without disrupting the day-to-day operations and normal activities of the facility. ()~~

~~07. Accommodations. The facility must provide accommodations appropriate to the time frame for those receiving hourly adult care, including: ()~~

~~a. Daytime accommodations such as recliners and couches for napping. Napping furniture must be spaced at least (3) feet apart. ()~~

~~b. Evening accommodations such as beds and bedrooms that are not used by facility residents. Any bed used overnight by a person receiving hourly adult care will not be counted as a licensed bed. ()~~

~~08. Documentation. Documentation requirements described in Section 330 of these rules. ()~~

~~156. INFECTION CONTROL POLICIES.~~

~~Each facility must develop policies and procedures consistent with recognized standards which control and prevent infections for both staff and residents. ~~(3-30-06)~~~~

~~157. MEDICATION POLICIES.~~

~~01. Medication. Each facility must develop written medication policies and procedures that detail the~~

- ~~following:~~ (3-30-06)
- ~~a. Receiving of medications;~~ (3-30-06)
 - ~~b. Storage of medications;~~ (3-30-06)
 - ~~c. Medication distribution system to be used;~~ (3-30-06)
 - ~~d. How staff are to respond if:~~ (3-30-06)
 - ~~i. A resident refuses a medication;~~ (3-30-06)
 - ~~ii. A resident misses a medication and the reason;~~ (3-30-06)
 - ~~iii. A resident medication is not available;~~ (3-30-06)
 - ~~iv. Medications are missing;~~ (3-30-06)
 - ~~v. A resident receives an incorrect medication;~~ (3-30-06)
 - ~~e. The process for determining who can self administer medication;~~ (3-30-06)
 - ~~f. Unused medications:~~ (3-30-06)
 - ~~i. Destruction;~~ (3-30-06)
 - ~~ii. Return of medications to the pharmacy;~~ (3-30-06)
 - ~~g. Documentation requirements:~~ (3-30-06)
 - ~~i. Taken;~~ (3-30-06)
 - ~~ii. Refused;~~ (3-30-06)
 - ~~iii. Missed;~~ (3-30-06)
 - ~~iv. Not available; and~~ (3-30-06)
 - ~~v. For residents self medicating.~~ (3-30-06)
- ~~02. **Nurse Delegation.** The process the nurse will use to delegate assistance with medication and how it will be documented.~~ (3-30-06)

~~158. **FOOD AND NUTRITIONAL CARE POLICIES.**~~

~~Each facility must develop written policies and procedures for providing proper nutritional care for each resident which includes procedures to follow if the resident refuses food or to follow the prescribed diet.~~ (3-30-06)

~~159. **RECORDS POLICIES.**~~

~~01. **Complete and Accurate Records.** Each facility must develop written policies and procedures to assure complete, accurate, and authenticated records.~~ (3-30-06)

~~02. **Electronic Records.** Facilities that implement an electronic record or signature must have written policies in place to assure the following: (3-30-06)~~

~~a. Proper security measures to protect the use of an electronic signature by anyone other than the person to which the electronic signature belongs; (3-30-06)~~

~~b. The privacy and integrity of the record; (3-30-06)~~

~~c. Includes which records will be maintained and signed electronically; (3-30-06)~~

~~d. How an e-signature code is assigned and the code and associated staff identities are protected; (3-30-06)~~

~~e. How passwords are assigned and the frequency for which they are changed; (3-30-06)~~

~~f. Allows resident access to his records within one (1) business day of the request; and (3-30-06)~~

~~g. Allows immediate access to records by surveyors, and others who are authorized by law; (3-30-06)~~

160. RESIDENT RIGHTS POLICIES.

~~Each facility must develop written policies and procedures which assure that resident rights will be promoted and protected in the facility. (3-30-06)~~

157. -- 160. (RESERVED)

161. SMOKING POLICIES REQUIREMENTS.

~~The facility must develop and implement written rules governing smoking. Nothing in this rule requires a facility to permit smoking. Smoking policies must be made known to all staff, residents, and visiting public and must ensure: ()~~

~~01. **Policy on Smoking-Combustible Supplies and Flammable Items.** The facility must develop written rules governing smoking. These rules must be made known to all facility personnel, residents, and the visiting public. Smoking is prohibited in areas where combustible supplies or materials, flammable liquids, gases, or oxidizers are in use or stored; (3-30-06)()~~

~~02. **Smoking Prohibited Smoking in Bed.** Nothing in this section requires that smoking be permitted in a facility whose admission policies prohibit smoking Smoking in bed is prohibited. (3-30-06)()~~

~~03. **Policy Content-Unsupervised Smoking.** The policy must include: Unsupervised smoking by residents classified as not mentally or physically responsible, sedated by medication, or taking oxygen is prohibited. (3-30-06)()~~

~~a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (3-30-06)~~

~~b. Prohibiting smoking in bed by anyone; (3-30-06)~~

~~c. Prohibiting unsupervised smoking by residents classified as not mentally or physically responsible, and residents affected by medication; (3-30-06)~~

~~d. Prohibiting smoking in areas where combustible supplies or materials are stored; and (3-30-06)~~

~~e04. **Designated Smoking Areas.** Designating areas where smoking is permitted. If smoking is permitted, there must be designated smoking areas which are specified in policy and clearly marked. Designated smoking areas must have non-combustible disposal receptacles. (3-30-06)()~~

~~162. STAFFING POLICIES.~~

~~The facility must develop written staffing policies and procedures based on the numbers of residents, resident needs, and configuration of the facility. (3-30-06)~~

~~163. -- 209.14. (RESERVED)~~

~~210. REQUIREMENTS FOR ACTIVITIES.~~

~~The facility must provide an ongoing program of activities that is consistent with the facility's policies and procedures as described in Section 151 of these rules. (3-30-06)~~

~~211. -- 214. (RESERVED)~~

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.

Under Section 39-3321, Idaho Code, Each facility must be organized and administered under have one (1) licensed administrator assigned as the person responsible for the day-to-day operation of the facility. Multiple facilities under one (1) administrator may be allowed by the Department based on an approved plan of operation described in Section 216 of these rules for up to three (3) buildings with a total of no more than fifty (50) beds, or up to two (2) buildings with a total of no more than eighty (80) beds. The criteria and procedure for requesting to have multiple facilities under one (1) administrator is posted on the Residential Assisted Living Facilities Program website. (7-1-15)()

01. Administrator Responsibility. The administrator is responsible for assuring ensuring that policies and procedures required are developed and implemented to fulfill the requirements in Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Residential ~~Care or~~ Assisted Living Facilities in Idaho." are implemented. (3-30-06)()

02. Availability of Administrator. The facility's administrator must be on-site sufficiently to provide for ensure safe and adequate care of the residents to meet the terms in the Negotiated Service Agreement. The facility's administrator or his their designee must be available to be on-site at the facility within two (2) hours. The facility must continuously employ an administrator. (3-30-06)()

03. ~~Thirty Day Operation Limit~~ Lapse of Administrator. The If the facility may not operates for more than thirty (30) days without a licensed administrator, it will result in a core issue deficiency. (3-30-06)()

04. Representation of Residents. The owner or administrator, their relatives, ~~or~~ and employees cannot act as, or seek to become the legal guardian of, or have power of attorney for any resident. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained, are permitted. (7-1-15)()

05. Responsibility for Acceptable Admissions. The administrator must assure ensure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and ~~Subsection~~ 152-05 of these rules. (3-30-06)()

06. Sexual Offender. The administrator must assure ensure that a non-resident on the sexual offender registry is not allowed to live or work in the facility. ~~The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html.~~ (3-30-06)()

07. Notification of Adult Protection and Law Enforcement. The administrator must assure ensure that adult protection and law enforcement are notified in accordance with Sections 39-5303 and 39-5310, Idaho Code. (3-30-06)()

08. Procedures for Investigations. The administrator must assure ensure the facility procedures for investigation of complaints, incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to assure ensure resident safety. Procedures include: (3-30-06)()

a. Administrator Notification. The administrator, or person designated by the administrator, must be notified of all incidents, accidents, allegations of abuse, neglect, or exploitation immediately, and notified of

complaints within one (1) business day. ()

b. Investigation within Thirty Days. The administrator or designee must complete an investigation and written report of the findings within thirty (30) calendar days for each accident, incident, complaint, or allegation of abuse, neglect, or exploitation. ()

c. Resident Protection. Any resident involved must be protected during the course of the investigation. ()

d. Written Response to Complaint within Thirty Days. The person making the complaint must receive a written response from the facility of the action taken to resolve the matter, or the reason why no action was taken within thirty (30) days of the complaint. ()

e. Corrective Action. When abuse, neglect, exploitation, incidents, and accidents occur, corrective action must be immediately taken and monitored to ensure the problem does not recur. ()

f. Notification of Licensing Agency within One Business Day. When a reportable incident occurs, the administrator or designee must notify the Licensing Agency within one (1) business day of the incident. ()

g. Identify and Monitor Patterns. The administrator or designee must identify and monitor patterns of accidents, incidents, or complaints and must develop interventions to prevent recurrences. ()

~~09. Identify and Monitor Patterns of Incidents and Accidents. The administrator must identify and monitor patterns related to incidents and accidents and develop interventions to prevent recurrences. (7-1-15)~~

~~10. Notification of Reportable Incidents. The administrator must assure notification to the Licensing and Certification Unit of reportable incidents. (3-29-10)~~

H09 Administrator's Designee. A person authorized in writing to act in the absence of the administrator. An administrator's designee may act in the absence of the administrator for no longer than thirty (30) consecutive days when the administrator is on vacation, has days off, is ill, or is away for training or meetings. (7-1-15)()

~~a. Is on vacation; (7-1-15)~~

~~b. Has days off; (7-1-15)~~

~~c. Is ill; or (7-1-15)~~

~~d. Is away for training or meetings. (7-1-15)~~

120. Ability to Reach Administrator or Designee. The administrator or ~~his~~ their designee must be reachable and available at all times. (3-30-06)()

131. Minimum Age of Personnel. The administrator will ~~assure~~ ensure that no personnel providing hands-on care or supervision services will be under eighteen (18) years of age unless they have completed a certified nursing assistant (CNA) certification course. (3-30-06)()

142. Notification to Licensing ~~and Certification Unit~~ Agency. The facility must notify the Licensing ~~and Certification Unit~~ Agency, in writing, within three (3) business days of a change of administrator. (3-29-10)()

216. REQUIREMENTS FOR A MULTIPLE FACILITY ADMINISTRATOR.
~~Each facility must have a Department approved plan of operation to have one (1) administrator assigned as the person responsible for the operation of multiple facilities. (7-1-15)~~

~~01. Approved Plan of Operation. Under Section 39-3321, Idaho Code, multiple facilities under one (1)~~

~~administrator may be approved when the following is provided in the plan of operation: (7-1-15)~~

~~a. The multiple facility administrator must provide proof of a current license in Idaho with no actions or pending actions taken against licensee; (7-1-15)~~

~~b. The plan must provide for full-time on-site supervision by trained and experienced staff, including: (7-1-15)~~

~~i. Who is responsible for on-site management of each facility when administrator is not on-site; and (7-1-15)~~

~~ii. How each individual responsible for on-site management of each facility is qualified to perform those duties. (7-1-15)~~

~~02. **Facility Change To An Approved Plan of Operation.** A new plan of operation must be submitted to the Department and approved before any facility in the plan is changed. (7-1-15)~~

~~03. **Number of Facilities or Beds Allowed Under One Administrator.** Based on an approved plan of operation, the Department will allow one (1) licensed administrator to oversee: (7-1-15)~~

~~a. Up to three (3) facilities when each of the facilities has sixteen (16) beds or fewer; (7-1-15)~~

~~b. Two (2) facilities when either of the facilities has more than sixteen (16) beds but less than fifty (50) beds, and the combined number of beds for both facilities cannot exceed eighty (80) beds; or (7-1-15)~~

~~c. One (1) facility with fifty (50) beds or more. A plan of operation for a multiple facility administrator will not be approved for a facility with fifty (50) beds or more. (7-1-15)~~

~~04. **No Unresolved Core Issues.** None of the multiple facilities operated under one (1) administrator can have any unresolved core issue deficiencies described in Section 010 of these rules. The administrator approved to oversee more than one (1) facility must have an established record of compliance, which includes: (7-1-15)~~

~~a. No repeat deficiencies; (7-1-15)~~

~~b. No enforcement actions; (7-1-15)~~

~~c. A history of submitting acceptable plans of corrections within the time frame established in Subsection 130.08 of these rules; (7-1-15)~~

~~d. A history of submitting acceptable evidence of resolution of deficiencies within the time frame established in Subsection 130.09 of these rules; and (7-1-15)~~

~~e. The administrator's record must show that he has two (2) years or more of experience working as a licensed residential care administrator in Idaho. (7-1-15)~~

~~05. **Administrator Hours On-site in Each Facility.** The administrator must be on-site at each facility for at least: (7-1-15)~~

~~a. Ten (10) hours per week in facilities with fewer than sixteen (16) beds; (7-1-15)~~

~~b. Fifteen (15) hours per week in facilities with more than (16) beds; and (7-1-15)~~

~~e. Each facility's record must include documentation of the number of hours per week the administrator is on-site. For each week the Administrator is not on-site, the documentation must include the reasons for his absence such as illness, vacation, or training. (7-1-15)~~

~~06. **Administrator Response Time for Each Facility.** A multiple facility administrator must not have a primary residence more than seventy five (75) miles from any of the facilities. Each facility with a multiple facility administrator must be within two (2) hours driving distance from each other. (7-1-15)~~

~~07. **On-Site Supervision in Each Facility.** The plan of operation must include full time on site supervision by trained and experienced staff. (7-1-15)~~

~~08. **Dually Licensed Administrator.** A skilled nursing facility and an assisted living facility with less than fifty (50) beds may have a multiple facility administrator with an approved plan of operation. A dually licensed administrator, who is licensed in Idaho as both a Nursing Home Administrator and a Residential Care Facility Administrator, may be approved as a multiple facility administrator only when the two (2) facilities are on the same property or campus. (7-1-15)~~

~~217. **RESCIND APPROVAL FOR MULTIPLE FACILITY ADMINISTRATOR.**~~

~~01. **Rescind Plan of Operation Approval.** When the conditions in the approved plan of operation are not met, the ability to have one (1) administrator for multiple facilities will be rescinded by the Department. (7-1-15)~~

~~02. **Reasons for Reseission or Denial of a Multiple Facility Administrator.** Any and all facilities with a multiple facility administrator included in its approved plan of operation that receives repeat deficiencies, enforcement actions, or fails to submit acceptable plans of correction and evidence of resolution within the time frames established in Subsections 130.08 and 130.09 of these rules, may have its multiple facility administrator approval rescinded. (7-1-15)~~

~~03. **Rescission Review of Department Action.** When the facility disagrees with the reasons for the rescission of the ability to have a multiple facility administrator, the administrator can request a rescission review. This request does not stay the rescission. The request must: (7-1-15)~~

~~a. Be in writing; (7-1-15)~~

~~b. Be received within fourteen (14) days of the date the Department's rescission letter was issued; and (7-1-15)~~

~~c. State the specific reasons for disagreement with the Department's rescission action. (7-1-15)~~

~~04. **Review Decision.** Within thirty (30) days from the date the review request is received, the Department will review and issue a decision. This decision is not appealable. (7-1-15)~~

~~218. **(RESERVED)**~~

~~219. **REQUIREMENTS FOR ADMISSION AGREEMENTS FOR DEPARTMENT CLIENTS:**~~

~~01. **Initial Resident Assessment.** Prior to or on the day of admission each resident must be assessed by the facility to ensure the resident is appropriate for placement in a residential care or assisted living facility. (3-29-10)~~

~~02. **Interim Care Plan.** The facility must develop an interim care plan to guide services until the Department's assessment outlined in Section 660 of these rules is complete. The Department will complete a resident~~

~~assessment within twelve (12) business days of receiving notification that the participant is financially eligible for waiver services. The result of the assessment will determine the need for specific services and supports and establish the reimbursement rate for those services.~~ (3-29-10)

~~03. **Written Agreement.** The admission agreement may be integrated within the Negotiated Service Agreement, provided that all requirements for the Negotiated Service Agreement in Section 320 of these rules are met~~ (3-29-10)

22016. REQUIREMENTS FOR ADMISSION AGREEMENTS ~~FOR PRIVATE-PAY RESIDENTS.~~

01. Initial Resident Assessment and Care Plan. Prior to ~~or on the day of~~ admission, each ~~private-pay~~ resident must be assessed by the facility to ensure the resident is appropriate for placement in their residential care or assisted living facility. The facility must develop an interim care plan to guide services until the facility can complete the resident assessment process ~~outlined in Section 650 of these rules.~~ The result of the assessment will determine the need for specific services and supports. (3-29-10)()

02. Written Agreement. Prior to, or on the day of admission, the facility and each resident or the resident's legal guardian or conservator must enter into a written admission agreement that is transparent, understandable, and is translated into a language the resident or ~~his~~ their representative understands. The admission agreement will provide a complete reflection of the facility's charges, commitments agreed to by each party, and the actual practices that will occur in the facility. The agreement must be signed by all involved parties, and a complete copy provided to the resident and the resident's legal guardian or conservator prior to, or on the day of admission. The admission agreement may be integrated within the Negotiated Service Agreement (NSA), provided that all requirements for the Negotiated Service Agreement NSA in Section 320 of these rules and the admission agreement are met. Admission agreements must include all items described under ~~Subsections 220.03-216 through 220.18 of this rule.~~ (3-29-10)()

03. Services, Supports, and Rates. The facility must identify the following services, supports, and applicable rates: (3-29-10)

a. Unless otherwise negotiated with the resident, or the resident's legal guardian or conservator, the basic services must ~~at a minimum,~~ include: items as defined in Section 430 of these rules. (3-29-10)()

- ~~i. Rent;~~ (3-29-10)
- ~~ii. Utilities;~~ (3-29-10)
- ~~iii. Food;~~ (3-29-10)
- ~~iv. Activities of daily living services;~~ (3-29-10)
- ~~v. Supervision;~~ (3-29-10)
- ~~vi. First aid;~~ (3-29-10)
- ~~vii. Assistance with and monitoring of medications;~~ (3-29-10)
- ~~viii. Laundering of linens owned by the facility;~~ (3-29-10)
- ~~ix. Emergency interventions and coordination of outside services;~~ (3-29-10)
- ~~x. Routine housekeeping and maintenance of common areas; and~~ (3-29-10)
- ~~xi. Access to basic television in common areas.~~ (3-29-10)

b. The resident's monthly charges, must be including a specific ~~and describe~~ description of the services that are included in the basic services rate and the charged rate. (3-29-10)()

c. ~~The facility must disclose a~~ All prices, formulas, and calculations used to determine the resident's basic services rate including: (3-29-10)()

- i. Service packages; (3-29-10)
- ii. Fee-for-service rates; (3-29-10)
- iii. Assessment forms; (3-29-10)
- iv. Price per assessment point; (3-29-10)
- v. Charges for levels of care determined with an assessment; and (3-29-10)
- vi. Move-in fees or other similar charges. (3-29-10)

d. ~~Services or amenities that are not contained in the description of basic services are considered additional services.~~ The ~~facility must describe the~~ services and rates charged for additional or optional services, supplies, or amenities that are available through the facility or arranged for by the facility for which the resident will be charged additional fees. (3-29-10)()

e. Services or rates that are impacted by an updated assessment of the resident ~~must be identified, as well as~~ the assessment tool, the assessor, and the frequency of the assessment, when the facility uses this assessment to determine rate changes. (3-29-10)()

f. The facility may charge residents for the use of personal furnishings, equipment, and supplies provided by the facility ~~for private-pay residents~~ unless paid for by a publicly funded program. The facility must provide a detailed itemization of furnishings, equipment, supplies, and the rate for those items the resident will be charged. (3-29-10)()

04. Staffing. The ~~facility~~ agreement must identify staffing patterns and qualification of staff on-duty during a normal day. (3-29-10)()

05. Notification of Liability Insurance Coverage. The administrator of a residential care or assisted living facility must disclose in writing at the time of admission or before a resident's admission if the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance all residents must be notified of the change in writing. (3-30-06)

06. Medication Responsibilities. The facility must identify the facility's and resident's roles and responsibilities relating to assistance with medications including the reporting of missed ~~doses~~ medications or those taken on a PRN basis. (3-30-06)()

07. Resident Personal Fund Responsibilities. The facility must identify #who is responsible for the resident's personal funds. (3-30-06)()

08. Resident Belongings Responsibility. The agreement must identify responsibility for protection and disposition of all valuables belonging to the resident and provision for the return of resident's valuables if the resident leaves the facility. (3-29-10)

09. Emergency Transfers. The agreement must identify conditions under which emergency transfers will be made as provided in Section 152 of these rules. (3-29-10)

10. Billing Practices, Notices, and Procedures for Payments and Refunds. The facility must provide a description of the facility's billing practices, notices, and procedures for payments and refunds. The following procedures must be included: (3-29-10)

- a. Arrangement for payments; (3-30-06)

b. Under what circumstances and time frame a partial month's resident fees are to be refunded when a resident no longer resides in the facility; and (3-29-10)()

c. Written notice to vacate the facility must be given thirty (30) calendar days prior to transfer or discharge on the part of either party, except in the case of the resident's emergency discharge or death. ~~The facility may charge up to fifteen (15) days prorated rent from the date of the resident's emergency discharge or death. The agreement must disclose any charges that will result when a resident fails to provide a thirty (30) day written notice.~~ (3-29-10)()

11. **Resident Permission to Transfer Information.** The agreement must clarify specify permission for the facility to transfer information from the resident's records to any facility to which the resident transfers. (3-29-10)()

12. **Resident Responsibilities.** The agreement must specify ~~R~~resident responsibilities, as appropriate. (3-30-06)()

13. **Restrictions on Choice of Care or Service Providers.** The agreement must specify ~~A~~any restriction on choice of care or service providers, such as pharmacy; home health agency, hospice agency, or physician or authorized provider personal care services. (3-30-06)()

14. **Advance Directive.** The agreement must identify written documentation of the resident's preference regarding the formulation of an Advance Directive in accordance with Idaho state law. When a resident has an Advance ~~d~~ Directive, a copy must be immediately available for staff and emergency personnel. (3-29-10)()

15. **Notification of Payee Requirements.** ~~Notification~~ The agreement must identify if the facility requires as a condition of admission that ~~the administrator or an employee of~~ the facility be named as payee. (3-29-10)()

16. **Contested Charges.** The facility must provide the methods by which a resident may contest charges or rate increases ~~that include~~ including contacting the ~~O~~mbudsman for the ~~E~~lderly. ~~The facility must respond as provided under Section 711.02 of these rules.~~ (3-29-10)()

17. **Transition to Publicly-Funded Program.** The facility must disclose the conditions under which the resident can remain in the facility, if payment for the resident shifts to a publicly-funded program. (3-29-10)

18. ~~Other Information—Smoking Policy.~~ ~~The agreement must identify other information that the facility may deem appropriate~~ The admission agreement must include a copy of the facility's smoking policy. (3-29-10)()

~~22~~17. **REQUIREMENTS FOR TERMINATION OF ADMISSION AGREEMENT.**

01. **Conditions for Termination of the Admission Agreement.** The admission agreement cannot be terminated, except under Section 39-3313, Idaho Code, as follows ~~the following conditions:~~ (3-30-06)()

a. Giving the other party thirty (30) calendar days written notice ~~for any reason;~~ (3-30-06)()

b. The resident's death; (3-30-06)

c. Emergency conditions that requires the resident to be transferred to protect the resident or other residents in the facility from harm; (3-30-06)()

d. The resident's mental or medical condition deteriorates to a level requiring care as described in Section ~~3~~39-3307, Idaho Code, and ~~Sub~~section 152-05 of these rules; (3-30-06)()

e. Nonpayment of the resident's fees; (3-30-06)

f. When the facility cannot meet resident needs due to changes in services, in house or contracted, or inability to provide the services; or (3-30-07)

g. Other written conditions as may be mutually established between the resident, the resident's legal guardian or conservator, and the administrator of the facility at the time of admission. (3-30-06)()

02. Facility Responsibility During Resident Discharge. The facility is responsible to assist the resident with transfer by providing a list of skilled nursing facilities, other residential care or assisted living facilities, and certified family homes that may meet the needs of the resident. The facility must provide a copy of the resident record, as described in Section 330 of these rules, within two (2) business days of receipt of a request signed and authorized by the resident or legal representative. (3-30-06)()

03. Resident's Appeal of Involuntary Discharge. A resident may appeal all discharges with the exception of an involuntary discharge in the case of non-payment, or emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm. (3-30-06)()

a. Before a facility discharges a resident, the facility must notify the resident, and ~~if known, a family member, or his legal~~ representative of the discharge and the ~~reasons for the discharge~~ cause. (3-30-06)()

b. This notice must be in writing and in a language and manner the resident or ~~his~~ their representative can understand. (3-30-06)()

04. Written Notice of Discharge. The written notice of discharge must include the following: (3-30-06)

a. The specific reason for the discharge; (3-30-06)()

b. The Effective date of the discharge; (3-30-06)()

c. A statement that the resident has the right to appeal the discharge to the Department within thirty (30) calendar days of receipt of written notice of discharge; (3-30-06)

d. The ~~name and address of~~ Residential Assisted Living Facilities website, where the appeal must be submitted; (3-30-06)()

e. The name, address, and telephone number of the local ombudsman, ~~for residents sixty (60) years of age or older; and~~ (3-30-06)()

f. The name, address, and telephone number of Disability Rights Idaho, ~~for residents with developmental disabilities or mental illness;~~ (7-1-15)()

g. If the resident fails to pay fees to the facility, as agreed to in the admission agreement, during the discharge appeal process, the resident's appeal of the involuntary discharge becomes null and void and the discharge notice applies; and (3-30-06)()

h. When the notice does not contain all the above required information, the notice is void and must be reissued. (3-30-06)

05. Receipt of Appeal. Request for an appeal must be received by the Department within thirty (30) calendar days of the resident's or resident's representative's receipt of written notice of discharge to stop the discharge before it occurs. (3-30-06)

~~222~~18. -- ~~224~~9. (RESERVED)

~~225. REQUIREMENTS FOR BEHAVIOR MANAGEMENT~~

~~The facility must identify and evaluate behavioral symptoms that are distressing to the resident or infringe on other residents' rights.~~ (3-30-06)

- ~~01. **Evaluation for Behavior Management.** The facility evaluation must include the following; (3-30-06)~~
- ~~a. Identification if the resident behavior is transitory or permanent; (3-30-06)~~
 - ~~b. Review of the resident's previous behaviors and activities; (3-30-06)~~
 - ~~c. Review of baseline data including intensity, duration and frequency of the resident behavior; (3-30-06)~~
 - ~~d. Identification of recent changes in the resident's life, such as death in the family, change in resident's daily routine, or changes in the Resident's Negotiated Service Agreement; (3-30-06)~~
 - ~~e. Identification of environmental causes that could contribute to the resident's behavior such as excessive heat, noise, overcrowding, hunger, staffing; (3-30-06)~~
 - ~~f. Rule out possible medical causes such as pain, constipation, fever, infection, or medication side effects; and (3-30-06)~~
 - ~~g. Identification of events that trigger behavioral symptoms. (3-30-06)~~
- ~~02. **Intervention.** The facility must develop an intervention for each behavioral symptom. (3-30-06)~~
- ~~a. All staff must be aware of and consistently implement each behavioral symptom intervention; (3-30-06)~~
 - ~~b. The intervention needs to be the least restrictive; and (3-30-06)~~
 - ~~c. Each intervention needs to be reviewed within seventy-two (72) hours of implementation, and from then on as appropriate, to evaluate the continued need for the intervention. (3-30-06)~~
- ~~03. **Prescribing Provider.** The resident's medication regime must be evaluated every six (6) months to assure that medications used to treat behavioral symptoms are necessary and at the lowest possible dose. (3-30-06)~~

~~226.—249. (RESERVED)~~

250. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

Minimum Construction must meet all requirements of this rule to include codes and standards incorporated by reference in Section 004 of these rules, and all local and state codes that are applicable to Residential Care or Assisted Living Facilities. Where there are conflicts between the requirements in the codes, the most restrictive condition must apply. ()

~~01. **Building Character Construction Changes.** All buildings utilized as residential care or assisted living facilities must be of such character as to be suitable for such use. Facilities must be of such character as to enhance normalization and integration of residents into the community. For all new construction, change of occupancy, modifications, additions, or renovations to existing buildings, the facility must submit construction drawings with specifications to the licensing authority for review and approval prior to any work being started. All new construction and conversions on or after January 1, 2021, must install audible and visual notification devices for fire alarm systems in all common areas and resident rooms no matter the size of facility. (3-30-06)()~~

~~02. **Plans and Specifications.** Plans and specifications for any proposed new facility construction, any addition or remodeling are governed by the following: (3-30-06)~~

~~a. Plans must be prepared by an architect or engineer licensed in the state of Idaho, and must be stamped, signed, and dated by the architect. A variance of this requirement may be granted by the Licensing and~~

~~Survey~~ Agency when the size of the project does not necessitate involvement of an architect or engineer; This must include the following: ~~(3-30-06)()~~

ba. Plans and specifications must be submitted to the Licensing ~~and Survey~~ Agency to ~~assure~~ ensure compliance with applicable construction standards, codes, and regulations; ~~(3-30-06)()~~

~~eb.~~ ~~Newly constructed or converted buildings housing seventeen (17) or more residents must submit professionally prepared drawings or plans of the kitchen and a listing of all kitchen equipment for review and approval prior to construction.~~ Plans must be drawn to scale, but no less than a scale of one-eighth (1/8) inch to one (1) foot; ~~(3-29-10)()~~

c. Plans must be submitted electronically; ()

d. Physical address must be approved by the city; ()

e. Life safety plans; ()

f. Fire alarm shop drawings; and ()

g. Fire sprinkler system drawings and calculations. ()

~~03.~~ ~~Remodeling or Additions. Remodeling of or additions to a facility will be consistent with all applicable fire and life safety requirements.~~ ~~(3-30-06)~~

043. **Approval.** All buildings, additions, and remodeling are subject to approval by the Licensing ~~and Survey~~ Agency and must meet applicable requirements. ~~(3-30-06)()~~

054. **Walls and Floor Surfaces.** Walls and floors must be of such character to permit cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms must have washable surfaces. (3-30-06)

065. **Toilet and Bathrooms.** Each facility must provide: (3-30-06)

a. A toilet and bathroom for resident use so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath; (3-30-06)

b. Solid walls or partitions to separate each toilet and bathroom from all adjoining rooms; (3-30-06)

c. Mechanical ventilation to the outside from all inside toilets and bathrooms not provided with an operable exterior window; (3-30-06)

d. Each tub, shower, and lavatory with hot and cold running water; (3-30-06)

e. At least one (1) flushing toilet for every six (6) residents; ~~(3-30-06)()~~

f. At least one (1) tub or shower for every eight (8) residents; (3-30-06)

g. At least one (1) lavatory with a mirror for each toilet; and (3-30-06)

h. At least one (1) toilet, tub or shower, and lavatory in each building in which residents sleep, with additional units if required by the number of persons. (3-30-06)

076. **Accessibility for Persons with Mobility and Sensory Impairments.** For residents with who have mobility or sensory impairments, the facility must provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities must comply, to the maximum extent feasible, with 28 CFR Sections 36.304 and 36.305 regarding removal of barriers under the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and must

provide as required, the necessary accommodations:

~~(3-30-06)~~()

a. Ramps for residents who require assistance with ambulation ~~shall~~ **must** comply with the requirements of the ADAAG 4.8; ~~(3-30-06)~~()

b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13; (3-30-06)

c. Grab bars in resident toilet and bathrooms in compliance with ADAAG 4.26; (3-30-06)

d. Toilet facilities in compliance with ADAAG 4.16 and 4.23; (3-30-06)

e. Non-retractable faucet handles in compliance with ADAAG 4.19, with the exception of self-closing valves under 4.19.5, and 4.27; and (3-30-06)

f. Suitable hand railing must be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (3-30-06)

~~087.~~ **Lighting.** The facility must provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (3-30-06)

~~098.~~ **Ventilation.** The facility must be ventilated, and precautions ~~shall be~~ taken to prevent offensive odors. ~~(3-30-06)~~()

~~109.~~ **Plumbing.** All plumbing in the facility must comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. The temperature of hot water at plumbing fixtures used by residents must be between one hundred five degrees (105°F) Fahrenheit and one hundred twenty degrees (120°F) Fahrenheit. (3-30-06)

~~110.~~ **HVAC, Heating, Ventilation, and Air-Conditioning.** Equipment must be furnished, installed, and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes. An HVAC A heating system must be provided for the facility that is capable of maintaining a minimum temperature of seventy degrees Fahrenheit (70°F) Fahrenheit and a maximum temperature of seventy-eight degrees Fahrenheit (78°F) during the day, and a minimum of sixty-two degrees Fahrenheit (62°F) Fahrenheit and a maximum temperature of seventy-five degrees Fahrenheit (75°F) during the night. Wood stoves, gas fireplaces, or solid burning fireplaces are not ~~be~~ permitted as the sole source of heat, and the thermostat for the primary source of heat must be remotely located away from any wood stove of these sources. ~~(3-30-06)~~()

a. Portable heating devices of any kind are prohibited. Portable electric space heaters and movable fuel-fired heaters are considered portable comfort heating devices. Exceptions are heated mattress pads, electric blankets, and heating pads when ordered by an authorized provider or physician; ()

b. All fireplaces must provide a safety barrier and have heat-tempered glass fireplace enclosures equivalent to ASTM Standard; ()

c. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves; ()

d. Fire and smoke dampers must be inspected, serviced, and cleaned once every four (4) years by a person professionally engaged in the business of servicing these devices or systems. A copy of these results must be kept in the facility. ()

~~121.~~ **Dining, Recreation, Shower, Bathing, and Living Space.** The total area set aside for these purposes must be no less than thirty (30) square feet per licensed bed. A hall or entry cannot be included as living or recreation space. ~~(3-30-06)~~()

~~132.~~ **Resident Sleeping Rooms.** The facility must ~~assure~~ **ensure** that: ~~(3-30-06)~~()

- a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (3-30-06)
- b. A room with a window that opens into an exterior window well cannot be used for a resident sleeping room; (3-30-06)
- c. Not more than four (4) residents can be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or building converted to a licensed facility after July 1, 1992¹, cannot have more than two (2) residents in any multi-bed sleeping room. When there is any change in ownership of the facility, the maximum number of residents allowed in any room is two (2); ~~(3-30-06)~~()
- d. Square footage requirements for resident sleeping rooms must provide for not less than one hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a multi-bed sleeping room. For facilities constructed after January 1, 2021, square footage requirements for resident sleeping rooms must provide at least one hundred (100) square feet of floor space per resident for both single bed and multi-bed sleeping rooms.; ~~(3-30-06)~~()
- e. Each resident's sleeping room must be provided with an operable exterior window. An operable window is not required where there is a door directly to the outside from the sleeping room; (3-30-06)
- f. The operable window sill height must not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; (3-30-06)
- g. The operable window sill height must not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; (3-30-06)
- h. Each resident sleeping room must provide a total window space that equals at least eight percent (8%) of the room's total square footage; (3-30-06)
- i. Window screens must be provided on operable windows; (3-30-06)
- j. Resident sleeping rooms must have walls that run from floor to ceiling; have doors that will limit the passage of smoke; and provide the resident(s) with privacy; ~~(3-30-06)~~
- k. Ceiling heights in sleeping rooms must be at least seven (7) feet, six (6) inches; and (3-30-06)
- l. Closet space in each resident sleeping room must provide at least four (4) usable square feet per resident. Common closets used by two (2) or more residents must have substantial dividers for separation of each resident's clothing. All closets must be equipped with doors. Free-standing closets are deducted from the square footage of the sleeping room. (3-30-06)

143. Secure Environment. If the facility accepts and retains residents who have cognitive impairment and have a history of elopement or attempted elopement, the facility must provide an interior environment and exterior yard which that is secure and safe. Because measures to secure the environment may be effective for one (1) resident, but not another, the type of the security provided must be evaluated for effectiveness in protecting each resident, based on their individual needs and abilities, and adjusted as necessary. These measures must be incorporated into the NSA of each applicable resident. ~~(3-30-06)~~()

154. Call System. The facility must have a call system available for each resident to call for assistance and still be ~~assured~~ ensured a resident's right to privacy at the facility, including ~~but not limited to~~; the resident's living quarters, common areas, medical treatment, and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups. The call system cannot be a substitute for supervision. For facilities licensed prior to January 1, 2006, when the current system is no longer operational or repairable the facility must install a call system as defined in Section 010 of these rules. ~~(3-29-10)~~()

165. Dietary Standards. Each facility must have a full-service kitchen to meet the needs of the

residents. Any satellite kitchen must meet all applicable requirements.

~~(3-30-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

255. REQUIREMENTS FOR ADDITIONAL PHYSICAL STANDARDS.

- 01. Fire District.** The facility site must be in a lawfully constituted fire district. (3-30-06)
- 02. Roads.** The facility must be served by an all-weather road and kept open to motor vehicles at all times of the year. (3-30-06)
- 03. Medical Accessibility.** The facility site must be accessible to authorized providers, or emergency medical services within thirty (30) minutes driving time. (3-30-06)
- ~~**04. Service Accessibility.** The facility site must be accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (3-30-06)~~

(BREAK IN CONTINUITY OF SECTIONS)

260. REQUIREMENTS FOR ENVIRONMENTAL SANITATION.

- 01. Water Supply.** The facility must have an adequate water supply that is safe and of a sanitary quality. ~~It must be from:~~ ~~(3-30-06)~~()
- a. The water supply must be from** ~~A~~an approved private, public, or municipal water supply; ~~(3-30-06)~~()
- b.** Water from a private supply, must have water samples submitted annually to either a private accredited laboratory or to the Public Health District Laboratory for bacteriological examination. The Department may require more frequent examinations if warranted; and (3-30-06)
- c.** There must be a sufficient amount of water under adequate pressure to meet sanitary and fire sprinkler system requirements of the facility at all times. (3-30-06)
- 02. Sewage Disposal.** All sewage and liquid waste must be discharged, into a municipal sewage system where such a system is available. If a municipal sewage system is not available, sewage and liquid waste must be collected, treated, and disposed of in a manner approved by the Department. ~~(3-30-06)~~()
- 03. Garbage and Refuse Disposal.** ~~All~~ ~~g~~Garbage and refuse disposal must be provided ~~by the facility to ensure that:~~ ~~(3-30-06)~~()
- a.** The premises and all buildings must be kept free from ~~the~~ accumulation of weeds, trash, and rubbish; ~~(3-30-06)~~()
- b.** Material not directly related to the maintenance and operation of the facility must not be stored on the premises; ~~(3-30-06)~~()
- c.** All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material, and must not leak ~~or absorb liquids~~. Containers must be provided with tight fitting lids unless stored in a vermin-proof room ~~(s)~~ or enclosure; ~~and~~ ~~(3-30-06)~~()

d. Garbage containers must be maintained in a sanitary manner. Sufficient containers must be afforded to hold all garbage and refuse which accumulates between periods of removal from the facility. Storage areas must be clean and sanitary. (3-30-06)

04. **Insect and Rodent Control.** A pest control program must be in effect at all times. This program must effectively prevent insects, rodents, and other pests from entrance to, or infestation of, the facility. (3-30-06)()

~~a. All toxic chemicals must be properly labeled and stored under lock and key; and (3-30-06)~~

~~b. No toxic chemicals must be stored in resident areas, where drugs are stored, or in any area where food is stored, prepared or served. (3-30-06)~~

05. **Linen and Laundry Facilities and Services.** (3-30-06)

a. The facility must have available at all times a quantity of linen essential to the proper care and comfort of residents; (3-30-06)

b. Linen must be of good quality, not thread-bare, torn, or badly stained; (3-30-06)()

c. Linens must be handled, processed, and stored in an appropriate manner that prevents contamination; (3-30-06)()

d. Adequate facilities must be provided for the proper and sanitary washing and drying of linen and other washable goods laundered in the facility; (3-30-06)

e. The laundry must be situated in an area separate and apart from where food is stored, prepared, or served; (3-30-06)()

f. The laundry area must be well-lighted, and ventilated, adequate in size for the needs of the facility, maintained in a sanitary manner, and kept in good repair; (3-30-06)()

g. ~~When the facility sends linen and personal laundry out for laundry services, c~~are must be taken ~~that to ensure~~ soiled linen and clothing are properly handled ~~to prevent contamination before sending out.~~ Clean linen and clothing received from a laundry service must be stored in a proper manner ~~to prevent contamination;~~ and (3-30-06)()

h. Residents' and personnel's personal laundry must be collected, transported, sorted, washed, and dried in a sanitary manner and cannot be washed with general linens (e.g. towels, and sheets). (3-30-06)()

06. **Housekeeping Services and ~~Equipment~~ Maintenance Services.** Housekeeping, maintenance personnel, and equipment must be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. Prior to occupancy of any sleeping room by a new resident, the room must be thoroughly cleaned including the bed, bedding, and furnishings. (3-30-06)()

07. Toxic Chemicals. All toxic chemicals must be properly labeled. Toxic chemicals cannot be stored in the following: ()

a. Where food is stored, prepared, or served; ()

b. Where medications are stored; and ()

c. Where residents with a diagnosis of dementia have access. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. REQUIREMENTS FOR NURSING SERVICES.

~~The administrator must ensure policies and procedures are developed and implemented to ensure~~ Nursing services ~~must be~~ are performed in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," and this chapter of rules. The facility must have on staff ~~or under contract the~~ sufficient nursing personnel listed to meet the requirements in Subsections 300.01 and 300.02 of these this rules ~~to provide nursing service requirements.~~

~~(3-30-06)~~()

01. Licensed Registered Nurse (RN). A licensed registered nurse (RN) must visit the facility at least once every ninety (90) days ~~or when there is a change in the resident's condition~~ to conduct initial and quarterly nursing assessments for each resident as described in Section 305 of these rules. The licensed registered nurse is responsible for delegation of ~~all~~ nursing functions, according to IDAPA 23.01.01, "Rules of the Idaho Board of Nursing Rules."

~~(3-30-06)~~()

02. Licensed Registered Nurse. The ~~facility must assure that a licensed registered nurse is~~ licensed nurse must be available to address changes in ~~the~~ a resident's health or mental status, and to review and implement new orders ~~prescribed by the resident's health care provider,~~ and notify the physician or authorized provider when a resident repeatedly refuses prescribed medications or treatments.

~~(3-30-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

305. REQUIREMENTS FOR THE LICENSED REGISTERED NURSE RESPONSIBILITY REQUIREMENTS NURSING ASSESSMENT.

~~For each resident~~ the licensed registered ~~professional~~ nurse must assess and document, including date and signature, ~~for each resident as described in Subsections 305.01 through 305.08 of these rules.~~ the following: ~~(3-30-06)~~()

01. Resident Response to Medications and Therapies. ~~Conduct a nursing assessment of~~ Each resident's ~~use of,~~ and response to all medications, (including over-the-counter, and prescribed therapies), the monitoring of side effects, interactions, abuse, or other adverse effects, and notifying the resident's physician or authorized provider of any identified concerns.

~~(3-30-06)~~()

02. Current Medication Orders and Treatment Orders. ~~Assure the~~ Each residents' s medications and treatment orders are current and ~~by verifying~~ verified for the following:

~~(7-1-15)~~()

a. All prescribed medications or treatments are available in the facility; ()

#b. That the medication listed on the medication distribution container, including over-the-counter medications ~~as appropriate,~~ are consistent with physician or authorized provider orders;

~~(7-1-15)~~()

#c. That the physician or authorized provider orders related to therapeutic diets, treatments, and medications for each resident are followed; and

(7-1-15)

ed. A copy of the actual written, signed, and dated orders are present in each resident's care record.

~~(7-1-15)~~()

03. Resident Health Status. ~~Conduct a nursing assessment of~~ the health status of each resident by conducting a physical assessment, identifying symptoms of illness, or any changes in mental or physical health status.

~~(3-30-06)~~()

04. Recommendations. ~~Make~~ Recommendations to the administrator regarding any medication needs, other health needs requiring follow-up, or changes needed to the ~~Negotiated Service Agreement~~ NSA. The nurse must notify the attending physician or authorized provider of recommendations for medical care and services that are needed.

~~(3-30-06)~~()

05. Progress of Previous Recommendations. ~~Conduct a review and follow-up of~~ the progress ~~on~~ of

previous recommendations ~~made to the administrator~~ regarding any medication needs or other health needs that require follow-up. ~~Report to the attending physician or authorized provider and state agency if recommendations for care and services are not implemented that have affected or have the potential to affect the health and safety of residents.~~ (3-30-06)()

06. Self-Administered Medication. ~~Conduct an initial nursing assessment on~~ Each resident participating in a self-administered medication program ~~as follows at the following times:~~ (3-30-06)()

a. Before the resident can self-administer medication to ~~assure~~ ensure resident safety; and (3-30-06)()

b. ~~Every ninety (90) days to~~ Evaluate the continued validity of the assessment to ~~assure~~ ensure the resident is still capable to safely ~~continue the~~ self-administered medication(s) ~~for the next ninety (90) days.~~ (3-30-06)()

~~**07. Medication Interactions and Usage.** Conduct a review of the resident's use of all prescribed and over the counter medications for side effects, interactions, abuse or a combination of these adverse effects. The nurse must notify the resident's physician or authorized provider of any identified concerns.~~ (3-30-06)

~~**07. Resident and Facility Staff Education.** Assess, document, and r~~Recommendations for any health care-related educational needs, for both the resident and facility staff, as the result of the ~~nursing~~ assessment or at the direction of the resident's health care provider. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

310. REQUIREMENTS FOR MEDICATION.

~~Facility policies and procedures must specify how medications will be received.~~ ()

01. Medication Distribution System. Each facility must use medi-sets or blister packs for prescription medications. The facility may use multi-dose medication distribution systems that are provided for resident's receiving medications from the Veterans Administration or Railroad benefits. The medication system must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards and physician or authorized provider instructions. ~~A~~The facility's licensed nurse may fill medi-sets, blister packs, or other Licensing ~~and Survey~~ Agency approved systems ~~s~~ as ~~provided described~~ in Section 39-3326, Idaho Code ~~and Section 157 of these rules.~~ (7-1-15)()

a. All medications ~~will~~ must be kept in a locked area such as a locked box or room; (3-30-06)()

b. Poisons, toxic chemicals, and cleaning agents ~~will~~ must not be stored ~~in separate locked areas apart from~~ with medications, ~~such as a locked medication cart, locked box, or room;~~ (3-30-06)()

c. Biologicals and other medications requiring cold storage ~~will~~ must be refrigerated. ~~A covered container in a home refrigerator will be considered to be satisfactory storage if the temperature is~~ with the following standards: ()

i. ~~Be~~ maintained at thirty-eight to forty-five degrees ~~Fahrenheit~~ (38-45°F) ~~Fahrenheit; and~~ ()

ii. ~~The temperature will b~~Be monitored and documented ~~on a~~ daily ~~basis;~~ (3-30-06)()

d. Assistance with medication must comply with the Board of Nursing requirements; (3-30-06)

e. Each prescription medication must be given to the resident directly from the medi-set, blister pack, or medication container; and (7-1-15)()

f. Each resident must be observed taking the medication. (3-30-06)

02. ~~Unused Medication-Discontinued and Expired Prescriptions.~~ ~~Unused, discontinued, or outdated medications~~ Discontinued or outdated medications and treatments must be removed from the resident's medication supply and cannot accumulate at the facility for longer than thirty (30) days. The unused medication must be disposed of in a manner that ~~assures~~ ensures it cannot be retrieved. The facility may enter into agreement, a copy of which must be maintained, with a pharmacy or other authorized entity to return unused, unopened medications ~~to the pharmacy~~ for proper disposition and credit. ~~See IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 664 and 665, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy."~~ A written record of all drug disposals must be maintained in the facility and include: (3-30-06)()

a. A description of the drug, including the amount; (3-30-06)

b. Name of the resident ~~for prescription~~ the medication is prescribed; (3-30-06)()

c. The reason for disposal; (3-30-06)

d. The method of disposal; (3-30-06)

e. The date of disposal; and (3-30-06)

f. Signatures of responsible facility personnel and witness. (3-30-06)

03. Controlled Substances. The facility must track all controlled substances entering the facility ~~in accordance with Title 37, Chapter 27, Idaho Code, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy," Section 495, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing Rules," Section 490,~~ including the amount received, the date, a daily count, reconciliation of the number given or disposed, and the number remaining. (3-30-06)()

04. Psychotropic or Behavior Modifying Medication. (3-30-06)

a. Psychotropic or behavior modifying medication intervention must not be the first resort to address behaviors. The facility must attempt non-drug interventions to assist and redirect the resident's behavior. (3-30-06)

b. Psychotropic or behavior modifying medications must be prescribed by a physician or authorized provider. (3-30-06)

c. The facility ~~will~~ must monitor the resident to determine continued need for the medication based on the resident's demonstrated behaviors. (3-30-06)()

d. The facility ~~will~~ must monitor the resident for any side effects that could impact the resident's health and safety. (3-30-06)()

e. The use of psychotropic or behavior modifying medications must be reviewed by the physician or authorized provider at least every six (6) months. The facility must provide behavior updates to the physician or authorized provider to help facilitate an informed decision on the ~~continued~~ ing use, and possible reduction, of the psychotropic or behavior modifying medication. (3-30-06)()

311. -- 3198. (RESERVED)

319. COMPREHENSIVE ASSESSMENT REQUIREMENTS.
The facility must complete assessment information as described in Subsections 319.01 through 319.04 of this rule, prior to admitting the resident to the residential care or assisted living facility. The remainder of the comprehensive assessment must be completed within fourteen (14) days of admission, and be updated when there is a change, or at least every twelve (12) months. The comprehensive assessment must contain the following: ()

01. Resident Demographics. Resident demographic information, including: ()

- a. Identifying information, such as date of birth; ()
 - b. Historical information, to include medical, health, family, and placement history; ()
 - c. Identification of any medical diagnoses, including any information about specific health problems, such as allergies, that may be useful in a medical emergency; ()
 - d. Prescription and over-the-counter medications and treatments; ()
 - e. Information related to cognitive function; ()
 - f. Legal status, to include copies of legal documents when applicable (e.g. guardianship or power of attorney); ()
 - g. Work-life information; ()
 - h. Hobbies; ()
 - i. Interests, desires, and preferences, to include transfer or discharge goals expressed by the resident or legal representative; ()
 - j. Education information; and ()
 - k. Significant life events. ()
- 02. Level of Personal Assistance Required.** The facility must assess the level of assistance required to help the resident with the following: Activities of daily living, including bathing, dressing, toileting, grooming, eating, communicating, medications, and the use of adaptive equipment, such as hearing aids, walkers, or eyeglasses. ()
- 03. Nursing Assessment.** Information related to the resident's health, medical status, and identification of any health services needed, including frequency and scope. ()
- 04. Maladaptive Behaviors.** Evaluation of maladaptive behaviors, including: ()
- a. The resident's behavioral history, including any history of traumatic events; ()
 - b. The intensity, duration, and frequency of each maladaptive behavior; ()
 - c. Potential contributing environmental factors, such as heat, noise, or overcrowding; ()
 - d. Any specific events that can trigger maladaptive behaviors; ()
 - e. Potential contributing health factors, such as hunger, pain, constipation, infection, fever, or medication side effects; and ()
 - f. Recent changes in the resident's life, such as a death in the family or changes in care. ()
- 05. Community Support Systems.** Identification of community support systems, including church contacts, family, friends, and any people relevant to the development of the resident's care plan, including names and contact information for representatives, and emergency contacts. ()
- 06. Outside Services.** Information related to outside services, including the service type being provided, when, and by whom. ()
- 07. Assessment Results.** The results of the comprehensive assessment must be used to develop the

NSA, identify training needs for staff, and evaluate the ability of an administrator and facility to meet the identified residents' needs. ()

320. ~~REQUIREMENTS FOR THE~~ **NEGOTIATED SERVICE AGREEMENT (NSA) REQUIREMENTS.**
The Under Section 39-3309, Idaho Code, each resident must enter into a Negotiated Service Agreement NSA must be completed, and signed, and implemented no later than fourteen (14) calendar days from the date of admission. An written interim plan must be developed and used while the Negotiated Service Agreement NSA is being completed as described in Section 330 of these rules. (3-30-06)()

01. ~~Use of Negotiated Service Agreement NSA.~~ *Each resident, regardless of the source of funding, must enter into a Negotiated Service Agreement.* The ~~Negotiated Service Agreement~~ **NSA** provides for the coordination of services and instruction to the facility staff. Upon completion, the agreement must clearly identify the resident; describe services to be provided, the frequency of such services, and how such services are to be delivered. ~~The Negotiated Service Agreement must be implemented.~~ (3-30-06)()

02. ~~Key Elements of the Negotiated Service Agreement NSA.~~ A resident's **NSA agreement** must be based on the comprehensive assessment information described in Section 319 of these rules. Subsequent NSAs must incorporate information from the resident's care record, described in Section 330 of these rules, following: (3-30-06)()

- ~~a.~~ *Resident's uniform assessment or assessment based on the uniform assessment criteria;* (3-30-06)
- ~~b.~~ *Level of support in activities of daily living;* (3-30-06)
- ~~c.~~ *Health services;* (3-30-06)
- ~~d.~~ *Level of assistance for medications;* (3-30-06)
- ~~e.~~ *Frequency of needed services;* (3-30-06)
- ~~f.~~ *Scope of needed assistance;* (3-30-06)
- ~~g.~~ *Habilitation needs, to specify the program being used if applicable;* (3-30-06)
- ~~h.~~ *Training needs, to specify the program being used if applicable;* (3-30-06)
- ~~i.~~ *Identification of specific behavioral symptoms, situations that trigger the behavior symptoms and the specific interventions for each behavioral symptom;* (3-30-06)
- ~~j.~~ *Physician or authorized provider's signed and dated orders;* (3-30-06)
- ~~k.~~ *Admission records;* (3-30-06)
- ~~l.~~ *Community support systems;* (3-30-06)
- ~~m.~~ *Resident's desires;* (3-30-06)
- ~~n.~~ *Transfer plans;* (3-30-06)
- ~~o.~~ *Discharge plans;* (3-30-06)
- ~~p.~~ *Identification of individual services being provided by other providers and who is providing the service; and* (3-30-06)

- ~~¶~~ ~~Other identified needs.~~ (3-30-06)
03. **Signature, Date, and Approval of Agreement.** The administrator, ~~and~~ resident, ~~and responsible party, legal guardian, or conservator,~~ must sign and date the ~~service agreement~~ **NSA** upon its completion. (3-30-06)()
04. **Review Date.** The ~~Negotiated Service Agreement~~ **NSA** must include the next scheduled date of review. (3-30-06)()
05. **Development of the ~~Service Agreement~~ NSA.** The resident, and other relevant persons as identified by the resident, must be included in the development of the ~~service agreement~~ **NSA**. Licensed and professional staff ~~will~~ **must** be involved in the development of the ~~service agreement~~ **NSA** as applicable. (3-30-06)()
06. ~~Provision of Copy of Initial~~ **Agreement.** Signed copies of the agreement must be given to the resident, ~~their representative and their~~ legal guardian, or conservator, and a copy placed in the resident's record ~~file,~~ no later than fourteen (14) calendar days from admission. (3-30-06)()
07. **Resident Choice.** A resident must be given the choice and control of how and what services the facility or external vendors will provide, to the extent the resident can make choices. The resident's choice must not violate the provisions of Section 39-3307(1), Idaho Code. (3-30-06)
08. **Periodic Review.** The ~~Negotiated Service Agreement~~ **NSA** must be reviewed when there is a change in a diagnosis for ~~the a~~ resident or other change in condition requiring different, additional, or replacement services, or at least every twelve (12) months. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

330. **REQUIREMENTS FOR FACILITY RECORDS.**

~~The facility administrator is responsible for assuring that record policies and procedures are implemented in the facility. The facility must maintain complete, accurate, and authentic records which are preserved in a safe location protected from fire, theft, and water damage for a minimum of three (3) years, except as described in Section 330 of this rule.~~ (3-30-06)()

01. ~~Individual Resident Care~~ **Paper Records.** ~~An individual resident care record must be maintained for each admission with all entries kept current, dated and signed. All paper records must be recorded legibly in ink. All paper records must be recorded legibly in ink.~~ (3-30-06)()

02. ~~Resident~~ **Electronic Records.** ~~Records must be preserved in a safe location protected from fire, theft, and water damage for a period of not less than three (3) years. Electronic records policies and procedures must be developed and implemented that specify which records will be maintained electronically. Policy development and implementation must ensure:~~ (3-30-06)()

~~a. The facility must be able to print and provide paper copies of electronic records upon the request of the resident, their legal guardian, conservator, or the Department.~~ ()

~~b. Security measures must be taken to protect the use of an electronic signature by anyone other than the person to which the electronic signature belongs and to protect that person's identity. The policy must specify how passwords are assigned, and the frequency they are changed.~~ ()

~~c. Security measures must be taken to ensure the integrity of any electronic documentation.~~ ()

03. ~~Resident~~ **Record Confidentiality.** ~~The facility must safeguard resident information against loss, destruction, and unauthorized use. The facility must safeguard confidential information against loss, destruction, and unauthorized use.~~ (3-30-06)()

04. ~~Staff Access~~ **Resident Care Records.** ~~Resident care records of current residents must be available to direct care staff at all times~~ An individual care record must be maintained for each resident with all entries kept current and completed by the person providing the care. (3-30-06)()

a. Entries must include the date, time, the name and title of the person making the entry. Staff must sign each entry made by them during their shift. ()

b. Care records of all current residents must be available to staff at all times. ()

c. In addition to an NSA, as described in this rule, each care record must include documentation of the following: ()

i. Comprehensive assessments, as described in Section 319 of these rules; ()

ii. Current medications, treatments, and diet prescribed, all signed and dated by the ordering physician or authorized provider; ()

iii. Treatments, wound care, assistance with medications. Documentation must include any PRN medication use (if applicable), including the reason for taking the medication and the efficacy; ()

iv. Times the NSA is not followed, such as during refusal of care or services. This includes any time a medication is refused by a resident, not taken by a resident, not given to a resident, and the reason for the omission; ()

v. Calls to the resident's physician or authorized provider, including the reason for each call and the outcome; ()

vi. Notification to the facility nurse of changes in the resident's physical or mental condition; ()

vii. Nursing assessments, as described in Section 305 of these rules; ()

viii. The results of any physician or authorized provider visits; ()

ix. Copies of all, signed and dated care plans prepared by outside service agencies; ()

x. Notes regarding outside services and care provided to the resident, such as home health, hospice, or physical therapy; ()

xi. Unusual events such as incidents, accidents, or altercations, and the facility's response; ()

xii. When a resident refuses medical treatment or physician's orders, the facility must document the resident and their legal guardian have been informed of the consequences of the refusal and the resident's physician or authorized provider has been notified of the refusal. ()

05. **Electronic Admission Records.** ~~The facility must be able to print records maintained electronically in the facility:~~ As described in Section 39-3315, Idaho Code, resident admission documentation must include: (3-30-06)()

a. The resident's preferred providers and contact information, including physician or authorized provider, optometrist, dentist, pharmacy, and outside service providers. ()

b. Results of the resident's last history and physical examination, performed by a physician or authorized provider. The examination must have been conducted no more than six (6) months prior to admission. ()

c. Physician or authorized provider orders that are current, signed, and dated, including a list of

medications, treatments, diet, and any limitations. ()

d. A written admission agreement that is signed and dated by the administrator and the resident, or their legal guardian, or conservator, and meets the requirements of Section 216 of these rules. ()

e. If separate from the admission agreement, a copy of the payment schedule and fee structure signed and dated by the resident, their legal guardian, or conservator. ()

f. If the facility manages the resident's funds, a signed and dated written agreement between the facility and the resident, their legal guardian, or conservator that specifies the terms. ()

g. A signed copy of the resident's rights, as described in Sections 550 and 560 of these rules, or a signed and dated statement that the resident, their legal guardian, or conservator has read and understands their rights in a residential assisted living facility. ()

h. An interim care plan signed by the resident, responsible party, and the facility, completed prior to, or on the day of, admission. ()

i. Documentation indicating the resident has been informed of the facility's emergency procedures, including resident responsibility. ()

06. ~~Accessibility of Records to Survey Staff~~ Behavior Documentation. ~~Survey staff must have complete and immediate access to resident and facility records.~~ For residents who exhibit maladaptive behaviors, behavior management records must be maintained in the resident record, including: (3-30-06)()

a. An assessment of maladaptive behaviors, as described in Section 319 of these rules: ()

b. A behavior plan that includes at least one (1) intervention specific to each maladaptive behavior. ()

i. Least restrictive interventions as possible; and ()

ii. Review of each intervention as appropriate, based on the severity of the behavior to evaluate the effectiveness and continued need for the intervention. ()

c. Ongoing tracking of behaviors, including documentation of the date and time each maladaptive behavior was observed, the specific behavior that was observed, what interventions were used in response to the maladaptive behavior, and the effectiveness of each intervention. ()

07. Discharge Records. Resident discharge documentation must include: ()

a. When the discharge is involuntary, the facility's efforts to resolve the situation and a copy of the discharge notice, signed and dated by the resident and the facility. If the resident refuses, or is unable to sign the notice, the facility must maintain evidence that the notice was delivered to the resident and the responsible party; ()

b. The date and the location where the resident is discharged; and ()

c. The disposition of the resident's belongings. ()

08. Additional Resident Records. The facility must also maintain the following for each resident: ()

a. A record of all personal property that the resident has entrusted to the facility, including documentation to identify and track the property to ensure that personal items are kept safe and used only by the resident to which the items belong; and ()

b. Any complaints or grievances voiced by the resident including the date received, the investigation with outcome, and the response to the resident. ()

09. Resident Admission and Discharge Register. The facility must maintain an admission and discharge register listing the name of each resident, the date admitted, and the date discharged. The admission and discharge register must be produced as a separate document, apart from resident records, and kept current. ()

10. Hourly Adult Care Documentation. A log of those who have utilized hourly adult care must be maintained, including the dates the service was provided and with individual records maintained for each person utilizing hourly adult care. The individual record documentation must include: ()

a. Admission identification information, including contact information for the responsible party in an emergency, and the physician, or authorized provider; ()

b. Information, such as medical and social, relevant to the supervision of the person; and ()

c. Care and services provided during hourly adult care, including assistance with medications. ()

11. Dietary Records. The facility must maintain on-site a minimum of three (3) months of dietary documentation, as follows: ()

a. Copies of planned menus, including therapeutic menus, that are approved, signed, and dated by a dietitian; and ()

b. Served menus, including therapeutic menus, which reflect substitutions made. ()

12. Records for Water Supply. Copies of laboratory reports documenting the bacteriological examination of a private water supply must be kept on file in the facility. ()

13. Personnel Records. A record for each employee must be maintained and available, which includes the following: ()

a. The employee's name, address, phone number, and date of hire; ()

b. A job description that includes the purpose, responsibilities, duties, and authority; ()

c. Evidence that on, or prior to hire, staff were notified in writing if the facility does or does not carry professional liability insurance. If the facility cancels existing professional liability insurance, all staff must be notified of the change in writing; ()

d. A copy of a current license for all nursing staff and verification from the Board of Nursing that the license is in good standing with identification of restrictions; ()

e. Signed evidence of training as described in Sections 620 through 641 of these rules; ()

f. Copies of CPR and first aid certifications; ()

g. Evidence of medication training as described in Section 645 of these rules; ()

h. Criminal history and background check results that meet Section 009 of these rules and state-only background check results; ()

i. Documentation by the licensed registered nurse of delegation to unlicensed staff who assist residents with medications and other nursing tasks; ()

j. When acting on behalf of the administrator, a signed document authorizing the responsibility; ()

- k.** Copies of contracts with outside service providers and contract staff; and ()
- 14.** As Worked Schedules. Work records must be maintained in written or electronic format which reflect: ()
- a.** Personnel on duty, at any given time; and ()
- b.** The first and last names of each employee and their position. ()
- 15.** Fire and Life Safety Records. The administrator must ensure the facility's records for fire and life safety are maintained. The facility must maintain on file: ()
- a.** Fire detection, alarm, and communication system reports: ()
- i.** The results of the annual inspection and tests; and ()
- ii.** Smoke detector sensitivity testing results ()
- b.** The results of any weekly, monthly, quarterly, semi-annual, and annual sprinkler system inspections, maintenance, and tests; ()
- c.** Records of the monthly examination of the portable fire extinguishers, documenting the following: ()
- i.** Each extinguisher is in its designated location; ()
- ii.** Each extinguisher seal or tamper indicator is not broken; ()
- iii.** Each extinguisher has not been physically damaged; ()
- iv.** Each extinguisher gauge shows a charged condition; and ()
- v.** The inspection tag or documentation for the extinguisher must show at least the initials of the person making the monthly examination and the date of the examination. ()
- d.** Documentation for when a fire watch is instituted, a fire watch log for each round of patrol, identifying who conducted the fire watch, date, time, and situations encountered. ()

(BREAK IN CONTINUITY OF SECTIONS)

335. REQUIREMENTS FOR INFECTION CONTROL.

The administrator is responsible for ~~assuring~~ **ensuring** that ~~infection control policy and procedure are implemented.~~ policies and procedures consistent with recognized standards that control and prevent infections for both staff and residents are developed and implemented throughout the facility, to include: (3-30-06)()

~~01. Implementation of Policies. Staff must implement facility policy and procedure.~~ (3-30-06)

021. **Staff #~~2~~ with an Infectious Disease.** Staff with an infectious disease must not work until the infectious stage ~~is corrected~~ **no longer exists** or must be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent. (3-30-06)()

032. **Standard Precautions.** Standard precautions must be used in the care of residents to prevent transmission of infectious disease according to the Centers for Disease Control and Prevention (CDC) guidelines.

These guidelines may be accessed on the CDC website at <http://www.cdc.gov/hai/>.

(7-1-15)

043. Reporting of Individual ~~W~~with an Infectious Disease. The name of any resident or facility personnel with a reportable disease listed in IDAPA 16.02.10, "Idaho Reportable Diseases," ~~will~~ **must** be reported immediately to the local ~~H~~health ~~D~~district authority ~~and with~~ appropriate infection control procedures ~~must be~~ immediately implemented as directed by that local health authority. (3-30-06)()

336. -- ~~339~~. (RESERVED)

~~340. REQUIREMENTS FOR MENTAL HEALTH CONTRACT BEDS.~~

~~A facility may enter into an agreement with the Department to provide short term care to certain residents designated by the mental health program of the Department. These residents are temporarily distressed and unable to fully meet their basic needs. They require strong support, supervision, and while nonviolent nor a danger to self or others, could regress without these supports.~~ (3-30-06)

~~01. License and Personnel. The facility must be on a full license and must be staffed with at least one (1) staff member up and awake at night to assure the safety of all residents.~~ (3-30-06)

~~02. Written Contract. The facility must have a written contract with the Department outlining the responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the residents' care.~~ (3-30-06)

~~03. Resident Assessment. The facility must have on file the results of a Department assessment which clearly assures that the resident is not a danger to them self or others.~~ (3-30-06)

~~04. Personnel Orientation and Training. Personnel providing direct resident care, including contract staff must have documented evidence on file at the facility of appropriate orientation and training in providing care for residents with mental illness.~~ (3-30-06)

~~341. -- 344. (RESERVED)~~

~~345. REQUIREMENTS FOR HOURLY ADULT CARE.~~

~~If the facility provides hourly adult care, the administrator must assure that the facility's policies and procedures are implemented.~~ (3-30-06)

~~01. Medication and Treatment Orders. All medications and treatments must be ordered by a physician or authorized provider.~~ (3-30-06)

~~02. Assistance With Medication. Assistance with medication by unlicensed assistive personnel in the facility must follow IDAPA 23.01.01, "Rules of the Idaho Board of Nursing."~~ (3-30-06)

~~a. Each hourly adult care individual is responsible for bringing appropriately labeled medications for the stay; and~~ (3-30-06)

~~b. The facility is responsible for the safeguarding hourly adult care individual's medications while at the facility.~~ (3-30-06)

~~03. Restrictions for Hourly Adult Care. The facility must assure that the restrictions for hourly adult care in Subsections 345.03.a. through 345.03.f. of these rules are followed.~~ (3-30-06)

~~a. Hourly adult care services may be provided to such number of individuals that the facility can handle without interference with the normal activities of the facility; staffing must be based upon the needs of all residents in the facility to include full time residents and hourly adult care individuals;~~ (3-30-06)

~~b. Provision of time appropriate accommodations will be made available for the individual, to include, napping furniture for day time hours, 6 a.m. through 10 p.m., such as lounge chairs, recliners, and couches;~~ (3-30-06)

- ~~e. The facility will have the ability to space napping furniture at least three (3) feet apart; (3-30-06)~~
- ~~d. Beds and bedrooms will be available for the sleeping hours when needed by the hourly adult care individual. This bed will not be counted as a licensed bed if the individual sleeps over; (3-30-06)~~
- ~~e. Beds, and bedrooms of non-hourly residents will not be utilized by hourly adult care individuals; (3-30-06)~~
- and
- ~~f. No individual will be admitted to the hourly adult care program that requires skilled nursing or for whom the facility cannot adequately provide services and supervision. (3-30-06)~~

~~346.—349. (RESERVED)~~

~~350. REQUIREMENTS FOR HANDLING ACCIDENTS, INCIDENTS, OR COMPLAINTS.~~

~~The administrator must assure that the facilities policies and procedures are implemented. (3-30-06)~~

~~01. Notification of Accidents, Incidents, and Complaints. The administrator or person designated by the administrator must be notified of all accidents, incidents, reportable, or complaints according to the facility's policies and procedures. (3-30-06)~~

~~02. Administrator or Designee Investigation Within Thirty Days. The administrator or designee must complete an investigation and written report of the finding within thirty (30) calendar days for each accident, incident, complaint, or allegation of abuse, neglect or exploitation. (3-30-06)~~

~~03. Resident Protection. Any resident involved must be protected during the course of the investigation. (3-30-06)~~

~~04. Written Response to Complaint Within Thirty Days. The person making the complaint must receive a written response from the facility of the action taken to resolve the matter or reason why no action was taken within thirty (30) days of the complaint. (3-30-06)~~

~~05. Facility Notification to Appropriate Agencies. The facility must notify the Idaho Commission on Aging or its Area Agencies on Aging, and law enforcement in accordance with Section 39-5303, Idaho Code. (3-30-06)~~

~~06. Corrective Action for Known Allegations. When an allegation of abuse, neglect or exploitation is known by the facility, corrective action must be immediately taken and monitored to assure the problem does not recur. (3-30-06)~~

~~07. Notification of Licensing and Survey Agency Within Twenty Four Hours. When a reportable incident occurs, the administrator or designee must notify the Licensing and Survey Agency within twenty four (24) hours of the incident. (3-30-06)~~

~~08. Identify and Monitor Patterns. The administrator or person designated by the administrator must identify and monitor patterns of accidents, incidents, or complaints to assure the facility's policies and procedures protect the safety of the residents. (7-1-15)~~

~~351.—399. (RESERVED)~~

400. REQUIREMENTS FOR FIRE AND LIFE SAFETY STANDARDS.

A facility's buildings must meet all requirements of the local and state codes that are applicable to residential care or assisted living facilities for fire and life safety standards. Operational features in the occupancy chapters of NFPA 101, as referenced in Section 004 of these rules do not apply. (3-30-06)(____)

401. FIRE AND LIFE SAFETY STANDARDS FOR NEW BUILDINGS HOUSING THREE THROUGH SIXTEEN RESIDENTS.

A newly constructed facility, change of ownership, or a building converted to a residential care or assisted living facility on or after January 1, 2021, housing three (3) to sixteen (16) residents on the first story only must comply with NFPA, Standard 101, Chapter 32, or a building converted to a residential care or assisted living facility after January 1, 2006, housing three (3) through sixteen (16) residents on the first story only must comply with one (1) of the following: (3-30-06)()

~~01. NFPA, Standard #101. NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 32, New Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capability. Exceptions:(3-30-06)~~

~~a. The minimum water supply for a residential sprinkler system can be equal to the water demand rate times ten (10) minutes, and (3-30-06)~~

~~b. Section 32.7, Operational Features do not apply. (3-30-06)~~

~~02. NFPA, Standard 101A. NFPA Standard 101A, 2001 Edition, Fire Safety Evaluation System for Board and Care Occupancies, Chapter 7, Impractical Evacuation Capability. (3-30-06)~~

402. FIRE AND LIFE SAFETY STANDARDS FOR NEW BUILDINGS HOUSING SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS.

A newly constructed facility, or a building converted to a residential care or assisted living facility after January 1, 2006, housing seventeen (17) residents or more, or any building housing residents on stories other than the first story must comply with requirements of NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 18, New Health Care/Limited Care Occupancies change of ownership, or a building converted to a residential care or assisted living facility on or after January 1, 2021, housing seventeen (17) residents or more, or any building housing residents on stories other than the first story must comply with requirements of NFPA, Standard 101, Chapter 18. Any resident who is non-ambulatory admitted on or after January 1, 2021, must reside on the first story. (3-30-06)()

403. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR THREE THROUGH SIXTEEN RESIDENTS ~~PRIOR TO JANUARY 1, 2006.~~

Existing facilities licensed prior to January 1, 2021 housing three (3) to sixteen (16) residents on the first story only, must comply with the requirements of the NFPA, Standard 101, Chapter 33. Existing buildings that are not sprinklered may continue to operate, except when Section 401 of these rules apply. ()

~~01. Existing Buildings Housing Three Through Nine Residents. Existing facilities licensed prior to January 1, 2006, and housing three (3) through nine (9) residents on the first story only, can continue to comply with the requirements of the NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care Occupancies, Small Facilities, Prompt Evacuation Capability. With the exception, of the requirement for a door closure on the sleeping room door, which will not apply. (3-30-06)~~

~~02. Existing Buildings Housing Ten Through Sixteen Residents for Facilities. Existing facilities licensed prior to January 1, 2006, and housing ten (10) through sixteen (16) residents on the first story only, can continue to comply with the requirements of the NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capability. With the exception, of the requirement for a door closure on the sleeping room door, which will not apply. (3-30-06)~~

~~03. Any Change in Ownership of Facility. When there is any change in ownership, existing buildings housing three (3) through sixteen (16) beds will be required to comply with NFPA Standard #101, Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Occupancies, Impractical Evacuation Capability. (3-30-06)~~

404. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS ~~PRIOR TO JANUARY 1, 2006.~~

Existing facilities licensed prior to January 1, 2021 housing seventeen (17) or more residents and multi-story buildings or any building housing residents on stories other than the first story must comply with NFPA, Standard 101, Chapter 19. Any resident who is non-ambulatory, admitted on or after January 1, 2021, must reside on the first story. (3-30-06)()

~~01. Existing Buildings Housing Seventeen or More Residents and Multi-Story Buildings. Existing facilities with buildings housing seventeen (17) or more residents or any building housing residents on stories other than the first story licensed prior to January 1, 2006, can continue to comply with NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 13, Existing Health Care/Limited Care Occupancies. (3-30-06)~~

~~02. Any Change in Ownership of Facility. When there is any change in ownership, existing buildings housing seventeen (17) residents or more or any building housing residents on stories other than the first story will be required to comply with NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 19, Existing Health Care/Limited Care Occupancies. (3-30-06)~~

405. ADDITIONAL FIRE AND LIFE SAFETY STANDARDS FOR ALL BUILDINGS AND FACILITIES.

01. Electrical Installations and Equipment. Electrical installations and equipment must comply with applicable local or state electrical requirements ~~to include the following:~~ described in Section 004 of these rules. (3-30-06)()

~~a. Equipment designed to be grounded must be maintained in a grounded condition; and Extension cords and multi-plug adapters are prohibited;~~ (3-30-06)()

~~b. Extension cords and multiple electrical adapters are prohibited, with the exception of approved grounded multiple electrical adapters with a built-in breaker. Relocatable Power Taps (RPTs) must be Underwriter Laboratories (U/L) approved with the following requirements:~~ (3-30-06)()

~~c. RPTs directly connected to a wall outlet; and~~ ()

~~d. Have a built-in surge protector.~~ ()

~~02. Fire Alarm Smoke Detection System Prohibited Applications. An electrically supervised, manually-operated fire alarm smoke detection system must be installed throughout each building housing residents. The system must have a control panel, manual pull stations, smoke detectors, sounding devices, power backup and any sprinkler flow or alarm devices. The system, including devices, their location, and installation must be approved by the Licensing and Survey Agency prior to installation. (3-30-06)()~~

~~a. Medical equipment;~~ ()

~~b. Daisy chain (plugging one (1) plug strip into a second plug strip);~~ ()

~~c. Appliances;~~ ()

~~d. As a convenience, in lieu of permanent installed receptacles; and~~ ()

~~e. Extend through walls, ceilings, floors, under doors or floor coverings, or be subject to environmental of physical damage.~~ ()

~~03. Medical Gases.~~ Handling, use and storage of medical gas must be according to NFPA Standard 99, *Standard for Health Care Facilities, 2003 Edition* Performance, Maintenance, and Testing as referenced in Section 004 of these rules. (3-30-06)()

~~04. Solid Fuel-Fired Heating Devices.~~ Solid fuel-fired heating devices and systems must be installed according to standards in NFPA Standard #211, Standard for Chimneys, Fireplaces, Vents, and Solid Burning Appliances, 2000 Edition inspected, serviced, and cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems. (3-30-06)()

~~05. Structure, Maintenance, Equipment to Assure Safety.~~ The facility must be structurally sound, maintained, and equipped to assure the safety of residents, personnel, and the public including: (3-30-06)

- ~~a. Furnishings, decorations, or other objects cannot be placed so as to obstruct exit access or exits; (3-30-06)~~
- ~~b. All ramps, open porches, sidewalks, and open stairs must be maintained free of snow and ice buildup; (3-30-06)~~
- ~~c. Wood stoves must have railings or other protection designed to prevent residents from coming into contact with the stove surfaces; (3-30-06)~~
- ~~d. All fireplaces must have heat tempered glass fireplace enclosures or its equivalent; (3-30-06)~~
- ~~e. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves; (3-30-06)~~
- ~~f. Portable heating devices of any kind are prohibited. Portable electric space heaters and moveable fuel-fired heaters are considered portable comfort heating devices. Exceptions: Heated mattress pads, electric blankets and heating pads when ordered by an authorized provider, physician; (3-30-06)~~
- ~~g. Flammable and highly combustible materials deemed hazardous by the Licensing and Survey Agency cannot be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. (3-30-06)~~

065. Natural or Man-Made Hazards. When natural or man-made hazards are present on the facility property or border the facility property, suitable fences, guards, railing, or a combination must be installed to provide protection for the residents. (3-30-06)

~~07. **Exit Door Locks.** Any locks on exit doors must be single action and easily operable from the inside without the use of keys or any special knowledge. Special locking arrangements as permitted in Chapter 7 of the NFPA, Standard 101, Life Safety Code, 2000 Edition, can be used. (3-30-06)~~

~~08. **Portable Fire Extinguishers.** Portable fire extinguishers must be installed throughout each building used as a facility. Each extinguisher must be installed according to the standards in NFPA Standard #10, Standard for Portable Fire Extinguishers, 2002 Edition. (3-30-06)~~

~~09. **Resident Placement.** Any resident requiring assistance in ambulation must reside on the first story; unless the facility complies with Sections 401 through 404 of these rules. (3-30-06)~~

106. Telephone. The facility must have a telephone on the premises available for staff use in the event of an emergency. Emergency telephone numbers must be posted near the telephone. (3-30-06)

~~11. **Weeds and Trash.** The premises and all buildings used as a facility must be maintained free from the accumulation of weeds and trash. (3-30-06)~~

(BREAK IN CONTINUITY OF SECTIONS)

410. REQUIREMENTS FOR EMERGENCY ~~PREPAREDNESS~~ ACTIONS AND FIRE DRILLS. Each facility must implement its emergency preparedness plan in the event of fire, explosion, flood, earthquake, high wind, or other emergency. (3-30-06)(____)

~~01. **Written Agreement for Relocation.** The facility must have a written agreement developed between the facility and the location to which residents would be relocated in the event the building cannot be reoccupied. (3-30-06)~~

021. Fire Drills. All personnel and residents must participate in a minimum of one (1) fire drill per shift.

per quarter. ~~Fire drills must be unannounced~~ Records must be maintained on file at the facility and contain a description, the date and time of the drill, response of the personnel and residents, problems encountered, and recommendations for improvement. (3-30-06)()

- a. Fire drills must be unannounced to the staff; ()
- b. Fire drills may be announced to the residents in advance; ()
- c. Infirm or bedridden residents may not be required to be moved to safe areas or to the exterior of the building during drills; and ()
- d. A full evacuation is not required. ()

02. Emergency Action Plan. The emergency action plan must include special staff response, including the fire protection procedures needed to ensure the safety of any resident, and amended or revised whenever any resident with unusual needs is admitted. ()

- a. All staff must be periodically instructed and kept informed with respect to their duties and responsibilities under the plan, and such instruction must be reviewed by the staff not less than every twelve (12) months; and ()
- b. A copy of the plan must be readily available at all times within the facility ()

03. Report of Fire. A separate report on each fire incident occurring within the facility must be submitted to the Licensing ~~and Survey~~ Agency within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," issued by the Licensing ~~and Survey~~ Agency is used to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. A fire incident is considered any activation of the building's fire alarm system other than a false alarm, during testing of the fire alarm system, or during a fire drill. (3-30-06)()

04. Fire Watch. Where a required fire alarm system or fire sprinkler system is out of service for more than four (4) hours in a twenty-four (24) hour period, the authority having jurisdiction must be notified, and the building evacuated, or an approved fire watch provided for all parties left unprotected by the shutdown until the fire alarm system has been returned to service. ()

411. -- ~~4129.~~ (RESERVED)

~~415. MAINTENANCE OF EQUIPMENT AND SYSTEMS FOR FIRE AND LIFE SAFETY.~~

~~01. Maintenance of Equipment and Systems.~~ *The facility must assure that all equipment and systems are properly maintained to assure the safety of the residents.* (3-30-06)

~~02. Fuel-Fired Heating.~~ *Fuel-fired heating devices and systems, including wood stoves, must be inspected/serviced/cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems.* (3-30-06)

~~03. Portable Fire Extinguisher Service and Testing.~~ *Portable fire extinguishers must be serviced in accordance with NFPA Standard #10, Standard for Portable Fire Extinguishers, 2002 Edition. In addition, portable fire extinguishers must be examined at least monthly by a designated person in the facility to determine that:* (3-30-06)

- a. *Each extinguisher is in its designated location;* (3-30-06)
- b. *Each extinguisher seal or tamper indicator is not broken;* (3-30-06)
- c. *Each extinguisher has not been physically damaged;* (3-30-06)

- ~~d. Each extinguisher gauge, if provided, shows a charged condition; and (3-30-06)~~
- ~~e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (3-30-06)~~
- ~~04. Fire Alarm Smoke Detection System Service and Testing. (3-30-06)~~
 - ~~a. The facility's fire alarm smoke detection system must be inspected, tested, and serviced at least annually by a person or business professionally engaged in the servicing of such systems; and (3-30-06)~~
 - ~~b. The fire alarm smoke detection system must be inspected and tested at least monthly by a designated facility employee. (3-30-06)~~
- ~~05. Automatic Fire Extinguishing System Service and Testing. All automatic fire extinguishing systems must be inspected, tested, and serviced at least annually by a sprinkler system contractor licensed by the Idaho State Fire Marshal's office. (3-30-06)~~
- ~~06. Fire Watch. The facility must institute a fire watch during any time the fire alarm, smoke detection, or sprinkler system is inoperable for greater than four (4) hours. (3-30-06)~~

~~416.—419. (RESERVED)~~

~~420. USE OF MODULAR (I.E., FACTORY BUILT) BUILDINGS AND MANUFACTURED HOMES. Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the International Building Code unless approved for use as a facility prior to July 1, 1999, and may continue to be licensed when evaluated on a case by case basis for fire and life safety issues. Manufactured Homes as defined in Section 39-4105, Idaho Code, that meet International Building Code requirements can be considered for use as residential care or assisted living facilities. (3-30-06)~~

~~421.—429. (RESERVED)~~

430. REQUIREMENTS FOR FURNISHINGS, EQUIPMENT, SUPPLIES, AND BASIC SERVICES.
Each facility must provide to the resident: (3-29-10)

- 01. Common Shared Furnishings.** Appropriately designed and constructed furnishings to meet the needs of each resident, including reading lamps, tables, ~~and~~ comfortable chairs, or sofas. All items must be in good repair, clean, safe, and provided at no additional cost to the resident. (3-29-10)()
- 02. Resident Sleeping Room Furnishings.** Comfortable furnishings and individual storage, such as a dresser, for personal items for each resident in each sleeping room. All items must be in good repair, clean, and safe. (3-29-10)
- 03. Resident Bed.** Each resident must be provided ~~his~~ their own bed, which will be at least thirty-six (36) inches wide, substantially constructed, clean, and in good repair. Roll-away beds, cots, futons, folding beds, or double bunks are prohibited. Bed springs must be in good repair, clean, and comfortable. Bed mattresses must be standard for the bed, clean, and odor free. A pillow must be provided. (3-29-10)()
- 04. Resident Telephone Privacy.** The facility must have at least one (1) telephone that is accessible to all residents, and provide local calls at no additional cost. The telephone must be placed in such a manner as to provide the resident privacy while using the telephone. (3-29-10)
- 05. Basic Services.** The following are basic services to be provided to the resident by the facility within the basic services rate: (3-29-10)
 - a. Rent; (3-29-10)
 - b. Utilities; (3-29-10)

- c. Food; (3-29-10)
- d. Activities of daily living services; (3-29-10)
- e. Supervision; (3-29-10)
- f. First aid; (3-29-10)
- g. Assistance with and monitoring of medications; (3-29-10)
- h. Laundering of linens owned by the facility; (3-29-10)
- i. Emergency interventions and coordination of outside services; (3-29-10)
- j. Routine housekeeping and maintenance of common areas; and (3-29-10)
- k. Access to basic television in common areas. (3-29-10)

06. Basic Supplies. The following are to be supplied by the facility at no additional cost to the resident: linens, towels, wash cloths, liquid hand soap, non-sterile exam gloves, toilet paper, and first aid supplies, unless the resident chooses to provide ~~his~~ their own. ~~(3-29-10)~~()

07. Personal Supplies. Soap, shampoo, hair brush, comb, electric razor, or other means of shaving, toothbrush, toothpaste, sanitary napkins, and incontinent supplies must be provided by the facility unless the resident chooses to provide ~~his or her~~ their own. The facility may charge the resident for personal supplies the facility provides and must itemize each item being charged to the resident. ~~(3-29-10)~~()

08. Resident Supplies and Furnishings. If a resident chooses to provide ~~his or her~~ their own supplies or furnishings, the facility must ~~assure~~ ensure that the resident's supplies or furnishings meet the minimum standards as identified in ~~Subsections 430.01 through 430.06 of~~ this rule. ~~(3-29-10)~~()

(BREAK IN CONTINUITY OF SECTIONS)

450. REQUIREMENTS FOR FOOD AND NUTRITIONAL CARE SERVICES.

The facility food services must meet the standards in the Idaho Food Code, IDAPA 16.02.19, "~~Food Safety and Sanitation Standards for Idaho Food Establishments Code,~~" as incorporated in Section 004 of these rules. The facility must also implement ~~the~~ operational policies ~~as described in Section 158 of these rules~~ for providing proper nutritional care for each resident, which includes procedures to follow if the resident refuses food or to follow a prescribed diet. ~~(3-30-06)~~()

451. MENU AND DIET PLANNING.

The facility must provide each resident with at least the minimum food and nutritional needs in accordance with the Recommended Dietary Allowances established by the Food and Nutrition Board of the National Academy of Sciences. These recommendations are found in the Idaho Diet Manual incorporated by reference in Section 004 of these rules. The menu must be adjusted for age, sex, and activity as approved by a registered dietitian. (3-30-06)

01. Menu. The facility must have a menu planned or approved, and signed and dated by a registered dietitian prior to being served to ~~the~~ any resident. The planned menu must meet nutritional standards. ~~(3-30-06)~~()

- a. Menus will provide a sufficient variety of foods in adequate amounts at each meal; ~~(3-30-06)~~()
- b. Food selections must include foods that are served in the community; and in season; ~~as well as~~

Food selections and textures should account for residents' preferences, food habits, and physical abilities.

~~(3-30-06)~~()

c. The menus must be ~~prepared~~ posted in the facility at least five (5) days in advance ~~and available to residents on request.~~ and

~~(3-30-06)~~()

d. The facility must serve the planned menu ~~and~~ if substitutions are made, the menu must be ~~corrected~~ modified to reflect the substitutions.

~~(3-30-06)~~()

~~02. Snacks. Snacks must be available and offered to residents between meals and at bedtime.~~(3-30-06)

~~032.~~ **Therapeutic Diets.** The facility must have a therapeutic diet menu planned or approved, and signed and dated by a registered dietitian prior to being served to any resident.

~~(3-30-06)~~()

a. The therapeutic diet planned menu, ~~to the extent it is possible,~~ must meet nutritional standards;

~~(3-30-06)~~()

b. The therapeutic diet menu must be planned as close to a regular diet as possible; and (3-30-06)

c. The facility must have for each resident on a therapeutic diet, an order from a physician or authorized provider. (3-30-06)

~~043.~~ **Facilities Licensed for Sixteen Beds or Less.** In facilities licensed for sixteen (16) beds or less, menus must be planned in writing at least one (1) week in advance.

~~(3-30-06)~~()

~~054.~~ **Facilities Licensed for Seventeen Beds or More.** Facilities licensed for seventeen (17) beds or more must:

(3-30-06)

a. Develop and implement a cycle menu which covers a minimum of two (2) seasons and is four (4) to five (5) weeks in length; (3-30-06)

b. Follow standardized recipes; and (3-30-06)

c. Have available in the kitchen a current copy of the Idaho Food Code and Idaho ~~a~~ Diet ~~m~~ Manual ~~approved by the Licensing and Survey Agency.~~

~~(3-30-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

455. FOOD SUPPLY.

The facility must maintain a seven (7) day supply of nonperishable foods and a two (2) day supply of perishable foods. The facility's kitchen must have the types and amounts of food to be served readily available to meet all the planned menus during that time.

~~(3-30-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

460. FOOD PREPARATION AND SERVICE.

01. Food Preparation. Foods must be prepared by methods that conserve nutritional value, flavor, and appearance. (3-30-06)

02. Frequency of Meals. Food must be offered throughout the day, as follows: ~~(3-30-06)~~()

- a. ~~The facility must provide~~ Provide residents at least three (3) meals daily, at regular times comparable to normal mealtimes in the community; (3-30-06)()
- b. ~~There must not be~~ No more than fourteen (14) hours between a substantial evening meal and breakfast; (3-30-06)()
- c. ~~The facility must assure~~ Ensure that residents who are not in the facility for the noon meal are offered a substantial evening meal; and (3-30-06)()
- d. ~~The facility must offer~~ Offer evening snacks and fluids between meals and at bedtime. (3-30-06)()
03. Food Preparation Area. Any areas used for food preparation must be maintained as follows: (3-30-06)()
- a. No live animals or fowl will be kept or maintained in the food service preparation or service area; and (3-30-06)()
- b. ~~Neither food preparation nor food~~ and service areas will cannot be used as living quarters for staff. (3-30-06)()
04. Disposable Items. The facility will not use single use items except in unusual circumstances for a short period of time or for ~~outdoor outings~~ special events. (3-30-06)()

461. -- ~~499~~509. (RESERVED)

~~500. REQUIREMENTS FOR NOTICE OF MONTHLY FEE INCREASE.~~

~~The resident or resident's legal guardian, or conservator must be notified in writing of an increase in the facility monthly rates at least thirty (30) calendar days prior to such a raise taking effect. (3-30-06)~~

~~501.—504. (RESERVED)~~

~~505. REQUIREMENTS FOR HANDLING OF RESIDENT FUNDS.~~

~~01. Separate Trust Account Established. If a facility agrees to handle resident funds, a separate trust account must be established for each resident and an accounting record maintained. There can be no commingling of resident funds with facility funds. Borrowing between resident accounts is prohibited. (3-30-06)~~

~~a. The facility cannot require a resident to purchase goods or services from the facility for other than those designated in the admission policies, or the admission agreement, or both; (3-30-06)~~

~~b. Each transaction must be documented at the time of the transaction, with facility personnel and resident signatures for the transaction; and (3-30-06)~~

~~e. The facility must assure that the resident has access to his personal funds during reasonable hours. (3-30-06)~~

~~02. Resident's Funds Upon Permanent Discharge. When the facility manages the resident's funds and the resident permanently leaves the facility, the facility can only retain room and board funds prorated to the last day of the thirty (30) day notice, except in situations described in Subsections 220.07.e.i. and 220.07.e.ii. of these rules. All remaining funds are the property of the resident. In the event of the resident's death, the resident's facility's fees cease accruing fifteen (15) days after death. (3-30-06)~~

~~506.—509. (RESERVED)~~

510. REQUIREMENTS TO PROTECT RESIDENTS FROM ABUSE.

The administrator must ~~assure~~ ensure that policies and procedures are ~~developed and~~ implemented to ~~assure~~ ensure

that all residents are free from abuse. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

515. REQUIREMENTS TO PROTECT RESIDENTS FROM EXPLOITATION.

The administrator must assure ensure that policies and procedures are developed and implemented to assure ensure that all residents are free from exploitation. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

520. REQUIREMENTS TO PROTECT RESIDENTS FROM INADEQUATE CARE.

The administrator must assure ensure that policies and procedures are developed and implemented to assure ensure that all residents are free from inadequate care. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

525. REQUIREMENTS TO PROTECT RESIDENTS FROM NEGLIGENCE.

The administrator must assure ensure that policies and procedures are developed and implemented to assure ensure that all residents are free from neglect. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

550. REQUIREMENTS FOR RESIDENTS' RIGHTS.

The administrator must assure ensure that policies and procedures are developed and implemented to assure ensure that residents' rights are observed, promoted, and protected. (3-30-06)()

01. Resident Records. ~~The facility must maintain and keep current a record of the specific information on each resident.~~ Upon request, a resident or others authorized by law, must be provided immediate access to information in ~~his~~ their record, and copies of information within two (2) business days. The facility must maintain and keep current a record for each resident that contains the information specified in Section 330 of these rules and Section 39-3316, Idaho Code. (3-30-06)()

- ~~a. A copy of the resident's current Negotiated Service Agreement and physician or authorized provider's order;~~ (3-30-06)
- ~~b. Written acknowledgement that the resident has received copies of the rights;~~ (3-30-06)
- ~~c. A record of all personal property and funds that the resident has entrusted to the facility, including~~

~~copies of receipts for the property;~~ (3-30-06)

~~d. Information about any specific health problems of the resident that may be useful in a medical emergency;~~ (3-30-06)

~~e. The name, address, and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident;~~ (3-30-06)

~~f. Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record; and~~ (3-30-06)

~~g. The current admission agreement between the resident and the facility.~~ (3-30-06)

02. Privacy. Each resident must be ~~assured~~ ensured the right to privacy with ~~regard to~~ accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups. (3-30-06)()

03. Humane Care and Environment. (3-30-06)

a. Each resident has the right to humane care and a humane environment, including the following: (3-30-06)

i. The right to a diet that is consistent with any religious or health-related restrictions; (3-30-06)

ii. The right to refuse a restricted diet; and (3-30-06)

iii. The right to a safe and sanitary living environment. (3-30-06)

b. Each resident has the right to be treated with dignity and respect, including: (3-30-06)

i. The right to be treated in a courteous manner by staff; (3-30-06)

ii. The right to receive a response from the facility to any request of the resident within a reasonable time; and (3-30-06)

iii. The right to be communicated with, orally or in writing, in a language they understand. If the resident's knowledge of English or the predominant language of the facility is inadequate for comprehension, a means to communicate in a language familiar to the resident must be available and implemented. There are many possible methods such as bilingual staff, electronic communication devices, ~~or~~ family and friends to translate. The method implemented must ~~assure~~ ensure the resident's right of confidentiality, if the resident desires. (3-30-06)()

04. Personal Possessions. Each resident has the right to: (3-30-06)

a. Wear ~~his~~ their own clothing; (3-30-06)()

b. Determine ~~his~~ their own dress or hair style; (3-30-06)()

c. Retain and use ~~his~~ their own personal property in ~~his~~ their own living area so as to maintain individuality and personal dignity; and (3-30-06)

d. Be provided a separate storage area in ~~his~~ their own living area and at least one (1) locked cabinet or drawer for keeping personal property. (3-30-06)()

05. Personal Funds. Residents whose board and care is paid for by public assistance will retain, for their personal use, the difference between their total income and the applicable board and care allowance established by Department rules. A facility must not require a resident to deposit their personal funds with the facility. (3-30-06)()

- ~~a. A facility must not require a resident to deposit his personal funds with the facility; and (3-30-06)~~
- ~~b. Once the facility accepts the written authorization of the resident, it must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph. (3-30-06)~~

06. Management of Personal Funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows: (3-30-06)

- a. The facility must deposit any amount of a resident's personal funds ~~in excess of~~ **more than** five (5) times the personal needs allowance in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to ~~such the~~ **such the** account. The facility must maintain any other personal funds in a non-interest-bearing account or petty cash fund; ~~(3-30-06)()~~
- b. The facility must ~~assure~~ **ensure** a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record; and ~~(3-30-06)()~~
- c. Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the Department, the remaining balance of funds must be refunded to the Department. (3-30-06)

07. Access and Visitation Rights. Each facility must permit: (3-30-06)

- a. Immediate access to any resident by any representative of the Department, by the ~~state~~ **local** ombudsman for the elderly or ~~his their~~ **designees**, or by the resident's ~~individual~~ **physician or authorized provider**; ~~(3-30-06)()~~
- b. Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by ~~the resident's~~ **immediate family or other relatives, significant other, or representative**; ~~(3-30-06)()~~
- c. Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (3-30-06)
- d. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. (3-30-06)

08. Employment. Each resident must have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident must be consistent with state and federal law. (3-30-06)

09. Confidentiality. Each resident must have the right to confidentiality of personal and clinical records. (3-30-06)

10. Freedom from Abuse, Neglect, and Restraints. Each resident must have the right to be free from physical, mental, or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints. ~~(3-30-06)()~~

11. Freedom of Religion. Each resident must have the right to practice the religion of ~~his their~~ **choice** or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others. ~~(3-30-06)()~~

12. Control and Receipt of Health-Related Services. Each resident must have the right to control ~~his~~

their receipt of health related services, including: (3-30-06)()

a. The right to retain the services of ~~his~~ their own personal physician, dentist, and other health care professionals; (3-30-06)()

b. The right to select the pharmacy or pharmacist of ~~his~~ their choice so long as it meets the statute and rules governing residential care or assisted living and the policies and procedures of the residential care or assisted living facility; (3-30-06)()

c. The right to confidentiality and privacy concerning ~~his~~ their medical or dental condition and treatment; and (3-30-06)()

d. The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter. (3-30-06)

i. The facility must document the resident and ~~his~~ their legal guardian have been informed of the consequences of the refusal; and (3-30-06)()

ii. The facility must document that the resident's physician or authorized provider has been notified of the resident's refusal. (3-30-06)

13. Grievances. Each resident must have the right to voice grievances with respect to treatment or care that is, ~~for fails to be~~ furnished, without ~~discrimination or reprisal~~ threat of retaliation or voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. (3-30-06)()

14. Participation in Resident and Family Groups. Each resident must have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility. (3-30-06)

15. Participation in Other Activities. Each resident must have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (3-30-06)

16. Examination of Survey Results. Each resident must have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Licensing ~~and Certification Unit~~ Agency with respect to the facility and any plan of correction in effect ~~with respect to the facility~~. (3-29-10)()

17. Access by Advocates and Representatives. A residential care or assisted living facility must permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: (3-30-06)

a. Visit, talk with, and make personal, social, and legal services available to all residents; (3-30-06)

b. Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal, and local laws by distribution of educational materials and discussion in groups and with individuals; (3-30-06)()

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, and in all other matters in which residents are aggrieved, that may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; (3-30-06)()

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; (3-30-06)

e. Communicate privately and without restrictions with any resident who consents to the communication; and (3-30-06)

f. Observe all common areas of the facility. (3-30-06)

18. Access by Protection and Advocacy System. A residential care or assisted living facility must permit advocates and representatives of the protection and advocacy system designated by the governor under 29 U.S.C. 794e, 42 U.S.C. Section 15043 and 42 U.S.C. Section 10801 et seq., access to residents, facilities, and records in accordance with applicable federal statutes and regulations. (~~3-30-06~~)()

19. Access by the Long-Term Care Ombudsman. A residential care or assisted living facility must permit advocates and representatives of the long-term care ombudsman program pursuant to 42 U.S.C. Section 3058, Section 67-5009, Idaho Code, and IDAPA 15.01.03, "Rules Governing the Ombudsman for the Elderly Program," access to residents, facilities, and records in accordance with applicable federal and state law, rules, and regulations. (~~3-30-06~~)()

20. Transfer or Discharge. Each resident must have the right to be transferred or discharged only for medical reasons, ~~or~~ for ~~his~~ their welfare or that of other residents, or for nonpayment for ~~his~~ their stay. In non-emergency conditions, the resident must be given at least thirty (30) calendar days notice of discharge. A resident has the right to appeal any involuntary discharge. (~~3-30-06~~)()

21. Citizenship Rights. Each resident has ~~a~~ the right to be encouraged and assisted to exercise rights as a citizen, including the right to be informed and to vote. (~~3-30-06~~)()

22. Advanced Directives. Each resident has the right to be informed, in writing, regarding the formulation of an ~~advance~~ directive as provided under Section 39-4510, Idaho Code. (~~3-29-10~~)()

23. Fee Changes. Each resident has the right to written notice of any fee change not less than thirty (30) days prior to the proposed effective date of the fee change, except: (3-29-10)

a. When a resident needs additional care, services, or supplies, the facility must provide to the resident, the resident's legal guardian, or conservator written notice within five (5) days of any fee change taking place; ~~and~~ (~~3-29-10~~)()

b. The resident, the resident's legal guardian, or conservator must be given the opportunity to agree to an amended ~~negotiated service agreement~~ NSA. If the two parties do not reach an agreement on the proposed fee change, the facility is entitled to charge the changed rate after five (5) days have elapsed from the date of the facility's written notice. (~~3-29-10~~)()

(BREAK IN CONTINUITY OF SECTIONS)

560. NOTICE OF RESIDENTS' RIGHTS.

Each facility must: (~~3-30-06~~)()

01. Inform Residents Orally and in Writing. Inform each resident, orally and in writing at the time of admission to the facility, of ~~his~~ their legal rights during the stay at the facility. (~~3-30-06~~)()

02. Written Statements. Make available to each resident, upon reasonable request, a written statement of such rights and when the rights change the resident is notified. (3-30-06)

03. Written Description of Rights. ~~Assure~~ Ensure the written description of legal rights ~~under Section 560 must in this rule~~ includes a description of the protection of personal funds and a statement that a resident may file a complaint with the Department respecting resident abuse, ~~and~~ neglect, and misappropriation of resident property in the facility. (~~3-30-06~~)()

04. Posting of Resident Rights. Conspicuously post the residents' rights in the facility at all times.

(3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

600. REQUIREMENTS FOR STAFFING STANDARDS.

The administrator must develop and implement written staffing policies and procedures based on the numbers of residents, resident needs, and configuration of the facility, which include: ()

~~01. On-Duty Staff During Residents' Sleeping Hours for Facilities of Fifteen Beds or Less. For facilities licensed for fifteen (15) beds or less, there must be at least one (1), or more qualified and trained staff, up, awake, and immediately available in the facility during resident sleeping hours. (7-1-15)~~

021. On-Duty Staff Up and Awake During Residents' Sleeping Hours for Facilities Licensed for Sixteen Beds or More. For facilities licensed for sixteen (16) beds or more, ~~q~~Qualified and trained staff must be up and awake, and immediately available, in the facility during resident sleeping hours. (3-30-06)()

032. Detached Buildings or Units. Facilities with residents housed in detached buildings or units, must have at least one (1) staff present, and available in each building or unit when residents are present in the building or unit. The facility must also ~~assure~~ ensure that each building or unit complies with the requirements for on-duty staff during resident sleeping hours to be up, awake, and immediately available in accordance with the facility's licensed bed capacity as provided in ~~Subsections 600.01 and 600.02 of these rules~~ this rule. The Licensing and Survey Agency will consider a variance based on the facility's written submitted plan of operation. (7-1-15)()

~~04. Mental Health Bed Contract Facility. Facilities that have entered into a Mental Health Bed contract with the Department must be staffed with at least one (1) staff up and awake at night to assure the safety of all residents. (3-30-06)~~

~~053. Supervision—Personnel Management.~~ The administrator ~~must provide supervision for~~ is responsible for the management of all personnel to include contract personnel. ~~Staff who have not completed the orientation training requirements must work under the supervision of a staff who has completed the orientation training.~~ (3-30-06)()

064. Sufficient Personnel. As described in Section 39-3322, Idaho Code, ~~T~~the facility will employ and the administrator will schedule sufficient personnel to: (3-30-06)()

a. Provide care and supervision, during all hours, as required in each resident's Negotiated Service Agreement NSA, to ~~assure~~ ensure residents' health, safety, and comfort, ~~and supervision~~, and to ~~assure~~ ensure the interior and exterior of the facility is maintained in a safe and clean manner; and (3-30-06)()

b. To provide for at least one (1) direct care staff with certification in first aid and cardio-pulmonary resuscitation (CPR) in the facility at all times. Facilities with multiple buildings or units will have at least one (1) direct care staff with certification in first aid and CPR in each building or each unit at all times. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

620. REQUIREMENTS FOR TRAINING OF FACILITY PERSONNEL.

The facility must follow structured, written training programs designed to meet the training needs of personnel in relation to responsibilities, as specified in the written job description, to provide for quality of care and compliance with these rules. Signed evidence of personnel training, indicating hours and topic, must be retained at the facility. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

625. **ORIENTATION TRAINING REQUIREMENTS.**

The administrator must ensure that each staff member completes orientation training specific to their job description as described in Section 39-3324, Idaho Code. Staff who have not completed the orientation training requirements must work with a staff who has completed the orientation training. ()

01. Number of Hours of Training. A minimum of sixteen (16) hours of job-related orientation training must be provided to all new personnel before they are allowed to provide unsupervised personal assistance to residents. The means and methods of training are at the facility's discretion. (3-30-06)

02. Timeline for Completion of Training. All orientation training must be completed within thirty (30) days of hire. (7-1-15)

03. Content for Training. Orientation training must include the following: (3-30-06)

a. The philosophy of residential care or assisted living and how it guides care giving; (3-30-06)

b. Resident ~~R~~rights; ~~(3-30-06)~~()

c. Cultural awareness; (3-30-06)

d. Providing personal assistance ~~with activities of daily living and instrumental activities of daily living;~~ ~~(3-30-06)~~()

e. How to respond to emergencies; (3-30-06)

f. Reporting and Documentation ~~associated with resident care needs and the provision of care to meet those needs~~ requirements for incidents, accidents, complaints, and allegations of abuse, neglect, and exploitation; ~~(3-30-06)~~()

g. Identifying and reporting changes in residents' health ~~and or~~ mental condition ~~or both;~~ ~~(3-30-06)~~()

~~h. Documenting and reporting adverse outcomes (such as resident falls, elopement, lost items);~~ ~~(3-30-06)~~

~~h.~~ Advance Directives and do not resuscitate (DNR) orders; (3-30-06)

~~j.~~ Relevant policies and procedures; (3-30-06)

~~k.~~ The role of the ~~Negotiated Service Agreement~~ NSA; and (3-30-06)

~~k.~~ All staff employed by the facility, including housekeeping personnel, ~~or and~~ contract personnel, ~~or both, who may come into contact with potentially infectious material,~~ must be trained in infection control procedures for universal precautions. ~~(3-30-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

630. **TRAINING REQUIREMENTS FOR FACILITIES ADMITTING RESIDENTS WITH DIAGNOSIS OF DEMENTIA, MENTAL ILLNESS, DEVELOPMENTAL DISABILITY, OR TRAUMATIC BRAIN INJURY.**

A facility admitting and retaining residents with diagnosis of dementia, mental illness, developmental disability, or

traumatic brain injury must train all staff to meet the specialized needs of these residents. Staff must receive specialized training within thirty (30) days of hire or of admission of a resident with one (1) of these conditions. The means and methods of training are at the facility's discretion. The training should address the following areas:

~~(7-1-15)~~()

- 01. Dementia:** (3-30-06)
 - a. Overview of dementia; (3-30-06)
 - b. Symptoms and behaviors of people with memory impairment; (3-30-06)
 - c. Communication with people with memory impairment; (3-30-06)
 - d. Resident's adjustment to the new living environment; (3-30-06)
 - e. Behavior management, including the consistent implementation of behavior interventions; ~~(3-30-06)~~()
 - f. Activities of daily living; and (3-30-06)
 - g. Stress reduction for facility personnel and resident. (3-30-06)
- 02. Mental Illness:** (3-30-06)
 - a. Overview of mental illnesses; (3-30-06)
 - b. Symptoms and behaviors specific to mental illness; (3-30-06)
 - c. Resident's adjustment to the new living environment; (3-30-06)
 - d. Behavior management, including the consistent implementation of behavior interventions; ~~(3-30-06)~~()
 - e. Communication; (3-30-06)
 - f. Activities of daily living; (3-30-06)
 - g. Integration with rehabilitation services; and (3-30-06)
 - h. Stress reduction for facility personnel and resident. (3-30-06)
- 03. Developmental Disability:** (3-30-06)
 - a. Overview of developmental disabilities; (3-30-06)
 - b. Interaction and acceptance; (3-30-06)
 - c. Promotion of independence; (3-30-06)
 - d. Communication; (3-30-06)
 - e. Behavior management, including the consistent implementation of behavior interventions; ~~(3-30-06)~~()
 - f. Assistance with adaptive equipment; (3-30-06)
 - g. Integration with rehabilitation services; (3-30-06)

- h. Activities of daily living; and (3-30-06)
- i. Community integration. (3-30-06)
- 04. Traumatic Brain Injury:** (3-30-06)
 - a. Overview of traumatic brain injuries; (3-30-06)
 - b. Symptoms and behaviors specific to traumatic brain injury; (3-30-06)
 - c. Adjustment to the new living environment; (3-30-06)
 - d. Behavior management, including the consistent implementation of behavior interventions;
(3-30-06)()
 - e. Communication; (3-30-06)
 - f. Integration with rehabilitation services; (3-30-06)
 - g. Activities of daily living; (3-30-06)
 - h. Assistance with adaptive equipment; and (3-30-06)
 - i. Stress reduction for facility personnel and resident. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

640. CONTINUING TRAINING REQUIREMENTS.

Each employee must receive a minimum of eight (8) hours of job-related continuing training per year.

(7-1-15)()

641. ADDITIONAL TRAINING RELATED TO CHANGES.

When policies or procedures are added, modified, or deleted, the date of the change must be specified on the policy and staff must receive additional training relating to the changes.

(7-1-15)()

(BREAK IN CONTINUITY OF SECTIONS)

645. ASSISTANCE WITH MEDICATIONS CERTIFICATION REQUIREMENT.

Before staff can begin assisting residents with medications, the staff must have successfully completed a Board of Nursing approved medication assistance course. This training is not included as part of the minimum of sixteen (16) hours of orientation training or minimum of eight (8) hours of continuing training requirement per year.

(3-30-06)()

01. Training Requirements. To provide assistance with medications, staff must have the following training requirements, and be delegated as described in this rule. ()

a. Before staff can begin assisting residents with medications, successful completion of an Idaho Board of Nursing approved medication assistance course. This training is not included as part of the minimum of sixteen (16) hours of orientation training or minimum of eight (8) hours of continuing training requirement per year.

()

b. Staff training on documentation requirements and how to respond when a resident refuses or misses a medication, receives an incorrect medication, or when medication is unavailable or missing. ()

02. Delegation. The facility policies and procedures must specify the process the nurse will use to delegate assistance with medications and other nursing tasks, and how it will be documented. Each medication assistant must be delegated individually, including skill demonstration, prior to assisting with medications, or nursing tasks, and any time the licensed nurse changes. ()

646. -- ~~648~~99. (RESERVED)

~~650. REQUIREMENTS FOR UNIFORM ASSESSMENT CRITERIA FOR PRIVATE PAY RESIDENTS.~~

~~01. Facility Responsibility For Assessing Private Pay Residents. The facility must develop, identify, assess, or direct a uniform assessment for private pay residents who seek admission to the residential care or assisted living facility. The Department's uniform assessment tool may be used as the facility's identified uniform assessment. (3-30-06)~~

~~02. Information Included in a Uniform Assessment. The uniform assessment used by the facility will include, but not be limited to identification/background information, medical diagnosis, medical and health problems, prescription and over the counter medications, behavior patterns, cognitive function, and functional status. (3-30-06)~~

~~03. Qualifications of Person Making Uniform Assessment. The uniform assessment can only be conducted by persons who are trained and knowledgeable in administering the facility's identified uniform assessment. (3-30-06)~~

~~04. Time Frames for Completing the Uniform Assessment. The assessment must be completed no later than fourteen (14) calendar days after admission. The assessment will be reviewed when there is a change in the resident's medical condition or mental status or every twelve (12) months, whichever comes first. (3-30-06)~~

~~05. Use of Uniform Assessment for Determining the Ability of Facility to Meet Private Pay Resident Needs. The results of the assessment must be used to evaluate the ability of an administrator and facility to meet the identified residents' needs. The results of the assessment must also be used to determine the need for special training in caring for certain residents. (3-30-06)~~

~~651. — 654. (RESERVED)~~

~~655. USE OF THE UNIFORM ASSESSMENT CRITERIA IN DETERMINING FACILITY STAFFING. A facility will have sufficient numbers and types of personnel to provide care and supervision to all residents within the facility's care in accordance with each resident's Negotiated Service Agreement based on the uniform assessment and in accordance with all rules and statutes governing the facility. The facility must include both private pay and residents who are clients of the Department in the total number when determining staffing requirements. (3-30-06)~~

~~656. — 659. (RESERVED)~~

~~660. REQUIREMENTS FOR UNIFORM ASSESSMENT CRITERIA FOR DEPARTMENT CLIENTS. Department clients will be assessed by the Department in compliance with IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients." (3-30-06)~~

~~661. — 699. (RESERVED)~~

~~700. RECORDS. The administrator must assure that facility policies and procedures for record keeping are implemented and followed as described in Sections 700 through 750 of these rules. (3-30-06)~~

~~01. Records Information. Entries must include date, time, name, and title of the person making the entry. Staff must sign each entry made by him during his shift. (3-30-06)~~

~~02. **Availability of Records.** Resident care records must be available at all times to caregivers when on duty. (3-30-06)~~

~~03. **Electronic Records.** Electronic records must be able to be printed in the facility at the request of the resident, legal guardian, payer, or survey agency. (3-30-06)~~

~~701.—704. (RESERVED)~~

~~705. **RESIDENT BUSINESS RECORDS:**~~

~~Resident business records must contain the records described in Subsection 705.01 through 705.07 of these rules. (3-30-06)~~

~~01. **Individual Responsible for Payment.** Name, address, and telephone number of the individual responsible for payment. (3-30-06)~~

~~02. **Written Admissions Agreement.** Written admission agreement that is signed and dated by the administrator, the resident, or his legal guardian or conservator. (3-30-06)~~

~~03. **Payment Schedule.** A copy of the payment schedule and fee structure signed and dated by the resident, or his legal guardian or conservator, if such is separate from the admission agreement. (3-30-06)~~

~~04. **Resident Rights.** A signed copy of the resident's rights as identified in Section 550 of these rules or a signed and dated statement that the resident or his legal guardian or conservator has read and understands his rights as a resident of the facility. (3-30-06)~~

~~05. **Completion of Admissions Process.** Name, title of the facility representative who completed the admission process with the resident, legal guardian, or conservator. (3-30-06)~~

~~06. **Agreement to Handle Resident's Funds.** If the facility handles resident funds, there must be a signed and dated written agreement between the facility and the resident or the resident's legal guardian or conservator setting the terms. Documentation of each financial transaction at the time the transaction occurs with signatures by the administrator or his designee and the resident. (3-30-06)~~

~~07. **Emergency Condition Advisory.** Documentation indicating that the resident has been advised of actions required under emergency conditions. (3-30-06)~~

~~706.—709. (RESERVED)~~

~~710. **RESIDENT CARE RECORDS:**~~

~~The administrator must assure that the facility's policies and procedures for resident care records are implemented and meet the requirements described in Subsections 710.01 through 710.08 of these rules. (3-30-06)~~

~~01. **Resident Demographics.** Records required for admission to the facility must include: (3-30-06)~~

~~a. Name; (3-30-06)~~

~~b. Permanent address, if other than the facility; (3-30-06)~~

~~c. Marital Status; (3-30-06)~~

~~d. Gender; (3-30-06)~~

~~e. Date and Place of Birth; (3-30-06)~~

~~f. Name and address of emergency contact(s); and (3-30-06)~~

- ~~g. Admission date and where admitted from. (3-30-06)~~
- ~~02. **Providers of Choice.** Providers of choice including address and telephone numbers; (3-30-06)~~
- ~~a. Physician or authorized provider; (3-30-06)~~
- ~~b. Dentist; (3-30-06)~~
- ~~e. Pharmacy; and (3-30-06)~~
- ~~d. Others; such as outside service providers, e.g., home health, hospice, psychosocial services rehabilitation specialist, case manager. (3-30-06)~~
- ~~03. **Religious Affiliation.** Religious affiliation, if the resident chooses to state. (3-30-06)~~
- ~~04. **Prior History and Physical.** Results of a history and physical examination performed by a physician or authorized provider within six (6) months prior to admission. (3-30-06)~~
- ~~05. **Prescribed Medication and Treatment List.** A list of medications, diet, treatments, and any limitations, prescribed for the resident that is signed and dated by a physician or authorized provider giving the order. (3-30-06)~~
- ~~06. **Social Information.** Social information, obtained by the facility through interviews with the resident, family, legal guardian, conservator or outside service provider. The information must include the resident's social history, hobbies, and interests. (3-30-06)~~
- ~~07. **Initial Uniform Assessment.** The resident's initial uniform assessment. (3-30-06)~~
- ~~08. **Initial Interim Plan and Negotiated Service Agreement.** The resident's initial signed and dated interim plan and Negotiated Service Agreement. (3-30-06)~~
- ~~**711. ONGOING RESIDENT CARE RECORDS.**
The administrator must assure that the facility's policies and procedures for ongoing resident care records are implemented and meet the requirements described in Subsections 711.01 through 711.14 of these rules. (3-30-06)~~
- ~~01. **Behavior Management Records.** The facility must have behavior management records for residents when applicable. These records must document requirements in Section 225 and Subsection 320.02 of these rules. The records must also include the following: (3-30-06)~~
- ~~a. The date and time a specific behavior was observed; (3-30-06)~~
- ~~b. What interventions were used; and (3-30-06)~~
- ~~e. The effectiveness of the intervention. (3-30-06)~~
- ~~02. **Complaints.** The facility must assure that the individual resident's record documents complaints and grievances, the date received, the investigation, outcome, and the response to the individual who made the complaint or grievance. (3-30-06)~~
- ~~03. **Involuntary Discharge.** The facility's records must maintain documentation of: (3-30-06)~~
- ~~a. The facility's efforts to resolve the situation; and (3-30-06)~~
- ~~b. A copy of the signed and dated notice of discharge. (3-30-06)~~
- ~~04. **Refusal of Care Consequences.** Documented evidence that if the resident refuses care or services, the resident has been informed of the consequences of the refusal and the notification of the resident's physician or~~

~~authorized provider being notified. (3-30-06)~~

~~05. **Assessments.** The resident's uniform assessment, including the admission assessment, and all assessments for the prior eighteen (18) months after the admission to the facility. (3-30-06)~~

~~06. **Negotiated Services Agreement.** Signed and dated negotiated services agreements, including the admission Negotiated Service Agreement, and any modification and new agreements for the prior eighteen (18) months. (3-30-06)~~

~~07. **Care Plans.** Signed and dated copies of all care plans prepared by outside service agencies, if appropriate, to include who is responsible for the integration of care and services. (3-30-06)~~

~~08. **Care Notes.** Care notes that are signed and dated by the person providing the care and services must include: (3-30-06)~~

~~a. When the Negotiated Service Agreement is not followed, such as resident refusal, and the facility's response; (3-30-06)~~

~~b. Delegated nursing tasks, such as treatments, wound care, and assistance with medications; (3-30-06)~~

~~c. Unusual events such as incidents, reportable incidents, accidents, altercations and the facility's response; (3-30-06)~~

~~d. Calls to the physician or authorized provider, reason for the call, and the outcome of the call; (3-30-06)~~

~~e. Notification of the licensed registered nurse of a change in the resident's physical or mental condition; and (3-30-06)~~

~~f. Notes of care and services provided by outside contract entities, such as nurses, home health, hospice, case managers, psychosocial rehabilitation specialists, or service coordinator. (3-30-06)~~

~~09. **Current List of Medications, Diet and Treatments.** A current list of medications, diet, treatments prescribed for the resident which is signed and dated by a physician or authorized provider giving the order. (3-30-06)~~

~~10. **Six Month Review of Medications.** Written documentation, signed and dated by the physician or authorized provider documenting their every six (6) month review, for possible dose reduction, of the resident's use of psychotropic or behavioral modifying medications. (3-30-06)~~

~~11. **Medications Not Taken.** Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. (3-30-06)~~

~~12. **PRN Medication.** Documentation of all PRN medication with the reason for taking the medication. (3-30-06)~~

~~13. **Nursing Assessments.** Nursing assessments, signed and dated, from the licensed registered nurse documenting the requirements in Section 305 of these rules. (3-30-06)~~

~~14. **Discharge Information.** Date of discharge, location to where the resident was discharged, and disposition of the resident's belongings. (3-30-06)~~

~~712.—714. (RESERVED)~~

715. MENTAL HEALTH CONTRACT BED RECORDS:

The administrator must assure that the facility's records for mental health contract beds are maintained as described

~~in Subsections 715.01 and 715.02, of these rules. (3-30-06)~~

~~01. **Contract with Department.** The facility must maintain on file a written contract with the Department outlining the responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the resident's care. (3-30-06)~~

~~02. **Department Assessment.** Results of the Department assessment for each mental health contract resident, which clearly assures that the resident is not a danger to himself or others must be in the resident's care record. (3-30-06)~~

~~716.—719: (RESERVED)~~

~~720. **ADULT HOURLY CARE RECORDS.**~~

~~The administrator must assure that the facility's hourly adult care records are maintained as described in Subsections 720.01 and 720.02 of these rules. (3-30-06)~~

~~01. **Required Records for Each Hourly Adult Care Individual.** The facility must maintain a record for each hourly adult care individual which includes: (3-30-06)~~

~~a. Admission identification information including responsible party and emergency telephone numbers of family members and the physician or authorized provider; (3-30-06)~~

~~b. Pertinent health and social information relevant to the supervision of the individual; and (3-30-06)~~

~~c. Care and services provided to the individual including medication assistance. (3-30-06)~~

~~02. **Length of Time Records Kept for Adult Hourly Care.** The records for each adult hourly care individual must be maintained for three (3) years. (3-30-06)~~

~~721.—724: (RESERVED)~~

~~725. **FACILITY ADMINISTRATIVE RECORDS FOR ADMISSIONS AND DISCHARGE REGISTER.**~~

~~The administrator must assure that the facility's administrative records for admission and discharge are maintained as described in Subsections 725.01 through 725.02 of these rules. (3-30-06)~~

~~01. **Admission and Discharge Register.** Each facility must maintain an admission and discharge register listing the name of each resident, date admitted, date discharged. The admissions and discharge register must be produced as a separate document, apart from the individual resident records, and must be kept current. (3-30-06)~~

~~02. **Hourly Adult Care Log.** A log of hourly adult care individuals, including the dates of service, must be maintained and kept for three (3) years. (3-30-06)~~

~~726.—729: (RESERVED)~~

~~730. **FACILITY ADMINISTRATIVE RECORDS FOR PERSONNEL AND STAFFING.**~~

~~The administrator must assure that the facility's personnel and staffing records are maintained as described in Subsections 730.01 through 730.03 of these rules. (3-30-06)~~

~~01. **Personnel.** A record for each employee must be maintained and available which includes the following: (3-30-06)~~

~~a. Name, address, phone number, and date of hire; (3-30-06)~~

~~b. Job description that includes purpose, responsibilities, duties, and authority; (3-30-06)~~

~~c. Evidence that on or prior to hire, staff were notified in writing that the facility does not carry~~

~~professional liability insurance. If the facility cancels the professional liability insurance, all staff must be notified of the change in writing;~~ (3-30-06)

~~d. A copy of a current license for all nursing staff and verification from the Board of Nursing that the license is in good standing or identification of restrictions;~~ (3-30-06)

~~e. Signed evidence of training;~~ (3-30-06)

~~f. CPR, first aid, and assistance with medication certification;~~ (3-30-06)

~~g. Criminal history clearance as required by Section 56-1004A, Idaho Code, and IDAPA 16.05.06, "Criminal History and Background Checks," and Section 009 of these rules;~~ (7-1-15)

~~h. Documentation by the licensed registered nurse of delegation to unlicensed staff to assist residents with medications and other nursing tasks;~~ (3-30-06)

~~i. A signed document authorizing by position title of, the individual responsible for acting on behalf of the administrator in his absence.~~ (3-30-06)

~~02. **Work Records.** Work records must be maintained in writing for the previous three (3) years which reflect;~~ (3-30-06)

~~a. Personnel on duty, at any given time; and~~ (3-30-06)

~~b. The first and last names, of each employee, and their position.~~ (3-30-06)

~~03. **Contract Records.** Copies of contracts with outside service providers and contract staff.~~ (3-30-06)

~~731. 734. (RESERVED)~~

~~735. **FACILITY ADMINISTRATIVE RECORDS FOR HANDLING OF MEDICATIONS AND CONTROLLED SUBSTANCES.**~~

~~The administrator must assure that the facility's records for handling of medications and controlled substances are maintained as described in Subsections 735.01 through 735.04 of these rules.~~ (3-30-06)

~~01. **Documentation of Cold Storage Temperature.** Daily monitoring documentation of the refrigerated temperature where biologicals and other medications requiring cold storage are stored to assure the temperature is maintained at thirty-eight to forty-five degrees (38-45 F) Fahrenheit for the previous twelve (12) months.~~ (3-30-06)

~~02. **Return Medication Agreement.** If appropriate, the written agreement between the facility and the pharmacy to return unused, unopened medications to the pharmacy for proper disposition and credit. See IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 664 and 665, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy."~~ (3-30-06)

~~03. **Documentation of Medication Disposal.** A written record of all drug disposals must be maintained in the facility and include:~~ (3-30-06)

~~a. A description of the drug, including the amount;~~ (3-30-06)

~~b. Name of resident for prescription medication;~~ (3-30-06)

~~c. The reason for disposal;~~ (3-30-06)

~~d. The method of disposal;~~ (3-30-06)

~~e. The date of disposal; and~~ (3-30-06)

~~f. Signatures of responsible facility personnel and witness. (3-30-06)~~

~~04. **Tracking Controlled Substances Documentation.** The facility must maintain a written record tracking all controlled substances entering the facility in accordance with Title 37, Chapter 27, Idaho Code, IDAPA 27.01.01 "Rules of the Idaho Board of Pharmacy," Section 495, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Section 490. (3-30-06)~~

~~736.—739: (RESERVED)~~

~~740. **FACILITY ADMINISTRATIVE RECORDS FOR DIETARY.**~~

~~The administrator must assure that the facility's records for dietary are maintained as described in Subsections 740.01 and 740.02 of these rules. (3-30-06)~~

~~01. **Menu Plan Documentation.** The facility must maintain copies of menus, including therapeutic menus planned, approved, signed, and dated by a dietitian in the facility. (3-30-06)~~

~~02. **Length of Time Documentation Kept for Menu Plans.** The facility must maintain three (3) months of as served menus, including therapeutic menus, corrected to reflect substitutions. (3-30-06)~~

~~741.—744: (RESERVED)~~

~~745. **FACILITY ADMINISTRATIVE RECORDS FOR WATER SUPPLY.**~~

~~The administrator must assure that the facility's records for water supply are maintained. Copies of the laboratory reports documenting the bacteriological examination of testing private water supply must be kept on file in the facility. (3-30-06)~~

~~746.—749: (RESERVED)~~

~~750. **FACILITY ADMINISTRATIVE RECORDS FOR FIRE AND LIFE SAFETY.**~~

~~The administrator must assure that the facility's records for fire and life safety are maintained as described in Subsections 750.01 through 750.06 of these rules. (3-30-06)~~

~~01. **Fire Drill Documentation.** Written documentation of each fire drill, one (1) per shift per quarter, must be maintained on file at the facility and must contain a description of each drill, the date and time of the drill, response of the personnel and residents, problems encountered and recommendations for improvement. (3-30-06)~~

~~02. **Report of Fire Documentation.** A copy of the reporting form, "Facility Fire Incident Report," must be completed and submitted to the Licensing and Survey Agency; The specific data must include, date of incident, origin, extent of damage, method of extinguishment, and injuries if any. (3-30-06)~~

~~03. **Fuel Fired Heating Inspection Documentation.** The facility will maintain a copy of the annual results of the inspection in the facility. (3-30-06)~~

~~04. **Portable Fire Extinguisher Examination Documentation.** The facility must maintain records of the monthly examination of the Portable Fire Extinguishers documenting the following: (3-30-06)~~

~~a. Each extinguisher is in its designated location; (3-30-06)~~

~~b. Each extinguisher seal or tamper indicator is not broken; (3-30-06)~~

~~c. Each extinguisher has not been physically damaged; (3-30-06)~~

~~d. Each extinguisher gauge, if provided, shows a charged condition; and (3-30-06)~~

~~e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (3-30-06)~~

~~05. **Fire Alarm Smoke Detection System Service and Testing.** The facility must maintain on file in the facility the following reports: (3-30-06)~~

~~a. The results of the annual inspection and test, by a person or business professionally engaged in the servicing of such systems; and (3-30-06)~~

~~b. The results of the monthly inspection and testing of the fire alarm, smoke detection system designated facility employee. (3-30-06)~~

~~06. **Automatic Fire Extinguishing System Service and Testing.** The facility must maintain on file in the facility the results of the annual inspection, testing and service, by a person or business professionally engaged in servicing of such systems. (3-30-06)~~

~~751.—899: (RESERVED)~~

900. ENFORCEMENT ACTIONS.

Enforcement actions, as described in Sections 910 through 940 of these rules and Sections 39-3357 and 39-3358, Idaho Code, are actions the Department can impose upon a facility. The Department will consider the facility's compliance history, change of ownership, the number of deficiencies, and scope and severity of the deficiencies when determining an enforcement action. The Department can impose any of the enforcement actions, independently or in conjunction with others, as described in Sections 900 through 940 of these rules. The Department will consider a facility's compliance history, change(s) of ownership, and the number, scope, and severity of the deficiencies when initiating or extending an enforcement action. The Department can impose any of the enforcement actions, independently or in conjunction with others. ()

~~01. **Immediate Danger to Residents.**~~

901. SUMMARY SUSPENSION.

When the Department finds that the facility's deficiency(s) deficient practice(s) immediately places the health or safety of any of its residents in danger, the Director of the Department or his designee may impose one (1) or more of the following: Department may take immediate action through the imposition of temporary management, a limit on admissions, summarily suspend the facility's license, and transfer the residents. (3-30-06)()

~~a. Appoint temporary management; or (3-30-06)~~

~~b. Summarily suspend the facility's license and transfer residents (3-30-06)~~

~~02. **Not an Immediate Danger to Residents.** When the Department finds that the facility's deficiency does not immediately place the residents' health or safety in danger, the Department will initiate one (1) of the Enforcement Actions "A" through "C" described in Subsections 900.03 through 900.05 of these rules, or "Enforcement Remedy of Revocation of License" described in Section 940 of these rules. (3-30-06)~~

~~03. **Enforcement Action "A."** (3-30-06)~~

~~a. The facility has forty five (45) days from the date the facility was found out of compliance with core issue requirements to comply; (3-30-06)~~

~~b. An acceptable Plan of Correction is required as described in Section 130.08 of these rules; and (3-30-06)~~

~~c. When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may take Enforcement Action "B." (3-30-06)~~

~~d. A follow-up survey for Enforcement Action "A" will be conducted after forty five (45) days from the date the facility was found out of compliance with core issue requirements. During this survey, if the deficiency still exists or a new core issue deficiency is issued, Enforcement Action "B" will be taken. (3-30-06)~~

- ~~04. Enforcement Action "B." (3-30-06)~~
- ~~a. The facility has forty five (45) days, from the date of the follow up survey for Enforcement Action "A" in which the facility was found out of compliance with core issue requirements, to comply; (3-30-06)~~
- ~~b. An acceptable Plan of Correction for core issues is required as described in Section 130.08 of these rules; (3-30-06)~~
- ~~c. When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may take Enforcement Action "C." (3-30-06)~~
- ~~d. In addition the Department may impose the following enforcement actions: (3-30-06)~~
- ~~i. A provisional license may be issued; (3-30-06)~~
- ~~ii. Admissions to the facility may be limited; or (3-30-06)~~
- ~~iii. The facility may be required to hire a consultant who submits periodic reports to the Licensing and Survey Agency. (3-30-06)~~
- ~~e. A follow up survey for Enforcement Action "B" will be conducted after forty five (45) days from the date the facility was found out of compliance with core issue requirements. During this survey, if the deficiency still exists or a new core issue deficiency is issued, Enforcement Action "C" will be taken. (3-30-06)~~
- ~~05. Enforcement Action "C." (3-30-06)~~
- ~~a. The facility has forty five (45) days, from the date of the follow up survey for Enforcement Action "B" in which the facility was found out of compliance with core issue requirements to comply; (3-30-06)~~
- ~~b. An acceptable Plan of Correction for core issues is required as described in Section 130.08 of these rules; (3-30-06)~~
- ~~c. When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may initiate the remedy of revocation of license as described in Section 940 of these rules; (3-30-06)~~
- ~~d. In addition the Department may impose the following enforcement actions: (3-30-06)~~
- ~~i. The provisional license will be continued; (3-30-06)~~
- ~~ii. Limit on admissions; (3-30-06)~~
- ~~iii. Temporary management; (3-30-06)~~
- ~~iv. Civil monetary penalties as described in Section 925 of these rules; (3-30-06)~~
- ~~e. A follow up survey for Enforcement Action "C" will be conducted after forty five (45) days from the date the facility was found out of compliance with core issue requirements; and (3-30-06)~~
- ~~f. When the facility fails to comply with this enforcement action, the Department may initiate an enforcement remedy of revocation of license as described in Section 940 of these rules. (3-30-06)~~

~~9072. -- 9049. (RESERVED)~~

~~905. CORE ISSUES DEFICIENCY.~~

~~The Licensing and Survey Agency will issue a deficiency and appropriate agencies will be notified when core issue deficiencies are found during a survey. When the Department finds that the facility's deficiency does not immediately place the residents' health or safety in danger, the Department will initiate one (1) of the Enforcement Actions "A" through "C" described in Subsections 900.03 through 900.05 of these rules, or "Enforcement Remedy of Revocation of License" described in Section 940 of these rules.~~ (3-30-06)

~~906.—909. (RESERVED)~~

910. NON CORE ISSUES DEFICIENCY ENFORCEMENT ACTION OF CONSULTANT.

~~The Licensing and Survey Agency will issue a deficiency for non-core issues that are found during a survey. A consultant may be required when an acceptable plan of correction has not been submitted, as described in Section 130 of these rules, or if the Department identifies repeat deficient practice(s) in the facility. The consultant is required to submit periodic reports to the Licensing Agency.~~ (3-30-06)()

~~01. Evidence of Resolution. Acceptable evidence of resolution as described in Subsection 130.09 of these rules, must be submitted by the facility to the Licensing and Survey Agency. If acceptable evidence of resolution is not submitted within sixty (60) days from when the facility was found to be out of compliance, the Department may impose enforcement actions as described in Subsection 910.02.a. through 910.02.e. of these rules.~~ (3-30-06)

~~02. First Follow Up Survey. When the Licensing and Survey Agency finds on the first follow up survey that repeat non-core deficiencies exist, the Department may initiate any of the following enforcement actions:~~ (3-30-06)

~~a. A provisional license may be issued; (3-30-06)~~

~~b. Admissions to the facility may be limited; or (3-30-06)~~

~~c. The facility may be required to hire a consultant who submits periodic reports to the Licensing and Survey Agency. (3-30-06)~~

~~03. Second Follow Up Survey. When the Licensing and Survey Agency finds on the second follow up survey that repeat non-core deficiencies still exist, the Department may initiate the "Enforcement Remedy of Civil Monetary Penalties," as described in Section 925 of these rules.~~ (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

920. ENFORCEMENT REMEDY ACTION OF LIMIT ON ADMISSIONS.

~~01. Notification of Reasons for Limit on Admissions. The Department will notify the facility limiting admissions or limiting admissions of residents with specific diagnosis to the facility pending correction of deficiencies. Limits of admissions to the facility remain in effect until the Department determines the facility has achieved full compliance with requirements or have received written evidence and statements from the outside consultant that the facility is in compliance. The Department may limit admissions for the following reasons:~~ (3-30-06)()

~~a. The facility is inadequately staffed or the staff is inadequately trained to handle more residents; ()~~

~~b. The facility otherwise lacks the resources necessary to support the needs of more residents; ()~~

~~c. The Department identifies repeat core issues during any follow-up survey; and ()~~

~~d. An acceptable plan of correction is not submitted as described in Section 130 of these rules. ()~~

02. **Reasons for Notification of Limit on Admissions.** The Department ~~may limit admissions for the following reasons:~~ will notify the facility of the limit on admissions of residents (e.g. a full ban of admissions, a limit of admissions based on resident diagnosis, etc.) pending the correction of deficient practice(s). Limits on admissions to the facility remain in effect until the Department determines the facility has achieved full compliance with requirements or receives written evidence and statements from the outside consultant that the facility is in compliance. (3-30-06)()

- ~~a. The facility is inadequately staffed or the staff is inadequately trained to handle more residents. (3-30-06)~~
- ~~b. The facility otherwise lacks the resources necessary to support the needs of more residents. (3-30-06)~~
- ~~c. Enforcement Action "B" or "C" is taken as described in Sections 900.04 and 900.05, of these rules. (3-30-06)~~
- ~~d. Enforcement Remedy for Revocation of License as described in Section 940 of these rules. (3-30-06)~~

(BREAK IN CONTINUITY OF SECTIONS)

925. ENFORCEMENT ~~REMEDY~~ ACTION OF CIVIL MONETARY PENALTIES.

01. **Civil Monetary Penalties.** ~~Civil monetary penalties are based upon one (1) or more deficiencies of noncompliance. Nothing will prevent the Department from imposing this remedy for deficiencies which existed prior to the survey or complaint investigation through which they are identified.~~ May be issued when a facility is operating without a license, repeat deficiencies are identified, or the facility fails to comply with conditions of the provisional license. Actual harm to a resident or residents does not need to be shown. A single act, omission, or incident will not give rise to imposition of multiple penalties, even though such act, omission, or incident may violate more than one (1) rule. (3-30-06)()

02. **Assessment Amount for Civil Monetary Penalty.** When civil monetary penalties are imposed, such penalties are assessed for each day the facility is or was out of compliance. The amounts below are multiplied by the total number of occupied licensed beds according to the records of the Department at the time non-compliance is established. (3-30-06)

~~a. Initial deficiency is eight dollars (\$8). Example below:~~

Number of Occupied Beds in Facility	Initial Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	\$8.00	45 days	\$3,960

~~(3-30-06)~~

~~b.a. Repeat deficiency is ten dollars (\$10). Example below:~~

Number of Occupied Beds in Facility	Repeat Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	\$10.00	30 days	\$3,300

(3-30-06)()

eb. In any ninety (90) day period, the penalty amounts may not exceed the limits shown in the following table:

Limits on Accruing Civil Monetary Amount.		
Number of Occupied Beds in Facility	Initial Deficiency	Repeat Deficiency
3-4 Beds	\$1,440	\$2,880
5-50 Beds	\$3,200	\$6,400
51-100 Beds	\$5,400	\$10,800
101-150 Beds	\$8,800	\$17,600
151 or More Beds	\$14,600	\$29,200

(3-30-06)()

03. Notice of Civil Monetary Penalties and Appeal Rights. The Department will give written notice informing the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights. (3-30-06)

04. Payment of Penalties. The facility must pay the full amount of the penalty within thirty (30) calendar days from the date the notice is received, unless the facility requests an administrative review of the decision to assess the penalty. The amount of a civil monetary penalty determined through administrative review must be paid within thirty (30) calendar days of the facility's receipt of the administrative review decision unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through an administrative hearing must be paid within thirty (30) calendar days of the facility's receipt of the administrative hearing decision unless the facility files a petition for judicial review. Interest accrues on all unpaid penalties at the legal rate of interest for judgments. Such interest accrual will begin one (1) calendar day after the date of the initial assessment of the penalty; (7-1-15)

05. Failure to Pay. Failure of a facility to pay the entire penalty, together with any interest, is cause for revocation of the license or the amount will be withheld from Medicaid payments to the facility. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

930. ENFORCEMENT ~~REMEDY~~ ACTION OF TEMPORARY MANAGEMENT.

01. Need for Temporary Management. The Department may impose the remedy action of temporary management in situations where there is a need to oversee operation of the facility and to assure ensure the health and safety of the facility's residents: (3-30-06)()

a. During an orderly transfer of residents of the facility to other facilities; or (3-30-06)

b. Pending improvements to bring the facility into compliance with program requirements. (3-30-06)

02. Notice of Temporary Management. The Department will give written notice to the facility of the imposition of temporary management. (3-30-06)

03. Who May Serve as a Temporary Manager. The Department may appoint any person or

organization that meets the following qualifications: (3-30-06)

a. The temporary manager must not have any ~~pecuniary interest in or preexisting fiduciary duty to~~ financial interest in the facility to be managed; (3-30-06)()

b. The temporary manager must not be related, within the first degree of kinship, to the facility's owner, manager, administrator, or other management principal; (3-30-06)

c. The temporary manager must possess sufficient training, expertise, and experience in the operation of a facility as would be necessary to achieve the objectives of temporary management. If the temporary manager is to serve in a facility, the manager must possess an Idaho Residential Care Administrator's license; and (3-30-06)()

d. The temporary manager must not be an existing competitor of the facility who would gain an unfair competitive advantage by being appointed as temporary manager of the facility. (3-30-06)

04. Powers and Duties of the Temporary Manager. The temporary manager has the authority to direct and oversee the management, ~~hiring and to hire~~ and discharge ~~of~~ any consultant or personnel, including the administrator of the facility. The temporary manager has the authority to direct the expenditure of the revenues of the facility in a reasonable and prudent manner, to oversee the continuation of the business and the care of the residents, to oversee and direct those acts necessary to accomplish the goals of the program requirements, and to direct and oversee regular accounting. When the facility fails or refuses to carry out the directions of the temporary manager, the Department will revoke the facility's license. (3-30-06)()

a. The temporary manager must observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the facility, except that the temporary manager must make reports to the Department; (3-30-06)

b. The temporary manager may be liable for gross, willful or wanton negligence, intentional acts of omissions, unexplained shortfalls in the facility's fund, and breaches of fiduciary duty; (3-30-06)

c. The temporary manager does not have authority to cause or direct the facility, its owner, or administrator to incur debt, unless to bring the facility into compliance with these rules, or to enter into any contract with a duration beyond the term of the temporary management of the facility; (3-30-06)

d. The temporary manager does not have authority to incur, without the permission of the owner, administrator, or the Department, capital expenditures in excess of two thousand dollars (\$2,000), unless the capital expenditures are directly related to correcting the identified deficiencies; (3-30-06)()

e. The temporary manager does not have authority to cause or direct the facility to encumber its assets or receivables; (3-30-06)

f. The temporary manager does not have authority to cause or direct a facility, which holds liability or casualty insurance coverage, to cancel or reduce its liability or casualty insurance coverage; and (3-30-06)

g. The temporary manager does not have authority to cause or direct the sale of the facility, its assets or the premises on which it is located. (3-30-06)

05. Responsibility for Payment of the Temporary Manager. All compensation and per diem costs of the temporary manager must be paid by the licensee. (3-30-06)

06. Termination of Temporary Management. A temporary manager may be replaced under the following conditions: (3-30-06)

a. The Department may require replacement of any temporary manager whose performance is deemed unsatisfactory by the Department. No formal procedure is required for such removal or replacement, but written notice of any action will be given to the facility. (3-30-06)

b. A facility subject to temporary management may petition the Department for replacement of a temporary manager whose performance it considers unsatisfactory. The petition must include why the replacement of a temporary manager is necessary or appropriate. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

935. ENFORCEMENT ~~REMEDY~~ ACTION OF PROVISIONAL LICENSE.

A provisional license may be issued when a facility ~~is cited with~~ has one (1) or more core issues, ~~deficiencies, or~~ when non-core issues have not been corrected, ~~or~~ have become repeat deficiencies, ~~or an acceptable plan of correction is not submitted as described in these rules.~~ The provisional license will state the conditions the facility must follow to continue to operate. ~~See Subsections 900.04, 900.05 and 910.02 of these rules.~~ (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

940. ENFORCEMENT ~~REMEDY~~ ACTION OF REVOCATION OF FACILITY LICENSE.

01. **Revocation of Facility's License.** The Department may revoke a license when the facility endangers the health or safety of residents, or when the facility is not in substantial compliance with the provisions of Title 39, Chapter 33, Idaho Code, or this chapter of rules. (3-30-06)

02. **Reasons for Revocation or Denial of a Facility License.** The Department may revoke or deny any facility license for any of the following reasons: (3-30-06)

a. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; (3-30-06)

b. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (3-30-06)

c. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, ~~but are not limited to,~~ neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation; (3-30-06)()

d. The licensee has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a facility; (3-30-06)

e. The licensee has violated any of the conditions of a provisional license; (3-30-06)

f. The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; (3-30-06)

g. Licensee refuses to allow the Department or the Protection and Advocacy agencies full access to the facility environment, facility records, and the residents as described in ~~Subsections 130.04 through 130.06, and 550.18 through 550.19~~ of these rules; (3-30-06)()

h. The licensee has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility, ~~or~~ residential care or assisted living facility, ~~or~~ certified family home; (3-30-07)()

i. The licensee is actively affected in ~~his~~ their performance by alcohol or the use of drugs classified as controlled substances; (3-30-07)()

- j.** The licensee has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; (3-30-07)
- k.** The licensee is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (3-30-07)
- l.** The licensee has been denied, or the licensee's wrong doing, has caused the revocation of any license or certificate of any health facility, residential care or assisted living facility, or certified family home; (3-30-07)
- m.** The licensee has previously operated any health facility or residential care or assisted living facility without a license or certified family home without a certificate; (7-1-15)
- n.** The licensee is directly under the control or influence of any person who has been the subject of proceedings as described in ~~Subsection 940.02.m. of these~~ **this** rules; (4-11-06)()
- o.** The licensee is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (4-11-06)
- p.** The licensee is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years; (4-11-06)
- ~~**q.** The licensee fails to pay civil monetary penalties imposed by the Department as described in Section 925 of these rules; (4-11-06)~~
- ~~**q.** The licensee fails to take sufficient corrective action as described in Sections ~~900, 905 and 910~~ **130** of these rules; or (4-11-06)()~~
- ~~**r.** The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. (4-11-06)~~

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code; Section 16-1647, Idaho Code; and 42 USC Section 9858f.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 Legislature passed Senate Bill 1341 during the 2018 legislative session that amended the Child Protective Act and went into effect on July 1, 2018. Under this bill, a new Section (16-1647, Idaho Code) was added to the Child Protective Act; it mandated the creation of Citizen Review Panels in each of the state's public health districts, comprised of volunteers who are required to review all child protective act cases open for 120 days or more. On a quarterly basis, the panels evaluate and report on recommendations to the Idaho Legislature for the improvement of the child protection system experience for children. This law requires that panel members must pass a criminal background check.

This rule change amends this chapter to authorize the Department of Health and Welfare's Criminal History Unit to complete background checks on Citizen Review Panel Members to assist Public Health Districts to fulfill the mandates of Section 16-1647, Idaho Code. Suitability of applicant qualifications are determined by each Health District. The Criminal History Unit participates only in the processing of background checks.

These changes also contain simplification of Section 100 into a table while removing unnecessary language and classes that are no longer contained in IDAPA 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:

The effect of this rule change is cost-neutral to the State General Fund. The Department expects to process not more than 50 background checks for Citizen Review Panel volunteers in SFY 2019 and successive years. The background check fee to be collected for each one is sufficient to cover their costs.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because health and/or safety concerns preclude negotiation of rule.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Fernando Castro at (208) 332-7999. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 16-0506-1901
(Only Those Sections With Amendments Are Shown.)

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.
The temporary effective date is January 1, 2019.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 19-1, January 2, 2019, pages 86 through 88.

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. (3-4-11)

~~**01. Adoptive Parent Applicants.** Individuals who must comply with IDAPA 16.06.01, "Child and Family Services," and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)~~

~~**02. Behavioral Health Programs.** Individuals who must comply with IDAPA 16.07.15, "Behavioral Health Programs." (3-24-17)~~

~~**03. Certified Family Homes.** Individuals who must comply with Section 39-3520, Idaho Code, IDAPA 16.03.19, "Rules Governing Certified Family Homes," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)~~

~~**04. Children's Residential Care Facilities.** Individuals who must comply with Section 39-1210, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)~~

~~**05. Children's Therapeutic Outdoor Programs.** Individuals who must comply with Section 39-1208, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)~~

~~**06. Contracted Non-Emergency Medical Transportation Providers.** Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-4-11)~~

~~**07. Court Appointed Guardians and Conservators.** Individuals who must comply with the requirements of Title 15, Chapter 5, Idaho Code, and Title 66, Chapter 4, Idaho Code. Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules. (3-20-14)~~

- ~~08. **Designated Examiners and Designated Dispositioners.** Individuals who must comply with IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners." (3-4-11)~~
- ~~09. **Developmental Disabilities Agencies.** Individuals who must comply with IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)~~
- ~~10. **Emergency Medical Services (EMS).** Individuals who must comply with IDAPA 16.01.05, "Emergency Medical Services (EMS) — Education, Instructor, and Examination Requirements," and IDAPA 16.01.07, "Emergency Medical Services (EMS) — Personnel Licensing Requirements." (3-24-17)~~
- ~~11. **High Risk Providers of Medicaid.** Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and the Medicaid Provider Handbook. (4-6-15)~~
- ~~12. **Home and Community Based Services (HCBS).** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (7-1-12)~~
- ~~13. **Home Health Agencies.** Individuals who must comply with IDAPA 16.03.07, "Home Health Agencies." (3-4-11)~~
- ~~14. **Idaho Behavioral Health Plan (IBHP).** Individuals who are contractors, contractor's employees, and subcontractors in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (4-6-15)~~
- ~~15. **Idaho Child Care Program (ICCP).** Individuals who must comply with IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program." (3-4-11)~~
- ~~16. **Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID).** Individuals who must comply with IDAPA 16.03.11, "Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID)." (3-4-11)~~
- ~~17. **Licensed Foster Care.** Individuals who must comply with Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)~~
- ~~18. **Licensed Day Care.** Individuals who must comply with Sections 39-1105, 39-1113, and 39-1114, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)~~
- ~~19. **Mental Health Services.** Individuals who must comply with IDAPA 16.07.33, "Adult Mental Health Services," and IDAPA 16.07.37, "Children's Mental Health Services." (4-6-15)~~
- ~~20. **Personal Assistance Agencies.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)~~
- ~~21. **Personal Care Service Providers.** Individuals who must comply with Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)~~
- ~~22. **Residential Care or Assisted Living Facilities in Idaho.** Individuals who must comply with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (3-4-11)~~
- ~~23. **Service Coordinators and Paraprofessional Providers.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)~~
- ~~24. **Skilled Nursing and Intermediate Care Facilities.** Individuals who must comply with IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities." (3-4-11)~~
- ~~25. **Substance Use Disorders Services.** Individuals who must comply with IDAPA 16.07.17, "Substance Use Disorders Services." (4-11-19)~~

~~26. Support Brokers and Community Support Workers. Individuals who must comply with IDAPA 16.03.13, "Consumer Directed Services."~~ (3-4-11)

<u>Required Classes</u>	<u>Idaho Code and IDAPA Chapter(s)</u>
<u>01. Adoptive Parent Applicants</u>	<u>IDAPA 16.06.01, "Child and Family Services"</u> <u>IDAPA 16.06.02, "Child Care Licensing"</u>
<u>02. Certified Family Homes</u>	<u>Section 39-3520, Idaho Code</u> <u>IDAPA 16.03.19, "Certified Family Homes"</u> <u>IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"</u>
<u>03. Children's Agency Facility Staff</u>	<u>IDAPA 16.06.02, "Child Care Licensing"</u>
<u>04. Children's Residential Care Facilities</u>	<u>Section 39-1210, Idaho Code</u> <u>IDAPA 16.06.02, "Child Care Licensing"</u>
<u>05. Children's Therapeutic Outdoor Programs</u>	<u>Section 39-1208, Idaho Code</u> <u>IDAPA 16.06.02, "Child Care Licensing"</u>
<u>06. Citizen Review Panel Members</u>	<u>Public health district volunteers who must comply with</u> <u>Section 16-1647, Idaho Code, "Citizen Review Panels -</u> <u>Child Protection Legislative Review Panel"</u>
<u>07. Contracted Non-Emergency Medical Transportation Providers</u>	<u>IDAPA 16.03.09, "Medicaid Basic Plan Benefits"</u>
<u>08. Court Appointed Guardians and Conservators</u>	<u>Title 15, Chapter 5, Idaho Code</u> <u>Title 66, Chapter 4, Idaho Code. Court required guardian</u> <u>and conservator criminal history and background checks</u> <u>are not provided Department clearances described in</u> <u>Section 180.01 of these rules</u>
<u>09. Designated Examiners and Dispositioners</u>	<u>IDAPA 16.07.39, "Appointment of Designated Examiners</u> <u>and Dispositioners"</u>
<u>10. Developmental Disabilities Agencies</u>	<u>IDAPA 16.01.05, "Emergency Medical Services (EMS) --</u> <u>Education, Instructor, and Examination Requirements"</u> <u>IDAPA 16.01.07, "Emergency Medical Services (EMS) --</u> <u>Personnel Licensing Requirements"</u>
<u>11. Emergency Medical Services (EMS)</u>	<u>IDAPA 16.03.09, "Medicaid Basic Plan Benefits"</u> <u>The Medicaid Provider Handbook</u>
<u>12. High Risk Providers of Medicaid</u>	<u>IDAPA 16.03.09, "Medicaid Basic Plan Benefits"</u> <u>The Medicaid Provider Handbook</u>
<u>13. Home and Community-Based Services (HCBS)</u>	<u>IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"</u> <u>IDAPA 16.04.17, "Residential Habilitation Agencies"</u>
<u>14. Home Health Agencies</u>	<u>IDAPA 16.03.07, "Home Health Agencies"</u>
<u>15. Idaho Behavioral Health Plan (IBHP)</u>	<u>IDAPA 16.03.09, "Medicaid Basic Plan Benefits"</u>
<u>16. Idaho Child Care Program (ICCP)</u>	<u>IDAPA 16.06.12, "Idaho Child Care Program"</u>
<u>17. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)</u>	<u>IDAPA 16.03.11, "Intermediate Care Facilities for Individu-</u> <u>als with Intellectual Disabilities (ICF/IID)"</u>
<u>18. Licensed Foster Care</u>	<u>Section 39-1211, Idaho Code</u> <u>IDAPA 16.06.02, "Child Care Licensing"</u>

<u>Required Classes</u>	<u>Idaho Code and IDAPA Chapter(s)</u>
<u>19. Licensed Day Care</u>	<u>Sections 39-1105, 39-1113, and 39-1114, Idaho Code</u> <u>IDAPA 16.06.02, "Child Care Licensing"</u>
<u>20. Mental Health Services</u>	<u>IDAPA 16.07.33, "Adult Mental Health Services"</u> <u>IDAPA 16.07.37, "Children's Mental Health Services"</u>
<u>21. Personal Assistance Agencies</u>	<u>IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"</u>
<u>22. Personal Care Service Providers</u>	<u>Section 39-5604, Idaho Code</u> <u>IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"</u>
<u>23. Residential Assisted Living Facilities</u>	<u>IDAPA 16.03.22, "Residential Assisted Living Facilities"</u>
<u>24. Service Coordinators and Paraprofessional Providers</u>	<u>IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"</u>
<u>25. Skilled Nursing and Intermediate Care Facilities</u>	<u>IDAPA 16.03.02, "Skilled Nursing Facilities"</u>
<u>26. Substance Use Disorders Services</u>	<u>IDAPA 16.07.17, "Substance Use Disorders Services"</u>
<u>27. Support Brokers and Community Support Workers</u>	<u>IDAPA 16.03.13, "Consumer-Directed Services"</u>

()

(BREAK IN CONTINUITY OF SECTIONS)

126. APPLICANTS RECEIVING A DEPARTMENT ENHANCED CLEARANCE.

The following classes of individuals are required to provide their previous residence information for the preceding five (5) years in their application for a criminal history and background check as described in Section 100 of these rules. (7-1-17)()

- 01. **Adoptive Parent Applicants.** *Described in Subsection 100.01 of these rules.* (7-1-17)()
- ~~02. **Behavioral Health Programs.** *Described in Subsection 100.02 of these rules.* (7-1-17)~~
- 02. Children's Agency Facility Staff.** ()
- 03. **Children's Residential Care Facilities.** *Described in Subsection 100.04 of these rules.* (7-1-17)()
- 04. **Children's Therapeutic Outdoor Programs.** *Described in Subsection 100.05 of these rules.* (7-1-17)()
- 05. **Idaho Child Care Program (ICCP).** *Described in Subsection 100.16 of these rules.* (7-1-17)()
- 06. **Licensed Foster Care.** *Described in Subsection 100.18 of these rules.* (7-1-17)()
- 07. **Licensed Day Care.** *Described in Subsection 100.19 of these rules.* (7-1-17)()
- 08. **Mental Health Services.** *Described in Subsection 100.20 of these rules.* (7-1-17)()
- 09. **Substance Use Disorders Services.** *Described in Subsection 100.26 of these rules.* (4-11-19)()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1902

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code. Under 42 USC Section 9858f, the Department is required to check certain records for federal child care programs.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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:

1. Stakeholders have expressed a desire for the Department to clarify who is subject to the background check.
2. Stakeholders have expressed a desire for the Department to clarify background check documentation record keeping requirements.
3. Stakeholders have expressed a desire for the Department to clarify when an incomplete application is no longer viable for processing.
4. The Department has determined that the crime of “assault with intent to commit a serious felony,” Section 18-909, Idaho Code, is indicative of the inability of the applicant to care for the vulnerable. Therefore, it wishes to add it to the list of disqualifying offenses of the rule.
5. Stakeholders have expressed a desire for the Department to clarify when a new background check or state-only check is required for a rehired employee.
6. FBI has requested that references to the federal Nation Crime Information Center and the federal Sex Offender Registry be removed.

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

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

There is no fiscal impact to the State General Fund or to dedicated funds for these rule changes. This rulemaking is intended to be cost-neutral. The Department will have to change its web-based background check system to enable this change. It estimates that the cost of these system changes will be \$3,000.00. These modifications will be performed by DHW Information Technology staff, and it is an expense that is already integrated in the operational budget of the Department.

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 5, 2019, Idaho Administrative Bulletin, [Vol. 19-6, pages 61-62](#).

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 Fernando Castro, (208) 332-7999.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 31st day of July, 2019.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0506-1902
(Only Those Sections With Amendments Are Shown.)

001. TITLE, SCOPE AND POLICY.

01. Title. These rules are titled IDAPA 16.05.06, “Criminal History and Background Checks.” (3-26-08)

02. Scope. These rules assist the Department in the protection of children and vulnerable adults by providing requirements to conduct criminal history and background checks of individuals licensed or certified by the Department, or who provide care or services to children or vulnerable adults. Individuals requiring a criminal history check are identified in Department rules. (7-1-17)

03. Policy. It is the Department’s policy to conduct fingerprint-based criminal history and background checks on individuals who have completed a criminal history application. The criminal history applicant is required to disclose any pertinent information regarding crimes or findings that would disqualify the individual from providing care or services to children or vulnerable adults. The Department may obtain information for these criminal history and background checks from the following sources: (7-1-17)

- a.** Federal Bureau of Investigation; (3-26-08)
- ~~**b.** National Crime Information Center;~~ (~~3-26-08~~)
- ~~**b.**~~ Idaho State Police Bureau of Criminal Identification; (3-26-08)
- ~~**c.**~~ Any state or federal Child Protection Registry; (7-1-17)
- ~~**d.**~~ Any state or federal Adult Protection Registry; (7-1-17)
- ~~**e.**~~ Any state ~~or federal~~ Sexual Offender Registry; (~~7-1-17~~) ()
- ~~**f.**~~ Office of Inspector General List of Excluded Individuals and Entities; (3-26-08)
- ~~**g.**~~ Idaho Department of Transportation Driving Records; (3-26-08)

- h.** Nurse Aide Registry; and ~~(3-26-08)~~()
- i.** Other states and jurisdictions records and findings. (7-1-17)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of this chapter of rules, the following terms apply: (7-1-12)

01. Agency. An administrative subdivision of government or an establishment engaged in doing business for another entity. This term is synonymous with the term employer. (7-1-12)

02. Application. An individual's request for a criminal history and background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. (3-26-08)

03. Clearance. A clearance is a document designated by the Department as the official result of a completed criminal history and background check with no disqualifying crimes or relevant records found. (7-1-17)

04. Conviction. An individual is considered to have been convicted of a criminal offense as defined in Subsections 010.0~~34~~.a. through 010.0~~34~~.d. of this rule: ~~(3-26-08)~~()

a. When a judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, or local court; (3-26-08)

b. When there has been a finding of guilt against the individual by any federal, state, military, or local court; (3-26-08)

c. When a plea of guilty or nolo contendere by the individual has been accepted by any federal, state, military, or local court; (3-26-08)

d. When the individual has entered into or participated in first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. This includes: (3-26-08)

i. When the individual has entered into participation in a drug court; or (3-26-08)

ii. When the individual has entered into participation in a mental health court. (3-26-08)

05. Criminal History and Background Check. A criminal history and background check is a fingerprint-based check of an individual's criminal record and other relevant records. (3-4-11)

06. Criminal History Unit. The Department's Unit responsible for processing fingerprint-based criminal history and background checks, conducting exemption reviews, and issuing clearances or denials according to these rules. (3-26-08)

07. Denial. A denial is issued by the Department when an individual has a relevant record or disqualifying crime. There are two (2) types of denials: (3-26-08)

a. Conditional Denial. A denial of an applicant because of a relevant record found in Section 230 of these rules. (3-26-08)

b. Unconditional Denial. A denial of an applicant because of a conviction for a disqualifying crime or a relevant record found in Sections 200 and 210 of these rules. (3-4-11)

08. Department. The Idaho Department of Health and Welfare or its designee. (3-26-08)

09. Direct Patient Access Employee. Any individual who has access to a patient or resident of a long-term care provider, or facility whether through employment or contract and who has duties or performs tasks that involve (or may involve) one-on-one (1:1) contact with a patient or resident or has access to his personal belongings. Volunteers are not considered a Direct Patient Access employee of a long-term care provider or facility unless volunteers are required to undergo a criminal history background check per the rules applicable to that specific type of facility or provider. ()

109. **Disqualifying Crime.** A disqualifying crime is a designated crime listed in Section 210 of these rules that results in the unconditional denial of an applicant. (3-26-08)

101. **Employer.** An entity that hires people to work in exchange for compensation. This term is synonymous with the term agency. (7-1-12)

142. **Enhanced Clearance.** An enhanced clearance is a clearance issued by the Department that includes a search of child protection registries in states or jurisdictions in which an applicant has resided during the preceding five (5) years. See Section 126 of these rules. (7-1-17)

123. **Exemption Review.** A review by the Department at the request of the applicant when a conditional denial has been issued. (3-26-08)

134. **Federal Bureau of Investigation (FBI).** The federal agency where fingerprint-based criminal history and background checks are processed. (3-26-08)

145. **Good Cause.** Substantial reason, one that affords a legal excuse. (3-4-11)

156. **Idaho State Police Bureau of Criminal Identification.** The state agency where fingerprint-based criminal history and background checks are processed. (3-26-08)

167. **Relevant Record.** A relevant record is a record that is found in a search of criminal records or registries checked by the Department as provided in Section 56-1004A, Idaho Code. (7-1-12)

(BREAK IN CONTINUITY OF SECTIONS)

060. EMPLOYER REGISTRATION.

01. **Initial Registration.** Employers required to have Department criminal history and background checks on their employees, contractors, or staff must register with the Department and receive an employer identification number before criminal history and background check applications can be processed or accessed. (7-1-14)

02. **Change in Name or Ownership.** ~~When a~~An agency or facility must: (7-1-14)()

a. If acquired by another entity, the new ownership must will register as a new employer and provide contact information to obtain a new employer identification number and website access within thirty (30) calendar days of acquisition. New ownership occurs when the agency obtains a new federal Employer Identification Number with the Internal Revenue Service. (7-1-14)()

b. If there is a ~~changes to~~ its name or location, the employer must will provide the new name, location, and contact information to the Department within thirty (30) calendar days of the change. (7-1-14)()

061. EMPLOYER RESPONSIBILITIES.

The criminal history and background check clearance is not a determination of suitability for employment. The Department's criminal history and background check clearance means that an individual was found to have no disqualifying crime or relevant record. Employers are responsible for determining the individual's suitability for

employment as described in ~~Subsections 061.01 through 061.03 of these rules~~ in this rule. (3-26-08)()

01. Screen Applicants. The employer should screen applicants prior to initiating a criminal history and background check in determining the suitability of the applicant for employment. If an applicant discloses a disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment should be made during the initial application screening. (3-26-08)

02. Maintain Printed Copy of Application. The employer must maintain a copy of the printed, signed, and notarized criminal history and background check application for all individuals required to obtain a criminal history and background check. ~~This copy must be readily available for inspection to verify compliance with this requirement. An employer who chooses to use a criminal history and background check obtained for a previous employer must comply with Section 300 of these rules and maintain copies of the records.~~ (7-1-17)()

a. The copy of the application must be readily available for inspection to verify compliance with this requirement. The document must be retained for a period consistent with the employer's own personnel documentation retention schedule. ()

b. An employer who chooses to use a criminal history and background check obtained for a previous employer must comply with Section 300 of these rules and maintain copies of the records identified in Subsections 190.01 and 300.02.c. of these rules. ()

03. Ensure Time Frames Are Met. The employer is responsible to ensure that the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. (3-26-08)

04. Employment Determination. The employer is responsible for reviewing the results of the criminal history and background check even if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The employer must then will make a determination as to the ability or risk of the individual to provide care or services to children or vulnerable adults. (3-4-11)()

(BREAK IN CONTINUITY OF SECTIONS)

150. TIME FRAME FOR SUBMITTING APPLICATION AND FINGERPRINTS.

The completed notarized application and fingerprints must be received by the Department within twenty-one (21) days from the date of ~~notarization~~ submission in the Department background check system whether ~~submitted it is sent~~ by mail or accepted at a Department fingerprinting location. If the Department does not receive the criminal history and background check application and applicant fingerprints within sixty (60) calendar days from its submission in the department website, the applicant must complete a new application. (7-1-14)()

01. Availability to Provide Services. The applicant: may provide services on the day the application is signed and notarized, as long as the applicant has not disclosed any disqualifying crimes or relevant records. The applicant must provide the Department a copy of the signed and notarized application to validate the date of applicant's availability to provide services. (7-1-14)()

~~**a.** Is available to provide services on the day the application is signed and notarized, as long as the applicant has not disclosed any disqualifying crimes or relevant records. The applicant must provide the Department a copy of the signed and notarized application to validate the date of applicant's availability to provide services.~~ (7-1-14)

~~**b.** Becomes unavailable to provide services or be licensed or certified when the notarized application is not received or the fingerprints have not been collected within this time frame.~~ (7-1-14)

~~**c.** Who submits a complete application and fingerprints by mail, and the application is deemed inadequate or incomplete for processing by the Department, is unavailable to provide services until the application is~~

~~received by the Department completed and corrected.~~

~~(7-1-14)~~

02. Unavailability to Provide Services. The applicant becomes unavailable to provide services or be licensed or certified when the notarized application is not received or fingerprints have not been collected within this timeframe, or the application is deemed inadequate or incomplete for processing by the Department. ()

023. Incomplete Application. The criminal history and background check is incomplete and will not be processed by the Department if this time frame is not met. (7-1-12)

034. No Extension of Time Frame. The Department will not extend the twenty-one (21) day time frame, unless the applicant or employer provides just cause. An applicant for employment or employer can not submit a new application for the same purpose, or repeatedly re-sign and re-notarize the original application. (7-1-12)

(BREAK IN CONTINUITY OF SECTIONS)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on ~~his~~ their record as described in Subsections 210.01 and 210.02 of this rule. ~~(3-26-08)~~ ()

01. Disqualifying Crimes. The disqualifying crimes, described in Subsections ~~210.01.a. through 210.01.ee.~~ of this rule, or any substantially conforming foreign criminal violation, will result in an unconditional denial being issued. ~~(7-1-17)~~ ()

- a.** Crimes against vulnerable adults: (7-1-17)
 - i.** Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (3-26-08)
 - ii.** Abandoning a vulnerable adult, as defined in Section 18-1505A, Idaho Code; (7-1-17)
 - iii.** Sexual abuse and exploitation of a vulnerable adult, as defined in Section 18-1505B, Idaho Code. (7-1-17)
- b.** Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; (3-26-08)
- c.** Crimes against nature, as defined in Section 18-6605, Idaho Code; (3-26-08)
- d.** Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; (3-26-08)
- e.** Hiring, employing, or using a minor to engage in certain acts, as defined in Section 18-1517A, Idaho Code; (7-1-17)
- f.** Human trafficking, as defined in Sections 18-8602 and 18-8603, Idaho Code; (7-1-17)
- g.** Incest, as defined in Section 18-6602, Idaho Code; (3-26-08)
- h.** Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (3-26-08)
- i.** Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (3-26-08)
- j.** Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (3-26-08)

- k. Mayhem, as defined in Section 18-5001, Idaho Code; (3-26-08)
- l. Manslaughter: (7-1-12)
 - i. Voluntary manslaughter, as defined in Section 18-4006(1) Idaho Code; (7-1-12)
 - ii. Involuntary manslaughter, as defined in Section 18-4006(2), Idaho Code; (7-1-12)
 - iii. Felony vehicular manslaughter, as defined in Section 18-4006(3)(a) and (b), Idaho Code; (7-1-12)
- m. Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; (7-1-12)
- n. Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (3-26-08)
- o. Rape, as defined in Section 18-6101, Idaho Code; (3-26-08)
- p. Robbery, as defined in Section 18-6501, Idaho Code; (3-26-08)
- q. Felony stalking, as defined in Section 18-7905, Idaho Code; (3-26-08)
- r. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (3-26-08)
- s. Ritualized abuse of a child, as defined in Section 18-1506A, Idaho Code; (7-1-17)
- t. Sexual abuse or exploitation of a child, as defined in Sections 18-1506, Idaho Code; (7-1-17)
- u. Felony sexual exploitation of a child, as defined in Section 18-1507, Idaho Code; (7-1-17)
- v. Sexual battery of a minor child under sixteen (16) or seventeen (17) years of age, as defined in Section 18-1508A, Idaho Code; (7-1-17)
- w. Video voyeurism, as defined in Section 18-6609, Idaho Code; (3-26-08)
- x. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (3-26-08)
- y. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (3-26-08)
- z. Any felony punishable by death or life imprisonment; (7-1-17)
- aa. Attempted strangulation, as defined in Section 18-923, Idaho Code; (7-1-17)
- bb. Felony domestic violence, as defined in Section 18-918, Idaho Code; (7-1-17)
- cc. Battery with intent to commit a serious felony, as defined in Section 18-911, Idaho Code; ()
- dd. Assault with intent to commit a serious felony, as defined in Section 18-909, Idaho Code; or ()
- eee. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. (3-29-10)

02. Disqualifying Five-Year Crimes. The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.n. of this rule, or any substantially conforming foreign criminal violation: (7-1-17)()

- a. Any felony not described in Subsection 210.01, of this rule; (3-4-11)
 - b. Misdemeanor domestic violence, as defined in Section 18-918, Idaho Code; (7-1-17)
 - c. Failure to report abuse, abandonment or neglect of a child, as defined in Section 16-1605, Idaho Code; (7-1-17)
 - d. Misdemeanor forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 through 18-3128, Idaho Code; (3-4-11)
 - e. Misdemeanor forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (3-4-11)
 - f. Misdemeanor identity theft, as defined in Section 18-3126, Idaho Code; (3-4-11)
 - g. Misdemeanor insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (3-4-11)
 - h. Public assistance fraud, as defined in Sections 56-227, 56-227A, 56-227D, 56-227E and 56-227F, Idaho Code; (7-1-17)
 - i. Sexual exploitation of a child by electronic means, felony or misdemeanor, as defined in Section 18-1507A, Idaho Code; (7-1-17)
 - j. Stalking in the second degree, as defined in Section 18-7906, Idaho Code; (7-1-12)
 - k. Misdemeanor vehicular manslaughter, as defined in Section 18-4006(3)(c), Idaho Code; (7-1-14)
 - l. Sexual exploitation by a medical care provider, as defined in Section 18-919, Idaho Code; (7-1-17)
 - m. Operating a certified family home without certification, as defined in Section 39-3528, Idaho Code; (7-1-17)
- or
- n. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying five (5) year crimes. (3-29-10)

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (3-26-08)

- a. A withheld judgment; (3-26-08)
- b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-26-08)
- c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (3-26-08)
- d. A sealed record. (3-26-08)

(BREAK IN CONTINUITY OF SECTIONS)

300. UPDATING CRIMINAL HISTORY AND BACKGROUND CHECKS.

The employer is responsible for confirming that the applicant has completed a criminal history and background check as provided in Section 190 of these rules. Once a clearance is issued by the Department, verifiable continuous employment of the applicant with the same employer eliminates the requirement for a new background check. *The*

~~provisions stipulated on Subsections 300.03 and 300.04 of this rule still apply.~~

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

01. New Criminal History and Background Check. Any individual required to have a criminal history and background check under these rules must complete a new application, including fingerprints when: (3-26-08)

a. Accepting employment with a new employer, and their last Department criminal history and background check was completed more than three (3) years prior to their employment date; or ~~(3-26-08)()~~

b. Applying for licensure or certification with the Department; ~~;~~ and their last Department criminal history and background check was completed more than three (3) years prior to their employment date or licensure application date; ~~(3-26-08)()~~

~~**e.** His last Department criminal history and background check was completed more than three (3) years prior to his employment date or licensure application date. (3-26-08)~~

c. If an applicant is terminated by the employer, is rehired by the same employer, and the applicant background check is older than three (3) years at the time of the rehire, the provisions of Subsections 300.01.a. through 300.01.b. of this rule apply. ()

02. Use of Criminal History Check Within Three Years of Completion. Any employer may use a Department criminal history and background check clearance obtained under these rules if: (3-26-08)

a. The individual has received a Department's criminal history and background check clearance within three (3) years from the date of employment; (4-6-15)

b. Prior to allowing the individual to provide services, the employer must obtain access to the individual's background check results and clearance through the Department's website by having the employer's identification number added to the individual's background check results, and (4-6-15)

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and no disqualifying crimes are found. (3-26-08)

i. The action must be initiated by the employer within thirty (30) calendar days of obtaining access to the individual's criminal history and background check clearance issued by the Department; and (7-1-12)

ii. The employer must be able to provide proof of this action by maintaining a copy of the records required in Subsections 300.02.a. and 300.02.c. of this rule for a period consistent with the employer's own personnel documentation retention schedule. (7-1-17)

d. If an applicant is terminated by the employer, is rehired by the same employer, and the applicant background check was completed less than three (3) years from the time of the rehire, the provisions of Subsections 300.02.b. and 300.02.c. of this rule apply. ()

~~**e.** An employer not listed in Section 126 of these rules, may use an individual's Department clearance or enhanced clearance that was obtained within three (3) years from date of employment. (7-1-17)~~

ef. An individual with a current clearance that is within three (3) years from date of employment, who applies to a new agency or employer identified in Section 126 of these rules, must submit an application for a new criminal history and background check to obtain an enhanced clearance. (7-1-17)

03. Employer Discretion. Any agency or employer, at its discretion, may require an individual to complete a Department criminal history and background check at any time, even if the individual has received a criminal history and background check clearance within three (3) years. (7-1-17)

04. Department Discretion. The Department may, at its discretion or as provided in program rules, require a criminal history and background check of any individual covered under these rules at any time during the

individual's employment, internship, or while volunteering. Any individual required to complete a criminal history and background check under Sections 100 and 101 of these rules, must be fingerprinted within fourteen (14) days from the date of notification by the Department that a new criminal history and background check is required.

(3-26-08)

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY
19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY
DOCKET NO. 19-0101-1901 (FEE RULE)
NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 27, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-912(2)(3)(4)(10), Idaho Code.

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

PUBLIC HEARING

Friday September 20, 2019 – 1:00 p.m. (MDT)

**Idaho State Capitol
Room W433
700 W. Jefferson Street
Boise, ID 83702**

Contact the undersigned by September 18, 2019 to make arrangements for telephone participation.

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

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

Legislation enacted on July 1, 2019 authorized the practice of dental therapy under Title 54, Chapter 9, Idaho Code. The Board of Dentistry is mandated to promulgate rules for the licensure and regulation of dental therapists. The Board of Dentistry conducted two negotiated rulemaking meetings and considered broad comments/materials from affected parties prior to the adoption of this temporary rule.

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

This rule implements amendments to Title 54, Chapter 9, Idaho Code as it relates to licensure of dental therapists. This rule is necessary to protect the public health, safety and welfare of Idaho's citizens.

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

Sections 54-916, 54-916B, and 54-920, Idaho Code, impose fees for application and licensure of dental therapists. This rule sets the one-time application fee at \$200, and the biennial license fee at \$250.

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

This rulemaking has no fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, page 241](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Susan Miller (208) 334-2369.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 2nd day of August, 2019.

Susan Miller, Executive Director
Idaho State Board of Dentistry
350 N. 9th Street, Suite M100
P.O. Box 83720
Boise, ID 83720-0021
Phone: (208) 334-2369
Fax: (208) 334-3247
susan.miller@isbd.idaho.gov
www.isbd.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 05-0102-1401
(Only Those Sections With Amendments Are Shown.)**

001. TITLE AND SCOPE.

These rules are titled IDAPA 19.01.01, "Rules of the Idaho State Board of Dentistry." These rules constitute the minimum requirements for licensure and regulation of dentists, ~~and~~ dental hygienists, and dental therapists.
~~(6-30-19)T~~(7-27-19)T

(BREAK IN CONTINUITY OF SECTIONS)

011. APPLICATION AND LICENSE FEES.

Application fees are not refunded. A license shall not be issued or renewed unless fees have been paid. License fees ~~shall be~~ are prorated from date of initial licensure to the next successive license renewal date. The application fees and license fees ~~shall be~~ are as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	\$300	Active Status: \$375 Inactive Status: \$160
Dental Hygienist	\$150	Active Status: \$175 Inactive Status: \$85
<u>Dental Therapist</u>	<u>\$200</u>	<u>Active Status: \$250</u> <u>Inactive Status: \$125</u>
Sedation Permit	\$300	\$300

~~(6-30-19)T~~(7-27-19)T

012. EXAMINATIONS FOR LICENSURE.

01. ~~Dentist and Dental Specialist~~ **Written Examination.** ~~Evidence of passing~~ Successful completion of the NBDE may be required of all applicants for a license to practice dentistry or a dental specialty. Successful completion of the NBDHE may be required of all applicants for a license to practice dental hygiene. Dental therapists must successfully complete a board-approved written examination. Any other written examination will be specified by the Board. ~~(6-30-19)T~~(7-27-19)T

02. ~~Dentist~~ **Clinical Examination.** All applicants for a license to practice general dentistry ~~shall be,~~ dental hygiene or dental therapy are required to pass a Board-approved clinical examination upon such subjects as specified by the Board. Applicants for dental hygiene and dental therapy licensure must pass a clinical local anesthesia examination Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination. ~~(6-30-19)T~~(7-27-19)T

~~03. **Dental Hygienist Written Examination.** Evidence of passing the NBDHE may be required of all applicants applying for a license to practice dental hygiene. Any other written examination will be specified by the Board.~~ ~~(6-30-19)T~~

~~04. **Dental Hygienist Clinical Examination.** All applicants for a license to practice dental hygiene shall be required to pass a Board-approved clinical dental hygiene examination upon such subjects as specified by the Board. In addition, all applicants must pass a clinical local anesthesia examination. Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination.~~ ~~(6-30-19)T~~

013. REQUIREMENTS FOR LICENSURE.

Applicants for licensure to practice dentistry must furnish proof of graduation from a school of dentistry accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental hygiene must furnish proof of graduation from a dental hygiene program accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental therapy must furnish proof of graduation from a dental therapy program accredited by CODA at the time of applicant's graduation. ~~(6-30-19)T~~(7-27-19)T

014. REQUIREMENT FOR BLS.

Applicants for initial licensure ~~as a dentist, dental specialist, or dental hygienist shall~~ will provide proof of current BLS certification. ~~All practicing dentists, dental specialists, and dental hygienists~~ licensees must maintain current BLS certification. ~~(6-30-19)T~~(7-27-19)T

015. CONTINUING EDUCATION REQUIREMENTS.

A licensee renewing an active status license shall report to the Board completion of continuing education verifiable CE or volunteer practice which meets the following requirements: ~~(6-30-19)T~~(7-27-19)T

01. Number of Credits.

<u>License/Endorsement Type</u>	<u>Requirements</u>
<u>Dentist/Dental Specialist</u>	<u>30 credits, one of the credits must be related to opioid prescribing</u>
<u>Dental Hygienist</u>	<u>24 credits</u>
<u>Dental Hygienist with Extended Access License Endorsement</u>	<u>28 credits, four of the credits must be in the specific practice areas of medical emergencies, local anesthesia, oral pathology, care and treatment of geriatric, medically compromised or disabled patients and treatment of children.</u>
<u>Dental Therapist</u>	<u>30 credits</u>

~~(6-30-19)T~~(7-27-19)T

~~⌘ Dentists and dental specialists must complete thirty (30) credits of verifiable CE in each biennial~~

~~renewal period. One (1) of the credits must be related to using the PMP. (6-30-19)T~~

~~**b.** Dental hygienists must complete twenty-four (24) credits of verifiable continuing education in each biennial renewal period. (6-30-19)T~~

~~**c.** A dental hygienist holding an extended access dental hygiene license endorsement must complete an additional four (4) credits of verifiable continuing education in each biennial renewal period in the specific practice areas of medical emergencies, local anesthesia, oral pathology, care and treatment of geriatric, medically compromised or disabled patients and treatment of children. (6-30-19)T~~

02. Nature of Education. Continuing education must be oral health/health-related for the licensee's professional development. (6-30-19)T

03. Volunteer Practice. Licensees are allowed one (1) credit of continuing education for every two (2) hours of verified volunteer practice performed during the biennial renewal period up to a maximum of ten (10) credits. (6-30-19)T

04. Prorated Credits. Any person who is granted a license with active during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of continuing education credits as specified by the Board. (6-30-19)T

05. Documentation. In conjunction with license renewal, the licensee shall provide a list of continuing education credits obtained and verification of hours of volunteer practice performed and certify that the minimum requirements were completed in the biennial renewal period. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

031. INFECTION CONTROL.

In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the Centers for Disease Control and Prevention. Additionally, ~~dentists, dental hygienists~~ **licensees** and dental assistants must comply with the following requirements:

~~(6-30-19)T~~ **(7-27-19)T**

01. Gloves. Disposable gloves shall be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene shall be performed prior to gloving. (6-30-19)T

02. Masks and Eyewear. Masks and protective eyewear or chin-length shields shall be worn when spattering of blood or other body fluids is likely. (6-30-19)T

03. Instrument Sterilization. Between each patient use, instruments and other equipment that come in contact with body fluids shall be sterilized. (6-30-19)T

04. Sterilizing Devices Testing. Heat sterilizing devices shall be tested for proper function by means of a biological monitoring system that indicates micro-organisms kill. Devices shall be tested each calendar week in which scheduled patients are treated. Testing results shall be retained by the licensee for the current calendar year and the two (2) preceding calendar years. (6-30-19)T

05. Non-Critical Surfaces. Environmental surfaces that are contaminated by blood or saliva shall be disinfected with an EPA registered hospital disinfectant. (6-30-19)T

06. Clinical Contact Surfaces. Impervious backed paper, aluminum foil, or plastic wrap should be used to cover surfaces that may be contaminated by blood or saliva. The cover shall be replaced between patients. If barriers are not used, surfaces shall be cleaned and disinfected between patients by using an EPA registered hospital disinfectant. (6-30-19)T

07. Disposal. All contaminated wastes and sharps shall be disposed of according to any governmental requirements. (6-30-19)T

(BREAK IN CONTINUITY OF SECTIONS)

035. DENTAL THERAPISTS – PRACTICE.

Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, dental therapists are hereby authorized to perform activities specified by the supervising dentist in conformity with a written collaborative practice agreement at the supervision levels set forth in the agreement. The supervising dentist must practice in the same practice setting as the dental therapist. (7-27-19)T

036. DENTAL THERAPISTS – PROHIBITED PRACTICE.

01. Sedation. Administration of minimal, moderate or deep sedation or general anesthesia except as otherwise allowed by these rules; (7-27-19)T

02. Cutting Procedures. Cutting procedures involving the supportive structures of the tooth including both the soft and hard tissues. (7-27-19)T

03. Periodontal Therapy. Periodontal scaling and root planing, including the removal of subgingival calculus. (7-27-19)T

04. All Extractions with Exception. All extractions except: (7-27-19)T

a. Under direct supervision. (7-27-19)T

i. Non-surgical extractions. (7-27-19)T

b. Under general supervision or as specified in IDAPA 19.01.01.035. (7-27-19)T

i. Removal of periodontally diseased teeth with class III mobility. (7-27-19)T

ii. Removal of coronal remnants of deciduous teeth. (7-27-19)T

0357. DENTAL ASSISTANTS – PRACTICE.

01. Direct Supervision. A dental assistant may perform specified duties under direct supervision as follows: (6-30-19)T

a. Recording the oral cavity (existing restorations, missing and decayed teeth); (6-30-19)T

b. Placement of topical anesthetic agents (prior to administration of a local anesthetic by a dentist or dental hygienist); (6-30-19)T

c. Removal of excess bonding material from temporary and permanent restorations and orthodontic appliances (using hand instruments or contra-angle handpieces with disks or polishing wheels only); (6-30-19)T

d. Expose and process radiographs; (6-30-19)T

e. Make impressions for preparation of diagnostic models, bleach trays, fabrication of night guards, temporary appliances, temporary crowns or bridges; (6-30-19)T

f. Record diagnostic bite registration; (6-30-19)T

g. Record bite registration for fabrication of restorations; (6-30-19)T

- h.** Provide patient education and instruction in oral hygiene and preventive services; (6-30-19)T
- i.** Placement of cotton pellets and temporary restorative materials into endodontic access openings; (6-30-19)T
- j.** Placement and removal of arch wire; (6-30-19)T
- k.** Placement and removal of orthodontic separators; (6-30-19)T
- l.** Placement and removal of ligature ties; (6-30-19)T
- m.** Cutting arch wires; (6-30-19)T
- n.** Removal of loose orthodontic brackets and bands to provide palliative treatment; (6-30-19)T
- o.** Adjust arch wires; (6-30-19)T
- p.** Etching of teeth prior to placement of restorative materials; (6-30-19)T
- q.** Etching of enamel prior to placement of orthodontic brackets or appliances by a Dentist; (6-30-19)T
- r.** Placement and removal of dental dam; (6-30-19)T
- s.** Placement and removal of matrices; (6-30-19)T
- t.** Placement and removal of periodontal pack; (6-30-19)T
- u.** Removal of sutures; (6-30-19)T
- v.** Application of cavity liners and bases; (6-30-19)T
- w.** Placement and removal of gingival retraction cord; and (6-30-19)T
- x.** Application of topical fluoride agents. (6-30-19)T
- 02. Prohibited Duties.** A dental assistant is prohibited from performing the following duties: (6-30-19)T
 - a.** Definitive diagnosis and treatment planning. (6-30-19)T
 - b.** The intraoral placement or carving of permanent restorative materials. (6-30-19)T
 - c.** Any irreversible procedure using lasers. (6-30-19)T
 - d.** The administration of any sedation or local injectable anesthetic. (6-30-19)T
 - e.** Any oral prophylaxis (removal of stains and plaque biofilm and if present, supragingival and/or subgingival calculus). (6-30-19)T
 - f.** Use of an air polisher. (6-30-19)T
 - g.** Any intra-oral procedure using a high-speed handpiece, except to the extent authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity. (6-30-19)T
 - h.** Any dental hygiene prohibited duty. (6-30-19)T

i. The following expanded functions, unless authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity and performed under direct supervision:

(6-30-19)T

- i. Fabrication and placement of temporary crowns; (6-30-19)T
- ii. Perform the mechanical polishing of restorations; (6-30-19)T
- iii. Initiating, regulating and monitoring the administration of nitrous oxide/oxygen to a patient; (6-30-19)T
- iv. Application of pit and fissure sealants; (6-30-19)T
- v. Coronal polishing (removal of plaque biofilm and stains from the teeth using an abrasive agent with a rubber cup or brush). (6-30-19)T
- vi. Use of a high-speed handpiece only for the removal of orthodontic cement or resin. (6-30-19)T

03. Expanded Functions Qualifications. A dental assistant may be considered Board qualified in expanded functions, authorizing the assistant to perform any or all of the expanded functions described in Subsection 035.02.h. upon satisfactory completion of the following requirements: (6-30-19)T

a. Completion of Board-approved training in each of the expanded functions with verification of completion of the training to be provided to the Board upon request by means of a Certificate of Registration or other certificate evidencing completion of approved training. The required training shall include adequate training in the fundamentals of dental assisting, which may be evidenced by: (6-30-19)T

- i. Current certification by the Dental Assisting National Board; or (6-30-19)T
- ii. Successful completion of Board-approved curriculum in the fundamentals of dental assisting; or (6-30-19)T
- iii. Successfully challenging the fundamentals course. (6-30-19)T

b. Successful completion of a Board-approved competency examination in each of the expanded functions. There are no challenges for expanded functions. (6-30-19)T

04. Curriculum Approval. Any school, college, institution, university or other teaching entity may apply to the Board to obtain approval of its course curriculum. Before approving such curriculum, the Board may require satisfactory evidence of the content of the instruction, hours of instruction, content of examinations or faculty credentials. (6-30-19)T

05. Other Credentials. Assistants, who have completed courses or study programs in expanded functions that have not been previously approved by the Board, may submit evidence of the extent and nature of the training completed, and, if in the opinion of the Board the same is at least equivalent to other Board-approved curriculum, and demonstrates the applicant's fitness and ability to perform the expanded functions, the Board may consider the assistant qualified to perform any expanded function(s). (6-30-19)T

0368. – 040. (RESERVED)

041. LOCAL ANESTHESIA.

~~Persons licensed to practice dentistry and dental hygiene in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer local anesthesia to patients.~~ Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. (6-30-19)T (7-27-19)T

042. NITROUS OXIDE/OXYGEN.

Persons licensed to practice ~~dentistry and dental hygiene~~ and dental assistants certified in accordance with these rules ~~are not required to obtain a permit to~~ **may** administer nitrous oxide/oxygen to patients. Nitrous oxide/oxygen when used in combination with other sedative agents may produce an alteration of the state of consciousness in a patient to the level of moderate sedation, general anesthesia, or deep sedation. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of moderate sedation, general anesthesia, or deep sedation. ~~(6-30-19)T~~~~(7-27-19)T~~

01. Patient Safety. In connection with the administration of nitrous oxide/oxygen, a dentist shall: (6-30-19)T

a. Evaluate the patient to insure that the patient is an appropriate candidate for nitrous/oxygen; and (6-30-19)T

b. Insure that any patient under nitrous/oxygen ~~shall~~ be continually monitored; and ~~(6-30-19)T~~~~(7-27-19)T~~

c. Insure that a second person ~~shall~~ be ~~on in~~ the ~~office premises practice setting~~ who can immediately respond to any request from the person administering the nitrous/oxygen. ~~(6-30-19)T~~~~(7-27-19)T~~

02. Required Facilities and Equipment. Dental offices in which nitrous oxide/oxygen is administered to patients shall, at a minimum and in addition to emergency medications, maintain appropriate facilities and have equipment on site for immediate use as follows: (6-30-19)T

a. A nitrous oxide delivery system with a fail-safe system that is maintained in working order: (6-30-19)T

i. A functioning device that prohibits the delivery of less than thirty percent (30%) oxygen; or (6-30-19)T

ii. An appropriately calibrated and functioning in-line oxygen analyzer with audible alarm; and (6-30-19)T

b. An appropriate scavenging system must be available; and (6-30-19)T

c. A positive-pressure oxygen delivery system suitable for the patient being treated. (6-30-19)T

03. Personnel. For nitrous oxide/oxygen administration, personnel shall include: (6-30-19)T

a. An operator; and (6-30-19)T

b. An assistant currently certified in BLS. (6-30-19)T

c. Auxiliary personnel must have documented training in BLS, ~~shall~~ have specific assignments, and ~~shall~~ have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in periodic reviews of office emergency protocol. ~~(6-30-19)T~~~~(7-27-19)T~~

(BREAK IN CONTINUITY OF SECTIONS)

056. UNPROFESSIONAL CONDUCT.

A licensee shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of the following: (6-30-19)T

- 01. Fraud.** Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. (6-30-19)T
- 02. Unlicensed Practice.** Employing directly or indirectly any suspended or unlicensed ~~dentist or dental hygienist to practice dentistry or dental hygiene~~ **individual** as defined in Title 54, Chapter 9, Idaho Code. ~~(6-30-19)T~~ **(7-27-19)T**
- 03. Unlawful Practice.** Aiding or abetting licensed persons to practice ~~dental hygiene or dentistry~~ unlawfully. ~~(6-30-19)T~~ **(7-27-19)T**
- 04. Dividing Fees.** A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: (6-30-19)T
- a.** The patient consents to employment of the other party after a full disclosure that a division of fees will be made; (6-30-19)T
- b.** The division is made in proportion to the services performed and responsibility assumed by each dentist or party. (6-30-19)T
- 05. Prescription Drugs.** Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing prescription drugs. (6-30-19)T
- 06. Harassment.** The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. (6-30-19)T
- 07. Discipline in Other States.** Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. (6-30-19)T
- 08. Altering Records.** Alter a patient's record with intent to deceive. (6-30-19)T
- 09. Office Conditions.** Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and current recommendations of the American Dental Association and the Centers for Disease Control as referred to in Section 004. (6-30-19)T
- 10. Abandonment of Patients.** Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. (6-30-19)T
- 11. Use of Intoxicants.** Practicing ~~dentistry or dental hygiene~~ while under the influence of an intoxicant or controlled substance where the same impairs the licensee's ability to practice with reasonable and ordinary care. ~~(6-30-19)T~~ **(7-27-19)T**
- 12. Mental or Physical **Illness Condition.**** ~~Continued practice of dentistry or dental hygiene in the case of inability of the licensee to practice with reasonable and ordinary care by reason of one (1) or more of the following: The inability to practice with reasonable skill and safety to patients by reason of age, illness, or as a result of any mental or physical condition.~~ ~~(6-30-19)T~~ **(7-27-19)T**
- a.** ~~Mental illness;~~ ~~(6-30-19)T~~
- b.** ~~Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill.~~ ~~(6-30-19)T~~

13. **Consent.** Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law. (6-30-19)T
14. **Scope of Practice.** Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform. (6-30-19)T
15. **Delegating Duties.** Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them. (6-30-19)T
16. **Unauthorized Treatment.** Performing professional services that have not been authorized by the patient or his legal representative. (6-30-19)T
17. **Supervision.** Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. (6-30-19)T
18. **Legal Compliance.** Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry or dental hygiene. (6-30-19)T
19. **Exploiting Patients.** Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. (6-30-19)T
20. **Misrepresentation.** Willful misrepresentation of the benefits or effectiveness of dental services. (6-30-19)T
21. **Disclosure.** Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, the provider rendering treatment, and disclosure of reasonably anticipated fees relative to the treatment proposed. ~~(6-30-19)T~~(7-27-19)T
22. **Sexual Misconduct.** Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. (6-30-19)T
23. **Patient Management.** Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. (6-30-19)T
24. **Compliance with Dentist Professional Standards.** Failure by a dentist to comply with professional standards applicable to the practice of dentistry, as incorporated by reference in this chapter. (6-30-19)T
25. **Compliance with Dental Hygienist Professional Standards.** Failure by a dental hygienist to comply with professional standards applicable to the practice of dental hygiene, as incorporated by reference in this chapter. (6-30-19)T
26. **Failure to Provide Records to a Patient or Patient's Legal Guardian.** Refusal or failure to provide a patient or patient's legal guardian legible copies of dental records. Failure to provide a patient or patient's legal guardian with records under Subsection 040.26 within five (5) business days shall be considered unprofessional conduct. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. (6-30-19)T
27. **Failure to Cooperate with Authorities.** Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. (6-30-19)T

28. Advertising. Advertise in a way that is false, deceptive, misleading or not readily subject to verification. (6-30-19)T

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.02 – RULES GOVERNING MINED LAND RECLAMATION

DOCKET NO. 20-0302-1902 (FEE RULE)

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 16, 2019.

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 47-1505(3), 47-1518(f), and 58-104(6), Idaho Code.

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

House Bill 141 required a temporary rule to be in place by August 1, 2019. The surface effects of underground mines now fall under the jurisdiction of the rules if certain thresholds are reached. This will prevent new or expanded underground mines from becoming public hazards if they are abandoned, and require reclamation of the surface disturbance. In addition, the rule requires new or amended reclamation plans to describe the post-closure activities. To help ensure that a mine operator will bear the costs of reclamation and post-closure, the rules require an operator to provide financial assurance to complete all of the reclamation and post-closure tasks described in a plan. New methods of providing financial assurance, and some updates to existing methods, are also provided so operators have more options. The rules require updates to be filed on every mine operation at least every five years, and for the department to inspect every plan at least every five years.

Without these changes, Idaho’s surface and ground waters are at risk due to a lack of adequate proactive measures for the mining industry to follow. In addition, the taxpayers of Idaho are at risk of having to pay for the reclamation of mined lands when an operator defaults on their responsibility and the financial assurance is inadequate.

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

House Bill 141 required a temporary rule to be in place by August 1, 2019. The temporary rule implements several important changes for mining regulations in Idaho that will provide greater protections for public health and safety and Idaho’s water resources.

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 of a General Fund cost burden associated with increased administration under updated Title 47, Chapter 15, Idaho Code, “Mined Land Reclamation.” Imposed fees will ensure mine operators bear the administrative costs associated with new and amended mining reclamation plans and the fee is described herein:

New or amended reclamation plans will pay the following fees based on the type of mining and the size:

Type of Plan	Fee
Section 069 - Reclamation Plan 0 to 5 acres	\$500
Section 069 - Reclamation Plan >5 to 40 acres	\$600
Section 069 - Reclamation Plan over 40 acres	\$750
Section 070 - Reclamation Plan 0 to 100 acres	\$1,000
Section 070 - Reclamation Plan >100 to 1,000 acres	\$1,500
Section 070 - Reclamation Plan >1,000 acres	\$2,000

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Eric Wilson at (208) 334-0261 or ewilson@idl.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency website at the following web address: www.idl.idaho.gov/rulemaking.

Dated this 16th day of July, 2019.

Eric Wilson
Resource Protection and Assistance Bureau Chief
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0261
Fax: (208) 334-3698
ewilson@idl.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 20-0302-1902
(Only Those Sections With Amendments Are Shown.)

20.03.02 – RULES GOVERNING ~~EXPLORATION, SURFACE MINING,~~
~~AND CLOSURE OF CYANIDATION FACILITIES~~ MINED LAND RECLAMATION

000. LEGAL AUTHORITY.

Title 47, Chapter 15 (“chapter”), Idaho Code, authorizes the ~~Idaho State~~ Board ~~of Land Commissioners (“Board”)~~ to promulgate rules pertaining to mineral exploration; ~~surface~~ mining operations; reclamation of lands affected by exploration and ~~surface~~ mining operations, including review and approval of reclamation and permanent closure plans; requirements for ~~performance bonds~~ financial assurance for reclamation and permanent closure, and to establish a reasonable fee for reviewing and approving reclamation plans and permanent closure plans ~~for cyanidation facilities~~, including the reasonable cost to employ a qualified independent party, acceptable to the applicant and the Board, to review reclamation plans and permanent closure plans and to verify the accuracy of cost estimates ~~to complete permanent closure~~. The Board has delegated to the director of the Department ~~of Lands (“Department”)~~ the duties and powers under the chapter and these rules, ~~provided~~ however the Board retains responsibility for administrative review. ~~(3-30-06)~~(7-16-19)T

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.02, “Rules Governing ~~Exploration, Surface Mining, and Closure of Cyanidation Facilities~~ Mined Land Reclamation,” IDAPA 20, Title 03, Chapter 02. ~~(3-30-06)~~(7-16-19)T

02. Purpose. These rules are intended to provide for the protection of public health, safety, and welfare, by ensuring that all the lands within the state disturbed by exploration and ~~surface~~ mining operations are properly reclaimed and ensuring the proper permanent closure of cyanidation facilities and thereby conserve natural resources; aid in the protection of wildlife, domestic animals, and aquatic resources; and reduce soil erosion. It is also the purpose of these rules to implement the State of Idaho’s antidegradation policy as set forth in Executive Order No. 88-23 as it pertains to exploration and ~~surface~~ mining operations and cyanidation facilities operating in the state. These rules are not intended to require reclamation or permanent closure activities in addition to those required by the chapter. ~~(3-30-06)~~(7-16-19)T

03. Scope. These rules establish ~~the notification requirements for exploration and the application, operation, and reclamation requirements for mined lands. In addition, they establish the application and closure requirements for cyanidation facilities. These rules also establish the reclamation and financial assurance requirements for all these activities, and describe the processes used to administer the rules in an orderly and~~

predictable manner.

~~(3-30-06)~~(7-16-19)T

- ~~a.~~ Requirements for exploration; (3-30-06)
- ~~b.~~ Procedures for approval of a surface mining reclamation plan, including an operating plan, when required by Section 47-1506(b), Idaho Code; (7-1-98)
- ~~c.~~ Procedures for approval of a permanent closure plan for cyanidation facilities; (3-30-06)
- ~~d.~~ Requirements for performance bonds for postmining reclamation to be posted prior to beginning surface mining operations; (11-1-89)
- ~~e.~~ Requirements for performance bonds for permanent closure of cyanidation facilities to be posted prior to beginning the construction and operation of a cyanide ore processing facility; (3-30-06)
- ~~f.~~ Reclamation requirements lands disturbed by exploration and surface mining operations; (3-30-06)
- ~~g.~~ Permanent closure requirements for cyanidation facilities; and (3-30-06)
- ~~h.~~ Procedures for ensuring compliance with the chapter and these rules. (3-30-06)

04. Other Laws. Operators engaged in exploration, surface mining operation, and operation of a cyanidation facility shall comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: ~~(3-30-06)~~(7-16-19)T

a. Idaho water quality standards ~~and waste water treatment requirements~~ established in Title 39, Chapter 1, Idaho Code; IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements~~"; and IDAPA 58.01.11, "Ground Water Quality Rule," administered by the ~~Idaho Department of Environmental Quality~~ ("DEQ"). ~~(3-30-06)~~(7-16-19)T

b. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including, IDAPA 58.01.05, "Rules and Standards for Hazardous Waste" and IDAPA 58.01.06, "Solid Waste Management Rules," administered by the DEQ. (3-30-06)

c. Section 39-118A, Idaho Code, and applicable rules for ore processing by cyanidation as promulgated and administered by the DEQ as defined in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." (3-30-06)

d. Section 39-175, Idaho Code, and applicable rules for the discharge of pollutants to waters of the United States as promulgated and administered by DEQ in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." (7-16-19)T

e. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (11-1-89)

f. Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules promulgated and administered by the Idaho Department of Water Resources. (3-30-06)

05. Applicability. These rules are to be read and applied in conjunction with the chapter. These rules apply to all exploration, surface mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership, ~~with the following exceptions:~~ ~~(3-30-06)~~(7-16-19)T

a. These rules apply to surface mining operations or exploration operations conducted on all lands within the state, regardless of ownership, commenced after the effective date of these rules. These rules ~~shall~~ in no way affect, alter, or modify the terms or conditions of any approved reclamation plan or approved amendment thereto or ~~a performance bond~~ financial assurance for reclamation obtained prior to January 1, 1997. If a material change

arises and is regulated in accordance with Subsection 090.01, then the operator shall submit a supplemental reclamation plan. ~~(3-30-06)~~(7-16-19)T

b. These rules ~~shall~~ do not apply to: ~~(3-30-06)~~(7-16-19)T

i. Any surface mining operations performed prior to May 31, 1972, ~~and further, a~~ an operator ~~shall~~ will not be required to perform ~~such~~ reclamation activities ~~as to~~ on any pit or overburden pile as it existed prior to May 31, 1972. ~~(3-30-06)~~(7-16-19)T

ii. Mining operations for which the Idaho Dredge and Placer Mining Protection Act requires a permit, or which are otherwise regulated by that act, ~~nor to surface disturbances resulting from underground mining.~~ ~~(3-30-06)~~(7-16-19)T

iii. Extraction of minerals from within the right-of-way of a public highway by a public or governmental agency for maintenance, repair or construction of a public highway, provided the affected land is an integral part of such highway. (3-30-06)

iv. Underground mines that existed prior to July 1, 2019, and have not expanded their surface disturbance by 50% or more after that date. (7-16-19)T

c. Sand and gravel mining operations in state-owned beds of navigable lakes, rivers or streams shall constitute an approved ~~surface~~ mining plan for the purpose of these rules if they are covered by a valid lease granted by the Board in accordance with Title 47, Chapter 7, Idaho Code and IDAPA 20.03.05, "Rules Governing Riverbed Mineral Leasing," and a valid mineral lease bond; have a valid stream channel alteration permit issued by the Idaho Department of Water Resources; and have a plan of operation for the mineral lease approved by the Department. ~~(3-30-06)~~(7-16-19)T

d. Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, which: (3-30-06)

i. Disturb more than two (2) acres ~~shall~~ will comply with the provisions of Section 069; or ~~(3-30-06)~~(7-16-19)T

ii. Disturb less than two (2) acres ~~are only required to~~ will comply with Subsections 060.06.a. through 060.06.c. ~~(3-30-06)~~(7-16-19)T

e. A cyanidation facility with a permit approved by the DEQ prior to July 1, 2005, shall be subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005; however, if there is a material modification or material expansion to a cyanidation facility after July 1, 2005, these rules shall apply to the modification or expansion. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

If an operator fails to comply with the provisions of the chapter or these rules, the director may notify the operator of such noncompliance and endeavor to remedy any alleged violation in accordance with Section 47-1513, Idaho Code. If the director determines that administrative action is necessary to correct any alleged violations, up to and including forfeiture of a reclamation or permanent closure ~~bond~~ financial assurance, he shall follow the procedures established in Section 47-1513, Idaho Code. ~~(3-30-06)~~(7-16-19)T

(BREAK IN CONTINUITY OF SECTIONS)

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

The principal place of business of the 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., Monday through Friday, except legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone of the office is (208) 334-0200 and the fax number is (208) 334-3698. The Department's web address is located at www.idl.idaho.gov. ~~(4-11-19)~~(7-16-19)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

In addition to the definitions set forth in the chapter, the following definitions apply to these rules: (7-16-19)T

~~01. **Affected Land.** The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at the surface mining operation site. (11-1-89)~~

021. Approximate Previous Contour. A contour that is reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. (11-1-89)

~~032. **Best Management Practices.** Practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (4-11-19)(7-16-19)T~~

~~04. **Board.** The State Board of Land Commissioners or any Department, commission, or agency that may lawfully succeed to the powers and duties of such Board. (11-1-89)~~

~~053. **Chapter.** The Idaho Surface Mining Mined Land Reclamation Act, Title 47, Chapter 15, Idaho Code. (3-30-06)(7-16-19)T~~

~~06. **Cyanidation.** The method of extracting target precious metals from ores by treatment with cyanide solution, which is the primary leaching agent for extraction. (3-30-06)~~

~~07. **Cyanidation Facility.** That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide-containing materials including spent ore, tailings, and process water. (3-30-06)~~

~~084. **Department.** The Idaho Department of Lands. Its business address is 300 North 6th Street, Suite 103, Boise, Idaho 83720. (7-1-98)(7-16-19)T~~

~~09. **DEQ.** The Department of Environmental Quality. (11-1-89)~~

~~10. **Director.** The head of the Department of Lands or such officer as may lawfully succeed to the powers and duties of said director. It shall also mean such representative as may be designated by the director. (11-1-89)~~

~~105. **Discharge.** With regard to cyanidation facilities, when used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (3-30-06)~~

~~12. **Exploration Drill Holes.** Holes drilled from the surface to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)~~

~~13. **Exploration Operations.** Activities performed on the surface of lands to locate mineral bodies and to determine the mineability and merchantability thereof. These activities include, but are not limited to, construction of roads, trenches, and exploration drill holes. (11-1-89)~~

~~14. **Exploration Roads.** Roads constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)~~

~~15. **Exploration Trenches.** Trenches constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)~~

~~16. **Final Order of the Board.** A written notice of rejection, the order of a hearing officer at the conclusion of a hearing, or any other order of the Board where additional administrative remedies are not available. (11-1-89)~~

~~1706. **Groundwater.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-06)~~

~~18. **Hearing Officer.** That person selected by the Board to hear proceedings under Section 47-1513, Idaho Code. It also means that person selected by the director to hear proceedings initiated under Section 110 or Section 160 of these rules. (11-1-89)~~

~~1907. **Land Application.** With regard to cyanidation facilities, a process or activity involving application of process water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (3-30-06)(7-16-19)T~~

~~208. **Material Change.** (3-30-06)~~

~~a. For surface mining, a change which deviates from the approved reclamation plan or permanent closure plan and causes one (1) of the following to occur: (3-30-06)(7-16-19)T~~

~~i. Results in a substantial adverse effect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings facilities, cyanidation facilities or pit walls; (7-1-98)(7-16-19)T~~

~~ii. Substantially modifies surface water management or a water management plan, not to include routine implementation and maintenance of BMPs; (3-30-06)(7-16-19)T~~

~~iii. Exceeds the permitted acreage; or (7-1-98)~~

~~iv. Increases overall estimated reclamation costs by more than fifteen percent (15%). (7-1-98)~~

~~b. For cyanidation facilities, a change which causes one (1) of the following to occur: (3-30-06)~~

~~i. A substantial adverse effect to the geotechnical stability of the cyanidation facilities; (3-30-06)~~

~~ii. The need for a substantial change in the water management plan. (3-30-06)~~

~~iii. Increases in overall estimated permanent closure costs by more than fifteen percent (15%). (3-30-06)~~

~~b. For underground mines with an approved reclamation plan, a new opening to an underground mine is also a material change. (7-16-19)T~~

~~2109. **Material Modification or Material Expansion.** With regard to cyanidation facilities: (3-30-06)~~

~~a. The addition of a new beneficiation process, or a significant change in the capacity of an existing beneficiation process, which was not identified in the original application and that significantly increases the potential to degrade the waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or (3-30-06)~~

~~b. A significant change in the location of a proposed process component or site condition which was~~

not adequately described in the original application; or (3-30-06)

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (3-30-06)

d. For a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities shall not be considered to be material modifications or material expansions of the cyanidation facility. (3-30-06)

~~22~~**10. Material Stabilization.** Managing or treating spent ore, tailings, other solids and/or sludges resulting from the cyanidation process in such a manner to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility ensuring that all discharges comply with all applicable standards and criteria. (3-30-06)

~~23. Mine Panel.~~ That area designated by the operator as a panel of a surface mine on the map submitted pursuant to Section 47-1506, Idaho Code. (11-1-89)

~~24. Mined Area.~~ Surface of land from which overburden or minerals have been removed other than by drilling of exploration drill holes. (11-1-89)

~~25. Mineral.~~ Coal, clay, stone, sand, gravel, metalliferous and non-metalliferous types of ores, and any other similar, solid material or substance of commercial value to be excavated from natural deposits on or in the earth. (11-1-89)

~~26. Mineral Stockpile.~~ Mineral extracted during surface mining operations and retained at the surface mine for future rather than immediate use. (11-1-89)

~~27~~**11. Motorized Earth-Moving Equipment.** Backhoes, bulldozers, front-loaders, trenchers, core drills, and other similar equipment. (11-1-89)

~~28~~**12. Neutralization.** Treatment of process waters such that discharge or final disposal of those waters does not, ~~or shall not~~ violate all the applicable standards and criteria surface or ground water quality standards or permits issued by DEQ. (3-30-06)(7-16-19)T

~~29. Operator.~~ Any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including but not limited to every public or governmental agency engaged in surface mining or exploration operations, or engaged in the operation and/or permanent closure of a cyanidation facility, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every governmental agency owning or controlling the use of any surface mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any such governmental agency with respect to those surface mining or exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of the chapter. (3-30-06)

~~30. Overburden.~~ Material extracted by an operator which is not a part of the material ultimately removed from a surface mine and marketed by an operator, exclusive of mineral stockpiles. (11-1-89)

~~31. Overburden Disposal Area.~~ Land surface upon which overburden is piled or planned to be piled. (11-1-89)

~~32. Peak.~~ A projecting point of overburden. (11-1-89)

~~31~~**3. Permanent Closure.** Those activities which result in neutralization, material stabilization, and decontamination of cyanidation facilities ~~and~~ or the facilities' final reclamation. (3-30-06)(7-16-19)T

~~34. Permanent Closure Plan.~~ A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of the chapter in treating and disposing of cyanide-containing materials

~~including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site specific conditions.~~ (3-30-06)

~~3514.~~ **Permit.** When used without qualification, any written authorization, license, or equivalent control document issued by the Department of Environmental Quality, DEQ. This includes authorizations issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," ~~governing the location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility~~ and those issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.25. (3-30-06)(7-16-19)T

~~3615.~~ **Pilot Facility.** (3-30-06)

a. A testing cyanidation facility that is constructed primarily to obtain data on the effectiveness of the beneficiation process to determine: (3-30-06)

i. The feasibility of metals recovery from an ore; or (3-30-06)

ii. The optimum operating conditions for a predetermined process to extract values from an ore. (3-30-06)

b. A pilot or testing cyanidation facility operated for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (3-30-06)

~~37. Pit. An excavation created by the extraction of minerals or overburden during surface mining operations.~~ (11-1-89)

~~3816.~~ **Pollutant.** Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials which, when discharged, cause or contribute ~~adverse effects to any beneficial use~~ to water pollution, or ~~for any other reason,~~ may otherwise impact the surface or ground waters of the state. (3-30-06)(7-16-19)T

~~39. Post-Closure. The period after completion of permanent closure when the operator is monitoring the effectiveness of the permanent closure activities. Post-closure shall last a minimum of twelve (12) months, but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and the requirements of the chapter.~~ (3-30-06)

~~4017.~~ **Process Waters.** Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (3-30-06)

18. Real Property. Land and appurtenances as defined in Section 55-101, Idaho Code. (7-16-19)T

~~419.~~ **Reclamation.** The process of restoring an area affected by a surface mining operation or cyanidation facility to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (11-1-89)(7-16-19)T

~~420.~~ **Revegetation.** The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by surface mining operations. (11-1-89)(7-16-19)T

~~43. Ridge. A lengthened elevation of overburden.~~ (11-1-89)

~~44. Road. A way constructed on a surface mine for the passage of vehicles, including the bed, slopes and shoulders thereof.~~ (11-1-89)

~~45~~**21. Small Cyanidation Processing Facility.** A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or operator may concurrently hold more than one (1) small cyanidation processing facility permit, if located within ten (10) miles of each other. (3-30-06)

~~46. Surface Mine.~~ *An area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits thereof and mining directly from the natural deposits thereby exposed.* (11-1-89)

~~47. Surface Mining Operations.~~ *The activities performed on a surface mine in the extraction of minerals from the ground, including the excavation of pits, removal of minerals, disposal of overburden, and the construction of haulage roads, exclusive of exploration operations, except that any exploration operations which, exclusive of exploration roads, 1) result during a period of twelve (12) consecutive months in more than five (5) contiguous acres of newly affected land, or 2) which, exclusive of exploration roads, results during a period of twelve (12) consecutive months in newly affected lands consisting of more than ten (10) noncontiguous acres, if such affected land constitutes more than fifteen percent (15%) of the total area of any circular tract which includes such affected land, shall be deemed to be a surface mining operation for the purposes of the act.* (11-1-89)

~~48~~**22. Surface Waters.** The surface waters of the state of Idaho. (11-1-89)

~~49. Tailings Pond.~~ *An area on a surface mine enclosed by a man-made or natural dam onto which has been discharged the waste material resulting from the primary concentration of minerals in ore excavated from a surface mine.* (11-1-89)

~~50~~**23. Treatment.** *With regard to cyanidation facilities, a*ny method, technique or process, ~~including neutralization,~~ designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (3-30-06)(7-16-19)T

~~51~~**24. Water Balance.** An inventory and accounting process capable of being reconciled that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (3-30-06)

~~52~~**5. Water Management Plan.** A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state, unless permitted or otherwise approved by the DEQ. (3-30-06)

~~53~~**26. Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (3-30-06)

~~54~~**27. Weak Acid Dissociable Cyanide.** The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036, the American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500 CN⁻ I, or other methods accepted by the scientific community and deemed appropriate by the DEQ. (4-11-19)

(BREAK IN CONTINUITY OF SECTIONS)

050. ADMINISTRATION.

The Department ~~shall~~ will administer these rules under the direction of the director. (3-30-06)(7-16-19)T

051. -- 059. (RESERVED)

060. EXPLORATION OPERATIONS AND REQUIRED RECLAMATION.

01. Diligence. All reclamation activities required to be conducted on exploration sites shall be performed in a good, workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, or trench, within one (1) year after abandonment thereof. (11-1-89)

02. When Exploration Is Surface Mining. Exploration operations may under some circumstances constitute surface mining operations ~~(see Subsection 010.46)~~ as described in Section 47-1503(7), Idaho Code. ~~(3-30-06)~~(7-16-19)T

03. Notification. Any operator desiring to conduct exploration using motorized earth-moving equipment to locate minerals for immediate or ultimate sale shall notify the Department within seven (7) days after beginning exploration operations. (4-11-19)

04. Contents of Notification. The notification shall include: (3-30-06)

a. The name and address of the operator; (11-1-89)

b. The legal description of the exploration and its starting and estimated completion date; and (3-30-06)

c. The anticipated size of the exploration and the general method of operation. (3-30-06)

05. Confidentiality. Any such notification shall be treated as confidential in accord with Section 180. (3-30-06)

06. Exploration Reclamation (Less Than Two Acres). Every operator who conducts exploration affecting less than two (2) acres shall: (3-30-06)

a. Wherever possible, contour the affected lands to their approximate previous contour; and (11-1-89)

b. Conduct revegetation activities in accordance with Subsection 140.11. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. (3-30-06)

c. Abandoned exploration drill holes shall be plugged, or otherwise left so as to eliminate hazards to humans and animals. Pits or trenches on mining claims showing discovery may be left open pending verification by federal mining examiners but shall not create a hazard to humans or animals. Such abandoned pits and trenches shall be reclaimed within one (1) year of verification. (3-30-06)

d. If water runoff from exploration causes siltation of surface waters in amounts more than normally results from runoff, the operator shall reclaim affected lands and adjoining lands under his control as is necessary to ~~re-establish runoff conditions that existed prior to starting exploration, or as is necessary to~~ meet state water quality standards, ~~whichever is the lesser standard. It shall be presumed that state water quality standards will be the applicable standard unless baseline data is provided to rebut the presumption.~~ (3-30-06)(7-16-19)T

07. Exploration Reclamation (More Than Two Acres). Reclamation of lands where exploration has affected more than two (2) acres shall be completed as set forth in Subsection 060.06 and the following additional requirements: (3-30-06)

a. Abandoned exploration roads shall be cross-ditched as necessary to minimize erosion. The director may request in writing, or may be petitioned in writing, that a given road or road segment be left for a specific purpose and not be cross-ditched or revegetated. If the director approves the petition, the operator cannot thereafter be required to conduct reclamation activities with respect to that given road or road segment. (3-30-06)

- b. Ridges of overburden shall be leveled so as to have a minimum width of ten (10) feet at the top. (11-1-89)
 - c. Peaks of overburden shall be leveled so as to have a minimum width of fifteen (15) feet at the top. (11-1-89)
 - d. Overburden piles shall be reasonably prepared to control erosion. (11-1-89)
 - e. Abandoned lands affected by exploration shall be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant thereon. (3-30-06)
 - f. Any water containment structure created in connection with exploration, shall be reasonably prepared so as not to constitute a hazard to humans or animals. (3-30-06)
- 08. Additional Reclamation.** The operator and the director may agree, in writing, to complete additional reclamation beyond the requirements established in the chapter and these rules. (3-30-06)

061. -- 0687. (RESERVED)

068. APPLICATION FEES

The following fee schedule will be used for all reclamation plan and cyanide closure plans and amendments to those plans. The applicable acreage is based on the permitted area identified in the application:

<u>Type of Plan</u>	<u>Fee (Dollars)</u>
<u>Section 069 of these rules, Reclamation Plan 0 to 5 acres</u>	<u>Five hundred (\$500)</u>
<u>Section 069 of these rules, Reclamation Plan >5 to 40 acres</u>	<u>Six hundred (\$600)</u>
<u>Section 069 of these rules, Reclamation Plan over 40 acres</u>	<u>Seven hundred fifty (\$750)</u>
<u>Section 070 of these rules, Reclamation Plan 0 to 100 acres</u>	<u>One thousand (\$1,000)</u>
<u>Section 070 of these rules, Reclamation Plan >100 to 1,000 acres</u>	<u>One thousand five hundred (\$1,500)</u>
<u>Section 070 of these rules, Reclamation Plan >1,000 acres</u>	<u>Two thousand (\$2,000)</u>
<u>Section 071 of these rules, Permanent Closure Plan</u>	<u>Five thousand (\$5,000)</u>

(7-16-19)T

069. APPLICATION PROCEDURE AND REQUIREMENTS FOR QUARRIES, DECORATIVE STONE, BUILDING STONE, AND AGGREGATE MATERIALS INCLUDING SAND, GRAVEL AND CRUSHED ROCK.

- 01. Approval Required.** Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. (3-30-06)
- 02. No Operator Shall Conduct Surface Mining Operations.** No operator shall conduct surface mining operations on any lands in the state until the surface-mining reclamation plan has been approved by the director, and the operator has filed a bond financial assurance that meets the requirements of the chapter and these rules. ~~(3-30-06)~~ (7-16-19)T
- 03. Application Package.** The operator must submit a complete application package, for each separate surface mine or mine panel, before the reclamation plan will be approved. Separate surface mines are individual, physically disconnected operations. A complete application package consists of: ~~(4-11-19)~~ (7-16-19)T
 - a. An application provided by the director; (7-1-98)

b. A map or maps of the proposed mining operation which includes the information required under Subsection 069.0~~34~~; ~~(7-1-98)~~(7-16-19)T

c. A reclamation plan, in map and narrative form, which includes the information required under Subsection 069.0~~45~~; and ~~(3-30-06)~~(7-16-19)T

d. An out-of-state operator shall designate an in-state agent authorized to act on behalf of the operator. In case of an emergency that requires an action or actions to prevent environmental damage, both the operator and the authorized agent will be notified ~~as well.~~ ~~(3-30-06)~~(7-16-19)T

e. The correct fee listed in Section 068 of these rules. (7-16-19)T

04. Map Requirements. A vicinity map shall be prepared on standard United States Geological Survey (“USGS”) seven and one-half (7.5) minute quadrangle maps or equivalent. A map of the proposed *surface* mining operation site shall be of sufficient scale to show: ~~(3-30-06)~~(7-16-19)T

a. The location of existing roads, access, and main haul roads to be constructed or reconstructed in conjunction with the *surface* mining operation and the approximate dates for construction, reconstruction, and abandonment; ~~(3-30-06)~~(7-16-19)T

b. The approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the *surface* mining operation; ~~(3-30-06)~~(7-16-19)T

c. The approximate boundaries of the lands to be utilized in the *surface* mining operations, including a legal description to the quarter-quarter section; ~~(3-30-06)~~(7-16-19)T

d. The approximate boundaries and acreage of the lands that will become affected land as a result of the *surface* mining operation during the first year of operations; ~~(3-30-06)~~(7-16-19)T

e. The currently planned storage locations of fuel, equipment maintenance products, wastes, and chemicals that will be utilized in the *surface* mining operation; ~~(3-30-06)~~(7-16-19)T

f. The currently planned location and configuration of pits, overburden piles, crusher reject materials, topsoil storage, wash plant ponds and sediment ponds that will be utilized; (3-30-06)

g. Scaled cross-sections by length and height showing surface profiles prior to mining; and (3-30-06)

h. A surface and mineral control or ownership map of appropriate scale for boundary identification; (7-1-98)

05. Reclamation Plan Requirements. Reclamation plans must be submitted in map and narrative form and include the following: (3-30-06)

a. Where surface waters are likely to be impacted and when requested by the director, documents identifying and assessing foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters and the BMPs the operator will use to control such impacts during surface mining and reclamation; (3-30-06)

b. Scaled cross-sections by length and height, showing planned surface profiles and slopes after reclamation; (3-30-06)

c. Roads to be reclaimed; (7-1-98)

d. A plan for revegetation of affected lands including soil types, slopes, precipitation, seed rates, species, handling of topsoil or other growth medium, time of planting, method of planting and, if necessary, fertilizer and mulching rates; (7-1-98)

e. The planned reclamation of wash plant or sediment ponds; (3-30-06)

f. A drainage control map which identifies the location of BMPs that will be implemented to control erosion and ~~such nonpoint source~~ water quality impacts during ~~surface~~ mining and reclamation activities;

~~(3-30-06)~~(7-16-19)T

g. The location of any current 100-year floodplain in relation to the mining facilities if the floodplain is within one hundred (100) feet of the facilities, and the BMPs to be implemented that will keep surface waters from entering any pits and potentially changing course.

(4-11-19)

h. For operations over five (5) acres, an estimate of total reclamation cost to be used in establishing a financial assurance amount. The cost estimate will include, but is not limited to, the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent direct and indirect costs of a third-party to complete reclamation.

(7-16-19)T

070. APPLICATION PROCEDURE AND REQUIREMENTS FOR OTHER ~~SURFACE~~-MINING OPERATIONS INCLUDING HARDROCK, UNDERGROUND AND PHOSPHATE MINING.

01. Reclamation Plan Approval Required. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. No operator shall conduct ~~surface~~ mining operations on any lands in the state until the reclamation plan has been approved by the director, and the operator has filed the required ~~performance bond~~ financial assurance.

~~(3-30-06)~~(7-16-19)T

02. Application Package. The operator must submit a complete application package for each separate ~~surface~~ mine or mine panel before the reclamation plan will be approved. Separate ~~surface~~ mines are individual, physically disconnected operations. A complete application package consists of:

~~(4-11-19)~~(7-16-19)T

a. All items and information required under Section 069 of these rules; (3-30-06)

b. Any additional information required by Subsection 070.04; and (3-30-06)

c. An operating plan, if required by Section 47-1506(b), Idaho Code, prepared in accordance with Subsections 070.05 ~~and 070.06~~ of these rules.

~~(3-30-06)~~(7-16-19)T

03. Map Requirements. Maps shall be prepared in accordance with Subsection 069.04 of these rules. (3-30-06)

04. Reclamation Plan Requirements. Reclamation plans must include all of the information required under Subsection 069.05 and the following additional information: (3-30-06)

a. A description of the planned reclamation of tailings or sediment ponds; and (3-30-06)

b. An estimate of total reclamation cost to be used in establishing ~~bond~~ the financial assurance amount. The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent costs.

~~(11-1-89)~~(7-16-19)T

c. A description of foreseeable, site-specific impacts from acid rock drainage and the BMPs that will be used to mitigate any impacts from such acid rock drainage. (3-30-06)

d. Underground mines must provide the following additional information: (7-16-19)T

i. Location and dimensions of all underground mine openings at the ground surface, including but not limited to vents, shafts, adits, or stopes; and (7-16-19)T

ii. A description of how each mine opening in subparagraph 070.04.d.i of these rules will be secured during reclamation to eliminate hazards to human health and safety. (7-16-19)T

e. A description of post-closure activities. (7-16-19)T

~~4f.~~ Other pertinent information the Department has determined is necessary to ensure that the operator will comply with the requirements of the chapter. (3-30-06)

05. Operating Plan Requirements. A complete operating plan shall consist of: (3-30-06)

a. Maps showing: (3-30-06)

i. The location of existing roads and anticipated access and principal haul roads planned to be constructed for *surface* mining operations. ~~(3-30-06)~~ (7-16-19)T

ii. The boundaries and acreage of the affected lands. (3-30-06)

iii. The planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the *surface* mining operation. ~~(3-30-06)~~ (7-16-19)T

iv. The location and, if known, the names of all streams, creeks, or water bodies within the area of the affected lands. (3-30-06)

v. The drainage adjacent to the area where the surface is being utilized by *surface* mining operations. ~~(7-1-98)~~ (7-16-19)T

vi. The approximate boundaries and acreage of the lands that will become affected during the first year of *surface* mining operations. ~~(3-30-06)~~ (7-16-19)T

b. Additional information regarding coarse and durable rock armor, if any, is proposed to be used for reclamation of mine facilities. The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to include additional information in the operating plan. Such information may include, but is not limited to, one (1) or more of the following: (3-30-06)

i. A description of the quantities, size, geologic characteristics, and durability of the materials to be used for final reclamation and armoring. (3-30-06)

ii. A description of how the coarse and durable materials will be handled and/or stockpiled, including a schedule for such activities that will ensure adequate quantities are available during reclamation. (3-30-06)

c. The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to prepare a geotechnical analysis and report, signed by an engineer registered in the state of Idaho, which shows that (1) any waste rock or overburden stockpiles, (2) any pit walls proposed to be more than one hundred (100) feet high, or (3) any pit walls where geologic conditions could lead to failure of the wall regardless of the height will be constructed in a manner that is consistent with industry standards to minimize the potential for failure. If failure of these structures can reasonably be expected to impact adjacent surface or ground waters or adjacent private or state-owned lands, the analysis may be required to consider the long-term stability of these structures, the potential for groundwater accumulation, and the expected seismic accelerations at the site. (3-30-06)

071. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMANENT CLOSURE OF CYANIDATION FACILITIES.

01. Permanent Closure Plan Approval Required. No operator shall construct or operate a new cyanidation facility or materially modify or materially expand an existing cyanidation facility prior to obtaining a permit, approval from the director and before the operator has filed ~~a bond~~ financial assurance, as required by these rules. ~~(3-30-06)~~ (7-16-19)T

02. Permanent Closure Plan Requirements. A permanent closure plan shall: (3-30-06)

a. Identify the current owner of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility; (3-30-06)

- b.** Include a timeline showing: (3-30-06)
- i.** The schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator shall be responsible for post-closure activities; and (3-30-06)
- ii.** If the operator plans to complete construction, operation, and/or permanent closure of the cyanidation facility in phases, the schedule to begin each phase of construction, operation, and/or permanent closure activities and any associated post-closure activities. (3-30-06)
- c.** Provide the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure; (3-30-06)
- d.** Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan shall be prepared in accordance with IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," administered by the DEQ, as required to meet the objectives of the permanent closure plan. (3-30-06)
- e.** Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, and a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (3-30-06)
- f.** Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including the final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and groundwaters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to approval of a permanent closure plan, engineering designs and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho; (3-30-06)
- g.** Include monitoring plans for surface and ground water during closure and post-closure periods, adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of the chapter; (3-30-06)
- h.** Provide an assessment of the potential impacts to soils, vegetation, and surface and ground waters for all areas to be used for the land application system and provide a mitigation plan, as appropriate. (3-30-06)
- i.** Provide information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure; (3-30-06)
- j.** Provide sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan; (3-30-06)
- k.** Provide an estimate of the reasonable estimated costs to complete the permanent closure activities specified in the permanent closure plan in the event the operator fails to complete those activities. The estimate shall: (3-30-06)
- i.** Identify the incremental costs of attaining critical phases of the permanent closure plan and a proposed ~~bond~~ financial assurance release schedule; ~~(3-30-06)~~ (7-16-19)T
- ii.** Assume that permanent closure activities will be completed by a third party whose services are contracted for by the Board as a result of a ~~bond~~ financial assurance forfeiture under Section 47-1513, Idaho Code, and include: ~~(3-30-06)~~ (7-16-19)T

(1) All direct and indirect costs expected to be incurred by a third party including, but not limited to, mobilization, labor, materials, equipment, engineering, and demobilization costs; and (3-30-06)

(2) An amount acceptable to the Department but not to exceed ten percent (10%) of the total estimated closure costs, which is intended to cover costs the Department will incur in association with contract administration. (3-30-06)

l. If the proposal is to complete cyanidation facility construction, operation, and/or permanent closure activities in phases: (3-30-06)

i. Describe how these activities will be phased and how, after the first phase of activities, each subsequent phase will be distinguished from the previous phase or phases; and (3-30-06)

ii. Describe how any required post-closure activities will be addressed during and after each subsequent phase has begun. (3-30-06)

m. Provide any additional information that may be required by the Department to ensure compliance with the objectives of the permanent closure plan and the requirements of the chapter. (3-30-06)

03. Preapplication Conference. Prospective applicants are encouraged to meet with the Department well in advance of preparing and submitting an application package to discuss the anticipated application requirements and application procedures, and to arrange for a visit or visits to the proposed location of the cyanidation facility. The preapplication conference may trigger a period of collaborative effort between the Department, the DEQ, and the applicant in developing checklists to be used by the agencies in reviewing an application for completion, accuracy, and protectiveness. (3-30-06)

04. Application Package for Permanent Closure. An application and its contents submitted to the Department shall be used to determine whether an applicant can complete all permanent closure activities in conformance with all applicable state laws. An application must provide information in sufficient detail to allow the director to make necessary application review decisions regarding cyanidation facility closure and protection of public health, safety, and welfare, in accordance with the chapter. A complete application package must be submitted to the Department. A complete application package for an operator proposing to use cyanidation shall consist of: (4-11-19)

a. A Department application form completed, signed, and dated by the applicant. This form shall contain the following information: (3-30-06)

i. Name, location, and mailing address of the cyanidation facility; (3-30-06)

ii. Name, mailing address, and phone number of the operator. An out-of-state operator shall designate an in-state agent authorized to act on his behalf. In case of an emergency that requires actions to prevent environmental damage, both the operator and his agent will be notified; (3-30-06)

iii. Land ownership status (federal, state, private or public); (3-30-06)

iv. The legal description to the quarter-quarter section of the location of the proposed cyanidation facility; and (3-30-06)

v. The legal structure (corporation, partnership, etc.) and primary place of business of the operator. (3-30-06)

b. Evidence that the applicant is authorized by the Secretary of State to conduct business in the state of Idaho; (3-30-06)

c. A permanent closure plan as prescribed in Subsection 071.02; (3-30-06)

d. The DEQ application and supporting materials; (3-30-06)

- e. The five thousand dollar (\$5,000) application processing and review fee, as defined in Subsection 071.05.a. (3-30-06)
- 05. Application Fee.** The application fee shall consist of two (2) parts: (3-30-06)
- a. Processing and review fee. (3-30-06)
- i. The applicant shall pay a nonrefundable five thousand dollar (\$5,000) fee upon submission of an application. Within thirty (30) days of receiving an application and this fee, the director shall provide a detailed cost estimate to the operator which includes a description of the scope of the Department's review; the assumptions on which the Department's estimate is based; and an itemized accounting of the anticipated number of labor hours, hourly labor rates, travel expenses and any other direct expenses the Department expects to incur, and indirect expenses equal to ten percent (10%) of the Department's estimated direct costs, as required to satisfy its statutory obligation pursuant to the chapter. (3-30-06)
- ii. If the Department's estimate is greater than five thousand dollars (\$5,000), the applicant may agree to pay a fee equal to the difference between five thousand dollars (\$5,000) and the Department's estimate, or may commence negotiations with the Department to establish a reasonable fee. (3-30-06)
- iii. If, within twenty (20) days from issuance of the Department's estimate, the Department and applicant cannot agree on a reasonable application processing and review fee, the applicant may appeal to the Board. The Board shall: (3-30-06)
- (1) Review the Department's estimate; (3-30-06)
- (2) Conduct a hearing where the applicant is allowed to give testimony to the Board concerning the Department's estimate; and (3-30-06)
- (3) Establish the amount of the application review and processing fee. (3-30-06)
- iv. If the fee is more than five thousand dollars (\$5,000), the applicant shall pay the balance of the fee within fifteen (15) days of the Board's decision or withdraw the application. (3-30-06)
- v. Nothing in this section shall extend the time in which the Board must act on a plan submitted. (3-30-06)
- b.** Permanent closure cost estimate verification fee. (3-30-06)
- i. Pursuant to Sections 47-1506(g) and 47-1513(j), Idaho Code, the Department may employ a qualified independent party, acceptable to the operator and the Board, to verify the accuracy of the permanent closure cost estimate. (3-30-06)
- ii. The applicant shall be solely responsible for paying the Department's cost to employ a qualified independent party to verify the accuracy of the permanent closure cost estimate. The applicant may participate in the Department's processes for identifying qualified parties and selecting a party to perform this work. (3-30-06)
- iii. If a federal agency has responsibility to establish the ~~bond~~ financial assurance amount for permanent closure of a cyanidation facility on federal land, the Department may employ the firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate. If the director chooses not to employ the firm retained by the federal agency, he shall provide a written justification explaining why the firm was not employed. ~~(3-30-06)~~ (7-16-19)T
- 072. -- 079. (RESERVED)**

080. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION ~~TO PERFORM SURFACE MINING, FOR A RECLAMATION, AND ORE PROCESSING USING CYANIDE~~ PLAN OR PERMANENT CLOSURE PLAN.

01. Return of Application. (3-30-06)

a. ~~Surface mining~~ Mine reclamation. Within thirty (30) days after receipt of a reclamation plan by the Department, an application for ~~surface~~ mining reclamation may be returned for correction and resubmission if either the reclamation plan or mine map(s) are incomplete. Return of an application by the director shall constitute a rejection in accordance with Section 47-1507(b), Idaho Code. ~~(3-30-06)~~ (7-16-19)T

b. Permanent closure plans for cyanidation facilities. Within thirty (30) days after receipt of a permanent closure plan by the Department, an application for permanent closure of a cyanidation facility may be returned for correction and resubmission, if the permanent closure plan does not meet the requirements of Section 071 of these rules. Return of an application by the director shall constitute a rejection in accordance with Section 47-1507(b), Idaho Code. (3-30-06)

02. Agency Notification and Comments. (3-30-06)

a. Nonconfidential materials submitted under Sections 069, 070, and 071 shall be forwarded by the director to the Idaho Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. The director may decide not to circulate applications submitted under Section 069 if the director determines the impacts of the proposed activities are minor and do not involve surface or ground waters. The director may provide public notice on receipt of a reclamation plan or permanent closure plan. In addition, nonconfidential contents of an application will be provided to individuals who request the information in writing, as required by the Idaho Public Records Act. ~~(3-30-06)~~ (7-16-19)T

b. Upon receipt of a complete application for a reclamation ~~of surface mined areas~~ plan or a permanent closure ~~of a cyanidation facility~~ plan, the director shall provide notice to the cities and counties where the surface mining or cyanidation facility operation is proposed, in accordance with Section 47-1505(7), Idaho Code. The notice shall include the name and address of the operator, the procedure and schedule for the Department's review, and an invitation to review nonconfidential portions of the application, if requested in writing. Such notice will be provided upon receipt of a reclamation plan, a permanent closure plan, or an amended or supplemental plan for an existing operation, or an amended cost estimate to complete permanent closure of a cyanidation facility, if required under the chapter and these rules.. ~~(3-30-06)~~ (7-16-19)T

03. Decision on Reclamation Plans. The director shall review a new reclamation plan or an amended or supplemental reclamation plan pursuant to Sections 47-1507 and 47-1508, Idaho Code. (3-30-06)

a. Approval. (3-30-06)

i. Within sixty (60) days of receipt of an application that complies with Subsections 069 and 070 of these rules, the Department shall provide written notice to the applicant that the reclamation plan or any amendment(s) or supplementary plan(s) to an approved reclamation plan is approved or denied and, if approved, the amount of the ~~reclamation bond~~ financial assurance required; or ~~(3-30-06)~~ (7-16-19)T

ii. If the director does not take action within sixty (60) days, a reclamation plan or any amendments or supplementary plans thereof shall be deemed to comply with the chapter, unless the sixty (60) day time period is extended pursuant to Section 47-15~~2(d)~~07(c), Idaho Code. ~~(3-30-06)~~ (7-16-19)T

iii. The operator and director may agree, in writing, to implement additional actions with respect to reclamation that extend beyond the requirements set forth in these rules. (3-30-06)

b. Inspections. The director may determine that an inspection of the proposed surface mining site location is necessary if the inspection will provide additional information or otherwise aid in processing of the application. ~~(3-30-06)~~ (7-16-19)T

i. If the director decides to perform an inspection, the applicant will be contacted and asked that he or an authorized employee or agent be present. This rule shall not prevent the Department from making an inspection of the site if the applicant does not appear. (3-30-06)

ii. If weather conditions preclude an inspection of a proposed *surface* mining operation, the director shall provide written notice to the applicant that review of the reclamation plan or an amended or supplementary plan has been suspended until weather conditions permit an inspection, and that the schedule for a decision shall be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-15-~~12(d)~~07(c), Idaho Code. ~~(3-30-06)~~(7-16-19)T

04. Decision on Cyanidation Facility Permanent Closure Plans. Pursuant to Sections 47-1507 and 47-1508, Idaho Code, following review of a complete application, the director shall: (3-30-06)

a. Coordination with DEQ. Initiate a coordinated interagency review of the application by providing a notice in writing to the DEQ director that the Department has received an application for permanent closure of a cyanidation facility; (3-30-06)

b. Approval. (3-30-06)

i. Within one-hundred eighty (180) days of receipt of an application that complies with Subsection 071.04 of these rules, the Department shall provide written notice to the applicant that the permanent closure plan is approved or denied and, if approved, the amount of the permanent closure ~~bond~~ financial assurance required; or ~~(3-30-06)~~(7-16-19)T

ii. If the director does not take action within one-hundred eighty (180) days, a permanent closure plan, or any amendments or supplementary plans thereof, shall be deemed to comply with the provisions of the chapter, unless the one hundred eighty (180) day time period shall be extended in accordance with Section 47-15-~~12(d)~~07(c), Idaho Code. ~~(3-30-06)~~(7-16-19)T

c. Inspections. The director may determine that it is necessary to inspect the proposed cyanidation facility location if the inspection will provide additional information or otherwise aid in processing of the application. (3-30-06)

i. If the director determines to inspect the site, the applicant will be contacted and asked that he or an authorized employee or agent be present. The Department may proceed with an inspection if the applicant or his designated employee or agent does not appear. (3-30-06)

ii. If weather conditions preclude an inspection of the proposed cyanidation facility, the director shall provide written notice to the applicant that processing of the application has been suspended until weather conditions permit an inspection, and that the schedule for a decision shall be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-15-~~12(d)~~07(c), Idaho Code. ~~(3-30-06)~~(7-16-19)T

05. ~~Nonpoint Source Pollution~~Monitoring Data. When the director determines, after consultation with the DEQ, that there is a reasonable potential for ~~nonpoint source~~ pollution of adjacent surface and ground waters, the director shall require the operator to provide baseline preproject surface and ground water monitoring information, and furnish additional monitoring data during the life of the project. This provision shall not require any additional baseline preproject monitoring information or ongoing monitoring data where such data is already required to be provided under any federal or state law and is available to the director. ~~(3-30-06)~~(7-16-19)T

06. Permanent Closure Plan Approval. (3-30-06)

a. The Department may condition its approval on issuance of a permit by the DEQ for the cyanidation facility. (3-30-06)

b. Except for the concurrent and additional permanent closure requirements that may be established in a permit issued by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," an approved permanent closure plan shall define the nature and extent of the operator's

obligation under the chapter. (3-30-06)

c. The permanent closure plan, as approved by the Department in coordination with the DEQ, shall be incorporated by reference into the cyanidation facility permit issued by DEQ as a permit condition and shall be enforceable as such. The operator shall ensure that closure complies with the approved plan and any additional permanent closure requirements as outlined in the permit issued by DEQ. (3-30-06)

d. No sooner than one hundred and twenty (120) days after an application for a permanent closure plan has been submitted to the Department, the applicant may submit a reclamation plan as required by Section 070 of these rules. The Department will review and approve the reclamation plan in accordance with Subsection 080. (3-30-06)

e. Approval of a permanent closure plan by the Department is required even if approval of such plan has been or will be obtained from an appropriate federal agency. (3-30-06)

07. Denial of an Application. If the director rejects an application, the director shall deliver in writing to the applicant a statement of the reasons the application has been rejected, the factual findings upon which the rejection is based, a statement of the applicable statute(s) and rule(s), the manner in which the application failed to fulfill the requirements of these rules, and the action that must be taken or conditions that must be satisfied to meet the requirements of the chapter and these rules. The applicant may submit an amended application in accordance with Sections 069, 070 or 071 for review and, if appropriate, approval by the Department. The director shall deny a reclamation plan, permanent closure plan, or any amendments or supplementary plans thereof if: (3-30-06)

a. The application is inaccurate or incomplete; (3-30-06)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect public safety, health, and welfare, in accordance with the scope and intent of these rules, or to protect beneficial uses of the waters of the state, as determined by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation" and other DEQ rules cited therein. (3-30-06)

08. Public Hearing. The director may call a public hearing to determine whether a proposed application complies with the chapter and these rules. A hearing shall be conducted in accordance with Section 110. (3-30-06)

09. Referral to Board. The director may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application. (3-30-06)

10. Appeal of Final Order. Any final order of the Board regarding an application for a *surface* mining reclamation plan or for permanent closure of a cyanidation facility may be appealed as set forth in Section 47-1514, Idaho Code. ~~(3-30-06)~~ (7-16-19)T

081. -- 089. (RESERVED)

090. AMENDING AN APPROVED RECLAMATION PLAN.

01. Cause for Reclamation Plan Amendment. In the event circumstances arise that necessitate amendments to an approved reclamation plan, the operator shall submit an application to amend the plan and state the reasons the amendment is necessary. Either the operator or the director may initiate a process to amend an approved reclamation plan. If the director identifies a material change he believes requires a change in the reclamation plan, the director must deliver in writing to the operator a detailed statement identifying the material change and the action(s) necessary to address the material changes. Plan amendments have the same requirements as described in Section 069 and 070 of these rules. ~~(3-30-06)~~ (7-16-19)T

02. Review of Amendment. The director will process an application to amend a plan in accordance with Sections 080 and 110, provided, however, that no land or aspect or provision of an approved reclamation plan that would not be affected by the proposed amendment, shall be subject to the amendment, review or reapproval in connection with processing the application. Approval of an amendment shall not be conditioned upon the

performance of any actions not required by the approved reclamation plan or the proposed amendment itself, unless the operator agrees to perform such actions. (3-30-06)

03. ~~Minor Amendments~~**Adjustments**. ~~Minor amendments~~ **Adjustments** to an approved reclamation plan may be made by agreement between the director and the operator, if the ~~amendment~~ **adjustment** is consistent with the overall objectives of the approved reclamation plan and so long as **surface and ground** water quality standards will be met ~~and existing beneficial uses will be protected~~. **Adjustments are due to changes that are smaller than material changes.** ~~(1-1-89)~~**(7-16-19)T**

091. AMENDING AN APPROVED PERMANENT CLOSURE PLAN.

01. **Cause for Permanent Closure Plan Amendment.** In the event circumstances arise that necessitate amendments to an approved permanent closure plan, the operator shall submit an application to amend the permanent closure plan and state the reasons the amendment is necessary. Either the operator or the director may initiate a process to amend an approved permanent closure plan. Circumstances that could require a permanent closure plan to be amended include: (3-30-06)

a. A material modification or material expansion in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate. (3-30-06)

b. Conditions substantially different from those anticipated in the original permit for which the approved permanent closure plan is no longer adequate. (3-30-06)

c. A material change as defined in Subsections ~~010.20.b.i.08 and 010.20.b.ii.~~ of these rules. ~~(3-30-06)~~**(7-16-19)T**

02. **Modifications at an Operator's Request.** Requests from an operator to modify a permanent closure plan shall be submitted to the Department in writing. The director shall process an application for amendment in accordance with Section 080. An application to amend a permanent closure plan shall include: (3-30-06)

a. A written description of the circumstances that necessitate the amendment; (3-30-06)

b. Data supporting the request; (3-30-06)

c. The proposed amendment; (3-30-06)

d. A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to the chapter; (3-30-06)

e. A cost estimate to implement the amended permanent closure plan, prepared in accordance with Subsection 071.02 of these rules; and (3-30-06)

f. Payment of a reasonable fee as may be determined by the director in accordance with Section 47-15-~~208~~, Idaho Code. ~~(3-30-06)~~**(7-16-19)T**

03. **Modification at Request of Director.** If, following consultation with the DEQ, the director determines that cause exists to amend the permanent closure plan the director shall notify the operator in writing of his determination and explain the circumstances that have arisen which require the permanent closure plan to be amended. Within thirty (30) days or as agreed by the operator and the Department, the operator shall submit an application to amend the permanent closure plan in accordance with Subsection 091.02. (3-30-06)

04. ~~Minor Amendments~~**Adjustment**. ~~Minor amendments~~ **Adjustments** to an approved permanent closure plan may be made by agreement between the director and the operator, if the ~~amendment~~ **adjustment** is consistent with the overall objectives of the approved permanent closure plan and so long as **surface and ground** water quality standards will be met ~~and existing beneficial uses will be protected~~. ~~(3-30-06)~~**(7-16-19)T**

092. -- 099. (RESERVED)

100. DEVIATION FROM AN APPROVED RECLAMATION PLAN.

01. Unforeseen Events. If a *surface* mining operator finds that unforeseen events or unexpected conditions require immediate change from an approved plan, the operator may continue *surface* mining in accordance with the procedures dictated by the changed conditions, pending submission and approval of an amended plan, even though operations do not comply with the approved reclamation plan on file with the Department. This shall not excuse the operator from complying with the requirements of Sections 140 and 120. ~~(3-30-06)~~(7-16-19)T

02. Notification. The operator shall notify the director, in writing, within ten (10) days of the discovery of conditions that require deviation from the approved plan. A proposed amendment to the plan shall be submitted by the operator within thirty (30) days of the discovery of those conditions. (3-30-06)

101. -- 109. (RESERVED)

110. PUBLIC HEARING.

01. Call for a Hearing. A public hearing called by the director following receipt of a complete application submitted in accordance with Sections 069, 070, or 071 shall be conducted in accordance with Section 47-1507(d), Idaho Code. The director may call for a hearing following his preliminary review of an application for a new operation or a supplemental application of an existing operation when one (1) or more of the following circumstances arises: (3-30-06)

a. Public Concern. The public, potentially affected landowners, any governmental entity, or any other interested parties who may be affected by the operations proposed under the chapter have registered, in writing, a concern with the director regarding the proposed operations or cyanidation facility. The purpose of the public hearing shall be to gather written and oral comments as to whether the proposed reclamation plan or permanent closure plan meets the requirements of the chapter and these rules. (3-30-06)

b. Agency Concern. The director determines, after consultation with the Department of Water Resources, DEQ, the Department of Fish and Game, and affected Indian tribes that the proposed *surface* mining or cyanidation facility operations could reasonably be expected to significantly degrade adjacent surface and/or ground waters or otherwise threaten public health, safety or welfare. The purpose of a public hearing held under this subsection will be to receive written and oral comments on the measures the operator is proposing to use to protect surface and/or ground water quality from nonpoint source pollution. ~~(3-30-06)~~(7-16-19)T

02. Consolidation. If the director determines that a hearing should be held, he shall order that such proceedings be consolidated. The applicant and the public must be advised of the specific subjects to be discussed at the hearing at least twenty (20) days prior to the hearing. The Department will coordinate with the DEQ, as appropriate, for any hearings relating to permanent closure of a cyanidation facility to streamline application processing. (3-30-06)

03. Location. A hearing shall be held in the locality of the proposed *surface* mine or a proposed cyanidation facility at a reasonably convenient time and place for public participation. The director may call for more than one hearing when conditions warrant. ~~(3-30-06)~~(7-16-19)T

04. Notice of Hearing. The director shall provide at least twenty (20) days' advance notice of the date, time, and place of the hearing to: federal, state, and local governmental agencies, Indian tribes who may have an interest in the decision as shown on the application, and the public; to all persons who petitioned for a hearing; and to any person identified by the applicant under Subsection 070.02 as a legal owner of the land that will likely be affected by the proposed operations. Notice to the applicant must be sent by certified mail and postmarked not less than twenty (20) days before the scheduled public hearing date. (3-30-06)

05. Publication of Notice. The director shall provide at least twenty (20) days advance notice to the general public of the date, time, and place of the hearing. A newspaper advertisement will be placed once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. (11-1-89)

a. In the event a hearing is ordered under Section 110, the notice shall describe: (3-30-06)

- i. The potentially significant surface water quality impacts from the proposed *surface* mining operation and the operator's description of the measures that will be used to prevent degradation of adjacent surface and ground waters from *nonpoint* sources of pollution; or ~~(3-30-06)~~(7-16-19)T
- ii. The objectives of a permanent closure plan that have been submitted for review. (3-30-06)
- b. A copy of the application shall be placed for review in a public place in the local area of the proposed *surface* mining operation or cyanidation facility, in the closest Department area office, and the Department's administrative office in Boise. ~~(3-30-06)~~(7-16-19)T

06. Hearing Officer. The hearing shall be conducted by the director or his designated representative. Both oral and written testimony will be accepted. Proceedings of the hearing will be recorded on audio tape and a verbatim transcript will be prepared. (3-30-06)

07. Consideration of Hearing Record. The Department shall consider the hearing record when reviewing reclamation plans or permanent closure plans for final approval or rejection. (3-30-06)

111. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan. (3-30-06)

- a. Within one (1) year of the final addition of new cyanide to the ore process circuit for small cyanidation processing or pilot facilities; or (3-30-06)
- b. Within two (2) years of the final addition of new cyanide to the ore process circuit for all other cyanidation facilities; or (3-30-06)
- c. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (3-30-06)

02. Submittal of a Permanent Closure Report. The operator shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the Department and DEQ to issue a determination that permanent closure, as defined by Subsection 010.313 of these rules, has been achieved. The permanent closure report shall address: ~~(3-30-06)~~(7-16-19)T

- a. The effectiveness of material stabilization. (3-30-06)
- b. The effectiveness of the water management plan and the adequacy of the monitoring plan. (3-30-06)
- c. The final configuration of the cyanidation facility and its operational/closure status. (3-30-06)
- d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (3-30-06)
- e. The operational/closure status of any land application site of the cyanidation facilities. (3-30-06)
- f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short- and long-term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (3-30-06)
- g. The short- and long-term water quality trends in surface and ground water through the statistical analysis of the existing monitoring data pursuant to the ore-processing by cyanidation permit. (3-30-06)
- h. Ownership and responsibility for the site upon permanent closure during the defined post-closure

period. (3-30-06)

i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed cyanidation facilities. (3-30-06)

j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

120. ~~PERFORMANCE BOND~~ FINANCIAL ASSURANCE REQUIREMENTS FOR ~~SURFACE~~ MINING.

01. Submittal of ~~Bond~~ Financial Assurance Before ~~Surface~~ Mining. Prior to beginning any ~~surface~~ mining on a mine panel covered by a ~~reclamation~~ plan, an operator shall submit to the director, on a ~~surface mining Department mine~~ ~~reclamation~~ ~~bond~~ ~~financial assurance~~ form, ~~a performance bond~~ ~~financial assurance~~ meeting the requirements of this rule. ~~The amount shall be the amount necessary to pay the estimated reasonable costs of reclamation required under the reclamation plan for each acre of land to be affected during the first year of operation, plus ten (10%) percent. No performance bond shall exceed fifteen thousand dollars (\$15,000) for a given acre of affected land unless:~~ If financial assurance is not received by the Department within eighteen (18) months of reclamation plan approval and operations have not begun, the Department will cancel the reclamation plan without prejudice. The operator must then resubmit the reclamation plan application and correct application fee to restart the approval process prior to mining. An extension to the eighteen (18) month period may be granted by the Department for reasonable cause given if the request is received prior to the end of that period. ~~(4-11-19)~~(7-16-19)T

02. Financial Assurance for Operations With Five (5) or Less Disturbed Acres. ~~Financial assurance will be a minimum of five thousand dollars (\$5,000) per acre unless the operator or the Department determine that the estimated reasonable costs of reclamation require a different amount. No financial assurance may exceed fifteen thousand dollars (\$15,000) for a given acre of affected land unless:~~ (7-16-19)T

a. The Board has determined that such ~~performance bond~~ ~~financial assurance~~ is necessary to meet the requirements of Sections 47-1506, 47-1509, 47-1510, and 47-1511, Idaho Code. ~~(3-30-06)~~(7-16-19)T

b. The Board has delivered to the operator, in writing, a notice setting forth the reasons it believes such ~~bond~~ ~~financial assurance~~ is necessary. ~~(7-1-98)~~(7-16-19)T

c. The Board has conducted a hearing where the operator is allowed to give testimony to the Board concerning the amount of the proposed ~~bond~~ ~~financial assurance~~, as provided by Section 47-1512(c), Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. ~~(3-30-06)~~(7-16-19)T

03. Financial Assurance for Operation With More Than Five (5) Disturbed Acres. ~~The amount of financial assurance shall be the amount necessary for the Board to pay the estimated reasonable costs of reclamation required under the reclamation plan, including indirect costs in subsection 120.04 of these rules.~~ (7-16-19)T

04. Indirect Costs for Reclamation Cost Calculations. ~~Reclamation cost calculations shall include the following indirect costs:~~ (7-16-19)T

a. ~~Mobilization and demobilization costs from the nearest community that has at least two (2) contractors able to perform the reclamation;~~ (7-16-19)T

b. ~~Contractor profit as a percentage of direct costs;~~ (7-16-19)T

c. ~~Contractor overhead as a percentage of direct costs;~~ (7-16-19)T

d. ~~Contractor insurance as a percentage of labor costs;~~ (7-16-19)T

- e. Contractor bonding as a percentage of direct costs; (7-16-19)T
 - f. Contract administration as a percentage of direct costs; (7-16-19)T
 - g. Re-engineering for mines with direct reclamation costs over five hundred thousand dollars (\$500,000). Re-engineering will be determined as a percentage of direct costs; (7-16-19)T
 - h. Contingency as a percentage of direct costs; and (7-16-19)T
 - i. Other site specific costs as appropriate. (7-16-19)T
05. **Salvage Value Not Allowed.** Reclamation costs will not be reduced by assigning a salvage value to structures or fixtures to be removed during reclamation. (7-16-19)T

026. **Mining Operation Conducted by Public or Government.** Notwithstanding any other provision of law to the contrary, the bonding financial assurance provisions of the chapter and these rules shall do not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. ~~(3-30-06)~~(7-16-19)T

037. **Annual ~~Bond~~ Financial Assurance Review.** At the beginning of each calendar year, the operator shall notify the director of any increase in the acreage of affected land which will result from planned surface mining activity within the next twelve (12) months. A commensurate increase in the bond financial assurance will be required for an increase in affected acreage. Any additional bond financial assurance required shall be submitted on the appropriate bond form within ninety (90) days of operator's receipt of notice from the Department that an additional bond amount is required. In no event shall will surface mining operations be conducted that would affect additional acreage until the appropriate bond form and bond financial assurance has been with the Department. Acreage on which reclamation is complete shall will be reported in accordance with Subsection 120.107 and after release of this acreage from the plan by the director, the bond may financial assurance will be reduced by the amount appropriate to reflect the completed reclamation. ~~(3-30-06)~~(7-16-19)T

048. **~~Bond~~ Financial Assurance to the Federal Government.** Any bond financial assurance provided to the federal government that also meets the requirements of Section 120 shall be sufficient for the purposes of these rules. ~~(3-30-06)~~(7-16-19)T

059. **~~Bond~~ Financial Assurance Reduction.** ~~(11-1-89)~~(7-16-19)T

a. An operator may petition the director for a change in the initial financial assurance amount. The director will review the petition and if satisfied with the information presented a revised financial assurance amount will be determined. The revised amount will be based upon the estimated cost that the director would incur should a forfeiture of financial assurance occur and it became necessary for the director, through contracting with a third party, to complete reclamation to the standards established in the plan. (7-16-19)T

#b. Upon finding that any land bonded under a reclamation plan covered by financial assurance will not be affected by mining, the operator shall will notify the director. The amount of the bond shall financial assurance will be reduced by the amount being held to reclaim those lands. ~~(11-1-89)~~(7-16-19)T

bc. Any request for bond financial assurance reduction shall will be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. ~~(11-1-89)~~(7-16-19)T

106. **~~Bond~~ Financial Assurance Release Following Reclamation.** Upon completion of the reclamation specified in the plan, the operator shall may notify the director of his desire to secure release from bonding financial assurance. When the director has verified that the requirements of the reclamation plan have been substantially met as stated in the plan, the bond shall financial assurance will be released. ~~(11-1-89)~~(7-16-19)T

a. Any request for bond financial assurance release shall will be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. ~~(11-1-89)~~(7-16-19)T

b. If the director finds that a specific portion of the reclamation has been satisfactorily completed, the ~~bond financial assurance~~ may be reduced to the amount required to complete the remaining reclamation. The following schedule will be used to complete these ~~bond financial assurance~~ reductions unless the director determines in a specific case that this schedule is not appropriate and specifies a different schedule: ~~(11-1-89)(7-16-19)T~~

i. Sixty percent (60%) of the ~~bond financial assurance~~ may be released when the operator completes the required backfilling, regrading, topsoil replacement, and drainage control of ~~the bonded a specific~~ area in accordance with the approved reclamation plan; and ~~(11-1-89)(7-16-19)T~~

ii. After revegetation activities have been performed by the operator on the regraded lands, according to the approved reclamation plan, the Department may release an additional twenty-five percent (25%) of the ~~bond financial assurance~~. ~~(11-1-89)(7-16-19)T~~

c. The remaining ~~bond financial assurance~~ shall not be released: ~~(11-1-89)(7-16-19)T~~

i. As long as the affected lands are contributing suspended solids to surface waters outside the affected area in excess of state water quality standards and in greater quantities than existed prior to the commencement of ~~surface~~ mining operations; ~~(11-1-89)(7-16-19)T~~

ii. Until final removal of equipment and structures related to the mining activity or until any remaining equipment and structures are brought under an approved reclamation plan and ~~bond financial assurance~~ by a new operator; and ~~(11-1-89)(7-16-19)T~~

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved reclamation plan and ~~bond financial assurance~~ by a new operator. ~~(11-1-89)(7-16-19)T~~

~~d. If an operator provides part of a mine's financial assurance through a corporate guarantee, then the corporate guarantee will be released prior to any other type of financial assurance being released. Other types of financial assurance will only be released after the corporate guarantee has been completely released. (7-16-19)T~~

~~0711. Cooperative Agreements.~~ The director may through private conference, conciliation, and persuasion reach a cooperative agreement with the operator to correct deficiencies in complying with the reclamation plan and thereby postpone action to forfeit the ~~bond financial assurance~~ and cancel the reclamation plan if all deficiencies are satisfactorily corrected within the time specified by the cooperative agreement. ~~(11-1-89)(7-16-19)T~~

~~08. Bonding Rate.~~ ~~An operator may petition the director for a change in the initial bond rate. The director will review the petition, and if satisfied with the information presented, a special bond rate will be set based upon the estimated cost that the director would incur should a forfeiture of bond occur and it became necessary for the director, through contracting with a third party, to complete reclamation to the standards established in the plan. (11-1-89)~~

~~0912. Liabilities for Unbonded Reclamation Costs Not Covered by Financial Assurance.~~ An operator who is in violation of these ~~following~~ rules ~~and~~ may be subject to civil penalty under Section 47-1513(c), Idaho Code. The amount of civil penalty ~~shall will~~ be the estimated cost of reasonable reclamation of affected lands as determined by the director. Reasonable reclamation of the site ~~shall will~~ be presumed to be in accordance with the standards established in the approved reclamation plan. The amount of the civil penalty ~~shall be is~~ in addition to those described in ~~Subsection 160.06~~ ~~Section 47-1513(f), Idaho Code. These violations include:~~ ~~(11-1-89)(7-16-19)T~~

a. Departs from his approved reclamation plan by performing an act or omission and such deviation is not subsequently approved; (11-1-89)

b. Does not furnish ~~a bond financial assurance~~ required by these rules; ~~and or~~ ~~(11-1-89)(7-16-19)T~~

c. Is not required to furnish ~~a bond financial assurance~~ by these rules, but fails to reclaim; ~~(7-16-19)T~~

121. ~~PERFORMANCE BOND~~ FINANCIAL ASSURANCE REQUIREMENTS FOR CYANIDATION FACILITIES.

01. **Submittal of ~~Bond~~ Financial Assurance Before Operating a Cyanidation Facility.** Prior to beginning construction or operation of a cyanidation facility, but no later than ninety (90) days after approval of a permanent closure plan, an operator ~~shall~~ will submit to the director, on a Department permanent closure plan ~~bond~~ financial assurance form, ~~a performance bond~~ financial assurance meeting the requirements of Section 47-1512(a)(2), Idaho Code. The ~~performance bond shall~~ financial assurance will be in an amount equal to the total costs estimated under subsection 071.02.k. of these rules ~~plus ten percent (10%)~~. Upon application to the Department, the operator may apply and the director may approve ~~bonding~~ financial assurance for each phase of closure on an incremental basis. If the Department authorizes phased ~~bonding~~ financial assurance, then ~~bonding~~ financial assurance may increase incrementally commensurate with the additional permanent closure liability. After construction and operation of the initial phase of a cyanidation facility has commenced and after filing by an operator of the initial permanent closure ~~bond~~ financial assurance, an operator ~~shall~~ will not construct any component of a subsequent phase or phases of the subject cyanidation facility before filing the additional permanent closure ~~bond~~ financial assurance amount that ~~may be~~ is required by the Board. If phased ~~bonding~~ financial assurance is not authorized, the operator ~~shall be~~ is required to file the ~~bond~~ financial assurance amount required to complete permanent closure of all planned phases prior to any construction. ~~(3-30-06)~~(7-16-19)T

02. **Limits Financial Assurance for Permanent Closure Plans Affecting Five (5) or Less Disturbed Acres.** The Board may require ~~a bond~~ financial assurance in excess of five million dollars (\$5,000,000) if the following conditions have been met: ~~(3-30-06)~~(7-16-19)T

a. The Board has determined that such a ~~performance bond~~ financial assurance is necessary to meet the requirements of the chapter; ~~(3-30-06)~~(7-16-19)T

b. The Board has delivered to the operator, in writing, a notice explaining the reasons such ~~a performance bond~~ financial assurance is necessary; and ~~(3-30-06)~~(7-16-19)T

c. The operator is allowed to give testimony to the Board concerning the amount of the proposed ~~bond~~ financial assurance, as provided by Section 47-1512(d)(3), Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. ~~(3-30-06)~~(7-16-19)T

03. **Financial Assurance for Permanent Closure Plans Affecting More Than Five (5) Disturbed Acres.** The amount of financial assurance shall be the amount necessary for the Board to pay the estimated reasonable costs of reclamation required under the permanent closure plan, including indirect costs in subsection 121.04 of these rules. ~~(7-16-19)T~~

04. **Indirect Costs for Permanent Closure Cost Calculations.** Permanent closure cost calculations shall include the following indirect costs: ~~(7-16-19)T~~

a. Mobilization and demobilization costs from the nearest community that has at least two (2) contractors able to perform the reclamation; ~~(7-16-19)T~~

b. Contractor profit as a percentage of direct costs; ~~(7-16-19)T~~

c. Contractor overhead as a percentage of direct costs; ~~(7-16-19)T~~

d. Contractor insurance as a percentage of labor costs; ~~(7-16-19)T~~

e. Contractor bonding as a percentage of direct costs; ~~(7-16-19)T~~

f. Contract administration as a percentage of direct costs; ~~(7-16-19)T~~

g. Re-engineering for cyanidation facilities with direct reclamation costs over five hundred thousand dollars (\$500,000). Re-engineering will be determined as a percentage of direct costs; ~~(7-16-19)T~~

h. Contingency as a percentage of direct costs; and (7-16-19)T

i. Other site specific costs as appropriate. (7-16-19)T

05. Salvage Value Not Allowed. Reclamation costs may not be reduced by assigning a salvage value to structures or fixtures to be removed during reclamation. (7-16-19)T

036. Other Government Agency Bonds-Financial Assurance. Upon a finding by the director that the bond financial assurance amount established by a federal agency is inadequate because it has not included one (1) or more permanent closure tasks required by the state, the Department may require the operator to file an additional bond financial assurance amount, as necessary, to satisfy the requirements of the chapter. (3-30-06)(7-16-19)T

047. Bond-Financial Assurance Review. The Department ~~shall~~ will periodically review all performance bonds financial assurances filed for permanent closure to determine their sufficiency to complete the work required by an approved permanent closure plan. (3-30-06)(7-16-19)T

a. Once every three (3) years, the operator shall submit an updated permanent closure cost estimate to the Department for review. The director will review the updated estimate to determine whether the existing bond financial assurance amount is adequate to implement the permanent closure plan, as approved by the Department. Any resulting change in the bond financial assurance amount does not in and of itself require an amendment to the permanent closure plan as may be required by Section 091 of these rules. The director will review the estimate to determine whether the existing bond financial assurance amount is adequate to complete permanent closure of the cyanidation facility. (3-30-06)(7-16-19)T

b. When the director determines that there has been a material change in the estimated reasonable costs to complete permanent closure: (3-30-06)

i. The director ~~shall~~ will notify the operator in writing of his intent to reevaluate the performance bond financial assurance amount. Within a reasonable time period determined by the Department, the operator ~~shall~~ will provide to the Department a revised cost estimate to complete permanent closure as approved by the Department. (3-30-06)(7-16-19)T

ii. Within thirty (30) days of receipt of the revised cost estimate the director ~~shall~~ will notify the operator in writing of his determination of bond financial assurance adequacy. (3-30-06)(7-16-19)T

iii. Within ninety (90) days of notification of the director's assessment, the operator ~~shall~~ will make the appropriate adjustment to the bond financial assurance or the director will reduce the bond financial assurance as appropriate. (3-30-06)(7-16-19)T

c. The Department may conduct an internal review of the amount of each bond financial assurance annually to determine whether it is adequate to complete permanent closure. (3-30-06)(7-16-19)T

d. For bond closure cost reviews conducted pursuant to Subsections 121.047.a. and 121.047.b., the director may employ a qualified independent party to verify the accuracy of the revised estimated costs to complete permanent closure. The qualified independent party ~~shall~~ will be employed and the operator ~~shall~~ will pay a reasonable fee pursuant to Subsection 071.05.b. (3-30-06)(7-16-19)T

058. Bond-Financial Assurance Reduction. A performance-bond financial assurance for permanent closure may be reduced if, during the Department's review of the performance-bond financial assurance pursuant to Subsection 121.047, the estimated costs to complete permanent closure of the subject cyanidation facility will be lower than the amount bonded held at that time. (3-30-06)(7-16-19)T

069. Bond-Financial Assurance Release During Permanent Closure. (3-30-06)(7-16-19)T

a. A bond financial assurance filed for permanent closure of a cyanidation facility ~~shall~~ will be released according to the schedule in the permanent closure plan. The schedule ~~shall~~ will include provisions for the release of the post closure monitoring and maintenance portions of the bond financial assurance. The schedule may

be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness. ~~(3-30-06)~~(7-16-19)T

b. Upon completion of an activity required by an approved permanent closure plan, the operator may request in writing a ~~bond~~ financial assurance reduction for that activity. When the director, in consultation with DEQ, has verified that the activity meets the requirements of the permanent closure plan, the ~~bond shall~~ financial assurance will be reduced by an amount to reflect the activity completed. ~~(3-30-06)~~(7-16-19)T

c. Upon the director's determination that all activities specified in the permanent closure plan have been successfully completed, the Department will, in accordance with Section 47-1512(i), Idaho Code, release the balance remaining after partial ~~bond~~ financial assurance releases. ~~(3-30-06)~~(7-16-19)T

d. If an operator provides part of a cyanidation facility's financial assurance through a corporate guarantee, then the corporate guarantee will be released prior to any other type of financial assurance being released. Other types of financial assurance will only be released after the corporate guarantee has been completely released. (7-16-19)T

~~107.~~ **Liabilities for ~~Unbonded~~ Permanent Closure Costs Not Covered by Financial Assurance.** An operator who is in violation of the chapter or any provision of these rules may be subject to civil penalties under Section 47-1513~~(f)~~, Idaho Code. ~~(3-30-06)~~(7-16-19)T

122. FORM OF ~~PERFORMANCE BOND~~ FINANCIAL ASSURANCE.

01. Corporate Surety Bond. (7-16-19)T

a. A corporate surety bond is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, filed on the appropriate ~~bond~~ form supplied by the director. The bond shall be payable to the state of Idaho and conditioned to require the operator to faithfully perform all requirements of the chapter, and the rules in effect on the date that a reclamation plan or a permanent closure plan was approved by the Department. ~~(3-30-06)~~(7-16-19)T

b. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties in Circular 570 of the U.S. Department of the Treasury. (7-16-19)T

c. When replacement financial assurance is submitted, the following rider must be filed with the Department as part of the replacement before the existing financial assurance will be released: "[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with reclamation plan or closure plan [number], both prior to and subsequent to the date of this rider." (7-16-19)T

02. **Collateral Bond.** A collateral bond is an indemnity agreement executed by or for the operator, payable to the state of Idaho, pledging cash deposits, government securities, real property, time deposit receipts, or ~~negotiable~~ certificates of deposit of any financial institution authorized to do business in the state. Collateral bonds shall be subject to the following conditions. ~~(3-30-06)~~(7-16-19)T

a. The director shall obtain possession of ~~a collateral bond~~ cash or other negotiable collateral bonds, and, upon receipt, deposit ~~# them~~ with the state treasurer to hold ~~# them~~ in trust for the purpose of bonding reclamation or permanent closure performance. ~~(3-30-06)~~(7-16-19)T

b. The director shall value the collateral at its current market value minus any penalty for early withdrawal, not its face value. ~~(3-30-06)~~(7-16-19)T

c. Certificates of deposit or time deposit receipts shall be issued or assigned, in writing, to the state of Idaho and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand and after written release by the Department, to the operator or another person who posted the collateral bond. ~~(3-30-06)~~(7-16-19)T

d. Amount of an individual certificate of deposit or time deposit receipt shall may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. ~~(3-30-06)~~(7-16-19)T

e. Financial institutions issuing ~~such~~ certificates of deposit or time deposit receipts shall will waive all rights of set-off or liens which it has or might have against such certificates, and will place holds on those funds that prevent the operator from withdrawing funds until the Department sends a written release to the bank. ~~(3-30-06)~~(7-16-19)T

f. Certificates of deposit and time deposit receipts shall be automatically renewable. ~~(3-30-06)~~(7-16-19)T

~~g. Certificates of deposit shall be of sufficient amount to ensure that the director could liquidate them before maturity upon forfeiture for the required bond amount, including any penalty for early withdrawal. (3-30-06)~~

03. Letters of Credit. A letter of credit is an instrument executed by a bank doing business in Idaho, made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit shall be subject to the following conditions. (3-30-06)

a. All credits shall be irrevocable and prepared in a format prescribed by the director. (3-30-06)

b. All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho. (3-30-06)

c. The account party on all credits must be identical to the entity identified in the reclamation plan or in the permanent closure plan and on the cyanidation facility permit as the party obligated to complete reclamation or permanent closure. (3-30-06)

04. Real Property. Real property used as a collateral bond must be a perfected, first lien security interest in real property located within the state of Idaho, in favor of the state of Idaho, which meets the requirements of these rules using a deed of trust form acceptable to the Department for all lands 40 acres or less, or a mortgage form approved by the Department. (7-16-19)T

a. The following information must be submitted for real property collateral: (7-16-19)T

i. The value of the real property. The property will be valued at the difference between the fair market value and any reasonable expense anticipated by the Department in selling the property. The fair market value will be determined by an appraisal conducted by a licensed appraiser. The appraiser will be selected by the Department and the Department will provide appraisal instructions; however, the operator may propose an appraiser to the Department. The appraisal will be performed in a timely manner, and a copy sent to the Department and the operator. The expense of the appraisal will be borne by the operator. The real property will be reappraised every three (3) years; (7-16-19)T

ii. A description of the property and a site improvement survey plat to verify legal descriptions of the property and to identify the existence of recorded easements; (7-16-19)T

iii. Proof of ownership and title to the real property; (7-16-19)T

iv. A current title binder which provides evidence of clear title containing no exceptions, or containing only exceptions acceptable to the director; and (7-16-19)T

v. Phase I environmental assessment. (7-16-19)T

b. Real property will not include any lands in the process of being mined, reclaimed, or planned to be mined under an approved reclamation plan. The operator may offer any lands within a reclamation plan that have received full release of financial assurances. In addition, any land used as a security will not be mined or otherwise disturbed while it is a security. The acceptance of real property within the permit boundary will be at the discretion of

the Director. (7-16-19)T

05. Trusts. Trusts are subject to the requirements of Sections 47-1512(l) and 68-1, Idaho Code. The proposed trustee, range of investments, initial funding, schedule of payments, trustee fees, and expected rate of return are subject to review and approval by the Department through a memorandum of agreement with the operator. Trusts are also subject to the following conditions: (7-16-19)T

a. The joint party on the trust must be identical to the entity identified in the reclamation plan or in the permanent closure plan as the party obligated to complete reclamation or permanent closure. (7-16-19)T

b. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. (7-16-19)T

c. Equities may include stock funds or stock index funds, but not individual stocks or direct investments in the operator's company or parent company. Corporate equities must not exceed seventy percent (70%) of the total value of the trust fund. (7-16-19)T

d. Bonds or money market funds must be investment-grade rated securities having a Standard and Poor's rating of AAA or AA or an equivalent rating from a nationally recognized securities rating service. (7-16-19)T

e. Payments into the trust will be made as follows: (7-16-19)T

i. When used to cover reclamation costs, the trust fund will be initially funded in an amount at least equal to the costs estimated in the approved reclamation plan for reclamation of existing surface disturbances covered by the chapter and any surface disturbances to occur in the first year of the trust fund. Annual payments to keep pace with increased disturbance and reclamation costs will occur as needed no later than thirty (30) days after each annual anniversary of the date of the initial payment. (7-16-19)T

ii. When used to cover a portion of reclamation costs in combination with other types of financial assurance, the initial and annual payments will be the pro-rata amount of the reclamation costs as described in subparagraph 122.05.e.i of these rules. (7-16-19)T

iii. When used to cover the anticipated post-closure costs, a payment schedule will be created in the memorandum of agreement. The post-closure costs must be fully funded by the time the post-closure period occurs. (7-16-19)T

f. Disbursements from the trust will only occur upon written authorization of the Department. (7-16-19)T

g. Trusts will be irrevocable. (7-16-19)T

h. Income accrued on trust funds will be retained in the trust, except as otherwise agreed by the director under the terms of an agreement governing the trust. (7-16-19)T

06. Corporate Guarantees. (7-16-19)T

a. Up to fifty percent (50%) of required financial assurance for reclamation costs may be provided by a corporate guarantee. Post-closure costs for reclamation plans and permanent closure plans cannot be covered by a corporate guarantee. (7-16-19)T

b. Only operators who submit plans under Sections 070 or 071 of these rules may provide a corporate guarantee. (7-16-19)T

c. Operators who want to provide financial assurance through a corporate guarantee must provide an audited financial statement from a third-party certified public accountant licensed in Idaho that the operator meets two (2) of the following three (3) criteria and the criteria in paragraph d of this section: (7-16-19)T

- i. Ratio of total liabilities to stockholder's equity is less than two (2) to one (1); (7-16-19)T
- ii. Ratio of sum of net income plus depreciation, depletion, and amortization to total liabilities greater than ten one-hundredths (0.1) to one (1); or (7-16-19)T
- iii. Ratio of current assets to current liabilities greater than one and fifty one-hundredths (1.5) to one (1). (7-16-19)T
- d. The following financial criteria must also be met for a corporate guarantee: (7-16-19)T
- i. Net working capital and tangible net worth are each equal to or greater than the total reclamation or permanent closure cost estimate; (7-16-19)T
 - ii. Tangible net worth of at least ten million dollars (\$10,000,000); and (7-16-19)T
 - iii. At least ninety percent (90%) of the corporation's total assets are in the United States, or the total assets in the United States are at least six (6) times greater than total reclamation or permanent closure cost estimate. (7-16-19)T
- e. If the operator is a partnership or joint venture, each partner or member of the entity will sign an indemnity agreement in favor of the State of Idaho that binds each partner or member who has a beneficial interest, directly or indirectly, in the operator. The indemnity agreement must be signed by the partners or members who are authorized to bind their partnership or joint venture. The indemnity agreement will bind each partner or member jointly and severally. The operator must provide a copy of the agreement to the Department with an affidavit certifying that such an agreement is valid under all applicable federal and state laws. (7-16-19)T
- f. A corporate guarantee can be provided by a parent company guarantor if that guarantor meets the conditions of paragraphs (c) and (d) in this section as if it were the operator. The terms of this corporate guarantee will provide for the following: (7-16-19)T
- i. The operator and the parent company will submit to the Department an indemnity agreement signed by corporate officers from both companies who are authorized to bind their corporations. The operator or parent company must also provide an affidavit certifying that such an agreement is valid under all applicable federal and state laws. The indemnity agreement will bind each party jointly and severally; (7-16-19)T
 - ii. If the operator fails to complete reclamation or permanent closure, the parent company guarantor will do so or the guarantor will be liable under the indemnity agreement to provide funds to the Department sufficient to complete reclamation or permanent closure as per the plan, but not to exceed the financial assurance amount; (7-16-19)T
 - iii. The corporate guarantee will remain in force unless the parent company guarantor sends notice of cancellation by certified mail to the operator and to the Department at least ninety (90) days in advance of the cancellation date, and the Department accepts the cancellation; and (7-16-19)T
 - iv. The cancellation will be accepted by the Department only if the operator obtains replacement financial assurance before the cancellation date or if the lands for which the corporate guarantee, or portion thereof, was accepted have not been disturbed. (7-16-19)T
- g. The operator, or parent company guarantor, is required to either complete the approved reclamation or closure plan for the lands in default, or pay to the Department an amount necessary to complete the approved reclamation, not to exceed the amount established in Sections 120 or 121 of these rules. Any indemnity agreement under forfeiture will operate as a judgment against those parties liable under the indemnity agreement. (7-16-19)T
- h. The operator or parent company guarantor will submit an annual update of the information required under paragraphs (c) and (d) of this section by April 1 following the issuance of the corporate guarantee. (7-16-19)T
- i. If the operator or parent company guarantor's financial fitness falls below the eligibility for

providing a corporate guarantee they will immediately notify the Department, and the Department will require the operator to submit replacement financial assurance within ninety (90) days of being notified. (7-16-19)T

j. The Department may require the operator or parent company guarantor to provide an update of the information in paragraphs (c) and (d) in this section at any time. The update must be provided within thirty (30) days of being requested. The requirements of paragraph (i) in this Section will then apply. (7-16-19)T

047. Blanket ~~Bond~~ Financial Assurance. Where an operator is involved in more than one (1) ~~surface mining operation~~ reclamation plan or permanent closure plan permitted by the Department ~~or more than one (1) cyanidation facility operation permitted by the DEQ and for which a permanent closure bond is required,~~ the director may accept a blanket bond financial assurance in lieu of separate reclamation or permanent closure ~~bonds~~ financial assurances under the approved plans. The amount of such bond financial assurance shall be equal to the total of the requirements of the separate ~~bonds~~ financial assurances being combined into a single bond financial assurance, as determined pursuant to Section 47-1512, Idaho Code, and in accordance with Sections 120 and 121 of these rules. The ~~bonded~~ principal shall be liable for an amount no more than the bond financial assurance filed for completion of reclamation activities or permanent closure activities if the Department takes action against the bond financial assurance pursuant to Section 47-1513, Idaho Code and Section 123 of these rules. (3-30-06)(7-16-19)T

~~05. Notice of Cancellation. Any notice of cancellation by a surety company shall comply with the provisions of Section 47-1512(f), Idaho Code.~~ (3-30-06)

~~06. Revocation of Surety License. If a surety's Idaho business license is suspended or revoked, the operator shall comply with the provisions of Section 47-1512(g), Idaho Code.~~ (3-30-06)

08. Reclamation Fund. Reclamation plans processed under Section 069 of these rules may provide financial assurance through the Reclamation Fund established by Section 47-18, Idaho Code, and IDAPA 20.03.03. If financial assurance is provided through the Reclamation Fund, no other type of financial assurance may be combined with it on an individual mine site. (7-16-19)T

123. FORFEITURE OF ~~BOND~~ FINANCIAL ASSURANCE.

A bond financial assurance may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation or has not conducted permanent closure in accord with an approved plan and the applicable requirements of these rules. (3-30-06)(7-16-19)T

124. -- 129. (RESERVED)

130. TRANSFER OF APPROVED PLANS.

01. Reclamation Plans. A reclamation plan may be transferred from one (1) operator to another only after the Department's approval. To complete a transfer, the new applicant must file a notarized assumption of reclamation plan form as prescribed by the Department and provide replacement financial assurance. The new operator then shall be responsible for the past operator's obligations under the chapter, these rules, and the reclamation plan. ~~When a replacement bond is submitted relative to an approved surface mining reclamation plan, the following rider must be filed with the Department as part of the replacement bond before the existing bond will be released: "[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with surface mining reclamation plan [number], both prior to and subsequent to the date of this rider."~~ (3-30-06)(7-16-19)T

02. Permanent Closure Plans. An approved permanent closure plan permit may be transferred to a new operator if he provides written notice to the director that includes a specific date for transfer of permanent closure responsibility, coverage, and liability between the old and new operators no later than ten (10) days after the date of closure. An operator shall be required to provide such notice at the same time he provides notice to the DEQ as required IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." To complete a transfer, the new applicant must: (3-30-06)

- a. File a notarized assumption of permanent closure plan form as prescribed by the Department; and (3-30-06)

b. File a replacement permanent closure ~~bond~~ plan financial assurance on a form approved by the Department ~~must be filed with the Department as part of the replacement bond before the existing bond will be released. The following rider must be filed as part of the replacement bond before the existing bond will be released: “[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which permanent closure activities must be completed in connection with permanent closure plan [number], both prior to and subsequent to the date of this rider.”~~ (3-30-06)(7-16-19)T

131. -- 139. (RESERVED)

140. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR ~~SURFACE~~ MINING OPERATION AND PERMANENT CLOSURE OF CYANIDATION FACILITIES.

~~Enumeration of a practice or act in Section 140 shall not be construed to require its specific inclusion in a reclamation or permanent closure plan. These are the minimum standards expected for all activities covered by these rules. Specific standards for individual mines may be appropriate based on site specific circumstances, and must be described in the plan.~~ (3-30-06)(7-16-19)T

01. Nonpoint Source Control. (3-30-06)

a. Appropriate BMPs for nonpoint source controls shall be designed, constructed, and maintained with respect to site-specific ~~surface~~ mining operations or permanent closure activities. Operators shall utilize BMPs designed to achieve state water quality standards and to protect existing beneficial uses of adjacent waters of the state; ~~but shall not be required to do more than is necessary to preserve the condition of runoff from the affected land or the cyanidation facility prior to conducting any exploration, surface mining or cyanidation facility operations. These measures shall be among the first to be taken, if necessary, to protect water quality.~~ State water quality standards, ~~including protection of existing beneficial uses~~ as administered by DEQ, shall be the standard that must be achieved by BMPs ~~unless the operator can show, and the director determines, that a lesser standard existed in the area to be affected prior to the commencement of the subject surface mining or exploration operations.~~ (3-30-06)(7-16-19)T

b. If the BMPs utilized by the operator do not result in compliance with Subsection 140.01.a., the director shall require the operator to modify or improve such BMPs to meet the controlling, water quality standards as set forth in current laws, rules, and regulations. (4-11-19)

02. Sediment Control. In addition to proper mining techniques and reclamation measures, the operator shall take necessary steps at the close of each operating season to assure that sediment movement associated with surface runoff over the area is minimized in order to achieve water quality standards, or to preserve the condition of water runoff from the mined area prior to commencement of the subject ~~surface~~ mining or exploration operations, whichever is the ~~lesser~~ more appropriate standard. Sediment control measures refer to best management practices carried out within and, if necessary, adjacent to the disturbed area and consist of utilization of proper mining and reclamation measures, as well as specific necessary sediment control methods, separately or in combination. Specific sediment control methods may include, but are not limited to: (3-30-06)(7-16-19)T

- a. Keeping the disturbed area to a minimum at any given time through progressive reclamation; (3-30-06)
- b. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; (3-30-06)
- c. Retaining sediment within the disturbed area; (3-30-06)
- d. Diverting surface runoff around the disturbed area; (3-30-06)
- e. Routing runoff through the disturbed area using protected channels or pipes so as not to increase sediment load; (3-30-06)
- f. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and (3-30-06)

- g. Use of adequate sediment ponds, with or without chemical treatment. (3-30-06)

03. Clearing and Grubbing. Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Operators are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the operator shall be required to meet the applicable surface water quality standards on all such areas. Where practicable, trees and slash should be stockpiled for use in seedbed protection and erosion control. (3-30-06)

04. Overburden/Topsoil. To aid in the revegetation of affected lands where *surface* mining operations result in the removal of substantial amounts of overburden including any topsoil, the operator should remove the available topsoil or other growth medium as a separate operation for such area. Unless there are previously affected lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium shall be stockpiled and protected from erosion and contamination until such areas become available. ~~(3-30-06)~~(7-16-19)T

- a. Overburden/Topsoil Removal. (11-1-89)

i. Any overburden/topsoil to be removed should be removed prior to any other mining activity to prevent loss or contamination; (11-1-89)

ii. Where overburden/topsoil removal exposes land area to potential erosion, the director, under the reclamation plan, may require BMPs necessary to prevent violation of water quality standards; and (3-30-06)

iii. Where the operator can show that an overburden material other than topsoil is conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. (3-30-06)

b. Topsoil Storage. Topsoil stockpiles shall be placed to minimize rehandling and exposure to excessive wind and water erosion. Topsoil stockpiles shall be protected as necessary from erosion by use of temporary vegetation or by other methods which will control erosion, including, but not limited to, silt fences, chemical binders, seeding, and mulching. (11-1-89)

c. Overburden Storage. Stockpiled ridges of overburden shall be leveled in such a manner as to have a minimum width of ten (10) feet at the top. Peaks of overburden shall be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top. The overburden piles shall be reasonably prepared to control erosion using best management practices; such activities may include terracing, silt fences, chemical binders, seeding, mulching or slope reduction. (7-1-98)

d. Topsoil Placement. Abandoned affected lands shall be covered with topsoil or other type of overburden that is conducive to plant growth, to the extent such materials are readily available, in order to achieve a stable uniform thickness. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution shall be timed so that seeding, or other protective measures, can be readily applied to prevent compaction and erosion. (3-30-06)

- e. Fill. Backfill and fill materials should be compacted in a manner to ensure stability. (3-30-06)

- 05. Roads.** (11-1-89)

a. Roads ~~shall~~ **must** be constructed to minimize soil erosion, which may require restrictions on the length and grade of the roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. ~~(3-30-06)~~(7-16-19)T

b. All access and haul roads ~~shall~~ **must** be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. ~~(11-1-89)~~(7-16-19)T

c. Culverts that are to be maintained for more than one (1) year ~~shall~~ **must** be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. ~~(11-1-89)~~(7-16-19)T

d. Roads and water control structures ~~shall~~ **will** be maintained at periodic intervals as needed. Water control structures serving to drain roads ~~shall~~ **must** not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. ~~(11-1-89)~~(7-16-19)T

e. Roads that will not be recontoured to approximate original contours upon abandonment ~~shall~~ **will** be cross-ditched and revegetated, as necessary, to control erosion. ~~(3-30-06)~~(7-16-19)T

f. Roads that are not abandoned and continue to be used under the jurisdiction of a governmental or private landowner, ~~shall~~ **will** comply with the nonpoint source sediment control provisions of Subsection 140.02 until the successor assumes control. ~~(3-30-06)~~(7-16-19)T

06. Backfilling and Grading. (11-1-89)

a. Every operator who conducts *surface* mining or cyanidation facility operations which disturb less than two (2) acres shall, where possible, contour the disturbed land to its approximate previous contour. These lands shall be revegetated in accordance with Subsection 140.11. ~~(3-30-06)~~(7-16-19)T

b. An operator who conducts *surface* mining or cyanidation facility operations which disturb two (2) acres or more shall reduce all waste piles and depressions to the lowest practicable grade. This grade shall not exceed the angle of repose or maximum slope of natural stability for such waste or generate erosion in which sediment enters waters of the state. ~~(3-30-06)~~(7-16-19)T

c. Backfill and fill materials should be compacted in a manner to ensure mass and surface stability. (7-1-98)

d. After the disturbed area has been graded, slopes will be measured for consistency with the approved reclamation plan or the permanent closure plan. (3-30-06)

07. Disposal of Waste in Areas Other Than Mine Excavation. Waste material not used to backfill mined areas shall be transported and placed in a manner designed to stabilize the waste piles and control erosion. (3-30-06)

a. The available disposal area should be on a moderately sloped, naturally stable area. The site should be near the head of a drainage to reduce the area of watershed above the fill. (11-1-89)

b. All surface water flows within the disposal area shall be diverted and drained using accepted engineering practices such as a system of French drains, to keep water from entering the waste pile. These measures shall be implemented in accordance with standards prescribed by the Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (11-1-89)

c. The waste material not used in backfilling mined areas should be compacted, where practical, and should be covered and graded to allow surface drainage and ensure long-term stability. (11-1-89)

d. The operator may, if appropriate, use terraces or slope reduction to stabilize the face of any fill. Slopes of the fill material should not exceed angle of repose or generate erosion in which sediment enters waters of the state. (3-30-06)

e. Unless adequate drainage is provided through a fill area, all surface water above the fill shall be diverted away from the fill area into protected channels, and drainage shall not be directed over the unprotected face of the fill. (11-1-89)

f. The operator shall conduct revegetation activities with respect to such waste piles in accordance

with Subsection 140.11. (3-30-06)

08. Settling Ponds; Minimum Criteria. (11-1-89)

a. Sediment Storage Volume. Settling ponds shall provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. (11-1-89)

b. Water Detention Time. Settling ponds shall have an adequate theoretical detention time for water inflow and runoff entering the pond, but theoretical detention time may be reduced by improvements in pond design, chemical treatment, or other methods. (11-1-89)

c. Emergency Spillway. In addition to the sediment storage volume and water detention time, settling ponds shall be designed to withstand and release storm flows as required by the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and Safety of Dams Rules, where applicable. (11-1-89)

09. Tailings Impoundments. All tailings, dams, or other types of tailings impoundments shall be designed, constructed, operated, and decommissioned so that upon their abandonment, the dam and impoundment area will not constitute a hazard to human or animal life. (11-1-89)

a. Design criteria, construction techniques, and decommission techniques for tailings dams and impoundments shall comply with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations. (11-1-89)

b. Topsoil shall be removed from the area to be affected by the impounding structure and tailings reservoir in accordance with Subsection 140.04. (3-30-06)

c. Abandonment and Decommissioning of Tailings Impoundments. (3-30-06)

i. Dewatering. Tailings ponds shall be dewatered to the extent necessary to provide an adequate foundation for the approved post-mining use. (3-30-06)

ii. Control of surface waters. Surface waters shall either be channeled around the reservoir and impoundment structure or through the reservoir and breached structure. Permanent civil structures shall be designed and constructed to implement either method of channeling. The structure shall provide for erosion-free passage of waters and adequate energy dissipation prior to entry into the natural drainage below the impounding structure. (3-30-06)

iii. Detoxification. Hazardous chemical residues within the tailings pond shall be detoxified or covered with an adequate thickness of non-toxic material, to the extent necessary to achieve water quality standards in adjacent surface waters. (3-30-06)

iv. Reclamation. After implementing the required dewatering, detoxification, and surface drainage control measures, the reservoir and impounding structure shall be covered with topsoil or other material conducive to plant growth, in accordance with Subsection 140.04. Where such soils are limited in quantity or not available, and upon approval by the Department, physical or chemical methods for erosion control may be used. All such areas are to be revegetated in accordance with Subsection 140.11, unless specified otherwise. (3-30-06)

d. When the operator requests termination of its reclamation or permanent closure plan, pursuant to Section 150 of these rules, impoundment structures and any reservoirs retained as fresh water reservoirs after final reclamation or permanent closure shall be required to conform with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (3-30-06)

10. Permanent Cessation and Time Limits for Planting. (11-1-89)

a. Seeding and planting of affected lands and/or a permanently closed cyanidation facility should be conducted during the first normal period for favorable planting conditions after final seedbed preparation. (3-30-06)

b. Reclamation activities, where possible, are encouraged to be concurrent with the mining operation and may be included in the approved reclamation plan. Final reclamation *shall must* begin within one (1) year after the *surface* mining operations have permanently ceased on a mine panel. If the operator permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other affected land, the reclamation activity on each given area *shall must* start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other affected land, has not permanently ceased. ~~(11-1-89)~~(7-16-19)T

c. An operator shall be presumed to have permanently ceased *surface* mining operations on a given portion of affected land when no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the prior three (3) years. If an operator does not plan to use an affected area for three (3) or more years but intends thereafter to use the affected area for *surface* mining operations and desires to defer final reclamation until after its subsequent use, the operator *shall must* submit a notice of intent and request for deferral of reclamation to the director, in writing. If the director determines that the operator plans to continue the operation within a reasonable period of time, the director shall notify the operator and may require actions to be taken to reduce degradation of surface resources until operations resume. If the director determines that use of the affected land for *surface* mining operations will not be continued within a reasonable period of time, the director *shall may* proceed as though the *surface* mining operation has been abandoned, but the operator *shall will* be notified of such decision at least thirty (30) days before taking any formal administrative action. ~~(11-1-89)~~(7-16-19)T

11. **Revegetation Activities.** (11-1-89)

a. The operator shall select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands or on a closed cyanidation facility prior to *surface* mining or cyanidation facility operations, respectively. Certified weed free seed should be used in revegetation. The operator may use available technical data and results of field tests for selecting seeding practices and soil amendments which will result in viable revegetation. These practices of selection may be included in an approved reclamation plan or permanent closure. ~~(3-30-06)~~(7-16-19)T

b. Unless otherwise specified in the approved reclamation or permanent closure plan, the success of revegetation efforts shall be measured against the existing vegetation on site prior to the *surface* mining or cyanidation facility operation, or against an adjacent reference area supporting similar types of vegetation. ~~(3-30-06)~~(7-16-19)T

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. (11-1-89)

ii. For purposes of this rule, ground cover shall be considered comparable if it has, on the area actually planted at least seventy percent (70%) of the premining ground cover for the mined area or adjacent reference area; (11-1-89)

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the director, in approving a reclamation or permanent closure plan, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. (3-30-06)

iv. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation. (11-1-89)

v. For previously mined areas that were not reclaimed to the standards required by Section 140, and which are affected by the *surface* mining or cyanidation facility operations, vegetation should be established to the

extent necessary to control erosion, but shall not be less than that which existed before redisturbance; and

~~(3-30-06)~~(7-16-19)T

- vi. Vegetative cover shall not be less than that required to control erosion. (11-1-89)
- c. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the affected land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species shall not be used in revegetation. (11-1-89)
- d. By mutual agreement of the director, the landowner, and the operator, a site may be converted to a different, more desirable or more economically suitable habitat. (3-30-06)
- e. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (11-1-89)
- f. The operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs shall be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. (11-1-89)
- g. Reforestation. Tree stocking of forestlands should meet the following criteria: (3-30-06)
 - i. Trees that are adapted to the site should be planted on the area to be revegetated in a density which can be expected over time to yield a timber stand comparable to premining timber stands; (11-1-89)
 - ii. Trees shall be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (11-1-89)
 - iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (11-1-89)
- h. Revegetation is not required on the following areas: (11-1-89)
 - i. Affected lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; (11-1-89)
 - ii. Any mined area or overburden stockpiles proposed to be used in the mining operations for haulage roads, so long as those roads are not abandoned; (3-30-06)
 - iii. Any mined area or overburden stockpile, where lakes are formed by rainfall or drainage runoff from adjoining lands; (3-30-06)
 - iv. Any mineral stockpile; (11-1-89)
 - v. Any exploration trench which will become a part of a pit or an overburden disposal area; and (3-30-06)
 - vi. Any road which is to be used in mining operations, so long as the road is not abandoned. (11-1-89)
- i. Mulching. Mulch should be used on severe sites and may be required by the reclamation or permanent closure plan where slopes are steeper than three to one (3:1) or the mean annual rainfall is less than twelve (12) inches. When used, straw or hay mulch should be obtained from certified weed free sources. "Mulch" means

vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (3-30-06)

12. Petroleum-Based Products and Chemicals. All refuse, chemical and petroleum products and equipment should be stored and maintained in a designated location away from surface water and disposed of in such a manner as to prevent their entry into a waterway. (3-30-06)

150. TERMINATION OF A PLAN.

01. Terminate upon Request of the Operator. A reclamation plan shall terminate upon request of the operator, upon inspection by the director, and a determination that all reclamation activity has been completed to the standards specified in the plan, and following final approval by the director. Upon termination, the director will release the remaining ~~bond~~ financial assurance, notify the operator, and any authority to conduct any surface mining operations under the subject plan shall terminate. ~~(3-30-06)~~ (7-16-19)T

02. Terminate a Permanent Closure Plan. The director shall terminate a permanent closure plan upon request of the operator, provided all the provisions and objectives of the permanent closure plan have been met, as determined by the director under Sections 111 and 112 of these rules. Upon a determination that permanent closure has been completed in accordance with the approved permanent closure plan and upon consultation with the DEQ that the operator's request to terminate a plan should be approved, the director will notify the operator that any authority to continue cyanidation operations shall cease and he will release the balance of the ~~permanent closure bond~~ financial assurance in accordance with Subsection 121.069. ~~(3-30-06)~~ (7-16-19)T

151. -- 1594. (RESERVED)

155. FIVE (5) YEAR UPDATES AND PERIODIC INSPECTIONS.

01. Five (5) Year Updates. The Department may require permitted mines to submit an update on their mining operation at least every five (5) years. The update will be on a Department form, and will be used to assist the Department in determining whether or not adjustments are needed for financial assurance or if a plan amendment is required due to a material change. Failure by an operator to complete the form and return it to the Department, or an operator providing false statements on the form, may result in the penalties in Section 47-1513(g), Idaho Code. (7-16-19)T

02. Right of Inspection. Authorized representatives of the Department have the right to enter upon lands affected or proposed to be affected by exploration, mining operations, or cyanidation facilities to determine compliance with the reclamation or permanent closure plans and these rules. Inspections will be conducted at reasonable times in the presence of the operator or his authorized representative. The operator shall make such a person available for the purpose of inspection. This rule does not prevent the Department from making an inspection of the site if the operator fails to make a representative available on request. (7-16-19)T

03. Frequency of Inspection. (7-16-19)T

a. Mining operations with an approved reclamation plan will be inspected at least once every five (5) years to determine compliance with the approved plan and adequacy of the financial assurance. Inspections may need to be more frequent due to the large size, rapid pace of mining, complexity of an operation, or high financial assurance. (7-16-19)T

b. Cyanidation facilities with an approved closure plan will be inspected as often as is needed, but at least once a year. (7-16-19)T

156. -- 159. (RESERVED)

160. ENFORCEMENT AND FAILURE TO COMPLY.

~~01. **Right of Inspection.** Authorized officers of the Department of Lands, upon presentation of appropriate credentials, shall have the right to enter upon lands affected or proposed to be affected by exploration or surface mining operations to determine compliance with these rules. Inspections shall be conducted at reasonable times in the presence of the operator or his authorized employee or representative. The operator shall make such a person available for the purpose of inspection. This rule shall not prevent the Department from making an inspection of the site if the operator fails to make a representative available on request. (11-1-89)~~

021. Bond-Financial Assurance Forfeiture. Upon request by the director, the attorney general may institute proceedings to have the bond financial assurance for reclamation or permanent closure forfeited for violation of an order entered pursuant to Section 47-1513, Idaho Code and these rules. (3-30-06)(7-16-19)T

032. Civil Penalty. An unbonded operator with no financial assurance, or an operator who violates these rules by performing an act which is not included in an approved reclamation plan or an approved permanent closure plan that is not subsequently approved by the Department, shall will be subject to a civil penalty as authorized by Section 47-1513(c), Idaho Code. (3-30-06)(7-16-19)T

043. Injunctive Procedures. The director may seek injunctive relief and proceed with legal action, if necessary, to enjoin a surface mine operator or cyanidation facility operator who violates the provisions of the chapter, these rules, or the terms of an existing approved reclamation or permanent closure plan. Any such action shall will follow the procedures established in Section 47-1513, Idaho Code. (3-30-06)(7-16-19)T

054. Appeal of Final Order. An operator dissatisfied with a final order of the Board may within sixty (60) days after receiving the order, file an appeal in accordance with Section 47-1514, Idaho Code. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

180. PUBLIC AND CONFIDENTIAL INFORMATION.

01. Information Subject to Disclosure. Information obtained by the Department pursuant to the chapter and these rules is subject to disclosure under Title 74, Chapter 1, Idaho Code ("Public Records Act"). (3-30-06)

~~02. **Public Inspection.** Except as provided in Section 180 or Title 9, Chapter 3, Idaho Code, information obtained by or submitted to the Department pursuant to these rules will be available to the public for inspection and copying during normal office hours. Anyone who requests assistance from the Department to collect, copy or mail public information must tender, in advance, the reasonable cost of those services. (3-30-06)~~

~~03. **Information Not Subject to Public Inspection.** Notice of exploration as required under Section 060 and any materials submitted to the Board, the director, or the Department as confidential shall not be disclosed by the Board, director, or Department employees to any person other than the Board, director, and employees of the Department without the written permission of the operator. (3-30-06)~~

042. Use by Board. Any plans, documents, or materials submitted as confidential and held as such shall not prohibit the Board, director, or Department from using the information in an administrative hearing or judicial proceeding initiated pursuant to Section 47-1514, Idaho Code. (3-30-06)

053. Plans and BMPs. An operator shall will not unreasonably designate as confidential portions of reclamation or permanent closure plans which detail proposed BMPs to meet state surface and ground water quality standards ~~and protect existing beneficial uses of waters of the state.~~ Confidential portions of reclamation or permanent closure plans may be shared with DEQ in its coordinating role under these rules, as reasonably necessary. (3-30-06)(7-16-19)T

181. -- 189. (RESERVED)

190. DEPOSIT OF FORFEITURES AND DAMAGES.

All fees, penalties, forfeitures, and civil damages collected pursuant to the chapter, shall will be deposited with the state treasurer in the following accounts as appropriate: ~~(3-30-06)~~(7-16-19)T

01. Surface-Mine Reclamation Fund. The surface mine reclamation fund to be used by the director for surface-mined land reclamation purposes; ~~or~~ and to administer the reclamation provisions of the chapter and these rules. ~~(3-30-06)~~(7-16-19)T

02. Cyanidation Facility Closure Fund. The cyanidation facility closure fund to be used by the director to complete permanent closure activities and to administer the permanent closure provisions of the chapter and these rules. ~~(3-30-06)~~(7-16-19)T

191. -- 199. (RESERVED)

200. COMPLIANCE OF EXISTING RECLAMATION PLANS.

01. Applicability. These rules, upon their adoption, shall apply as appropriate to all existing surface mining operations, but shall will not affect the validity or modify the duties, terms, or conditions of any existing approved reclamation plan or impose any additional obligations with respect to reclamation upon any operator conducting surface mining operations pursuant to a reclamation plan approved prior to adoption of these rules unless amended under Section 090 of these rules. ~~(3-30-06)~~(7-16-19)T

02. Approval. Reclamation plans approved prior to July 1, 2019, or reclamation plans that have permanently ceased operations prior to July 1, 2019, are not subject to the 2019 legislative amendments to the chapter regarding financial assurance and post-closure. New reclamation plans or plan amendments received after July 1, 2019, will be subject to the 2019 legislative amendments to the chapter. (7-16-19)T

03. Submittal. Reclamation plan applications submitted prior to July 1, 2019, but not yet approved, have until July 1, 2020 to submit post-closure plans and financial assurances as described in the 2019 legislative amendments to the chapter. (7-16-19)T

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.03 – RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND

DOCKET NO. 20-0303-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

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

PUBLIC HEARING

Monday, September 16, 2019 2:30 p.m. (MDT)

**Idaho State Capitol
4th Floor, Majority Caucus Room (W-433)
700 West Jefferson Street
Boise, ID 83702**

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 passage of House Bill 141 during the 2019 legislative session amended definitions and terminology associated with Idaho's Reclamation Fund (Fund). Pursuant to Title 47, Chapter 18, Idaho Code, the Idaho Department of Lands (IDL) manages the Fund, which provides affordable and attainable financial assurances for mining operators, allowing compliance with Idaho's mining regulations. IDL is proposing to update definitions and terminology in the rule to comport with the 2019 statute changes. IDL is also proposing to amend the rule to remove the mandatory participation requirement for operators with a single mining operation with less than 40 acres of disturbance. The proposed rule will allow operators to provide alternative forms of financial assurance if it satisfies a minimum reclamation dollar per acre and is provided in a form acceptable to IDL.

Additionally, IDL is proposing changes to allow more flexibility to the limits that restrict participation in the Fund. Currently, operators with a total cumulative mining disturbance greater than 40 acres and greater than \$100,000 of reclamation liability are ineligible to participate in the Fund, and the Land Board is required to set a minimum balance to be maintained in the Fund to cover the Fund's reclamation liabilities. IDL is proposing to remove the limits of 40 acres and \$100,000 reclamation costs liability and instead allow the Land Board to set disturbance and reclamation costs limits based on the Fund's required minimum balance.

Finally, amendments are proposed to remove words and restrictions, wherever possible, to comply with the Red Tape Reduction Act.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2019, Idaho Administrative Bulletin, [Vol. 19-6, page 63](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Todd Drage at (208) 334-0247 or tdrage@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 2nd day of August, 2019.

Todd Drage
Minerals Regulatory Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0247
Fax: (208) 334-3698
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0303-1901
(Only Those Sections With Amendments Are Shown.)

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho State Board of Land Commissioners ~~pursuant to~~ under Sections 58-104(3) and (6), Idaho Code, and Title 47, Chapter 18, Idaho Code. The Board has delegated to the ~~the~~ Director of the Idaho Department of Lands the duties and powers under Title 47, Chapter 18, Idaho Code and these rules: ~~provided, except~~ that the Board ~~shall~~ retains responsibility for administrative review. (3-16-04)()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund," IDAPA 20, Title 03, Chapter 03. (3-16-04)

02. Scope. These rules constitute the ~~Idaho~~ Department's ~~of Lands'~~ administrative procedures and participation criteria for the implementation of a Reclamation Fund, which is to be used as an alternative form of financial assurance for ~~mining operations~~ certain mines in Idaho. These rules ~~shall are to~~ be construed in a manner consistent with the duties and responsibilities of the Board and of operators, permit holders, or lessees as set forth in Title 47, Chapter ~~7,~~ Idaho Code, "Mineral Rights in the State Lands;" Title 47, Chapter 13, Idaho Code, "Dredge Mining;" Title 47, Chapter 15, Idaho Code, "Mined Land Reclamation;" and Title 47, Chapter 18, Idaho Code, "Financial Assurance;" and IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho;" IDAPA 20.03.02, "Rules Governing ~~Exploration and Surface Mining in Idaho,~~ Mined Land Reclamation," and IDAPA 20.03.05, "Riverbed Mineral Leasing In Idaho." (3-16-04)()

002. WRITTEN INTERPRETATIONS.

The Board does not rely on any written ~~interpretive statements~~ interpretations concerning these rules. (3-16-04)()

003. ADMINISTRATIVE APPEALS.

~~01. Procedure for Appeals. Any operator, lessee, permit or plan holder aggrieved by any final decision or order of the Board shall be entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, and the Administrative Procedures Act. (3-16-04)~~

~~02. Effective Date of a Final Order. When the director or the Board finds that justice so requires, it may postpone the effective date of a final order pending judicial review. (3-16-04)~~

~~03. Filing a Civil Action in District Court for Noncompliance. Notwithstanding any other provisions of these rules concerning administrative or judicial proceedings, whenever the Board determines that a permittee or lessee has not complied with the provisions of the Dredge Mining Act, the Surface Mining Act, or a mineral lease, the Board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides, in accordance with said acts or mineral lease. The Board may request the court to issue an appropriate order to remedy any alleged violation. Any person aggrieved by a final agency action or a party aggrieved by a final order of the Board arising from its administration of the Reclamation Fund Act is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, "Administrative Procedure Act," and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners." (3-16-04)()~~

004. INCORPORATION BY REFERENCE.

~~01. Incorporated Documents. The following documents are expressly incorporated herein by reference as part of these rules to the extent that said rules or mineral lease apply to a subject mining operation. (3-16-04)~~

~~a. IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho." (3-16-04)~~

~~b. IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho." (3-16-04)~~

~~c. Title 47, Chapter 7, Idaho Code, Mineral Rights In State Lands. (3-16-04)~~

~~02. Availability of Incorporated Documents. Unofficial copies of the incorporated documents may be obtained from any Idaho Department of Lands Office or on-line at <http://adm.idaho.gov/adminrules/>. Official copies of the incorporated administrative rules may be obtained from the Office of the Administrative Rules Coordinator located at 650 W. State Street, Room 100, Boise, Idaho 83720. There are no documents incorporated by reference into this rule. (3-16-04)()~~

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

~~01. Office. The principal place of business of the Idaho Department of Lands is the Director's Office at 300 North 6th Street, Suite 103, Boise, Idaho 83720 and is open from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. (3-16-04)~~

~~02. Address. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. (3-16-04)~~

~~03. Telephone and Fax. The telephone of the office is (208) 334-0200; and the fax number is (208) 334-2399/3698. The Department's web address is located at <https://www.idl.idaho.gov>. (3-16-04)()~~

006. PUBLIC RECORDS ACT COMPLIANCE.

~~01. Administrative Procedures Act. The rules contained herein have been promulgated in accordance with the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code and are a public record subject to and in compliance with Title 74, Chapter 1, Idaho Code, "Public Records Act." Unless exempt from disclosure under said Act, any document filed with the Department under these rules is a public record. (3-16-04)()~~

~~02. Confidentiality of Information. The following records are exempt from disclosure pursuant to Section 74-107(2), Idaho Code, shall not be disclosed by the Board, director, or department employees, to any person other than the Board, director and employees of the Department without the written permission of the operator;~~

~~permit holder or lessee.~~ (3-16-04)

~~a. Notice of exploration as required pursuant to Section 47-1314(b), Idaho Code, and Section 020, IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho."~~ (3-16-04)

~~b. Notices of exploration as required pursuant to Section 47-1506(e), Idaho Code, and Section 060, IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho."~~ (3-16-04)

~~c. Production records.~~ (3-16-04)

007. -- 009. (RESERVED)

010. DEFINITIONS.

Except as provided in these rules, the Board adopts the definitions set forth in the Mineral Leasing Act, the Dredge Mining Act, and the Mined Land Reclamation Act. As used in these rules: ()

01. Actual Allowable Cost. The allowable total reclamation cost as set by the Board to allow participation in the Reclamation Fund. ()

02. Actual Allowable Disturbance. The area of disturbed acres or affected land as set by the Board to allow participation in the Reclamation Fund. ()

03. Board. The Idaho State Board of Land Commissioners or ~~any department, commission, or agency that may lawfully succeed to the duties and powers of such Board~~ its authorized representative. (3-16-04)()

~~02. Definitions Incorporated. Except as provided in these rules, the definitions set forth in IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho," and in IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho," to the extent not provided in these rules, shall govern actions pursuant to Title 47, Chapter 18, Idaho Code, and these rules.~~ (3-16-04)

034. Department. The Idaho Department of Lands. (3-16-04)

045. Disturbed Acres; ~~or~~ Affected Lands. ~~Any~~ land, natural watercourses, or existing stockpiles or waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore, waste from placer or dredge mining, or construction of roads, settling ponds, structures, or facilities appurtenant to a placer or dredge mining operations mine. The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at a surface mining site mine. The land area disturbed by motorized exploration of state land under a mineral lease. (3-16-04)()

056. Dredge Mining Act. Title 47, Chapter 13, Idaho Code, and IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho." (3-16-04)

067. Financial Assurance. ~~Performance bonding submitted to ensure reclamation of disturbed acres or affected land or ensure payments under a mineral lease~~ Cash, corporate surety bond, collateral bond, or letter of credit as described in the Dredge Mining Act, the Mineral Leasing Act, or a mineral lease. Financial assurance as defined in the Mined Land Reclamation Act. (3-16-04)()

078. Mine; ~~or~~ Mine Panel. The All areas designated by the operator ~~or permittee as a panel of a surface mine~~ on the map ~~or plan~~ submitted pursuant to Section 47-703A, Idaho Code, or Section 47-1506, Idaho Code, or as an identifiable portion of a placer or dredge mine on the map submitted ~~pursuant to~~ under Section 47-1317, Idaho Code. (3-16-04)()

09. Mined Land Reclamation Act. Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02, "Rules Governing Mined Land Reclamation." ()

108. Mineral Lease. Lease executed by the Board and the mineral lessee pursuant to Title 47, Chapter 7, Idaho Code the Mineral Leasing Act. (3-16-04)()

- ~~0911.~~ Mineral Lessee. The lessee *of record* of a *State of Idaho M*ineral *L*ease. (3-16-04)()
- ~~102.~~ Mineral Leasing Act. Title 47, Chapter 7, Idaho Code. (3-16-04)
- ~~13.~~ Mining Reclamation Plan. Any reclamation plan approved pursuant to the Mined Land Reclamation Act. ()
- ~~114.~~ **Motorized Exploration.** Exploration which may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving equipment, seismic operations using explosives, and, *under the Mineral Leasing Act,* includes sampling with a suction dredge having an intake diameter greater than two (2) inches when operated in a perennial stream. When operated in an intermittent stream, suction dredges shall be considered motorized exploration regardless of intake size. (3-16-04)()
- ~~125.~~ **Operator.** Any person or *persons, any partnership, limited partnership or corporation, or any association of persons, either natural or artificial, including, but not limited to, every public or governmental agency engaged in surface mining, exploration or dredge and placer mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every government agency owning or controlling the use of any surface mine or dredge and placer mine where the extraction of minerals is to be used by or for the benefit of such agency. For the purpose of these rules, an operator shall include a party holding a permit or an approved surface mining reclamation plan entity authorized to conduct business in Idaho, partnership, joint venture, or public or governmental agency required to have any reclamation plan under the Mined Land Reclamation Act or the Mineral Leasing Act, or a permit under the Dredge Mining Act, whether individually or jointly through subsidiaries, agents, employees, or contractors. (3-16-04)()*
- ~~136.~~ **Permit.** Dredge *and P* or *p*lacer *M*ining *P*ermit issued pursuant to *Title 47, Chapter 13, Idaho Code* the Dredge Mining Act. (3-16-04)()
- ~~147.~~ **Reclamation Fund.** The interest-bearing dedicated fund authorized pursuant to *Title 47, Chapter 18, Idaho Code. The Reclamation Fund shall consist of fees paid by participating operators, permittees or lessees, interest and cost recoveries initiated by the Board pursuant to Section 47-1804, Idaho Code* the Reclamation Fund Act. (3-16-04)()
- ~~158.~~ **Reclamation Fund Act.** Title 47, Chapter 18, Idaho Code, and IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund." (3-16-04)()
- ~~16.~~ **Surface Mining Act.** Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho." (3-16-04)
- ~~17.~~ **Surface Mining Reclamation Plan.** Reclamation plan approved pursuant to Title 47, Chapter 15, Idaho Code. (3-16-04)
- ~~18.~~ **Traditional Performance Bond.** Cash, corporate surety bond, collateral bond, or letter of credit as described in the Dredge Mining Act, the Surface Mining Act and the Mineral Leasing Act, or a mineral lease. (3-16-04)
011. -- 015. (RESERVED)
016. **REQUIRED PARTICIPANTS.**
Any ~~Operators of mineral leases, surface mines, and placer mines,~~ with the exception of the operations ~~mines~~ and operators listed in Section 017 of these rules, shall be required to provide alternative financial assurance through the Reclamation Fund to assure the reclamation of disturbed acres or affected lands. ~~Alternative~~ Alternative financial assurance pursuant to the Reclamation Fund Act ~~and this rule shall be~~ is in lieu of ~~traditional performance bonds~~ other types of financial assurance as set forth in the Surface Mining Mined Land Reclamation Act, the Mineral Leasing Act, or the Dredge Mining Act, ~~or a mineral lease.~~ (3-16-04)()

017. INELIGIBLE ~~OPERATIONS~~ MINES OR OPERATORS.

The following types of ~~operations~~ mines and operators are not allowed to participate in the Reclamation Fund and ~~may not provide alternative financial assurance through the Reclamation Fund~~ must file proof of other acceptable financial assurance as required by the Department. (3-16-04)()

01. ~~Forty Disturbed Acres~~ Limit. A ~~surface or placer~~ mine or mineral lease with ~~greater than forty (40) acres of~~ un-reclaimed disturbed acres ~~or affected lands in excess of the actual allowable disturbance,~~ may not provide alternative financial assurance through the Reclamation Fund. Un-reclaimed disturbance is that which does not meet the final ~~traditional performance bond~~ financial assurance release criteria in the Dredge Mining Act, the ~~Surface Mining~~ Mined Land Reclamation Act or a mineral lease. (3-16-04)()

02. ~~One Hundred Thousand Dollar~~ Reclamation Cost Limit. Operators ~~of mines~~ with an estimated reclamation cost in excess of ~~one hundred thousand dollars (\$100,000)~~ the actual allowable reclamation cost, regardless of ~~surface~~ the distributed acreage. (3-16-04)()

03. Phosphate Mines. Operators or mineral lessees of phosphate mines ~~or lease holders of phosphate leases.~~ (3-16-04)()

04. Hardrock Mines. Operators or mineral lessees of hardrock mines such as gold, silver, molybdenum, copper, lead, zinc, cobalt, and other precious metal mines. (3-16-04)()

05. Potential Heavy Metal Releases. Operators of mines with a reasonable potential to release heavy metals or other substances harmful to human health or the environment, but not including substances such as fuels and other materials commonly used in excavation or construction. (3-16-04)

06. Oil and Gas Conservation. Oil and gas exploration and development ~~authorized~~ under Title 47, Chapter 3, Idaho Code. (3-16-04)()

07. Oil and Gas Leasing. Oil and gas leases and associated exploration and development ~~authorized~~ under Title 47, Chapter 8, Idaho Code. (3-16-04)()

08. Geothermal. ~~G~~Operators or mineral lessees of geothermal ~~leases wells~~ and development ~~authorized~~ under Title 47, Chapter 16, Idaho Code. (3-16-04)()

09. Off Lease Exploration. Motorized exploration on state lands that are not under a mineral lease or exploration location. (3-16-04)

10. Violators. ~~Operations~~ Mines or operators, ~~permittees or lessees~~ in violation of the Reclamation Fund Act, Dredge Mining Act, ~~Surface Mining~~ Mined Land Reclamation Act, Mineral Leasing Act, or a mineral lease. (3-16-04)()

11. Reclamation Fund Forfeitures. Operators, permittees or lessees who have not reimbursed the Reclamation Fund for a forfeiture from the Reclamation Fund due to their violations of the Reclamation Fund Act, Dredge Mining Act, ~~Surface Mining~~ Mined Land Reclamation Act, Mineral Leasing Act, or a mineral lease. (3-16-04)()

12. Other Forfeitures. An operator who has forfeited any traditional performance bond financial assurance. (3-16-04)()

13. Operators Providing Acceptable Financial Assurance. An operator who provides proof of financial assurance accepted by the Department that is greater than or equal to the minimum dollar per acre for each acre of affected land at a mine. ()

018. ACREAGE AND RECLAMATION COST LIMITATIONS.

~~No operator shall be allowed to provide bonding through the Reclamation Fund if said operator has more than forty (40) acres of cumulative surface disturbance at more than one (1) mine site. An operator who has multiple plans and permits with a total disturbance in excess of forty (40) acres may participate in the Reclamation Fund with one (1) or~~

~~more sites that contain less than forty (40) acres of total disturbance. These operators may also choose to not participate in the Reclamation Fund at all. A plan or permit that does not provide alternative financial assistance through the Reclamation Fund must be bonded with a traditional performance bond~~

01. Limitations for Participation. The Board will determine the actual allowable disturbance, actual allowable reclamation cost, and the minimum dollar per acre of disturbance in order to provide financial assurance to opt out of participation in the Reclamation Fund. ()

02. Maximum Affected Lands And Reclamation Costs. The maximum acreage of affected land and maximum allowable reclamation costs in these rules are maximums. Actual allowable acreage of affected lands and reclamation costs shall be established by Board policy. ()

03. Maximum Allowable Disturbance & Reclamation Cost Liability. The maximum allowable disturbance shall be eighty (80) acres; the maximum allowable reclamation cost shall be four hundred forty thousand (\$440,000) dollars. ()

04. Multiple Plans/Permits/Sites. An operator who has multiple mining reclamation plans or permits, which have a total disturbance in excess of the actual allowable disturbance, or with total reclamation costs in excess of the actual allowable reclamation cost, may participate in the Reclamation Fund with one (1) or more sites that together contain less than both of the Board-determined actual allowable limits. (3-16-04)()

019. OPTIONAL PARTICIPATION.

Operators who have one (1) or more ~~mining operations~~ mines or mineral leases that are ineligible to participate in the Reclamation Fund as set forth in Section 017 or 018 of these rules may choose to not participate in the Reclamation Fund with respect to all other ~~mining operations~~ eligible mines or mineral leases in their name. An operator who does not participate in the Reclamation Fund must secure ~~their operation all mines~~ with a traditional performance bond other types of financial assurance approved by the Department. (3-16-04)()

020. FEDERAL AGENCY NON-ACCEPTANCE OF RECLAMATION FUND.

If a federal agency will not accept an operator's participation in the Reclamation Fund as proof of reclamation security, the operator will be required to provide a traditional performance bond the Department with proof of other types of financial assurance acceptable to the Department. (3-16-04)()

021. -- 025. (RESERVED)

026. PAYMENT.

01. Board Approved Payment Schedule. The Board shall adopt a payment schedule which will to be used to determine the annual Reclamation Fund payment for each mineral lease, reclamation plan, placer permit or temporary permit required to participate operator participating in the Reclamation Fund. Any changes to the payment structure must schedule will be reviewed and approved by the Board. Participating operators shall pay all required payments annually. (3-16-04)()

02. Acreage Calculation. The annual payment for each participant in the Reclamation Fund shall will be established based upon the number of acres of disturbed or affected land acres at each mining operation mine. The acres used to calculate the annual payment shall will include the acres of total currently disturbed and acres of affected lands and the acres planned to be disturbed or affected during the next twelve (12) months as required by the Surface Mining Act and the Dredge Mining Act, or as may be required by a mineral lease. The acreages of disturbed or affected land at the mining operation shall total acreage calculation will not be rounded when determining annual payments. (3-16-04)()

03. Annual Payments Non-Refundable. Payments to the Reclamation Fund are non-refundable. Payments will be billed annually and are subject to late penalties, if not timely paid, will accrue late fees and interest as established by the Board. New participants will be assessed a pro-rated payment based on the Department's established billing cycle. (3-16-04)()

04. Supplemental Payments. If an operator finds it necessary to affects more acreage than the acreage

secured through the Reclamation Fund for ~~the a~~ current period, the Department may require supplemental Reclamation Fund payments. ~~Additional Reclamation Fund payments for mineral leases may be required by the Department based on site specific conditions.~~ (3-16-04)()

05. Assignment ~~or Transfer~~. When a mineral lease, mining reclamation plan, or permit is assigned, all financial assurance requirements must be assumed by the new ~~lessee or~~ operator. No Reclamation Fund payments will be refunded following an assignment. If the new operator ~~or lessee~~ is ineligible to participate in the Reclamation Fund, the new operator ~~or lessee~~ must provide ~~a traditional performance bond~~ proof of other acceptable financial assurance before the assignment ~~will~~ may be approved. (3-16-04)()

06. Non-Payment Constitutes Lack of Bonding. For ~~those any~~ operators ~~or lessees required to~~ participate ing in the Reclamation Fund, non-payment of the annual fee payment shall be considered a failure to provide ~~a traditional performance bond~~ financial assurance as required by the Dredge Mining Act, the Surface Mining Mined Land Reclamation Act, Mineral Leasing Act, or a mineral lease. (3-16-04)()

027. -- 030. (RESERVED)

031. ENFORCEMENT AND FAILURE TO COMPLY.

01. Forfeiture. Prior to withdrawing monies from the Reclamation Fund due to a violation of the Dredge Mining Act, the Surface Mining Mined Land Reclamation Act, Mineral Leasing Act, or a mineral lease, the Department shall comply with the forfeiture procedures ~~for traditional performance bond forfeiture set forth in Section 47-1513, Idaho Code.~~ (3-16-04)()

02. Penalties. If an operator fails to provide financial assurance as required by these rules or has forfeited monies from the Reclamation Fund and has not repaid those monies, the Board shall be authorized to file liens against personal property and equipment of the operator to recover costs. The operator shall be liable for actual costs of ~~the required financial assurance~~ all unpaid annual payments, interest, and late payment charges, the actual reclamation costs, and administrative costs incurred by the Department in reclaiming the disturbed or affected lands. ~~All legal action by the Department shall be in accordance with the Dredge Mining Act, Surface Mining Act, Mineral Leasing Act, or any mineral lease.~~ Authorization to obtain a lien under ~~this~~ these rules and Section 47-1804, Idaho Code, shall be in addition to, not in lieu of, any other legal remedy available to the Board and the Department pursuant to the Dredge Mining Act, ~~the Surface Mining~~ Mined Land Reclamation Act, Mineral Leasing Act, or ~~any~~ mineral lease. (3-16-04)()

~~**03. Procedure for Appeals.** Any operator or lessee aggrieved by any final order of the Board regarding the Reclamation Fund Act shall be entitled to appeal using the procedures as set forth in the Dredge Mining Act, Surface Mining Act, Mineral Leasing Act or a mineral lease.~~ (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.04 – RULES FOR THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-1901 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6), 58-105, and 58-1304, Idaho Code.

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

PUBLIC HEARING

**Monday, September 16, 2019
10:00 a.m. (MDT)**

**Idaho State Capitol
4th Floor, Majority Caucus Room (W-433)
700 West Jefferson Street
Boise, ID 83702**

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:

All funding used to manage the beds of navigable waterways comes from the fees and rent collected from the use of these lands; no general tax dollars support this work. The costs for processing encroachment permit applications for single-family docks, two-family docks, water-intake lines, and assignments exceed the current application fees collected. The Idaho Department of Lands is proposing to raise the fees for these four types of applications to ensure fees cover the respective processing costs within the limitations provided in Section 58-1307, Idaho Code.

Section 58-1305, Idaho Code, does not specify who should provide notice of application to adjacent property owners for all noncommercial navigational encroachments. The proposed rule prescribes that the department shall provide notice.

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

This proposed rule changes the fees charged for encroachment permit applications for single-family docks, two-family docks, and water-intake lines from \$300 to \$425 and the application fee for an encroachment permit assignment from \$150 to \$300.

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:

No impact to the general fund is expected. Revenue and expenses associated with administering the Lake Protection Act come from a dedicated fund, and the proposed fee increases are estimated to increase revenue to the dedicated fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2019, Idaho Administrative Bulletin, [Vol. 19-6, page 64](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Andrew Smyth at (208) 334-0248 or asmith@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 2nd day of August, 2019.

Andrew Smyth
Public Trust Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0248
Fax: (208) 334-3698
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0304-1901
(Only Those Sections With Amendments Are Shown.)

020. APPLICATIONS.

01. Encroachment Applications. No person shall hereafter make or cause to be made any encroachment on, in or above the beds or waters of any navigable lake in the state of Idaho without first making application to and receiving written approval from the department. The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho shall be considered an encroachment and written approval by the department is required. If demolition is required prior to construction of the proposed encroachment, then the application must describe the demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued. (4-2-08)

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner shall also be eligible for an encroachment permit; the grantor of such littoral rights, however, shall no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. (4-2-08)

03. Other Permits. Nothing in these rules shall excuse a person seeking to make an encroachment from obtaining any additional approvals lawfully required by federal, local or other state agencies. (9-13-90)

04. Repairs, Reinstallation of Structures. No permit is required to clean, maintain, or repair an existing permitted encroachment, but a permit is required to completely replace, enlarge, or extend an existing encroachment. Replacement of single-family and two-family docks may not require a permit if they meet the criteria in Section 58-1305(e), Idaho Code. Reinstalling the top or deck of a dock, wharf or similar structure shall be considered a repair; reinstallation of winter damaged or wind and water damaged pilings, docks, or float logs shall be considered a repair. Repairs, or replacements under Section 58-1305(e), Idaho Code, that adversely affect the bed of the lake will be considered a violation of these rules. (4-7-11)

05. Dock Reconfiguration. (4-2-08)

a. Rearrangement of single-family and two-family docks will require a new application for an

encroachment permit. (4-2-08)

b. Rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal. The department shall be consulted prior to modifications being made, and shall use the following criteria to help determine if a new permit must be submitted: (4-2-08)

i. Overall footprint does not change in dimension or orientation; (4-2-08)

ii. No increase in the square footage, as described in the existing permit and in accordance with Paragraph 015.13.a., occurs. This only applies to community docks; (3-29-10)

iii. The entrances and exits of the facility do not change. (4-2-08)

06. Redredging. Redredging a channel or basin shall be considered a new encroachment and a permit is required unless redredging is specifically authorized by the outstanding permit. Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permit. (4-2-08)

07. Forms, Filing. Applications and plans shall be filed on forms provided by the Department together with filing fees and costs of publication when required by these rules. Costs of preparation of the application, including all necessary maps and drawings, shall be paid by the applicant. (4-11-19)

a. Plans shall include the following information at a scale sufficient to show the information requested: (4-11-19)

i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile shall show the summer and winter water levels. (4-2-08)

ii. Copy of most recent survey or county plat showing the full extent of the applicant's lot and the adjacent littoral lots. (4-2-08)

iii. Proof of current ownership or control of littoral property or littoral rights. (4-2-08)

iv. A general vicinity map. (4-2-08)

v. Scaled air photos or maps showing the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, and the location and orientation of the proposed encroachment in the lake. (4-2-08)

vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface. (4-2-08)

vii. Names and current mailing addresses of adjacent littoral landowners. (4-2-08)

b. Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the natural or ordinary high water mark and the artificial high water mark, the application must be submitted or approved by the owner of such lands. When the littoral owner is not the applicant, the application shall bear the owner's signature as approving the encroachment prior to filing. (4-2-08)

c. If more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of a designated homeowner's or property management association. (4-2-08)

d. Applications for noncommercial encroachments intended to improve waterways for navigation, wildlife habitat and other recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make such improvements. Application fees are not required for these

encroachments. (4-2-08)

e. The following applications shall be accompanied by the respective nonrefundable filing fees together with a deposit toward the cost of newspaper publication, which deposit shall be determined by the director at the time of filing: (4-2-08)

i. Nonnavigational encroachments require a fee of one thousand dollars (\$1,000); except that nonnavigational encroachments for bank stabilization and erosion control require a fee of five hundred fifty dollars (\$550). (4-11-19)

ii. Commercial navigational encroachments require a base fee of two thousand dollars (\$2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by Title 58, Chapter 13, Section 58-1307, Idaho Code; (4-2-08)

iii. Community navigational encroachments require a fee of two thousand dollars (\$2,000); and (4-2-08)

iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars (\$1,000). (4-2-08)

f. Applicants shall pay any balance due on publication costs before written approval will be issued. The Department shall refund any excess at or before final action on the application. (9-13-90)

g. Application for a single-family or two-family dock not extending beyond the line of navigability or a nonnavigational encroachment for a buried or submerged water intake line serving four or less households shall be accompanied by a nonrefundable filing fee of ~~three hundred dollars (\$300)~~ **four hundred twenty-five dollars (\$425)**. (4-7-11)()

h. No publication cost is required for application for noncommercial navigational encroachment not extending beyond the line of navigability or for application for installation of buried or submerged water intake lines and utility lines. (9-13-90)

i. Applications and plans shall be stamped with the date of filing. (7-1-98)

j. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication when required, shall not be accepted for filing. The department shall send the applicant a written notice of incompleteness with a listing of the application's deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the department. If the given deadline is not met, the department will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply at a later date, but will be required to pay another filing fee and publication fee, if applicable. (4-2-08)

021. -- 024. (RESERVED)

025. PROCESSING OF APPLICATIONS FOR SINGLE-FAMILY AND TWO-FAMILY NAVIGATIONAL ENCROACHMENTS WITHIN LINE OF NAVIGABILITY.

01. Single-Family and Two-Family Navigational Encroachments. Applications for single-family and two-family navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and shall not be denied except in the most unusual of circumstances. No newspaper publication, formal appearance by the applicant, or hearing is contemplated. (4-2-08)

~~**02. Adjacent Littoral Owners.** If a proposed encroachment referred to in Subsection 025.01 may infringe upon the littoral right lines of an adjacent littoral owner, the department shall require the applicant to secure the written consent of the adjacent littoral owner. (4-2-08)~~

032. Notification of Adjacent Littoral Owners. ~~If the signature of the adjacent littoral owner is not required, the~~ The Department shall will provide a copy of such the application to the littoral owners immediately adjacent to the applicant's property. If the applicant owns one (1) or more adjacent lots, the department shall notify the owner of the next adjacent lot. ~~This notification~~ If the proposed encroachment may infringe upon the littoral rights of an adjacent owner, the department will provide notice of the application by certified mail, return receipt requested; otherwise, the notice will be sent by regular mail. Notification will be mailed to the adjacent littoral owners' usual place of address, which, if not known, shall will be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent littoral owners' signatures ~~as concurring with the application, consenting to the proposed encroachment,~~ in lieu of the department's notification. (4-2-08)()

043. Written Objections. (4-2-08)

a. If an adjacent littoral owner files written objections to the application with the department within ten (10) days from the date of service or receipt of notice of the completed application, the department shall fix a time and a place for a hearing. In computing the time to object, the day of service or receipt of notice of the application shall not be counted. Objections must be received within the ten (10) day period by mail or hand delivery in the local department office or the director's office in Boise. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object shall run until the end of the first business day thereafter. (4-2-08)

b. The applicant and any objectors may agree to changes in the permit that result in the objections being withdrawn. Department employees may facilitate any such agreement. Participation by department personnel in this informal mediation shall not constitute a conflict of interest for participation in the hearing process. A withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain: (4-2-08)

- i. Signatures of the applicant and the objecting party; (4-2-08)
- ii. A description of the changes or clarifications to the permit that are acceptable to the applicant, the objecting party, and the department. (4-2-08)

054. Unusual Circumstances. Even though no objection is filed by an adjacent littoral owner to a noncommercial navigational encroachment, if the director deems it advisable because of the existence of unusual circumstances, he may require a hearing. (4-2-08)

065. Hearings. Hearings fixed by the director following an objection pursuant to Subsection 025.043 or the Director's own determination pursuant to Subsection 025.054 shall be fixed as to time and place, but no later than sixty (60) days from date of acceptance for filing of the application. At the hearing the applicant and any adjacent riparian owner filing timely objections may appear personally or through an authorized representative and present evidence. The department may also appear and present evidence at the hearing. In such hearings the hearing coordinator shall act as a fact finder and not a party. The Director, at his discretion, shall will designate a Department representative to sit as the hearing coordinator. Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. (4-2-08)()

076. Decision Following a Hearing. The director shall, within forty-five (45) days after close of the hearing provided for in Subsections 025.043 or 025.055 render a final decision and give notice thereof to the parties appearing before him either personally or by certified or registered mail. The final decision shall be in writing. (4-2-08)()

087. Disposition Without Hearing. If a hearing is not held under Subsection 025.043 or Subsection 025.054, then the department shall act upon a complete application filed under Subsection 025.01 as expeditiously as possible but no later than sixty (60) days from acceptance of the application. Failure to act within this sixty (60) day timeframe shall constitute approval of the application. Applications determined to be incomplete under Subsection 020.07 are not subject to the sixty (60) day timeframe until the information requested by the department and required by the rules has been submitted. (4-2-08)()

098. Judicial Review. Any applicant aggrieved by the Director's final decision, or an aggrieved party appearing at a hearing, shall have a right to have the proceedings and final decision reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of

the final decision. An adjacent littoral owner shall be required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars (\$500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the director. The applicant need post no bond with the court to prosecute an appeal. (4-2-08)

060. INSTALLATION.

01. Installation Only After Permit Issued. Installation or on site construction of an encroachment may commence only when the permit is issued or when the department notifies the applicant in writing that installation may be commenced or when the department has failed to act in accordance with Subsection 025.087. (4-2-08)()

02. Removal of Construction Waste. (4-2-08)

a. Pilings, anchors, old docks, and other structures or waste at the site of the installation or reinstatement and not used as a part of the encroachment shall be removed from the water and lakebed at the time of the installation or reinstatement to a point above normal flood water levels; provided, however, that this shall not be construed to prevent the use of trash booms for the temporary control of floatable piling ends and other floatable materials in a securely maintained trash boom, but approval for a trash boom shall be required as part of a permit. (4-2-08)

b. Demolition of encroachments shall be done in a manner that does not unnecessarily damage the lakebed or shoreline. Demolition work must comply with water quality standards administered by the Department of Environmental Quality. (4-2-08)

03. Compliance with Permit. All work shall be done in accordance with these rules, and the application submitted, and is subject to any condition specified in the permit. (7-1-98)

04. Sunset Clause. All activities authorized within the scope of the encroachment permit must be completed within three (3) years of issuance date. If the activities are not completed within three (3) years, the permit shall automatically expire unless it was previously revoked or extended by the department. The department may issue a permit with an initial sunset clause that exceeds three (3) years, if the need is demonstrated by the applicant. (3-29-10)

061. -- 064. (RESERVED)

065. ASSIGNMENTS.

01. Assignment of Encroachment Permit. Encroachment permits may be assigned upon approval of the department provided that the encroachment conforms with the approved permit. The assignor and assignee must complete a department assignment form and forward it to the appropriate area office. (4-2-08)

02. Assignment Fee. The assignment fee ~~shall be one hundred fifty dollars (\$150). The fee shall be paid is three hundred dollars (\$300) and is due~~ at the time the assignment is submitted to the department. (4-2-08)()

03. Approval Required for Assignment. An assignment is not valid until it has been approved by the department. (4-2-08)

04. Assignment With New Permit. Encroachments not in compliance with the approved permit may be assigned only if: (4-2-08)

a. An application for a new permit to correct the noncompliance is submitted at the same time. (4-2-08)

b. The assignee submits written consent to bring the encroachment permit into compliance. (4-2-08)

IDAPA 23 – IDAHO BOARD OF NURSING
DOCKET NO. 23-0101-1900F
NOTICE OF PUBLIC HEARING FOR OMNIBUS RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section 54-1404, Idaho Code, and IDAPA 23.01.01.

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

PUBLIC HEARING
Thursday, September 19, 2019 2:00 to 4:00 p.m. (MDT)

280 N. 8th Street, Room 202
Boise, ID 83720

Comment may also be submitted to
Info@ibn.idaho.gov

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 summary of this action is found in June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 1780 - 1781](#). The rulemaking is being done to modify and delete the rules related to Unlicensed Assistive Personnel (UAP) and to eliminate certain rules related to fees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Janet Summers (208) 577-2500.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before September 19, 2019.

Dated this 16th day of August, 2019.

Russ Barron, Executive Director
Idaho State Board of Nursing
280 N. 8th Street, Ste. 210
P.O. Box 83720
Boise, ID 83720
Phone: (208) 577-2476
Fax: (208) 334-3262

IDAPA 25 – IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-1900F

NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD FOR OMNIBUS FEE RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section 36-2107, Idaho Code.

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

PUBLIC HEARING

**Wednesday, September 11, 2019
10:00 a.m to 2:00 p.m. (MDT)**

**Idaho State Capitol Building
Room WW53
700 W. Jefferson Street
Boise, ID 83702**

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 summary of this action is found in the June 19, 2019 Idaho Administrative Bulletin **Vol. 19-6SE, pages 4944-4984**. The Board is considering additional non-substantive edits and technical corrections, and further changes under the Red Tape Reduction Act (**Executive Order 2019-02**) and Licensing Freedom Act (**Executive Order 2017-06**). In addition the Board is considering major substantive changes to river sections, licensable activities, and guide qualifications.

A draft of changes that are being considered and the current comments received by the Board will be available at <https://oglb.idaho.gov> by August 30, 2019.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Lori Thomason at (208) 327-7380.

SUBMISSION OF WRITTEN COMMENTS: The comment period for this rulemaking has been extended. Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before September 11, 2019.

Dated this 2nd day of August, 2019.

Lori Thomason
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard Street #172
Boise, Idaho 83706
Phone: (208) 327-7380
Fax: (208) 327-7382

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1903
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 67-5221(1) and 63-105A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 225 - Section 63-215, Idaho Code was amended reducing the number of days the Tax Commission has to notify taxing districts of errors in the boundary maps submitted for review from 30 to 28 days. The rule requires amending to be consistent with this change.

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 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 90](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest, (208) 334-7742. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 4th day of September, 2019.

Alan Dornfest, Property Tax Policy Bureau Chief
State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
Fax: (208) 334-7844
Alan.Dornfest@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1903
(Only Those Sections With Amendments Are Shown.)

225. DOCUMENTATION FOR NEWLY ORGANIZED OR ALTERED TAXING DISTRICTS OR REVENUE ALLOCATION AREAS (RAAS) UNDER THE JURISDICTION OF URBAN RENEWAL AGENCIES (RULE 225).

Sections 31-1411, 50-2907, 50-2908, 63-215, 63-807, 63-1202, 63-3029B, and 63-3638, Idaho Code

01. Definitions. The following definitions apply for cities, taxing districts, or revenue allocation areas (RAAs) under the jurisdiction of urban renewal agencies being organized or formed or altering boundaries. (3-15-02)

a. Taxing Districts. The term taxing districts as used in this rule means taxing districts and taxing units. (3-15-02)

b. Alter. Alter or any derivatives of the word as used in Section 63-215, Idaho Code, means annex, deannex, or consolidate or derivatives of these words. (3-15-02)

c. Contiguous. Contiguous means being in actual contact or touching along a boundary or at a point and is synonymous with abutting on. (3-15-02)

d. Deannex. Deannex means to delete or remove a portion but not all of a boundary for a city, taxing district, or RAA by completing all legal requirements to establish a new boundary for the city, taxing district or RAA. (4-6-05)

e. Disincorporate. Disincorporate or any derivatives of the word as used in Section 63-3638, Idaho Code, means completing all legal requirements to end the existence of a city. (4-6-05)

f. Dissolve. Dissolve or any derivatives of the word as used in Section 63-3638, Idaho Code, means completing all legal requirements to end the existence of a taxing district or RAA. (4-6-05)

g. Legal Description. Legal description means a narrative that describes by metes and bounds a definite boundary of an area of land that can be mapped on a tax code area map and shall include: (3-15-02)

i. Section, township, range and meridian. (3-15-02)

ii. An initial point, being a government surveyed corner, such as a section corner, quarter corner or mineral survey corner. (3-15-02)

iii. A true point of beginning, defined by bearings and distances from the initial point, that begins a new city, taxing district, RAA or any alteration thereto. (3-15-02)

iv. Bearings and distances that continuously define the boundary of any area with a closure accuracy of at least one (1) part in five thousand (5,000). Variations from this closure requirement may be approved by the State Tax Commission if the description is sufficiently certain and accurate to ensure that the property is assigned to the proper tax code area. Such variations may include: (3-15-02)

(1) Boundaries which follow mountain ranges, rivers, highways, lakes, canals and other physical features that are clearly delineated on published U.S. Geological Survey quadrangle maps at scale 1:24,000; or (3-15-02)

(2) References to cardinal directions, government survey distances, and section or aliquot part corners; or (3-15-02)

- (3) References to recorded subdivision or town site plats, with copies of such plats; or (3-15-02)
- (4) Legislatively established boundaries as defined by reference to Idaho Code sections. (3-15-02)
- v. The legal description to annex to or deannex from an existing city, taxing district, or RAA shall plainly and clearly define the boundary lines of the deannexed or annexed area and include a reference to existing boundaries where contiguous. (3-15-02)
- h. Map Prepared in a Draftsman-like Manner.** Map prepared in a draftsman-like manner means an original graphic representation or precise copy matching the accompanying legal description and drafted to scale using standard mechanical drawing instruments or a computer. The map shall include: (3-15-02)
 - i. Section, township, range, and meridian identifications. (3-15-02)
 - ii. North arrow, bar scale, and title block. (3-15-02)
 - iii. District name and ordinance number or order date. (3-15-02)
 - iv. Bearing and distance annotation between boundary points or a legend or table identifying the bearing and distance between each set of boundary points. (3-15-02)
 - v. Clearly defined boundary lines of the newly formed city, taxing district, or RAA or of the alteration to an existing one together with reference to the existing boundary where contiguous. (3-15-02)
 - vi. Variations from the requirements of Paragraph 225.01.h. of this rule for what must be included on the map may be approved by the State Tax Commission if the map is sufficiently certain and accurate to ensure that the property is assigned to the proper tax code area. (4-6-05)
- i. Countywide taxing district.** A countywide taxing district is a taxing district having the same boundaries as one (1) or more counties. (5-8-09)
- 02. Documentation to Be Filed for Newly Created or Altered Cities, Taxing Districts, or RAAs.**
The following documentation shall be filed with the county assessor, county recorder, and the State Tax Commission no later than thirty (30) days following the effective date of any action creating or altering a city, taxing district, or RAA boundary, but no later than January 10 of the following year when any action creating or altering said boundary occurs after December 10. (3-15-02)
 - a.** A legal description which plainly and clearly defines the boundary of a newly formed city, taxing district, or RAA or the boundary of an alteration to an existing one. (3-15-02)
 - b.** A copy of a map prepared in a draftsman-like manner or a record of survey as defined by Chapter 19, Title 55, Idaho Code, which matches the legal description. (4-5-00)
 - c.** A copy of the ordinance or order effecting the formation or alteration. (4-5-00)
 - d.** For fire districts annexing territory within an existing fire district and/or city, a copy of the written approval from that existing fire district and/or city. (3-30-07)
 - e.** In cases where newly created taxing district boundaries are countywide a copy of the ordinance or order effecting the formation which clearly states that the newly formed district is to be countywide shall fulfill the requirements of documents to be filed in Paragraphs 225.02.a. through 225.02.c. of this rule. (5-8-09)
- 03. Documentation to Be Filed for Disincorporated Cities or Dissolved Taxing Districts, or RAAs.** (3-15-02)
 - a.** No later than thirty (30) days following the effective date of the final action disincorporating a city

or dissolving a taxing district or RAA, but no later than January 10 of the following year when the final action occurs after December 10, for the distributions of revenue as provided for in Sections 50-2908, 63-1202, 63-3029B and 63-3638, Idaho Code, the disincorporating or dissolving entity shall file a copy of the ordinance or order causing the disincorporation or dissolution with the county assessor, county recorder and the State Tax Commission. (4-4-13)

b. Upon receipt of the ordinance or order from a disincorporating city or dissolving taxing district, or RAA, the State Tax Commission shall prepare and send a list of the affected tax code area number(s) to the city, taxing district, or urban renewal agency and to the appropriate assessor(s) and recorder(s) within thirty (30) days except for any ordinance or order received after January 1 when the list shall be sent by the fourth Friday of January. (4-4-13)

c. After fourteen (14) days from the date of the mailing of the list of the affected tax code area(s), the State Tax Commission shall process the disincorporation or dissolution unless it receives a response from the disincorporating city, or dissolving taxing district, appropriate urban renewal agency, appropriate recorder(s) or appropriate assessor(s) that an error exists in the identification of the tax code area(s). (3-15-02)

d. For RAAs formed prior to July 1, 2011, within thirty (30) days of the earlier of one (1) year prior to any dissolution date found in the formation ordinance or the date as of which an RAA has been in existence for twenty-three (23) years, the State Tax Commission will notify the urban renewal agency of the date by which the RAA will be considered dissolved. Such notice shall include a statement indicating that the RAA may remain in existence if necessary to pay off existing bonded indebtedness, provided that, within thirty (30) days of receipt of this notice, the urban renewal agency notifies the State Tax Commission of such bonded indebtedness. Failure to provide notice of the dissolution date by the State Tax Commission to the urban renewal agency does not negate the statutory requirement for the urban renewal agency to dissolve. (3-29-12)

e. For RAAs formed beginning July 1, 2011, the notification procedures in Paragraph 225.03.d. of this rule shall be initiated within thirty (30) days of the earlier of one (1) year prior to any dissolution date found in the formation ordinance or the date as of which an RAA has been in existence for twenty (20) years. (3-29-12)

04. Digital Map Information. Digital map information in a format usable by the State Tax Commission may be submitted in addition to or as a substitute for any cloth, film, or paper copy maps. Such information shall be accompanied by metadata that clearly defines map projection, datum and attributes. (3-15-02)

05. Deadline for Completion. December 31 of the current year shall be the deadline for completing of any action that creates, alters, or dissolves any taxing district or RAA or creates, alters or disincorporates any city requiring a revision of the State Tax Commission's tax code area maps for the following year, unless the law provides otherwise. (3-15-02)

06. Approval of Property Tax Levy or Revenue Allocation. For the purpose of levying property taxes or receiving revenue allocations no newly formed or altered city, taxing district, or RAA shall be considered formed or altered by the State Tax Commission if it: (3-15-02)

a. Fails to provide the correct documentation plainly and clearly designating the boundaries of a newly formed city, taxing district, or RAA or of an alteration to an existing one; or (3-15-02)

b. Fails to provide the correct documentation in sufficient time for the State Tax Commission to comply with Rule 404 of these rules; or (4-5-00)

c. Has boundaries which overlap with like cities, taxing districts or RAAs. (3-15-02)

d. Has had one (1) previous annexation on or after July 1, 2011 and is requesting to annex additional area. In this case, the annexation request will be denied, and the area of the RAA established prior to the new annexation will be considered to comprise the entire RAA. (3-29-12)

07. Notification of Approval or Disapproval. ~~The State Tax Commission shall send a letter of approval or disapproval to the~~ Notification will be sent to affected taxing districts, urban renewal agencies, and ~~or municipality. A copy of said letter shall be submitted~~ to any ~~affected urban renewal agency and the~~ auditor(s) and

assessor(s) of the involved county(ies). ~~In the case of disapproval said letter will state the reason(s) for disapproval, the corrective action(s) needed for approval, and the time within which such corrective action(s) must be taken. The State Tax Commission shall send such letter within thirty (30) days of receipt of the document to which the disapproval relates, but not later than the fourth Friday of January except during the first quarter of the calendar year for documents relating to the next tax year.~~ (4-6-05)()

08. One Uniform System. The State Tax Commission will prepare one (1) uniform system of tax code area numbers and maps which shall be used by each county for property tax purposes. (4-5-00)

09. Tax Code Areas. The State Tax Commission shall create a separate, unique number for each tax code area. If any area annexed to an existing RAA includes a taxing district with any fund levying prior to January 1, 2008, and continuing to levy but which is not to be used to generate funds to be distributed to an urban renewal agency, the boundaries of the area added to the existing RAA shall constitute a separate tax code area. Only the State Tax Commission shall initiate or change a tax code area number. (5-8-09)

10. Furnished By The State Tax Commission. (3-29-12)

a. Annually, the State Tax Commission will post the following documents on the State Tax Commission's website: (3-29-12)

i. Updated tax code area maps: (3-29-12)

ii. Updated taxing district maps; (3-29-12)

iii. Updated urban renewal revenue allocation area maps; and (3-29-12)

iv. Documentation of changes related to the above maps. (3-29-12)

b. This information is available to all parties. Upon specific request, the State Tax Commission will furnish without charge, one (1) hardcopy set of the above documents to each appropriate assessor, recorder, treasurer, and entity with operating property assessed by the State Tax Commission. There shall be a charge for all other hardcopy maps. (3-29-12)

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1906
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 67-5221(1) and 63-105A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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 717 - The existing rule is in conflict with the new law which provides that property tax reduction benefits can be applied for outside the previous time frame. The existing rule restricts reimbursement to counties for all circuit breaker benefits to what is reported in October. That deadline cannot be met given the new part of the program that applies to occupancy tax. The rule needs to be changed to permit certification of late reimbursement as provided by the new statute.

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 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 93](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest, (208) 334-7742. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 4th day of September, 2019.

Alan Dornfest, Property Tax Policy Bureau Chief
State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
Fax: (208) 334-7844
Alan.Dornfest@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1906
(Only Those Sections With Amendments Are Shown.)

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, Volume 19-6, June 5, 2019, pages 94 through 97, prior to this chapter's reauthorized publication in the June 19, 2019 Special Edition bulletin, and must be published and new/proposed text.

717. PROCEDURE AFTER CLAIM APPROVAL (RULE 717).
Sections 63-115, 63-317, and 63-707, Idaho Code

01. Formatting Requirements. The property tax reduction roll and supplemental occupancy tax reduction roll will be formatted as required by Section 63-707, Idaho Code. ()

02. Preliminary Property Tax Reduction Roll. Except as provided in Subsections 717.06 and 717.07 of this rule, the roll, certified by the assessor to the county auditor and the State Tax Commission by June 1st of each year, will be termed the preliminary property tax reduction roll. The preliminary property tax reduction and occupancy tax reduction roll will list property tax reduction and occupancy tax reduction claimants in alphabetical order unless the Tax Commission grants permission for claimants to be listed in an alternate order. Each original claim form will be submitted to the Tax Commission in the same order as shown on the preliminary property tax reduction roll. ()

03. Final Property Tax Reduction Roll. Except as provided in Subsections 717.06 and 717.08 of this rule, the completed property tax reduction roll, certified by each county clerk to the Tax Commission by the fourth (4th) Monday in October, will be termed the final property tax reduction roll. The final property tax reduction roll will list property tax reduction claimants and occupancy tax reduction claimants who applied by September 1, in the same order as shown on the preliminary property tax reduction roll. Erroneous claims which are partially or fully disapproved by the Tax Commission will be shown on the final property tax reduction roll after the county clerk has made all adjustments or corrections listed on the notice sent to the county auditor pursuant to Section 63-707(6), Idaho Code, termed county change letter. ()

04. Certification of Electronic Property Tax Reduction Roll by County Assessor. The county assessor will certify the property tax reduction roll to the county auditor and send a copy to the Tax Commission by June 1st of each year. In addition, each county assessor will send a copy of all claims listed on the roll to the Tax Commission. Claims are to be sent in a password protected electronic data file formatted as directed or approved by the Tax Commission. This password protected electronic file will contain the following information: ()

- a.** Claimant's Social Security Number; ()
- b.** Claimant's Date of Birth; ()
- c.** Claimant's Last Name; ()
- d.** Claimant's First Name; ()
- e.** Claimant's Spouse's Social Security Number; ()
- f.** Claimant's Spouse's Date of Birth; ()

- g.** Claimant's Spouse's Last Name; ()
- h.** Claimant's Spouse's First Name; ()
- i.** Claimant's Telephone Number; ()
- j.** Claimant's Address; ()
- k.** Claimant's City; ()
- l.** List the state's postal abbreviation; ()
- m.** Claimant's Zip Code; ()
- n.** Claimant's Parcel Number(s). List the parcel number for the property on which the claimant is receiving the homeowner's exemption. When more than one (1) parcel owned by the claimant is eligible, list all eligible parcel numbers; ()
- o.** Current Year; ()
- p.** Claimant's County Number; ()
- q.** Income Data; ()
- r.** Identify New Applicants. Identify claimants did not receive this benefit in the previous year; ()
- s.** Maximum Benefit; ()
- t.** Qualifying Eligibility Status. Identify all of the following status criteria that the claimant meets; ()
- i.** Sixty-five (65) years old or older; ()
- ii.** Blind; ()
- iii.** Disability granted by the Social Security Administration, Railroad Retirement Board, or federal civil service; ()
- iv.** Orphan, under eighteen (18) years of age; ()
- v.** Prisoner of war or hostage, certified by Veteran's Affairs; ()
- vi.** Non-service connected disability or service connected disability at ten percent (10%) to thirty percent (30%), certified by Veteran's Affairs; ()
- vii.** Service connected disability at forty percent (40%) or more, certified by Veteran's Affairs; ()
- viii.** Widow or widower, include date of spouse's death; ()
- ix.** Whether the claimant is lawfully present in the United States; ()
- x.** 100% Service connected veteran, certified by Veterans Affairs; and ()
- u.** Occupancy tax reduction claimants ()

05. Certification of Completed Property Tax Reduction Roll by County Auditor. Except as provided in Section 63-317, Idaho Code, and Subsections 717.06, 717.07, and 717.08 of this rule, no later than the fourth (4th) Monday in October, each county auditor will certify the final property tax reduction roll to the Tax Commission. The roll will contain the preliminary roll information plus the additional occupancy tax reduction claims submitted between June 1 and September 1 as provided in Subsection 717.06 of this rule, and the following information formatted as directed or approved by the Tax Commission. ()

a. Current Year's Levy. List the current year's levy for the tax code area where each claimant's property is located. ()

b. Current Year's Taxable Value. List the current year's taxable value for each claimant's qualifying property. ()

c. Claimed Property Tax Reduction or Occupancy Tax Reduction Amount. For each claimant, list the amount of property tax or occupancy tax reduction claimed based on the current year's levy and the current year's eligible taxable value. ()

06. Occupancy Tax Reduction Claims. Claims submitted to the county assessor between January 1 and May 15 will be listed on the preliminary property tax reduction roll and submitted to the Tax Commission by June 1. Claims submitted to the county assessor between June 1 and September 1 will be submitted to the Tax Commission by the third Monday in September. These claims will be added to the final property tax reduction roll by the county change letter pursuant to Subsection 717.03 of this rule. Claims submitted to the county assessor after September 1 until the fourth Monday in January of the following year will be listed and submitted as follows in Subsections 717.07 and 717.08 of this rule. ()

07. Preliminary Supplemental Occupancy Tax Reduction Roll. This roll will be certified by the assessor to the county auditor and the Tax Commission by the first Monday in March of the following tax year. Claims submitted to the county assessor after September 1 will be listed on the preliminary supplemental occupancy tax reduction roll in the manner outlined in Subsection 717.02 of this rule. Occupancy tax reduction claims will be subject to the procedures outlined in Section 63-707, Idaho Code. ()

08. Final Supplemental Occupancy Tax Reduction Roll. By the first Monday in April in the following year, the Tax Commission will notify the county auditor of all adjustments or corrections. By the fourth Monday in April of that year, the county auditor will certify the final supplemental occupancy tax reduction roll which will list occupancy claimants in the same order as shown on the preliminary supplemental occupancy tax reduction roll after the county auditor makes corrections. Claims included on the final supplemental occupancy tax reduction roll are to be formatted as outlined in Subsection 717.05 of this rule. ()

IDAPA 35 – STATE TAX COMMISSION
35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1901
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 September 18, 2019.

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 110 – This rule is being changed to add a conversion factor for hydrogen, a gaseous special fuel. This will enable taxpayers to report and pay tax on hydrogen. In addition, changes were made to make the rule more readable.

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 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 98](#).

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. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 4th day of September, 2019.

Don Williams, Product Taxes Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7690
don.williams@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1901
(Only Those Sections With Amendments Are Shown.)

110. CALCULATION OF MOTOR FUELS TAX ON GASEOUS SPECIAL FUELS (RULE 110).
Section 63-2424, Idaho Code

~~01. In General. The following applies to gaseous special fuels: (4-11-15)~~

~~01.~~ A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute. (4-11-15)

~~02.~~ A gaseous special fuel may be sold at volumes or weights other than those listed in this section, ~~but, must be converted to.~~ **Distributors and consumers paying tax or claiming refunds must use** the volumes and weights used in this section for reporting purposes to ensure that the gaseous special fuels are taxed at the energy equivalent to a gallon of gasoline required by the Commission when reporting. (4-11-15)()

~~03.~~ **Computing Gaseous Special Fuel Tax Equivalents.** ~~The gaseous special fuel tax is computed~~ **Computation is made** by multiplying the percentage of gasoline gallon energy equivalent times the current gasoline tax rate for each type of gaseous special fuel. ~~Gaseous special fuel distributors are required to report the volumes and tax as required on the fuel distributor form.~~

Motor Fuel	BTUs per Gallon or Gallon Equivalent	Equivalent Volume or Weight/Mass	Percentage of Gasoline Gallon Energy Equivalent
Gasoline	127,000	1 gallon	100%
Propane	92,000	4.25 lbs. or 1 gallon	72.44%
Compressed Natural gas (CNG)	127,000 per GGE	126.67 cu. ft. or 5.66 lbs. @ 60o F	100%
Liquefied Natural Gas (LNG)	138,400 per DGE	6.06 lbs.	108.98%
Hydrogen	127,000 per GGE	1 kg.	100%

~~(3-25-16)()~~

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
HATWAI CREEK SUBBASIN ASSESSMENT AND TOTAL MAXIMUM DAILY LOADS (TMDL) –
2019 TEMPERATURE TMDL (HUC 17060306)

DOCKET NO. 58-0000-1905

NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Hatwai Creek Subbasin Assessment and Total Maximum Daily Loads - 2019 Temperature TMDL.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Hatwai Creek Subbasin Assessment and Total Maximum Daily Loads - 2019 Temperature TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Hatwai Creek Subbasin Assessment and Total Maximum Daily Loads - 2019 Temperature TMDL (Hydrologic Unit Code 17060306) establishes two (2) temperature TMDLs on a water quality impaired stream reach (assessment units). DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at

<http://www.deq.idaho.gov/media/60183085/hatwai-creek-subbasin-assessment-temperature-tmdls-2019pdf.pdf> or by contacting Graham Freeman, TMDL Program Coordinator, at (208) 373-0461, graham.freeman@deq.idaho.gov

Dated this 4th day of September, 2019

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
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. 58-0101-1904 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized pursuant to Idaho §§ 39-105, 107, 114(4), 115(3), and 116B.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified fee rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho

A temporary rule was adopted by the Idaho Board of Environmental Quality in May 2019, effective June 30, 2019, and published in the Idaho Administrative Bulletin, July 3, 2019, **Vol. 19-7, pages 284–481**. More information regarding this rule docket is available at www.deq.idaho.gov/58-0101-1904.

FEE SUMMARY: The attached rules provide a specific description of the fee or charge imposed by this rulemaking. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. The fee categories and statutory authority for imposition of the fees are listed below.

Idaho Code § 39-114(4), crop residue burn fee

Idaho Code § 39-115(3), application fee for industrial or commercial air pollution source permits

Idaho Code § 39-116B, motor vehicle inspection fee

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

IDAHO CODE SECTION 39-107D STATEMENT: (1) The legislature directs that any rule formulated and recommended by the department to the board which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under Chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

IDAPA 58.01.01.161, 210, 585, and 586 – Regulation of Toxic Air Pollutants (TAPs)

IDAPA 58.01.01.161, 210, 585, and 586 regulate toxic air pollutants (TAPs) in Idaho. The department first implemented a TAPs rule with section 161, which gave broad authority to protect human health against toxics. In

order to effectively implement 161, the department developed a policy that set emission limits for certain toxic air pollutants. Idaho industry requested that the policy be implemented in rule (instead of a policy) to provide greater certainty and transparency for industry. Through many discussions with industry and the public, a rule was developed that was responsibly protective of environmental quality while being reasonably permissive of industrial activity. As noted in Section 203.03, by complying with the TAPs rules developed in sections 210, 585 and 586, a facility adequately demonstrated compliance with 161.

Because TAPs are generally known to be hazardous to human health (EPA 1991), the federal government also implemented rules to control emissions of TAPs through National Emission Standards for Hazardous Air Pollutants (NESHAPs). EPA first tried to implement risk based standards according to the Clean Air Act (CAA) amendments of 1970. Between 1970 and 1990, EPA was only able to implement standards for 8 pollutants (asbestos, benzene, beryllium, coke oven emissions, inorganic arsenic, mercury, radionuclides, and vinyl chloride). Because of EPA's inability to address air toxics in a timely and efficient manner, Congress revised the CAA in 1990 to develop a program to control a list of hazardous air pollutants (HAPs) through technology standards for specific industries. Congress itself developed the list of 188 HAPs. They also prescribed maximum achievable control (MACT) standards for large (major) sources of HAPs and generally achievable control technology (GACT) standards for smaller (area) sources. The area source NESHAPs also only focused on a subset of 30 HAPs that were identified as being the most problematic in urban areas. Congress's intent was to address the major risks associated with TAPs by focusing on the most toxic pollutants and most significant source categories. The original list of 188 HAPs was based on the list of pollutants subject to the Emergency Planning and Community Right-to-Know Act (EPCRA). After the HAPs list was created in the early 1990's, the list of pollutants subject to EPCRA has doubled, while the list of HAPs has remained essentially unchanged.

The Idaho TAPs rules were developed to complement the federal NESHAPs, thus the rules are not more stringent than federal law. IDAPA 58.01.01.210.20 specifically states that if a facility is subject to a federal NESHAP, they have met the requirements of our state air toxics rules. These rules do regulate an activity not regulated by the federal government. They are a uniquely Idaho solution of addressing air toxics emissions. An argument could be made that the rules are broader in scope than federal law, as they do regulate an activity not regulated by federal law.

(2) To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize:

(a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

The Idaho TAPs rules were developed to protect public health by developing risk based standards that would apply to new or modified industrial sources only. There are two lists of pollutants that facilities need to consider, but only if the facility is not subject to a federal air toxics standard.

The first list of pollutants are non-carcinogens (do not cause cancer) in IDAPA 58.01.01.585. They may cause adverse health effects based on short term (24-hour) exposures. Examples include methyl isocyanate, chlorine, cyanide and xylene. The acceptable ambient levels for non-carcinogens are based on occupational exposure levels from the American Conference of Government Industrial Hygienists (ACGIH) threshold limit values (TLV). (ACGIH 2019). The TLV is typically an 8 hour time weighted average concentration and it is the concentration to which workers may be repeatedly exposed during a 40 hour work week without adverse effect. Two safety factors were applied to the TLV value: 1) to extrapolate the 8 hour exposure level to a 24 hour public exposure, and 2) to extrapolate from the relatively healthy mostly male working population to a general population that included women, children and the elderly. Thus the TAP increment values are 1/20th the TLV values.

Because ambient monitoring values can sometimes be difficult to determine, the department also developed stack emission screening levels (ELs) for easier analysis (in pounds/hour). These were based on a conservative stack modeling analysis.

The second list of pollutants are carcinogens (i.e., have been determined to cause cancer over a lifetime of exposure) in IDAPA 58.01.01.586. Examples include formaldehyde, benzene, and polycyclic aromatic hydrocarbons. The acceptable ambient levels for carcinogens are based on the cancer unit risk values from the Environmental Protection Agency and correspond to a one in a million cancer risk. (EPA 2019). An EL was also determined for

carcinogens based on the same conservative stack modeling analysis used for non-carcinogens.

(b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justify use of the data.

Facilities demonstrate compliance with TAPs levels by calculating their emission rates in pounds per hour or by calculating ambient concentrations at their property levels using air modeling.

3) Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

(a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects;

The effected population includes anyone in the public that may live near a facility that emits TAPs.

(b) Identification of the expected risk or central estimate of risk for the specific population or receptor;

The increment values outlined in this section are based on safety factors applied to occupational exposure levels for noncarcinogens and a one in a million cancer risk for carcinogens.

(c) Identification of each appropriate upper bound or lower bound estimate of risk; and

For non-carcinogens, as described above, safety factors are applied to occupational exposure levels to develop limits. Originally a more conservative safety factor was used (1/100), but due to industry concerns, the safety factor was reduced (to 1/20) to strike a balance of protecting human health and not be overly burdensome for industry.

For carcinogens, the acceptable risk level is based on a one in a million cancer risk for a lifetime (70 year) exposure. (EPA 2006). The TAPs rules provide flexibility to facilities that demonstrate TRACT (toxic reasonably available control technology) who can obtain an additional factor of 10 safety margin and thus only have to meet a one in a hundred thousand risk level.

(d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and

The TLV (basis for 585) development guidelines are outlined on the ACGIH website. (ACGIH 2019).

The IRIS database (basis for 586) follows EPA's guidelines for carcinogenic risk assessment (EPA 2006).

(e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

Calabrese and Kenyon outline the most appropriate means to develop ambient air levels for air toxics (i.e., the levels in 585 and 586). (Calabrese and Kenyon 1991). The use of occupational exposure values to develop air emission limits (as is done in 585) was not considered the ideal approach but an acceptable health based approach. The list in 586 which uses EPA's risk assessments for carcinogens from IRIS is considered the most appropriate method for determining carcinogenic levels. As discussed above, the development of the Idaho TAPs rules were made through negotiations with the public and industry to develop a solution that was responsibly protective of environmental quality while being reasonably permissive of industrial activity.

References:

ACGIH 2019. "TLV/BEI Guidelines." Accessed June 06, 2019.

Calabrese, EJ and EM Kenyon. 1991. Air Toxics and Risk Assessment. Chelsea, MI: Lewis Publishers, Inc.

EPA 2019. "Integrated Risk Information System." Accessed June 06, 2019.

EPA 2006. "Guidelines for Carcinogen Risk Assessment." Washington DC, Report EPA/630/P-03/001F.

EPA 1991. "Risk Assessment for Toxic Air Pollutants: A Citizen's Guide. Washington DC. Report EPA 450/3-90-024.

IDAPA 58.01.01.577, 750, and 751 – Regulation of Fluoride Emissions

IDAPA 58.01.01.577, 750, and 751 regulate fluoride emissions that can deposit near the emission source that result in fluoride content in feed and forage above certain concentrations known to be harmful to cattle. There are no federal rules that specifically control the fluoride content in forage. Thus, the rule, while regulating an activity that is not regulated by the federal government, does not propose a more stringent standard than the Environmental Protection (EPA).

While EPA does not have a fluoride in forage standard, as part of the CERCLA cleanup efforts at the Eastern Michaud Flats in Eastern Idaho, EPA evaluated the ecological risks of fluoride contamination. After reviewing all available scientific studies, they issued a technical memorandum proposing an action level of 40 ppm of fluoride in forage. (Booz Allen Hamilton 2013). That proposed action level is identical to the value used in IDAPA 58.01.01.

(2) To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize:

(a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

The Idaho standard is based on scientific studies from the late 1960's and early 1970's. In 1969, JW Suttie proposed an air quality standard: 40 ppm annual average, 60 ppm for 2 months, and 80 ppm for 1 month. (Suttie 1969). The levels were confirmed in reports by the National Academy of Sciences in 1971 and 1974. (NRC 1971, NRC 1974).

Industry also agrees that the state fluoride in forage rules are science based. In a comment letter from the J.R. Simplot Company on a proposed EPA fluorosis Study Design for the Easter Michaud Flats Superfund Site Offplant Operable Unit, Simplot states: "(the) fluoride grazing standard adopted by the State of Idaho is based on sound science and provides the best predictor for fluorosis exposure to grazing animals" and "compliance with the state standard is, therefore, the most effective way to assess the risk of fluorosis to grazing livestock." (JR Simplot 2010).

(b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justify use of the data.

The JR Simplot Company has implemented a comprehensive sampling plan that samples biweekly during the growing season. The JR Simplot Company believes that it "is sufficient to identify areas in which forage vegetation have fluoride concentrations greater than the standard." (Koulermos, 2005).

3) Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

(a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects;

These rules are focused on eliminating the risk to grazing cattle near facilities that have significant fluoride emissions.

(b) Identification of the expected risk or central estimate of risk for the specific population or receptor;

At the levels included in this rule, there should only be slight fluoride toxicosis observed in cattle.

(c) Identification of each appropriate upper bound or lower bound estimate of risk; and

Based on numerous studies of cattle exposure to fluoride, Shupe and Olson identified thresholds for dental fluorosis and other adverse health effects in cattle. (Shupe and Olson, 1982). See table below:

Table 1. Thresholds for fluoride effects in cattle

Measurement Endpoint	Normal conditions	No adverse effects	Onset of chronic fluoride toxicosis		
			Slight to moderate	Moderate	Severe
Fluoride in vegetation ppm	<15	15-30	30	40	60

Surrounding states also have fluoride in forage rules:

State	Averaging Time		
	1 year	60 day	30 day
Idaho	40 ppm	60 ppm	80 ppm
Wyoming	30 ppm	60 ppm	80 ppm
Montana	35 ppm	--	50 ppm
Washington	40 ppm	60 ppm	80 ppm

Wyoming and Montana have more restrictive one year averaging periods than Idaho. Washington’s program is identical to Idaho’s.

(d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and

Numerous controlled experiments have indicated that long-term ingestion of fluoride leads to severe dental fluorosis, severe osteofluorosis, intermittent lameness, and appreciable deleterious effect on feed intake, growth, or milk production in dairy cattle. A lower bound of 30 ppm of when effects start to occur has been documented in multiple sources. (Shupe 1980, Shupe and Olson, 1982, NRC 1974).

(e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

It is well known that fluoride in forage can have negative health impacts on cattle. See the references below and works cited in them:

References:

Booz Allen Hamilton, “Final Technical Memorandum Proposed Action Level and Monitoring for Fluoride for the Off-Plant Operable Unit”. Repa5-0101-002. March 2013.

JR Simplot Company, letter to EPA, “Easter Michaud Flats Superfund Site Offplant Operable Unit Simplot

General Comments on the EPA's Fluorosis Study Design." September 28, 2010.

Koulermos, Andy, 2005, Memorandum to JR Simplot Company: Fluoride in Forage Sampling Plan, Boulder CO, NewFields.

National Research Council, 1971, Biologic Effects of Atmospheric Pollutants: Fluorides, Washington DC, National Academy of Sciences.

National Research Council, 1974, Effects of Fluorides in Animals, Washington DC, National Academy of Sciences.

Shupe, James L, 1980, "Clinicopathologic Features of Fluoride Toxicosis in Cattle," Journal of Animal Science, 51: 746-758.

Shupe, James L. and Olson, Arland E, 1982, "Clinical and pathological aspects of fluoride toxicosis in animals." Proceedings of the International Fluoride Symposium held at Utah State University, Logan, UT.

Suttie, J.W., 1969, "Air Quality Standards for the Protection of Farm Animals from Fluorides," Journal of the Air Pollution Association, 19(4): 239-242.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned. Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 4th day of September, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208) 373-0418 / Fax: (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 58-0101-1904

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, Volume 19-7, July 3, 2019, pages 284 through 481.

(No changes have been made to the reauthorized/temporary rule and it is being published as proposed in its entirety)

**IDAPA 58
TITLE 01
CHAPTER 01**

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

000. LEGAL AUTHORITY.

The Board of Environmental Quality is authorized to promulgate rules for the Department of Environmental Quality governing air pollution pursuant to Sections 39-105 and 39-107, Idaho Code. (5-1-94)

001. TITLE AND SCOPE.

These rules are titled IDAPA 58.01.01, Rules of the Department of Environmental Quality, IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho.” These rules provide for the control of air pollution in Idaho. (5-1-94)

002. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The written statements are available for public inspection and copying at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (5-1-94)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

004. (RESERVED)

005. DEFINITIONS.

The purpose of Sections 005 through 008 is to assemble definitions used throughout this chapter. (5-1-94)

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 (4-11-19)
 - xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year. (4-11-19)
- 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. (3-30-07)
- 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)

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

02. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: (4-11-06)

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (4-11-06)

iii. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (4-11-06)

iv. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.02.a.ii. (3-30-07)

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required under these rules, whichever is earlier, except that the ten (10) year period shall not include any period earlier than November 15, 1990. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (4-11-06)

iii. The average rate shall be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive

twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. (4-11-06)

iv. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (4-11-06)

v. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 007.02.b.ii. and 007.02.b.iii. (4-11-06)

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero (0); and, thereafter, for all other purposes, shall equal the unit's potential to emit. (4-11-06)

d. For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.02.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.02.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.02.c. (3-30-07)

03. Begin Actual Construction. Commence construction. (4-11-06)

04. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. (4-11-06)

05. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

06. Net Emissions Increase. For purposes of Sections 204 and 205, a net emissions increase shall be defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase shall be an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (4-11-06)

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and IDAPA 58.01.05, "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. (6-30-95)

07. Pilot Plant. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

08. Projected Actual Emissions. (4-11-06)

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. (4-11-06)

b. In determining the projected actual emissions, the owner or operator of the stationary source: (4-11-06)

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and (4-11-06)

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and (4-11-06)

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or (4-11-06)

iv. In lieu of using the method set out in Subsections 007.08.b.i. through 007.08.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. (4-11-06)

09. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (4-11-06)

10. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

11. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

12. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

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

- 01. Affected States.** All States: (5-1-94)
- a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)
- c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)
- i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)
- j.** Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)
- 04. Designated Representative.** A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)
- 05. Draft Permit.** The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)
- 06. Emergency.** For the purposes of Section 332, an emergency is any situation arising from sudden

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but

only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

009. DEFINITIONS FOR THE PURPOSES OF 40 CFR PART 60.

Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Part 60 shall have the meaning given in that Part, except that the term “Administrator” shall mean “Department.” (3-15-02)

010. DEFINITIONS FOR THE PURPOSES OF 40 CFR PART 61 AND 40 CFR PART 63.

Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Part 61 and 40 CFR Part 63 shall have the meaning given in those Parts, except that the term “Administrator” shall mean “Department.” (3-15-02)

011. DEFINITIONS FOR THE PURPOSES OF SECTIONS 790 THROUGH 799.

01. Best Management Practice. The best management practice (BMP) employed within an industry to control fugitive emissions. (3-15-02)

02. Control Strategy Trigger. An event or condition that indicates that a control action is needed to prevent violation of a standard or a provision of the rule. (3-15-02)

03. Nonmetallic Mineral Processing Plant. Any combination of equipment that is used to crush or grind any nonmetallic mineral or rock wherever it may be located, including equipment located at lime plants, power plants, steel mills, asphalt concrete plants, portland cement plants, or any other facility or location processing nonmetallic minerals. (3-15-02)

04. NSPS Regulated Facility or Plant. A facility or processing plant that is subject to a standard, limitation, or other requirement of 40 CFR 60, Standards for the Performance of New Stationary Sources. (3-15-02)

05. Permit by Rule. A provision of the rules under which a facility or source registers with the Department and meets the specific requirements for that type of source. The source is then deemed to have a permit, thereby authorizing construction and operation without first obtaining a “Permit to Construct” as required in Section 201. Operating in accordance with a “Permit by Rule” (PBR) does not relieve the owner or operator from complying with all applicable federal, state, and local rules and regulations. (3-15-02)

06. Progressive Control Strategy. A sequence of control actions that when progressively employed can reduce the potential for violation of a standard or a provision of the rules. Control actions, beginning with those early in the sequence, shall be progressively applied until an adequate level of control is achieved. (3-15-02)

07. Site of Operations. The specific operating location of a nonmetallic mineral processing plant. (3-15-02)

012. -- 105. (RESERVED)

106. ABBREVIATIONS.

01. AAC. Acceptable Ambient Concentration. (5-1-94)

02. AACC. Acceptable Ambient Concentration for a Carcinogen. (5-1-94)

03. ACGIH. American Conference of Government Industrial Hygienists. (5-1-94)

04. CAS. Chemical Abstract Service. (5-1-94)

05. CL. Derived form ACGIH ceiling Limit UF = 10. (5-1-94)

06. EL. Emissions Screening Level. (5-1-94)

07. ID. Idaho Division of Environmental Quality. Not OEL based. (5-1-94)
08. LA. From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA. (5-1-94)
09. MA. From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no uf. (5-1-94)
10. MI. From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual av. time, no uf. (5-1-94)
11. NY. From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, one (1) yr. Av. time no uncertainty factor (uf). (5-1-94)
12. OEL. Reference Occupational Exposure Level. (5-1-94)
13. PL. From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. averaging time no uf. (5-1-94)
14. PL1. From Phil. Dept. of Air Management Services. Unspecified OEL based, one (1) yr. averaging time, uf=10. (5-1-94)
15. PL2. From Phil. Dept. of Air Management Services. Not OEL based one (1) yr. Av. time, uf=10. (5-1-94)
16. PL3. From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. av. time, uf=1000. (5-1-94)
17. TWA. Time Weighted Average. (5-1-94)
18. UF. Uncertainty Factor. (5-1-94)
19. URF. Unit Risk Factor from the US Environmental Protection Agency. (5-1-94)
20. WA. From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. (5-1-94)

107. INCORPORATIONS BY REFERENCE.

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

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

- and;
- a. All federal publications: U.S. Government Printing Office at <http://www.ecfr.gov/cgi-bin/ECFR>; (3-25-16)
- b. Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-20-14)
- c. All documents herein incorporated by reference: (7-1-97)
- i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-

0502. (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)
- 03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)
- a.** Requirements for Preparation, Adoption, and Submittal of Implementation Plans, [40 CFR Part 51](#) revised as of July 1, 2018. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (4-11-19)
- 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, 2018. (4-11-19)
- 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, 2018. (4-11-19)
- d.** Ambient Air Monitoring Reference and Equivalent Methods, [40 CFR Part 53](#), revised as of July 1, 2018. (4-11-19)
- e.** Ambient Air Quality Surveillance, [40 CFR Part 58](#), revised as of July 1, 2018. (4-11-19)
- f.** Standards of Performance for New Stationary Sources, [40 CFR Part 60](#), revised as of July 1, 2018. (4-11-19)
- g.** National Emission Standards for Hazardous Air Pollutants, [40 CFR Part 61](#), revised as of July 1, 2018. (4-11-19)
- 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, 2018. (4-11-19)
- i.** National Emission Standards for Hazardous Air Pollutants for Source Categories, [40 CFR Part 63](#), revised as of July 1, 2018. (4-11-19)
- j.** Compliance Assurance Monitoring, [40 CFR Part 64](#), revised as of July 1, 2018. (4-11-19)
- k.** State Operating Permit Programs, [40 CFR Part 70](#), revised as of July 1, 2018. (4-11-19)
- l.** Permits, [40 CFR Part 72](#), revised as of July 1, 2018. (4-11-19)
- m.** Sulfur Dioxide Allowance System, [40 CFR Part 73](#), revised as of July 1, 2018. (4-11-19)
- n.** Protection of Stratospheric Ozone, [40 CFR Part 82](#), revised as of July 1, 2018. (4-11-19)
- 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)
- 108. -- 120. (RESERVED)**

121. COMPLIANCE REQUIREMENTS BY DEPARTMENT.

Any person engaged in an activity which may violate the air quality provisions of the Act, violate an air quality order issued or entered in accordance with the Act or these rules, or violate any of these rules, may be required by the Department to do any of the following: (5-1-94)

01. Schedule. Prepare a proposed schedule whereby the unlawful activity will be brought into compliance over a specified period of time. (5-1-94)

02. Report. Submit periodic reports to the Department indicating progress in achieving compliance. (5-1-94)

03. Records. Submit, keep and maintain appropriate records. (5-1-94)

04. Monitoring. Monitor air pollutants at the source, in the ambient air, or in vegetation to demonstrate compliance. (5-1-94)

05. Episode Plans. Develop emergency episode plans to help prevent ambient air pollution concentrations from reaching levels which would cause substantial endangerment to health or the environment. (5-1-94)

122. INFORMATION ORDERS BY THE DEPARTMENT.

The Department may issue information orders as follows: (5-1-94)

01. Purpose. For the purpose of: (5-1-94)

a. Developing or assisting in the development of any implementation plan, any standard of performance, any emission standard or any rule; (5-1-94)

b. Determining whether any person is in violation of any standard of performance, any emission standard, any implementation plan or any rule; or (5-1-94)

c. Carrying out any air quality provisions of the Act, any air quality order issued or entered in accordance with the Act or rules, or any of these rules. (5-1-94)

02. Persons. The Department may issue an information order to any person who: (5-1-94)

a. Owns or operates any emission source; (5-1-94)

b. Manufactures emission control equipment; (5-1-94)

c. The Department believes may have information necessary to meet the intent of these rules; or (5-1-94)

d. Is subject to any requirement of these rules. (5-1-94)

03. Requirements. The information order may require the person to perform the following on a one-time, periodic or continuous basis: (5-1-94)

a. Establish, maintain and submit records; (5-1-94)

b. Make reports; (5-1-94)

c. Install, use, and maintain monitoring equipment, and use audit procedures or methods; (5-1-94)

d. Sample emissions in accordance with procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Department shall prescribe; (5-1-94)

- e. Keep records on control equipment parameters, production variables or other indirect data when the Department determines that direct monitoring of emissions is impractical; (5-1-94)
- f. Submit compliance certifications including: (5-1-94)
 - i. Identification of the applicable requirement that is the basis of the certification; (5-1-94)
 - ii. The method(s) or other means used by the owner or operator for determining the compliance status for each applicable requirement, and whether such methods or other means provide continuous or intermittent data; and (4-5-00)
 - iii. The status of compliance with each applicable requirement, based on the method or means designated in Subsection 122.03.f.ii. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and (4-5-00)
- g. Provide such other information as the Department may require. (5-1-94)

123. CERTIFICATION OF DOCUMENTS.

All documents, including but not limited to, application forms for permits to construct, application forms for operating permits, progress reports, records, monitoring data, supporting information, requests for confidential treatment, testing reports or compliance certifications submitted to the Department shall contain a certification by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. (5-1-94)

124. TRUTH, ACCURACY AND COMPLETENESS OF DOCUMENTS.

All documents submitted to the Department shall be truthful, accurate and complete. (5-1-94)

125. FALSE STATEMENTS.

No person shall knowingly make any false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto. (3-23-98)

126. TAMPERING.

No person shall knowingly render inaccurate any monitoring device or method required under any permit, or any applicable rule or order in force pursuant thereto. (3-23-98)

127. FORMAT OF RESPONSES.

All responses and information submitted to the Department shall be provided in a format approved by the Department. (5-1-94)

128. CONFIDENTIAL INFORMATION.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code and Section 39-111, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." If the information for which the person is requesting confidential treatment is submitted to the Department under Sections 300 through 386 or the terms or conditions of a Tier I operating permit, the person shall also submit the same information directly to the EPA. (4-5-00)

129. (RESERVED)

130. STARTUP, SHUTDOWN, SCHEDULED MAINTENANCE, SAFETY MEASURES, UPSET AND BREAKDOWN.

The purpose of Sections 130 through 136 is to establish procedures and requirements to be implemented in all excess emissions events and to establish criteria to be applied by the Department in determining whether to take enforcement action to impose penalties for an excess emissions event where the excess emissions are caused by startup, shutdown,

scheduled maintenance, upset, or breakdown of any emissions unit or which occur as a direct result of the implementation of any safety measure. (4-5-00)

131. EXCESS EMISSIONS.

01. Applicability. The owner or operator of a facility or emissions unit generating excess emissions shall comply with Sections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136, as applicable. If the owner or operator anticipates requesting consideration under Subsection 131.02, then the owner or operator shall also comply with the applicable provisions of Subsections 133.02, 133.03, 134.04, and 134.05. (4-5-00)

02. Enforcement Action Criteria. Where an excess emissions event occurs as a direct result of startup, shutdown, or scheduled maintenance, or an unavoidable upset or unavoidable breakdown, or the implementation of a safety measure, the Department shall consider the sufficiency of the information submitted and the following criteria to determine if an enforcement action to impose penalties is warranted: (4-5-00)

a. Whether prior to the excess emissions event, the owner or operator submitted and implemented procedures pursuant to Subsections 133.02 and 133.03 or Subsections 134.04 and 134.05, as applicable; (4-5-00)

b. Whether the owner or operator complied with all relevant portions of Subsections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136; (4-5-00)

c. Whether the excess emissions event was part of a recurring pattern of excess emissions events indicative of inadequate design, operation or maintenance of the facility or emissions unit; and (4-5-00)

d. Where appropriate, whether the excess emissions event was caused by an activity necessary to prevent loss of life, personal injury or severe property damage. (4-5-00)

03. Effect of Determination. Any decision by the Department under Subsection 131.02 shall not excuse the owner or operator from compliance with the relevant emission standard and shall not preclude the Department from taking an enforcement action to enjoin the activity causing the excess emissions. Any decision made by the Department under Subsection 131.02 shall not preclude the Department from taking an enforcement action for future or other excess emission events. The affirmative defense for emergencies under Section 332 of these Rules may be applied in addition to the provisions of Sections 130 through 136. (4-5-00)

132. CORRECTION OF CONDITION.

The person responsible for, or in charge of a facility during, an excess emissions event shall, with all practicable speed, initiate and complete appropriate and reasonable action to correct the conditions causing such excess emissions event; to reduce the frequency of occurrence of such events; to minimize the amount by which the emission standard is exceeded; and shall, as provided below or upon request of the Department, submit a full report of such occurrence, including a statement of all known causes, and of the scheduling and nature of the actions to be taken. (4-5-00)

133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.

The requirements in Subsection 133.01 shall apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. (4-5-00)

01. General Provisions. The following shall pertain to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions: (4-5-00)

a. No scheduled startup, shutdown, or maintenance resulting in excess emissions shall occur during any period in which an Atmospheric Stagnation Advisory and/or a Wood Stove Curtailment Advisory has been declared by the Department within an area designated by the Department as a PM-10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This

prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. (3-20-97)

b. The owner or operator of a source of excess emissions shall notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification shall identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification shall be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03. (4-5-00)

c. The owner or operator of a source of excess emissions shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance. (3-20-97)

d. The owner or operator of a source of excess emissions must make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. (4-5-00)

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator shall prepare, implement and file with the Department specific procedures which will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be established or documented for each piece of equipment or emissions unit and shall include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable): (4-5-00)

a. Identification of the specific equipment or emissions unit and the type of event anticipated. (4-5-00)

b. Identification of the specific emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. (4-11-06)

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (3-20-97)

f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (3-20-97)

g. For scheduled maintenance, the owner or operator shall also document detailed explanations of: (4-5-00)

i. Why the maintenance is needed. (3-20-97)

ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period. (4-5-00)

iii. Why the excess emissions are not reasonably avoidable through better scheduling of the maintenance or through better operation and maintenance practices. (3-20-97)

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate equipment or emissions

unit at reduced efficiency while the maintenance is being performed. (4-5-00)

h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (4-5-00)

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. (4-5-00)

03. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

04. Filing of Excess Emissions Procedures. (4-5-00)

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 shall not be a violation of these Rules in and of itself. (4-5-00)

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.

The requirements in Subsections 134.01, 134.02, and 134.03 shall apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department shall exercise its enforcement discretion on a case by case basis. (4-5-00)

01. Routine Maintenance and Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator shall: (4-5-00)

a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and (3-20-97)

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime shall be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. (3-20-97)

02. Excess Emissions Minimization and Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator shall comply with the following: (4-5-00)

a. The owner or operator shall immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health. (4-5-00)

b. The owner or operator shall notify the Department of any upset/breakdown/safety event that results

in excess emissions. Such notification shall identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification shall be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary. (4-5-00)

c. The owner or operator shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. (3-20-97)

03. Discretionary Reduction or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department shall be taken upon consideration of the following factors and after consultation with the facility owner or operator: (4-5-00)

a. Potential risk to the public or the environment. (3-20-97)

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. (4-5-00)

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. (4-5-00)

d. The effect of the increase in pollution resulting from the shutdown and subsequent restart of the equipment or emissions unit or facility. (4-5-00)

e. The owner or operator shall not be required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. (4-5-00)

04. Excess Emissions Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, which events can reasonably be anticipated to occur periodically but which cannot be reasonably avoided or predicted with certainty, the owner or operator shall prepare, implement, and file with the Department specific procedures which will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/ breakdown/safety event: (4-5-00)

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. (3-20-97)

b. The specific emissions in excess of applicable emission standards during the event. (4-11-06)

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable. (3-20-97)

f. The frequency of the type of event, based on historic occurrences. (3-20-97)

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. (3-20-97)

h. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. (3-20-97)

05. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

06. Filing of Excess Emissions Procedures. (4-5-00)

a. Failure to follow procedures filed with the Department shall not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. (4-5-00)

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 shall not be a violation of these Rules in and of itself. (4-5-00)

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

135. EXCESS EMISSIONS REPORTS.

01. Deadline for Excess Emissions Reports. A written report for each excess emissions event shall be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. (3-20-97)

02. Contents of Excess Emissions Reports. Each report shall contain the following information: (3-20-97)

a. The time period during which the excess emissions occurred; (3-20-97)

b. Identification of the specific equipment or emissions unit which caused the excess emissions; (3-20-97)

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; (3-20-97)

d. An estimate of the emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); (4-11-06)

e. A description of the activities carried out to eliminate the excess emissions; and (3-20-97)

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. (4-5-00)

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. (4-5-00)

136. EXCESS EMISSIONS RECORDS.

01. Maintenance of Excess Emissions Records. The owner or operator shall maintain excess emissions records at the facility for the most recent five (5) calendar year period. (3-20-97)

02. Availability of Excess Emissions Records. The excess emissions records shall be made available to the Department upon request. (3-20-97)

03. Contents of Excess Emissions Records. The excess emissions records shall include the following:

(3-20-97)

a. An excess emissions log book for each emissions unit or piece of equipment containing copies of all reports that have been submitted to the Department pursuant to Section 135 for the particular emissions unit or equipment; and (4-5-00)

b. Copies of all startup, shutdown, and scheduled maintenance procedures and upset/breakdown/safety preventative maintenance plans which have been developed by the owner or operator in accordance with Sections 133 and 134, and facility records as necessary to demonstrate compliance with such procedures and plans. (3-20-97)

04. Protections Under Section 128. The protections under Section 128 for confidential information shall be available for excess emissions reports and records upon proper request of the owner or operator in accordance with Section 128. (3-23-98)

137. -- 139. (RESERVED)

140. VARIANCES.

The purpose of Sections 140 through 149 is to establish procedures for obtaining variances. (5-1-94)

141. PETITION.

A variance proceeding shall be commenced by filing three (3) copies of a petition for variance with the Department. The complaint may be accompanied by such affidavits or other proof as the petitioner may submit in order to make it possible for the Department, if it so desires, to dispose of the matter without a hearing. The petition shall contain the following: (5-1-94)

01. Statement of Facts. A concise statement of the facts upon which the variance is requested, including a description of the business or activity in question; the quantity and type of raw materials processed; an estimate of the quantity and type of contaminants discharged; a description of existing and proposed equipment for the control of discharges; and a time schedule for bringing the activity into compliance. (5-1-94)

02. Statement of Reasons. A concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, including a description of the costs that compliance would impose on the petitioner and others, and of the injury that the grant of the variance would impose on the public. (5-1-94)

03. Requested Relief. A clear statement of the precise extent of the relief sought. (5-1-94)

142. NOTICE.

The Department shall give notice of all variance petitions as required by law. (5-1-94)

143. INVESTIGATION AND RECOMMENDATION.

After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Department staff shall, within twenty-one (21) days after the filing of the petition, make a recommendation to the Department as to the disposition of the petition. The recommendation, a copy of which shall be served on the petitioner, shall include: (5-1-94)

01. Efforts. A description of the efforts made by the staff to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained. (5-1-94)

02. Disputed Facts. A statement of the degree to which, if at all, the staff disagrees with the facts as alleged in the petition. (5-1-94)

03. Other Facts. Allegations of any other facts the staff believes relevant to the disposition of the petition. (5-1-94)

04. Costs. The staff's assessment of the costs that compliance would impose on the petitioner and on

others and of the injury that the grant of the variance would impose on the public. (5-1-94)

05. Recommendations. The staff's reasoned recommendations as to what disposition should be made of the petition. (5-1-94)

144. OBJECTIONS TO PETITION.

Any person may file with the Department, within twenty-one (21) days after the filing of the petition, a written objection to the grant of the variance. A copy of such objection shall be provided by the Department to the petitioner. (5-1-94)

145. AUTHORIZATION OF HEARING.

01. No Objection. If no objection is made by the staff or by any other person to the grant of the variance within twenty-one (21) days after the filing of the petition, the Department shall authorize a hearing unless it determines either: (5-1-94)

a. That even if all the facts alleged in the petition are true, the petitioner is not entitled to variance; or (5-1-94)

b. That the petitioner has shown from affidavits or other proof that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship. (5-1-94)

02. No Hearing. If the Department decides not to hold a hearing, it shall pass upon the petition and shall prepare an opinion stating its reasons both for the grant or denial of the petition and for its decision not to hold a hearing. (5-1-94)

03. Early Hearing. The Department may authorize a hearing without waiting for the expiration of the twenty-one (21) days during which objections may be filed; provided that if a hearing is not held the Department shall not rule upon the petition until the twenty-one (21) days have elapsed. (5-1-94)

146. NOTICE OF HEARING.

The Hearing Officer, after appropriate consultation with the parties, shall set a time and place for hearing and give notice to the petitioner, the EPA, and anyone who has filed an objection to the petition at least twenty-one (21) days prior to the date of the hearing. The hearing shall be set for a date no later than sixty (60) days after the filing of the petition. Any request by the petitioner for a continuance shall constitute a waiver of the right to a decision within ninety (90) days for the period of the continuance. (5-1-94)

147. DECISION.

The Department shall render a final decision upon the petition within ninety (90) days after the filing of the petition, except that time included in a continuance granted at the request of the petitioner shall not be counted. When exigencies of time require, the Department may delay the filing of an opinion until not more than thirty (30) days after the filing of its final order. (5-1-94)

148. PROOF OF HARDSHIP.

No variance shall be granted, with or without hearing, without adequate proof by the petitioner that compliance would impose an arbitrary or unreasonable hardship. (5-1-94)

149. VARIANCE FROM NEW RULE.

If any person files a petition for variance from a rule within twenty (20) days after the original effective date of such a rule, the operation of such rule shall be stayed as to such person, pending the disposition of the petition. The Department may hold a hearing upon said petition within five (5) days from the notice of such hearing, but in all other respects, the rules in Sections 140 through 149 shall apply to the extent they are consistent with the hearing date set by the hearing officer. (5-1-94)

150. -- 154. (RESERVED)

155. CIRCUMVENTION.

No person shall willfully cause or permit the installation or use of any device or use of any means that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of emissions. (4-11-06)

156. TOTAL COMPLIANCE.

Where more than one (1) section of these rules applies to a particular situation, all such rules must be met for total compliance, unless otherwise provided for in these rules. (5-1-94)

157. TEST METHODS AND PROCEDURES.

The purpose of this Section is to establish procedures and requirements for test methods and results. Unless otherwise specified in these rules, permit, order, consent decree, or prior written approval by the Department: (4-5-00)

01. General Requirements. If a source test is performed to satisfy a performance test requirement or a compliance test requirement imposed by state or federal regulation, rule, permit, order or consent decree, then the test methods and procedures shall be conducted in accordance with the requirements of Section 157. (4-5-00)

a. Prior to conducting any emission test, owners or operators are strongly encouraged to submit to the Department in writing, at least thirty (30) days in advance, the following for approval: (4-5-00)

- i. The type of method to be used; (4-5-00)
- ii. Any extenuating or unusual circumstances regarding the proposed test; and (4-5-00)
- iii. The proposed schedule for conducting and reporting the test. (4-5-00)

b. Without prior Department approval, any alternative testing is conducted solely at the owner's or operator's risk. If the owner or operator fails to obtain prior written approval by the Department for any testing deviations, the Department may determine the test does not satisfy the testing requirements. (4-5-00)

02. Test Requirements. Tests shall be conducted in accordance with the following requirements. (4-5-00)

a. The test must be conducted under operational conditions specified in the applicable state or federal regulation, rule, permit, order, consent decree or by Department approval. If the operational requirements are not specified, the source should test at worst-case normal operating conditions. Worst-case normal conditions are those conditions of fuel type, and moisture, process material makeup and moisture and process procedures which are changeable or which could reasonably be expected to be encountered during the operation of the facility and which would result in the highest pollutant emissions from the facility. (4-5-00)

b. The Department may impose operational limitations or require additional testing in a permit, order or consent decree if the test is conducted under conditions other than worst-case normal. (4-5-00)

c. The Department will accept the methods approved for the applicable pollutants, source type and operating conditions found in 40 CFR Parts 51, 60, 61, and 63 in determining the appropriate test method for an emission limit where one is not otherwise specified. (4-5-00)

d. The following requirements apply to owners or operators requesting minor changes in the test method. As stated in Subsection 157.01 above, without prior Department approval, other changes may result in rejection of the test results by the Department. (4-5-00)

i. For federal emission standards codified at 40 CFR Parts 60, 61, and 63, the Department will accept those minor changes which have received written approval of the U.S. EPA Administrator so long as the Department determines they are appropriate for the specific application. (4-5-00)

ii. For all other emission standards in these rules or for permit requirements, the Department will accept those minor changes that the Department determines are appropriate for the specific application. (4-5-00)

e. An owner or operator proposing to use an alternative test method not considered a minor change in Subsection 157.02.d. above, must: (4-5-00)

i. Demonstrate to the Department by comparative testing or sufficient analysis, that the alternative method is comparable and equivalent to the designated test method. (4-5-00)

ii. Submit the request for approval to use an alternative test method to the Department at least thirty (30) days in advance of a scheduled test. (4-5-00)

iii. Obtain, and submit to the Department, EPA approval for use of the alternative test method for emission standards in these rules (except for state only toxic air pollutant standards) or for federal emission standards codified at 40 CFR Parts 60, 61, and 63. (4-5-00)

iv. Obtain verification that any prior approval of an alternative test method by the Department continues to be acceptable. Alternative methods may cease to be acceptable if new or different information indicates that the alternative test method is less accurate, less reliable, or not comparable with any current state or federal regulation, rule order, permit, or consent decree. (4-5-00)

f. Prior approval by the Department may not constitute Department approval for subsequent tests if new or different information indicates that a previously Department approved test method is less accurate, less reliable or not comparable with any current state or federal regulation, rule, order, permit or consent decree. (4-5-00)

03. Observation of Tests by Department Staff. The owner or operator shall provide notice of intent to test to the Department at least fifteen (15) days prior to the scheduled test, or shorter time period as provided in a permit, order, consent decree or by Department approval. The Department may, at its option, have an observer present at any emissions tests conducted on a source. (4-5-00)

04. Reporting Requirements. If the source test is performed to satisfy a performance test requirement imposed by state or federal regulation, rule, permit, order, or consent decree, a written report shall be submitted to the Department within sixty (60) days of the completion of the test. The written report shall: (4-11-15)

a. Meet the format and content requirements specified by the Department in any applicable rule, regulation, guidance, permit, order, or consent decree. Any deviations from the format and contents specified require prior written approval from the Department. Failure to obtain such approval may result in the rejection of the test results. (4-5-00)

b. Include all data required to be noted or recorded in any referenced test method. (4-5-00)

05. Test Results Review Criteria. The Department will make every effort to review test results within a reasonable time. The Department may reject tests as invalid for: (4-5-00)

a. Failure to adhere to the approved/required method; (4-5-00)

b. Using a method inappropriate for the source type or operating conditions; (4-5-00)

c. An incomplete written report; (4-5-00)

d. Computational or data entry errors; (4-5-00)

e. Clearly unreasonable results; (4-5-00)

f. Failure to comply with the certification requirements of Section 123 of these rules; or (4-5-00)

g. Failure of the source to conform to operational requirements in orders, permits, or consent decrees at the time of the test. (4-5-00)

158. -- 159. (RESERVED)

160. PROVISIONS GOVERNING SPECIFIC ACTIVITIES AND CONDITIONS.

Sections 160 through 164 establish provisions governing specific activities and conditions. Test methods and procedures shall comply with Section 157. (4-5-00)

161. TOXIC SUBSTANCES.

Any contaminant which is by its nature toxic to human or animal life or vegetation shall not be emitted in such quantities or concentrations as to alone, or in combination with other contaminants, injure or unreasonably affect human or animal life or vegetation. (6-30-95)

162. MODIFYING PHYSICAL CONDITIONS.

When physical conditions such as tall adjacent buildings, valley and mountain terrain, etc., are such as to limit the normal dispersion of air pollutants, the Board may set more restrictive emission limitations on those sources affected by the unusual conditions when air quality standards would reasonably be expected to be exceeded. (5-1-94)

163. SOURCE DENSITY.

Should areas develop where each individual source is meeting the requirements of this chapter, yet the ambient air quality standards are being exceeded or might reasonably be expected to be exceeded, the Board may set more restrictive emission limits than are contained in this chapter. (5-1-94)

164. POLYCHLORINATED BIPHENYLS (PCBS).

01. Prohibition on Burning. Burning any material containing greater than five (5) parts per million of polychlorinated biphenyls (PCBs) is prohibited, except for incineration for the purpose of disposal. Incineration for disposal shall comply with the following provisions: (5-1-94)

a. No person shall commence construction or modification of a PCB incinerator without a permit issued according to Sections 200 through 225. (5-1-94)

b. The Department must provide opportunity for public comments prior to a final decision for a permit to construct or modify a new PCB incinerator. (5-1-94)

c. A permit issued according to Sections 200 through 225 for construction or modification of a PCB incinerator shall require, as a minimum, best available control technology and monitoring instrumentation. (5-1-94)

d. No permit to operate, construct or modify a PCB incinerator shall be processed or issued prior to March 16, 1987, or such earlier date as shall be determined by the State Board of Environmental Quality. (5-1-94)

02. Prohibition on Sales. No person shall sell, distribute or provide any materials containing greater than five (5) parts per million PCBs for home or commercial heating equipment. (5-1-94)

165. -- 174. (RESERVED)

175. PROCEDURES AND REQUIREMENTS FOR PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

The purpose of Sections 176 through 181 is to establish uniform procedures to obtain a Facility Emissions Cap (FEC) for stationary sources or facilities (hereinafter referred to as facility or facilities). A permit establishing a FEC will be issued pursuant to Sections 200 through 228 or Sections 400 through 410. (4-11-06)

176. FACILITY EMISSIONS CAP.

01. Optional Facility Emissions Cap. An owner or operator of a facility may request a FEC to establish an enforceable facility-wide emission limitation. (4-11-06)

02. Applicability. (4-11-06)

a. The owner or operator of any facility, which is not a major facility as defined in Sections 204 or

205, may apply to the Department for a permit to establish a FEC. (4-11-06)

b. FECs are available for new and existing facilities that are not major as defined in Section 204 or 205 or existing facilities undergoing a modification that does not make the facility a major facility as defined in Section 204 or 205. (4-11-15)

c. Facilities that become major facilities as defined in Section 204 or 205 are no longer eligible for a FEC under Section 176. (4-11-15)

03. Definitions. For the purposes of Sections 175 through 181, the following terms shall be defined as below. (4-11-06)

a. Baseline actual emissions. As defined in Section 007. (4-11-06)

b. Design concentration. The ambient concentration used in establishing the FEC. (4-11-06)

c. Facility emissions cap (FEC). A facility-wide emission limitation expressed in tons per year, for any criteria pollutant or hazardous air pollutant established in accordance with Sections 176 through 181. A FEC is calculated using baseline actual emissions plus an operational variability component and a growth component. A FEC, which is defined in tons per year on a twelve (12) month rolling basis, must be set below major facility thresholds as defined in Sections 204 and 205. (4-11-15)

d. FEC pollutant. The pollutant for which a FEC is established. (4-11-06)

e. Growth component. The level of emissions requested by the applicant and approved by the Department to allow for potential future business growth or facility changes that may increase emissions above baseline actual emissions plus the operational variability component. (4-11-06)

f. Operational variability component. The level of emissions up to the significant emission rate (SER) minus one (1) ton per year but no more than the facility's potential to emit (PTE). If the proposed FEC pollutant does not have a SER listed in Section 006 or has a SER less than or equal to ten (10) tons per year, the operational variability component is the level of emissions requested by the applicant and approved by the Department. The operational variability component cannot be more than the facility's PTE. (4-11-15)

177. APPLICATION PROCEDURES.

In addition to the information required pursuant to Sections 202 or 402, whichever is applicable, applications requesting a FEC must include the information required under Sections 176 through 181 and Subsections 177.01 through 177.03. (4-11-06)

01. Estimates of Emissions. A proposed FEC for each pollutant requested by the facility, including the basis for calculating the FEC. (4-11-06)

02. Estimates of Ambient Concentrations. (4-11-06)

a. Estimates of ambient concentrations will be determined as described in Subsection 202.02. (4-11-15)

b. Estimates of ambient concentrations may include projections of alternative future changes within the proposed FEC. (4-11-06)

c. For a new, existing, or modified facility, a demonstration that for each FEC pollutant, the FEC will not cause or significantly contribute to a violation of any ambient air quality standard. (4-11-06)

d. For renewal of terms and conditions establishing a FEC, it is presumed that the previous permitting analysis is satisfactory, unless the Department determines otherwise. (4-11-06)

03. Monitoring and Recordkeeping. The application must include proposed means for the facility to

determine facility emissions on a rolling twelve (12) month consecutive basis. (4-11-06)

178. STANDARD CONTENTS OF PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

In addition to the elements required by Sections 203 and 211 or Sections 403 and 405, whichever is applicable, the Department shall have the authority to impose, implement and enforce the terms in Subsections 178.01 through 178.05 and conditions establishing a FEC. (4-11-06)

01. Emission Limitations and Standards. All permits establishing use of a FEC shall contain annual facility wide emissions limitations for each FEC pollutant. (4-11-06)

02. Monitoring. All permits establishing a FEC shall contain sufficient monitoring to ensure compliance with the FEC on a rolling twelve (12) month consecutive basis. (4-11-06)

03. Recordkeeping. All permits establishing a FEC shall include the following: (4-11-06)

a. Sufficient recordkeeping to assure compliance with the FEC. (4-11-06)

b. Retention of required monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes, but is not limited to, calibration and maintenance records and original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit. (4-11-06)

04. Reporting. All permits establishing a FEC shall include the following: (4-11-06)

a. Sufficient reporting to assure compliance with the permit establishing the FEC. (4-11-06)

b. Submittal of an annual report each year on or before the anniversary date of permit issuance. All required reports must be certified in accordance with Section 123. (4-11-06)

05. Duration. Each permit establishing a FEC shall state that the terms and conditions establishing the FEC are effective for a fixed term of five (5) years. (4-11-06)

179. PROCEDURES FOR ISSUING PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

01. General Procedures. Procedures for issuing permits establishing a FEC will follow Sections 209 or 404, whichever is applicable. (4-11-06)

02. Renewal. The renewal of the terms and conditions establishing a FEC are subject to the same procedural requirements for issuing permits (Subsection 179.01) and Subsections 179.02.a. through 179.02.d.: (4-11-06)

a. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the FEC 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. (4-11-06)

b. If a timely and complete application for a renewal of the terms and conditions establishing the FEC is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit shall remain in effect until the renewal permit has been issued or denied. (4-11-06)

c. Expiration of the terms and conditions establishing a FEC may be grounds to terminate the facility's right to operate pursuant to Sections 176 through 181, unless a timely and complete renewal application has been submitted. (4-11-06)

d. On renewal, the Department may adjust a FEC with an unused growth component in accordance

with the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. (4-11-06)

03. Reopening the FEC. The Department may reopen a FEC to: (4-11-06)

a. Reduce the FEC to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the issuance of the permit establishing the FEC. (4-11-06)

b. Reduce the FEC consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the facility under the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. (4-11-06)

04. FEC Termination. The Director may approve a revision of a permit establishing a FEC to terminate the FEC, provided the permittee complies with Subsections 209.04 or 404.04, as applicable, and Subsections 179.04.a. through 179.04.c.: (4-11-06)

a. The permittee may request a revision of the permit establishing the FEC to terminate the FEC at anytime prior to the expiration of the permit. The permittee is encouraged to submit an application for a permit to construct or Tier I operating permit, as applicable, six (6) months prior to the time the permittee wishes to terminate the FEC. (4-11-06)

b. The FEC established in the permit shall remain in effect until the Department issues a new permit to construct or Tier I operating permit, as applicable. (4-11-06)

c. Nothing in Section 179 prohibits a permittee from requesting a permit revision to terminate the FEC during the permit renewal process. (4-11-06)

180. REVISIONS TO PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

Section 180 requires revisions to terms and conditions establishing a FEC. The permittee is exempt from Sections 200 through 228 unless the permittee chooses to use those rules to process any change to the permit, except as provided in Subsection 180.02. (4-11-06)

01. Criteria. A permit revision is required for the following: (4-11-06)

a. A change to existing monitoring, reporting or recordkeeping requirements in the permit establishing the FEC; (4-11-06)

b. A change to the FEC; or (4-11-06)

c. A change to the facility that would impose new requirements not included in the permit establishing the FEC. (4-11-06)

02. Permit Revision Application Procedures. A permittee may initiate a permit revision by submitting a permit revision application to the Department or by complying with other applicable sections (Sections 200 or 400). For revision of terms and conditions establishing the FEC, it is presumed that the previous permitting analysis is satisfactory unless the Department determines otherwise. A permit revision application shall: (4-11-06)

a. Meet the standard application requirements of Section 177; (4-11-06)

b. Describe the proposed permit revision; (4-11-06)

c. Describe and quantify the change in emissions above the FEC permit limit; and (4-11-06)

d. Identify new requirements resulting from the change. (4-11-06)

03. Permit Revisions. The Department will process permit revisions pursuant to Section 209 or Section 404. (4-11-06)

181. NOTICE AND RECORD-KEEPING OF ESTIMATES OF AMBIENT CONCENTRATIONS.

Section 181 authorizes facility changes that comply with the terms and conditions establishing the FEC, but that are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC. No permit revision shall be required for facility changes implemented in accordance with Section 181. (4-11-06)

01. Notice. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. (4-11-06)

a. In the event that the facility change would result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, but does not cause or significantly contribute to a violation to any ambient air quality standard, the permittee shall provide notice to the Department in accordance with Subsection 181.01.b. (4-11-06)

b. Notice procedures. The permittee may make a facility change under Section 181 if the permittee provides written notification to the Department so that the notification is received at least seven (7) days in advance of the proposed change or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. For each such change, the written notification shall: (4-11-06)

- i. Describe the proposed change; (4-11-06)
- ii. Describe and quantify expected emissions; and (4-11-06)
- iii. Provide the estimated ambient concentration analysis. (4-11-06)

02. Recordkeeping. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. In the event the facility change would not result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall record and maintain documentation on-site of the review. (4-11-06)

03. Estimates of Ambient Concentrations. Estimates of ambient concentrations shall be determined during the term of this permit using the same model and model parameters as used with the estimate of ambient concentration analysis approved for the permit establishing the FEC. The permittee shall include any changes to the facility that are not included in the originally approved estimate of ambient concentration analysis. (4-11-15)

182. -- 199. (RESERVED)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.

The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107, and major modification shall be defined as in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.ecfr.gov. (3-25-16)

201. PERMIT TO CONSTRUCT REQUIRED.

No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department which satisfies the requirements of Sections 200 through 228 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule. (4-11-06)

202. APPLICATION PROCEDURES.

Application for a permit to construct must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official in accordance with Section 123 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 228. (7-1-02)

01. Required Information. Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct shall include all of the information required by one or more of the following provisions: (5-1-94)

- a.** For any new or modified stationary source or facility: (5-1-94)
 - i.** Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)
 - ii.** A schedule for construction of the stationary source, facility, or modification. (5-1-94)
- b.** For any new major facility or major modification in a nonattainment area which would be major for the nonattainment regulated air pollutant(s): (4-5-00)
 - i.** A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. (5-1-94)
 - ii.** A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources, mobile sources, or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. (4-5-00)
 - iii.** Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance with such. (5-1-94)
 - iv.** An analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (5-1-94)
 - v.** An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department). (4-6-05)
- c.** For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)
 - i.** A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. (5-1-94)
 - ii.** An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. (5-1-94)
 - iii.** An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. (5-1-94)
 - iv.** A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the new major facility or

major modification would affect. (5-1-94)

v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. (5-1-94)

vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. (5-1-94)

vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each regulated air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. (4-5-00)

viii. Ambient analyses as specified in Subsections 202.01c.vii., 202.01c.ix., 202.01c.x., and 202.01c.xii., may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular regulated air pollutant in any area that the new major facility or major modification would affect are less than the amounts listed under 40 CFR 52.21(i)(5)(i), or the regulated air pollutant is not listed therein. (4-11-15)

ix. For any regulated air pollutant which has an ambient air quality standard, the analysis shall include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that regulated air pollutant would cause or contribute to a violation of the ambient air quality standard or any prevention of significant deterioration (PSD) increment. (4-5-00)

x. For any regulated air pollutant which does not have an ambient air quality standard, the analysis shall contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. (4-5-00)

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. (5-1-94)

xii. Operation of monitoring stations shall meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. (5-1-94)

02. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models). (4-5-00)

a. Where an air quality model specified in the "Guideline on Air Quality Models," is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. (4-5-00)

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (Revised)" (September 1984) should be used to determine the comparability of air quality models. (5-1-94)

03. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request. (5-1-94)

203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES.

No permit to construct shall be granted for a new or modified stationary source unless the applicant shows to the satisfaction of the Department all of the following: (5-1-94)

01. Emission Standards. The stationary source or modification would comply with all applicable local, state or federal emission standards. (5-1-94)

02. NAAQS. The stationary source or modification would not cause or significantly contribute to a violation of any ambient air quality standard. (5-1-94)

03. Toxic Air Pollutants. Using the methods provided in Section 210, the emissions of toxic air pollutants from the stationary source or modification would not injure or unreasonably affect human or animal life or vegetation as required by Section 161. Compliance with all applicable toxic air pollutant carcinogenic increments and toxic air pollutant non-carcinogenic increments will also demonstrate preconstruction compliance with Section 161 with regards to the pollutants listed in Sections 585 and 586. (6-30-95)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.

New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165 are incorporated by reference into these rules at Section 107. Requirements contained in the following subparts of 40 CFR 52.21, are incorporated by reference at Section 107 of these rules. These CFR sections have been codified in the electronic CFR at www.ecfr.gov.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii) - 51.165(a)(3)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 52.21(aa)	Actual PALs

(4-2-08)

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (4-6-05)

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (4-6-05)

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of

Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from Section 204 by the Department. (3-30-07)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.

The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21 are incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.ecfr.gov.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(aa)	Actual PALS

(4-2-08)

02. Effect on Visibility. The applicant must demonstrate that the effect on visibility of any federal

Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from this requirement by the Department.(3-30-07)

03. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (4-6-05)

a. In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (4-6-05)

b. In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. (4-6-05)

c. In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (4-6-05)

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (4-6-05)

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (4-6-05)

04. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

206. OPTIONAL OFFSETS FOR PERMITS TO CONSTRUCT.

The owner or operator of any proposed new or modified stationary source, new major facility, or major modification, which cannot meet the requirements of Subsections 202.01.c.vi., 203.02, 203.03, 204.02.d., 205.01 (40 CFR 52.21(k)), and 209.02.b.vi., may propose the use of an emission offset in order to meet those requirements and thereby obtain a permit to construct. Any proposed emission offset must satisfy the requirements for emission reduction credits, Section 460, and demonstrate, through appropriate dispersion modeling, that the offset will reduce ambient concentrations sufficiently to meet the requirements at all modeled receptors which could not otherwise have met the requirements. (4-6-05)

207. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.

In order to be credited in a permit to construct, any emission reduction credit must satisfy the requirements of Section 460. (5-1-94)

208. DEMONSTRATION OF NET AIR QUALITY BENEFIT.

The demonstration of net air quality benefit shall: (5-1-94)

01. VOCs. For trades involving volatile organic compounds, show that total emissions are reduced for the air basin in which the stationary source or facility is located; (5-1-94)

02. Other Regulated Air Pollutants. For trades involving any other regulated air pollutant, show through appropriate dispersion modeling that the trade will not cause an increase in ambient concentrations at any modeled receptor; (4-5-00)

03. Mobile Sources. For trades involving mobile sources, show a reduction in the ambient impact of emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for adverse ambient impact where the major facility or major modification would otherwise cause or significantly contribute to a violation of any national ambient air quality standard. (4-5-00)

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. (5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, 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. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (4-5-00)

ii. 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 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests. (5-3-03)

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, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., 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 permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures for Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any

regulated air pollutant. (4-6-05)

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (4-5-00)

03. Establishing a Good Engineering Stack Height. 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. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (7-1-02)

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

- a.** Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)
- i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)
- ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)
- iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)
- iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (4-11-06)
- v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)
- vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)
- b.** Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)
- i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)
- ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)
- iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)
- iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)
- v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)
- vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)
- c.** Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

- i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)
- ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)
- iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)
- iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

06. Transfer of Permits to Construct. (4-11-06)

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.04. (4-11-06)

b. Automatic Transfers. Any permit to construct, 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 209.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. (4-11-06)

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)

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. (4-11-19)

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. (4-11-19)

b. If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level, no further procedure for demonstrating preconstruction compliance is required for that toxic air pollutant as part of the application process. (4-11-19)

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: (4-11-19)

a. The equipment or activity covered by a NSPS or NESHAP; or (4-11-19)

b. 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. (4-11-19)

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)

211. CONDITIONS FOR PERMITS TO CONSTRUCT.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: (5-1-94)

a. Sampling ports of a size, number, and location as the Department may require; (5-1-94)

b. Safe access to each port; (5-1-94)

c. Instrumentation to monitor and record emissions data; (5-1-94)

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and (5-1-94)

e. Any other sampling and testing facilities as may be deemed reasonably necessary. (5-1-94)

02. Cancellation. The Department may cancel a permit to construct if the construction is not begun within two (2) years from the date of issuance, or if during the construction, work is suspended for one (1) year. (5-1-94)

03. Notification to The Department. Any owner or operator of a stationary source or facility subject to a permit to construct shall furnish the Department written notifications as follows: (5-1-94)

a. A notification of the anticipated date of initial start-up of the stationary source or facility not more than sixty (60) days or less than thirty (30) days prior to such date; and (5-1-94)

b. A notification of the actual date of initial start-up of the stationary source or facility within fifteen (15) days after such date. (5-1-94)

04. Performance Test. Within sixty (60) days after achieving the maximum production rate at which

the stationary source or facility will be operated but not later than one hundred eighty (180) days after initial start-up of such stationary source or facility, the owner or operator of such stationary source or facility may be required to conduct a performance test in accordance with methods and under operating conditions approved by the Department and furnish the Department a written report of the results of such performance test. (5-1-94)

- a. Such test shall be at the expense of the owner or operator. (5-1-94)
- b. The Department may monitor such test and may also conduct performance tests. (5-1-94)
- c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. (5-1-94)

212. OBLIGATION TO COMPLY.

01. Responsibility to Comply with All Requirements. Receiving a permit to construct shall not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal statutes, rules and regulations. (5-1-94)

02. Relaxation of Standards or Restrictions. At such time that a particular facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable emission standard or restriction on the operating rate, hours of operation or on the type or amount of material combusted, stored or processed, which was used to exempt the facility or modification from certain requirements for a permit to construct, the requirements for new major facilities or major modifications shall apply to the facility or modification as though construction had not yet commenced. (5-1-94)

213. PRE-PERMIT CONSTRUCTION.

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-23-98)

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: (4-5-00)

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-23-98)

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. (3-23-98)

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. (4-11-06)

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. (3-23-98)

02. Permit to Construct Procedures for Pre-Permit Construction. (3-23-98)

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. (3-23-98)

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-23-98)

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (5-3-03)

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. (3-23-98)

214. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE FOR NEW AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS.

01. Permitting Authority. For purposes of this section, Sections 112(g) and (j) of the Clean Air Act, and 40 CFR Part 63, the permitting authority shall be the Department. (3-19-99)

02. Definitions. Unless specifically provided otherwise, the definitions for terms set forth in this section shall be the definitions set forth in Section 112 of the Clean Air Act and 40 CFR Part 63 as incorporated by reference into these rules at Section 107. For purposes of determining if a source is a major source of hazardous air pollutants, the definition of potential to emit at Section 006 of these rules shall apply. (3-19-99)

03. Compliance with Federal MACT. All owners or operators of major sources of hazardous air pollutants which are subject to an applicable Maximum Available Control Technology (MACT) standard promulgated by EPA pursuant to Section 112 of the Clean Air Act and 40 CFR Part 63 shall comply with the applicable MACT standard and such owners or operators are not subject to Subsections 214.04 and 214.05. (3-19-99)

04. Requirement to Obtain Preconstruction MACT Determination from the Director. No owner or operator may construct or reconstruct a major source of hazardous air pollutants unless such owner or operator has obtained a MACT standard determination from the Director. The Director shall make the MACT standard determination on a case by case basis and in accordance with Section 112(g)(2)(B) of the Clean Air Act and 40 CFR 63.40 through 63.44 as incorporated by reference into these rules at Section 107. (3-19-99)

05. Development of MACT by the Director After EPA Deadline. In the event that EPA fails to promulgate a MACT standard for a category or subcategory of major sources of hazardous air pollutants identified by the EPA under the Clean Air Act by the date established under Section 112(e) of the Clean Air Act, the owner or operator of any major source of hazardous air pollutants in such category or subcategory shall submit an application to the Director for a MACT standard determination. The Director shall make the MACT standard determination on a case by case basis and in accordance with Section 112(j) of the Clean Air Act and 40 CFR 63.50 through 63.56 as incorporated by reference into these rules at Section 107. (3-19-99)

215. MERCURY EMISSION STANDARD FOR NEW OR MODIFIED SOURCES.

No owner or operator may commence construction or modification of a stationary source or facility that results in an increase in annual potential emissions of mercury of twenty-five (25) pounds or more unless the owner or operator has obtained a permit to construct under Sections 200 through 228 of these rules. The permit to construct application shall include an MBACT analysis for the new or modified source or sources for review and approval by the Department. A determination of applicability under Section 215 shall be based upon the best available information. Fugitive emissions shall not be included in a determination of applicability under Section 215. (4-7-11)

01. Exemptions. New or modified stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Section 215. (4-7-11)

02. Applicability. Except as provided in Subsection 215.01, Section 215 applies to all new or modified sources for which an application for a permit to construct was submitted to the Department on or after July 1, 2011. (4-7-11)

216. -- 219. (RESERVED)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221 and 223 or 222 and 223 (as required): (4-4-13)

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. (4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

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 is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-11-19)

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. Not be required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-11-19)

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 is not required to obtain approval to construct in accordance with the applicable

radionuclides standard in 40 CFR Part 61, Subpart H. (4-11-19)

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 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. (4-11-19)

04. Annual Report for Toxic Air Pollutant Exemption. The owner or operator of a source claiming a Level I or II 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 exemption determination. The owner or operator is not required to annually submit a certified report for a Level I or II 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 exemption. (4-11-19)

224. PERMIT TO CONSTRUCT APPLICATION FEE.

All applicants for a permit to construct shall submit a permit to construct application fee of one thousand dollars (\$1,000) to the Department at the time of the original submission of the application. The permit to construct application fee is not required to be submitted for: (7-1-02)

01. Exemption Applicability Determinations. Exemption applicability determinations set forth in Sections 220 through 223; (7-1-02)

02. Typographical Errors. Changes to correct typographical errors; or (7-1-02)

03. Name or Ownership Change. A change in the name or ownership of the holder of a permit to construct when the Department determines no other review or analysis is required. (7-1-02)

225. PERMIT TO CONSTRUCT PROCESSING FEE.

A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving the permit. The applicable processing fee category shall be determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation shall not include fugitive emissions.

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	\$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	\$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	\$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year or more	\$7,500
New major facility or major modification	\$10,000
Permit modifications where no engineering analysis is required	\$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	\$0.00

(4-6-05)

226. PAYMENT OF FEES FOR PERMITS TO CONSTRUCT.

01. Fee Submittal. The permit to construct application fee shall be submitted with the application. The permit to construct processing fee shall be payable upon receipt of an assessment sent to the person receiving a permit by the Department. The permit to construct application and processing fees shall be sent to:

Air Quality Permit to Construct Fees
 Fiscal Office,
 Idaho Department of Environmental Quality
 1410 N. Hilton, Boise, ID 83706-1255

(7-1-02)

02. Delinquency. No application for a permit to construct shall be processed by the Department unless accompanied by a permit to construct application fee. No permit to construct shall be issued by the Department until the Department has received the permit to construct processing fee. (7-1-02)

227. RECEIPT AND USAGE OF FEES.

Permit to construct application and processing fee receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's permit to Construct and Tier II permit programs and shall not be used for those activities

supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. The permit to construct application fee payable under Section 227 shall be retained by the Department regardless of whether a permit to construct is issued by the Department in response to an application. The Department will review the fee schedule at least every two (2) years. (7-1-02)

228. APPEALS.

A person may be able to file an appeal within thirty-five (35) days of the date the person receives an assessment from the Department under Section 225, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

229. -- 299. (RESERVED)

300. PROCEDURES AND REQUIREMENTS FOR TIER I OPERATING PERMITS.

The purposes of Sections 300 through 399 are to establish requirements and procedures for the issuance of Tier I operating permits. (7-1-02)

301. REQUIREMENT TO OBTAIN TIER I OPERATING PERMIT.

01. Prohibition. No owner or operator shall operate, or allow or tolerate the operation of, any Tier I source without an effective Tier I operating permit. (5-1-94)

02. Exceptions. (3-23-98)

a. No Tier I operating permit is required if the owner or operator is in compliance with Sections 311 through 315 and the Department has not taken final action on the application. (5-1-94)

b. Tier I sources not located at major facilities do not require a Tier I operating permit until: (3-23-98)

i. December 31, 1997 for Phase II sulfur dioxide sources; (3-23-98)

ii. January 1, 1999 for Phase II nitrogen oxides sources; (3-23-98)

iii. January 1, 2000 for solid waste incineration units required to obtain a permit pursuant to 42 U.S.C. Section 7429(e); and (3-23-98)

iv. The source becomes a Tier I source under Section 006 of this chapter. (4-11-06)

c. No Tier I operating permit is required for the following Tier I sources: (5-1-94)

i. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA; and (5-1-94)

ii. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61.145. (5-1-94)

302. OPTIONAL TIER I OPERATING PERMIT.

Any facility listed in Section 301 not required to obtain a Tier I operating permit may opt to apply for a Tier I operating permit. (3-23-98)

303. -- 310. (RESERVED)

311. STANDARD PERMIT APPLICATIONS.

The purpose of Sections 311 through 315 is to establish standard Tier I operating permit application procedures. (5-1-94)

312. DUTY TO APPLY.

For each Tier I source, the owner or operator shall submit a timely and complete permit application in accordance

with Sections 311 through 315. (5-1-94)

313. TIMELY APPLICATION.

01. Original Tier I Operating Permits. (5-1-94)

a. For Tier I sources existing on May 1, 1994, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than June 1, 1996, or within twelve (12) months of EPA approval of the Tier I operating program, whichever is earlier, unless: (3-20-97)

i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)

b. For sources that become Tier I sources after May 1, 1994, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless: (3-23-98)

i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)

c. For initial phase II acid rain sources identified in Subsections 301.02.b.i. or 301.02.b.ii., the owner or operator of the initial Phase II acid rain source shall submit to the Department a complete application for an original Tier I operating permit by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides. (3-23-98)

d. For Tier I sources identified in Subsection 301.02.b.iii.: (3-23-98)

i. Existing on July 1, 1998, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than January 1, 1999, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)

ii. That become Tier I sources after July 1, 1998, located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)

02. Earlier Dates During Initial Period. Except as otherwise provided in these rules, during the initial period which begins May 1, 1994 and ends three (3) years after EPA approval of the Tier I operating program, the Department may designate Tier I sources for processing as follows: (5-1-94)

a. The Department may develop a general estimate of the total work load and benefits associated with the Tier I operating permit applications that are predicted to be submitted during the initial period including, but not limited to, original permit applications and significant permit modification applications. (3-19-99)

b. Considering the complexity of the applications, air quality benefits of permitting and requests for early actions from owners and operators, the Department may divide the applications into three (3) groups each representing approximately one-third (1/3) of the total work load and benefits. (5-1-94)

c. The Department may prioritize the three (3) groups and the Tier I sources within each group for processing, establish early application deadlines and notify the owners or operators of the Tier I sources in the group in writing of a required submittal date earlier than the general deadlines provided in Subsection 313.01. (5-1-94)

03. Renewals of Tier I Operating Permits. The owner or operator of the Tier I source shall submit a

complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration. (4-5-00)

04. Changes to Tier I Operating Permits. Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits. (3-19-99)

314. REQUIRED STANDARD APPLICATION FORM AND REQUIRED INFORMATION.

01. General Requirements. (5-1-94)

a. Applications shall be submitted on a form or forms provided by the Department or by other means prescribed by these rules or the Department. The application shall be certified by the responsible official in accordance with Section 123. (5-1-94)

i. If the Tier I source is regulated under 42 U.S.C. Sections 7651 through 7651o, the owner or operator shall also submit nationally-standardized acid rain forms provided by EPA. (5-1-94)

b. All information shall be in sufficient detail so that the Department may efficiently and effectively determine the applicability of requirements and make all other necessary evaluations and determinations. (5-1-94)

02. General Information for the Facility. (5-1-94)

a. Provide identifying information, including the name, address and telephone number of: (5-1-94)

i. The owner; (5-1-94)

ii. The operator; (5-1-94)

iii. The facility where the Tier I source is located; (5-1-94)

iv. The registered agent of the owner, if any; (5-1-94)

v. The registered agent of the operator, if any; (5-1-94)

vi. The responsible official, if other than the owner or operator; and (5-1-94)

vii. The contact person. (5-1-94)

b. Provide a general description of the processes used and products produced by the facility where the Tier I source is located, including any associated with each requested alternative operating scenario and trading scenario. The description shall include narrative and applicable SIC codes. (5-1-94)

c. Provide a general description of each process line affecting a Tier I source. (5-1-94)

03. Specific Information for Each Emissions Unit. The owner or operator shall provide, in an itemized format, all of the information identified in Subsections 314.04 through 314.11 for each emissions unit, unless the emissions unit is an insignificant activity. (4-5-00)

04. Emissions. (5-1-94)

a. Identify and describe all emissions of pollutants for which the source is major and all emissions of regulated air pollutants from each emissions unit. Fugitive emissions shall be included in the application in the same manner as stack emissions, regardless of whether the source category is included in the list of sources contained in the definition of major facility (Section 008). (3-23-98)

b. Emissions rates shall be quantified in tons per year (tpy) or for radionuclides the effective dose equivalent (EDE) in millirem per year and in such additional terms as are necessary to determine compliance consistent with the applicable test method. (4-5-00)

c. Identify and describe all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of the Clean Air Act. (3-20-97)

d. To the extent it is needed to determine or regulate emissions, identify and quantify all fuels, fuel use, raw materials, production rates, and operating schedules. (5-1-94)

e. Identify and describe all air pollution control equipment and compliance monitoring devices or activities. (5-1-94)

f. Identify and describe all limitations on source operation or any work practice standards affecting emissions. (5-1-94)

g. Provide the calculations on which the information provided under Subsections 314.04.a. through 314.04.e. is based. (4-5-00)

05. Applicable Requirements. (5-1-94)

a. Cite and describe all applicable requirements affecting the emissions unit; and (5-1-94)

b. Describe or reference all methods required by each applicable requirement for determining the compliance status of the emissions unit with the applicable requirement, including any applicable monitoring, recordkeeping and reporting requirements or test methods. (5-1-94)

06. Other Requirements. Other specific information that may be necessary to determine the applicability of, implement or enforce any requirement of the Act, these rules, 42 U.S.C. Sections 7401 through 7671q or federal regulations. (5-1-94)

07. Proposed Determinations of Nonapplicability. Identify requirements for which the applicant seeks a determination of nonapplicability and provide an explanation of why the requirement is not applicable to the Tier I source. (3-23-98)

08. Alternative Operating Scenarios. (5-1-94)

a. Identify all requested alternative operating scenarios. (5-1-94)

b. Provide a detailed description of all requested alternative operating scenarios. Include all the information required by Section 314 that is relevant to the alternative operating scenario. (5-1-94)

09. Compliance Certifications. (5-1-94)

a. Provide a compliance certification regarding the compliance status of each emissions unit at the time the application is submitted to the Department that: (5-1-94)

i. Identifies all applicable requirements affecting each emissions unit. (5-1-94)

ii. Certifies the compliance status of each emissions unit with each of the applicable requirements. (5-1-94)

iii. Provides a detailed description of the method(s) used for determining the compliance status of each emissions unit with each applicable requirement, including a description of any monitoring, recordkeeping, reporting and test methods that were used. Also provide a detailed description of the method(s) required for determining compliance. (5-1-94)

iv. Certifies the compliance status of the emissions unit with any applicable enhanced monitoring requirements. (5-1-94)

v. Certifies the compliance status of the emissions unit with any applicable enhanced compliance certification requirements. (5-1-94)

vi. Provides all other information necessary to determining the compliance status of the emissions unit. (5-1-94)

b. Provide a schedule for submission of compliance certifications during the term of the Tier I operating permit. The schedule shall require compliance certifications to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

10. Compliance Plans. (5-1-94)

a. Provide a compliance description as follows: (5-1-94)

i. For each applicable requirement with which the emissions unit is in compliance, state that the emissions unit will continue to comply with the applicable requirement. (5-1-94)

ii. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not contain a more detailed schedule, state that the emissions unit will meet the applicable requirement on a timely basis. (5-1-94)

iii. For each applicable requirement that will become effective during the term of the Tier I operating permit that contains a more detailed schedule, state that the emissions unit will comply with the applicable requirement on the schedule provided in the applicable requirement. (5-1-94)

iv. For each applicable requirement with which the emission unit is not in compliance, state that the emissions unit will be in compliance with the applicable requirement by the time the Tier I operating permit is issued or provide a compliance schedule in accordance with Subsection 314.10.b. (4-5-00)

b. All compliance schedules shall: (5-1-94)

i. Include a schedule of remedial measures leading to compliance, including an enforceable sequence of actions and specific dates for achieving milestones and achieving compliance. (4-5-00)

ii. Incorporate the terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

iii. Be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based. (5-1-94)

c. Provide a schedule for submission to the Department of periodic progress reports no less frequently than every six (6) months or at a more frequent period if one (1) is specified in the underlying applicable requirement or by the Department. (4-5-00)

11. Trading Scenarios. (5-1-94)

a. Identify all requested trading scenarios, including alternative emissions limits (bubbles) authorized by Section 440. (5-1-94)

b. Provide a detailed description of all requested trading scenarios. Include all the information required by Section 314 that is relevant to the trading scenario and all the information required by Section 440, if applicable. Emissions trades must comply with all applicable requirements. (3-23-98)

c. Provide proposed replicable procedures and permit terms that ensure the emissions trades are

quantifiable and enforceable. Emissions trades involving emissions units for which the emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trade shall not be approved. (3-23-98)

12. Additional Information. Provide all additional information that the Department determines is necessary for the Department to efficiently and effectively perform its functions. Such functions include, but are not limited to, determining the applicability of requirements for all regulated air pollutants, determining compliance with applicable requirements, developing or defining Tier I operating permit terms and conditions, defining all approved alternative operating scenarios, evaluating excess emissions procedures or making all necessary evaluations and determinations. (4-5-00)

315. DUTY TO SUPPLEMENT OR CORRECT APPLICATION.

01. Failure to Submit. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. (5-1-94)

02. Necessary Additional Information. If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, the Department may request such information in writing and set a deadline for a response. The applicant shall submit the requested information on or before the deadline set by the Department. (5-1-94)

03. Additional Information After Completeness. The applicant shall promptly provide additional information as necessary to address any requirements that become applicable to the Tier I source after the date a complete application was filed but prior to release of a proposed action. (5-1-94)

316. EFFECT OF INACCURATE INFORMATION IN APPLICATIONS OR FAILURE TO SUBMIT RELEVANT INFORMATION.

Notwithstanding the shield provisions of Section 325, the owner or operator shall be subject to enforcement action for operation of the Tier I source without a Tier I operating permit if the owner or operator submitted an incomplete or inaccurate application or the Tier I source is later determined not to qualify for coverage under the conditions and terms of the Tier I operating permit. (4-5-00)

317. INSIGNIFICANT ACTIVITIES.

01. Applicability Criteria. This Section contains the criteria for identifying insignificant activities for the purposes of the Tier I operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement shall qualify as an insignificant emission unit or activity. Applicants may not exclude from Tier I operating permit applications information that is needed to determine whether the facility is major or whether the facility is in compliance with applicable requirements. (3-23-98)

- a.** Presumptively insignificant emission units. (3-23-98)
 - i.** Except as provided above, the activities listed in this section may be omitted from the permit application. (3-23-98)
 - (1) Blacksmith forges. (3-23-98)
 - (2) Mobile transport tanks on vehicles except for those containing asphalt and not including loading and unloading operations. (3-23-98)
 - (3) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities. (3-23-98)
 - (4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, lubricating oil, treater oil, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or

- airborne particulate matter. (3-23-98)
- (5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. (3-3-95)L
 - (6) Storage of solid material, dust-free handling. (3-3-95)L
 - (7) Boiler water treatment operations, not including cooling towers. (3-23-98)
 - (8) Vents from continuous emission monitors and other analyzers. (3-3-95)L
 - (9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. (3-3-95)L
 - (10) Internal combustion engines for propelling or powering a vehicle. (3-3-95)L
 - (11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. (3-3-95)L
 - (12) Brazing, soldering, and welding equipment and cutting torches for use in cutting metal wherein components of the metal do not generate hazardous air pollutants or hazardous air pollutant precursors. (3-23-98)
 - (13) Atmospheric generators used in connection with metal heat treating processes using non-hazardous air pollutant metals as the primary raw material. (3-23-98)
 - (14) Non-hazardous air pollutant metal finishing or cleaning using tumblers. (3-23-98)
 - (15) Drop hammers or hydraulic presses for forging or metalworking. (3-3-95)L
 - (16) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of hazardous air pollutants. (3-23-98)
 - (17) Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compound or hazardous air pollutant. (3-23-98)
 - (18) Process water filtration systems. (3-23-98)
 - (19) Portable electrical generators that can be moved by hand from one (1) location to another. Moved by hand means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device. (3-23-98)
 - (20) Plastic and resin curing equipment, excluding FRP and provided these activities are not related to the source's primary business activity. (3-23-98)
 - (21) Extrusion equipment, metals, minerals, plastics, grain or wood used without solvents containing hazardous air pollutant. (3-23-98)
 - (22) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics without solvents containing hazardous air pollutants present. (3-23-98)
 - (23) Roller mills and calendars for use with rubber and plastics without solvents containing hazardous air pollutants. (3-23-98)
 - (24) Conveying and storage of plastic pellets. (3-3-95)L
 - (25) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. (3-3-95)L

- (26) Plastic pipe welding. (3-3-95)L
- (27) Wax application in either a molten state or aqueous suspension. (3-23-98)
- (28) Plant maintenance and upkeep including routine housekeeping, janitorial activities, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and lawn, landscaping and groundskeeping activities. Provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. (3-23-98)
- (29) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. (3-3-95)L
- (30) Maintenance of paved streets and parking lots including paving, stripping, salting, sanding, cleaning and sweeping of streets and paved surfaces. Provided these activities are not related to the source's primary business activity, do not otherwise trigger a permit modification, and fugitive emissions are reasonably controlled as required in Section 808. (3-23-98)
- (31) Ultraviolet curing processes. (3-3-95)L
- (32) Hot melt adhesive application with no volatile organic compounds or hazardous air pollutants in the adhesive formula. (3-23-98)
- (33) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents except for boilers. (3-23-98)
- (34) Steam cleaning operations. (3-3-95)L
- (35) Steam sterilizers. (3-3-95)L
- (36) Food service activities including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. (3-23-98)
- (37) Portable drums and totes. (3-3-95)L
- (38) Fluorescent light tube and aerosol can crushing in units designed to reduce emissions from these activities. (3-23-98)
- (39) Flares used to indicate danger to the public. (3-3-95)L
- (40) General vehicle maintenance including vehicle exhaust from repair facilities provided these activities are not related to the source's primary business activity and do not have applicable requirements under title VI of the Clean Air Act. (3-23-98)
- (41) Comfort air conditioning or air cooling systems, not used to remove air contaminants from specific equipment. (3-3-95)L
- (42) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. (3-3-95)L
- (43) Natural and forced air vents for bathroom/toilet facilities. (3-3-95)L
- (44) Office activities. (3-3-95)L
- (45) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used exclusively to withdraw materials for laboratory analyses and testing. (3-23-98)

- (46) Fire suppression systems and similar safety equipment and equipment used to train firefighters including fire drill pits. (3-23-98)
- (47) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity except equipment affected by the radionuclide NESHAP. (3-23-98)
- (48) Satellite Accumulation Areas (SAAs) and Temporary Accumulation Areas (TAAs) managed in compliance with RCRA. (3-23-98)
- (49) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that these activities are not conducted as part of a manufacturing process. (3-23-98)
- (50) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. (3-3-95)L
- (51) Slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment. (3-23-98)
- (52) Ozonation equipment. (3-3-95)L
- (53) Temporary construction activities at a facility provided that the installation or modification of emissions units must comply with all applicable federal, state, and local rules and regulations. (3-23-98)
- (54) Batch loading and unloading of solid phase catalysts. (3-3-95)L
- (55) Pulse capacitors. (3-3-95)L
- (56) Gas cabinets using only gases that are not regulated air pollutants. (3-3-95)L
- (57) CO2 lasers, used only on metals and other materials which do not emit hazardous air pollutants in the process. (3-23-98)
- (58) Structural changes not having air contaminant emissions. (3-3-95)L
- (59) Equipment used to mix, package, store and handle soaps, lubricants, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions, provided appropriate lids and covers are utilized. (3-23-98)
- (60) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche provided these activities are not related to the source's primary business activity. (3-23-98)
- (61) Pharmaceutical and cosmetics packaging equipment. (3-3-95)L
- (62) Paper trimmers/binders provided these activities are not related to the source's primary business activity. (3-23-98)
- (63) Bench-scale laboratory equipment and laboratory equipment used exclusively for physical or chemical analysis, including associated vacuum producing devices but excluding research and development facilities. (3-23-98)
- (64) Repair and maintenance shop activities not related to the source's primary business activity. (3-23-98)
- (65) Handling equipment and associated activities for glass and aluminum which is destined for

recycling, provided these activities are not related to the source's primary business activity.	(3-23-98)
(66) Hydraulic and hydrostatic testing equipment.	(3-3-95)L
(67) Batteries and battery charging stations, except at battery manufacturing plants.	(3-23-98)
(68) Porcelain and vitreous enameling equipment.	(3-3-95)L
(69) Solid waste containers.	(3-3-95)L
(70) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants.	(3-23-98)
(71) Shock chambers.	(3-3-95)L
(72) Wire strippers.	(3-3-95)L
(73) Humidity chambers.	(3-3-95)L
(74) Solar simulators.	(3-3-95)L
(75) Environmental chambers not using hazardous air pollutant gases.	(3-23-98)
(76) Totally enclosed conveyors not including transfer points.	(3-23-98)
(77) Steam vents and safety relief valves.	(3-3-95)L
(78) Air compressors, pneumatically operated equipment, systems, and hand tools.	(3-3-95)L
(79) Steam leaks.	(3-3-95)L
(80) Boiler blow-down tank.	(3-3-95)L
(81) Salt cake mix tanks at pulp mills.	(3-23-98)
(82) Digester chip feeders at pulp mills.	(3-23-98)
(83) Weak liquor and filter tanks at pulp mills.	(3-23-98)
(84) Process water and white water storage tanks at pulp mills.	(3-23-98)
(85) Demineralizer water tanks, demineralization, demineralizer vents, and oxygen scavenging (deaeration) of water.	(3-23-98)
(86) Clean condensate tanks.	(3-3-95)L
(87) Alum tanks.	(3-3-95)L
(88) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling.	(3-3-95)L
(89) Lime and mud filtrate tanks.	(3-3-95)L
(90) Hydrogen peroxide tanks.	(3-3-95)L
(91) Lime mud washer.	(3-3-95)L
(92) Lime mud filter.	(3-3-95)L

- (93) Hydro and liquor clarifiers or filters and storage tanks and associated pumping, piping, and handling. (3-23-98)
- (94) Lime grits washers, filters, and handling. (3-3-95)L
- (95) Lime silos and feed bins. (3-3-95)L
- (96) Paper forming. (3-3-95)L
- (97) Starch cooking. (3-3-95)L
- (98) Pulp stock cleaning and screening. (3-23-98)
- (99) Paper winders or other paper converting equipment. (3-23-98)
- (100) Sludge dewatering and wet sludge handling. (3-23-98)
- (101) Screw press vents. (3-3-95)L
- (102) Pond dredging. (3-3-95)L
- (103) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation. (3-3-95)L
- (104) Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank. (3-3-95)L
- (105) Lab-scale electric or steam-heated drying ovens and autoclaves. (3-23-98)
- (106) Sewer manholes, junction boxes, sumps and lift stations associated with waste water treatment systems. (3-3-95)L
- (107) Water cooling towers processing exclusively noncontact cooling water. (3-3-95)L
- (108) Paper coating and sizing. (3-3-95)L
- (109) Process waste water and ponds. (3-3-95)L
- (110) Outdoor firearms practice ranges. (3-3-95)L
- b.** Insignificant activities on the basis of size or production rate. (3-23-98)
- i. This section contains lists of units or activities that are insignificant on the basis of size or production rate. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: (3-23-98)
- (1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity thirty five cubic feet (35cft), heated only to the minimum extend to avoid solidification if necessary. (3-3-95)L
- (2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants, maximum (max.) vp five-hundred fifty (550) mm Hg. (3-23-98)
- (3) Operation, loading and unloading of volatile organic compound storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than eighty (80) mm Hg at

- twenty-one (21) degrees C. Operation, loading and unloading of gasoline storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure. (3-23-98)
- (4) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. (3-3-95)L
- (5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane, propane, and/or LPG. (3-3-95)L
- (6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. (3-3-95)L
- (7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. (3-3-95)L
- (8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. (3-3-95)L
- (9) Welding using not more than one (1) ton per day of welding rod. (3-3-95)L
- (10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. (3-3-95)L
- (11) "Parylene" coaters using less than five hundred (500) gallons of coating per year. (3-3-95)L
- (12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. (3-3-95)L
- (13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. (3-3-95)L
- (14) Combustion turbines, of less than five hundred (500) HP. (3-3-95)L
- (15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. (3-3-95)L
- (16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to waste water treatment. (3-3-95)L
- (17) Surface coating, using less than two (2) gallons per day. (3-3-95)L
- (18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. (3-3-95)L
- (19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding: (3-3-95)L
- (a) Ninety-nine percent (99%) or greater H₂SO₄ or H₃PO₄. (3-3-95)L
- (b) Seventy percent (70%) or greater HNO₃. (3-3-95)L
- (c) Thirty percent (30%) or greater HCl. (3-3-95)L
- (d) More than one (1) liquid phase where the top phase is more than one percent (1%) volatile organic compounds. (3-23-98)

- (20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than one hundred fifty (150) degrees C or vapor pressure (vp) not more than five (5) mm Hg at twenty-one (21) degrees C with lids or other appropriate closure. (3-3-95)L
- (21) Smokehouses under twenty (20) square feet. (3-3-95)L
- (22) Milling and grinding activities, using paste-form compounds with less than one percent (1%) volatile organic compounds. (3-23-98)
- (23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. (3-3-95)L
- (24) Dip-coating operations, using materials with less than one percent (1%) volatile organic compounds. (3-23-98)
- (25) Surface coating, aqueous solution or suspension containing less than one percent (1%) volatile organic compounds. (3-23-98)
- (26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) volatile organic compounds by weight. On metallic substrates, acid solutions are not considered for listing as insignificant. (3-23-98)
- (27) Storage and handling of water based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). (3-3-95)L
- (28) Municipal and industrial waste water chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. (3-3-95)L
- (29) Domestic sewage treatment ponds with average flowrates less than four hundred (400) gpm or treating waste from less than three thousand (3000) people from non-residential sources. (3-23-98)
- (30) An emission unit or activity with potential emissions less than or equal to the significant emission rate as defined in Section 006 and actual emissions less than or equal to ten percent (10%) of the levels contained in Section 006 of the definition of significant and no more than one (1) ton per year of any hazardous air pollutant. (5-3-03)

318. -- 320. (RESERVED)

321. TIER I OPERATING PERMIT CONTENT.

The purpose of Sections 321 through 336 is to mandate and authorize the contents of Tier I operating permits. (5-1-94)

322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.

All Tier I operating permits shall contain and the Department shall have the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions shall be included in the Tier I operating permit in the same manner as stack emissions. (3-23-98)

01. Emission Limitations and Standards. All Tier I operating permits shall contain emission limitations and standards, including, but not limited to, those operational requirements and limitations that assure compliance with the applicable requirements identified in the application, or determined by the Department to be applicable to the source. (3-19-99)

02. Authority for and Form of Terms and Conditions. All Tier I operating permits shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. (5-1-94)

03. Terms or Conditions for Applicable Requirements. All Tier I operating permits shall contain at least one (1) permit term or condition for every applicable requirement specifically identified in the application or

determined by the Department to be applicable to the source. (3-23-98)

04. Alternative Operating Scenarios. All Tier I operating permits shall contain terms and conditions to ensure compliance with all applicable requirements for each alternative operating scenario that was requested by the applicant and approved by the Department, including, but not limited to, a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) operating scenario to another, record the change in an operating scenario log located and retained at the permitted facility. (5-1-94)

05. Trading Scenarios. (5-1-94)

a. All Tier I operating permits shall contain terms and conditions for each trading scenario that was requested by the applicant and approved by the Department including, but not limited to, terms and conditions which ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures. (3-23-98)

b. The Tier I operating permit shall state that no permit revision shall be required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit. (4-5-00)

c. The Tier I operating permit shall, at a minimum, include a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) trading scenario to another, record the change in a trading scenario log located and retained at the permitted facility and provide notice to the Department in accordance with Section 383. (3-23-98)

06. Monitoring. All Tier I operating permits shall contain the following with respect to monitoring: (5-1-94)

a. Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit; (5-1-94)

b. All emissions monitoring and analysis procedures or test methods required under the applicable requirements; (5-1-94)

c. If the applicable requirement does not require specific periodic testing or monitoring, terms and conditions requiring periodic monitoring, recordkeeping, or both, that is sufficient to yield reliable data for the relevant time periods that are representative of the emissions unit's compliance with the Tier I operating permit, as reported pursuant to Subsection 322.08, and ensuring the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and (5-1-94)

d. Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods. (5-1-94)

07. Recordkeeping. All Tier I operating permits shall incorporate by reference all applicable requirements regarding recordkeeping and require all of the following: (5-1-94)

a. Sufficient recordkeeping to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

b. Recording of monitoring information including but not limited to the following: (5-1-94)

i. The date, place (as defined in the Tier I operating permit) and time of sampling or measurements; (5-1-94)

ii. The date(s) analyses were performed; (5-1-94)

iii. The company or entity that performed the analyses; (5-1-94)

- iv. The analytical techniques or methods used; (5-1-94)
 - v. The results of such analyses; and (5-1-94)
 - vi. The operating conditions existing at the time of sampling or measurement. (5-1-94)
 - c.** Retention of all monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes but is not limited to all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the Tier I operating permit. (5-1-94)
- 08. Reporting.** All Tier I operating permits shall incorporate by reference all applicable requirements regarding reporting and require all of the following: (5-1-94)
- a.** Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)
 - b.** Prompt reporting of deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)
 - c.** Submittal of reports for any required monitoring at least every six (6) months. All instances of deviations from Tier I operating permit requirements, which include monitoring, recordkeeping, and reporting, must be clearly identified in such reports. All required reports must be certified in accordance with Section 123. (4-5-00)
- 09. Testing.** All Tier I operating permits shall contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)
- 10. Compliance Schedule and Progress Reports.** All Tier I operating permits shall contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including all of the following: (4-5-00)
- a.** For each applicable requirement for which the source is not in compliance at the time of the permit issuance, terms and conditions consistent with the compliance schedule submitted by the applicant including all of the following: (4-5-00)
 - i. A schedule of remedial measures leading to compliance including an enforceable sequence of actions and specific dates for achieving the milestones and achieving compliance. (4-5-00)
 - ii. A requirement that the permittee submit periodic progress reports to the Department no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department. (5-1-94)
 - iii. A requirement that any progress report shall include a statement of when the milestones and compliance were or will be achieved, an explanation of why any dates in the compliance schedule submitted by the applicant or in the terms or conditions of the Tier I operating permit were not or will not be met and a detailed description of any preventative or corrective measures undertaken by the permittee. (5-1-94)
 - iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)
 - v. A statement that the terms and conditions regarding the compliance schedule are supplemental to, and do not sanction noncompliance with, the underlying applicable requirement. (5-1-94)
 - b.** For each applicable requirement that will become effective during the term of the Tier I operating

permit and that requires a detailed compliance schedule, the permit shall include such compliance schedule. (4-5-00)

c. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not require a detailed compliance schedule, the permit shall include a statement that the permittee shall meet, on a timely basis, all such applicable requirements. (4-5-00)

11. Periodic Compliance Certifications. Each Tier I operating permit shall require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: (5-1-94)

a. Compliance certifications for all emissions units shall be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

b. The compliance certification for each emissions unit shall address all of the terms and conditions contained in the Tier I operating permit that are applicable to such emissions unit including emissions limitations, standards and work practices. (5-1-94)

c. The compliance certification shall be in an itemized format providing the following information: (5-1-94)

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; (4-5-00)

ii. The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under Subsections 322.06, 322.07, and 322.08; (4-6-05)

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in Subsection 322.11.c.ii. above. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and (4-6-05)

iv. Such information as the Department may require to determine the compliance status of the emissions unit. (4-5-00)

d. All original compliance certifications shall be submitted to the Department and a copy of all compliance certifications shall be submitted to the EPA; (5-1-94)

12. Permit Conditions Regarding Acid Rain Allowances. (5-1-94)

a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. (5-1-94)

b. No limit shall be placed on the number of allowances held by the source and no permit revisions shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. (3-23-98)

c. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. (5-1-94)

d. Any such allowance shall be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73. (5-1-94)

13. Permit Duration. Each Tier I operating permit shall state that it is effective for a fixed term of five (5) years; except that during the first four (4) years after EPA approval of the Tier I operating permit program, the permit may be issued with an initial term of three (3) years to five (5) years unless the Tier I source is also a Phase II source. (5-1-94)

14. Other Specific Requirements. Any terms or conditions determined by the Department to be necessary for approval of the Tier I operating permit. (5-1-94)

15. General Requirements. Each Tier I operating permit shall contain provisions stating the following: (5-1-94)

a. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit revocation, termination, revocation and reissuance, or revision; or for denial of a permit renewal application. (5-1-94)

b. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce any activity in order to maintain compliance with the terms and conditions of this permit. (5-1-94)

c. This permit may be revised, revoked, reopened and reissued, or terminated for cause. (5-1-94)

d. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. (5-1-94)

e. This permit does not convey any property rights of any sort, or any exclusive privilege. (5-1-94)

f. The permittee shall furnish all information requested by the Department, within a reasonable time, that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing or terminating the permit or to determine compliance with the permit. (4-5-00)

g. Upon request, the permittee shall furnish to the Department copies of records required to be kept by this permit. (5-1-94)

h. The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby. (5-1-94)

i. The permittee shall comply with Sections 380 through 386 as applicable. (3-19-99)

j. Unless specifically identified as a "State Only" provision, all terms and conditions in the this permit, including any terms and conditions designed to limit a source's potential to emit, are enforceable: (5-1-94)

i. By the Department in accordance with State law; and (5-1-94)

ii. By the United States or any other person in accordance with Federal law. (5-1-94)

k. Provisions specifically identified as a "State Only" provision are enforceable only in accordance with State law. "State Only" provisions are those that are not required under the Federal Clean Air Act or under any of its applicable requirements or those provisions adopted by the State prior to federal approval. (3-23-98)

l. Upon presentation of credentials, the permittee shall allow the Department or an authorized representative of the Department to do the following: (5-1-94)

i. Enter upon the permittee's premises where a Tier I source is located or emissions-related activity is conducted, or where records are kept under the conditions of this permit; (5-1-94)

ii. Have access to and copy, at reasonable times, any records that are kept under the conditions of this

permit; (5-1-94)

iii. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and (5-1-94)

iv. Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements. (5-1-94)

m. Nothing in this permit shall alter or affect the following: (5-1-94)

i. Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; (5-1-94)

ii. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; (5-1-94)

iii. The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); (5-1-94)

iv. The owner or operator's duty to provide information. (5-1-94)

n. The owner or operator of a Tier I source shall pay registration fees to the Department in accordance with Sections 387 through 399, which are hereby incorporated by reference. (7-1-02)

o. All documents submitted to the Department shall be certified in accordance with Section 123 and comply with Section 124. (5-1-94)

p. If a timely and complete application for a Tier I operating permit renewal is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit including any permit shield that may have been granted pursuant to Section 325 shall remain in effect until the renewal permit has been issued or denied. (5-1-94)

q. The permittee shall promptly report deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

323. -- 324. (RESERVED)

325. ADDITIONAL CONTENTS OF TIER I OPERATING PERMITS -- PERMIT SHIELD.

Each Tier I operating permit shall include provisions stating: (5-1-94)

01. General Permit Shield. Compliance with the terms and conditions of the Tier I operating permit, including those applicable to all alternative operating scenarios and trading scenarios, shall be deemed compliance with all of the following: (5-1-94)

a. Applicable requirements as of the date of permit issuance that are specifically identified in the Tier I operating permit and have a corresponding term or condition in the Tier I operating permit. (5-1-94)

b. Non-applicable requirements. For a requirement to be a non-applicable requirement, all of the following criteria must be met: (5-1-94)

i. The permittee must have provided the information required by Subsection 314.08.b. in the application. (5-1-94)

ii. The requirement must be specifically identified in the Tier I operating permit as a non-applicable

requirement. (5-1-94)

iii. The requirement must have been determined by the Department, in writing and in acting on the permit application or revision, to not be applicable to the Tier I source. (5-1-94)

iv. Tier I operating permit must include the Department's determination or a concise summary thereof. (5-1-94)

02. Limitation on Permit Shield. Permit revisions and other actions authorized by Sections 300 through 386 may eliminate, modify or suspend the permit shield. (3-19-99)

326. -- 331. (RESERVED)

332. EMERGENCY AS AN AFFIRMATIVE DEFENSE REGARDING EXCESS EMISSIONS.

01. General. An emergency, as defined in Section 008, constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitation if the conditions of Subsection 332.02 are met. (4-5-00)

02. Demonstration of Emergency. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that: (5-1-94)

a. An emergency occurred and that the permittee can identify the cause(s) of the emergency; (5-1-94)

b. The permitted facility was at the time being properly operated; (5-1-94)

c. During the period of the emergency, the permittee took all reasonable steps, as determined by the Department, to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and (5-1-94)

d. The permittee submitted written notice of the emergency to the Department within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Compliance with this section satisfies the written reporting requirements under Section 135 and Subsection 322.15.q. (4-5-00)

03. Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. (5-1-94)

04. Applicability. Section 332 is in addition to any emergency or upset provision contained in any applicable requirement. (3-20-97)

333. -- 334. (RESERVED)

335. GENERAL TIER I OPERATING PERMITS AND AUTHORIZATIONS TO OPERATE.

01. Issuance of General Tier I Operating Permits. The Department may, after notice and opportunity for public participation provided in accordance with Section 364, issue a general Tier I operating permit covering numerous similar sources. (5-1-94)

02. Contents of General Tier I Operating Permits. Each general Tier I operating permit: (5-1-94)

a. Shall include all terms and conditions identified in Sections 322 and 325. (3-23-98)

b. Shall include specific criteria by which sources may qualify for coverage under the general Tier I operating permit; and (5-1-94)

c. May provide for applications which deviate from the requirements of Sections 311 through 315,

provided that such applications meet all other requirements of 42 U.S.C. 7661 through 7661f and include all information necessary to determine qualification for, and to ensure compliance with, the general Tier I operating permit. (3-23-98)

03. Applications for Authorizations to Operate. The owner or operator of a Tier I source may apply for an authorization to operate under the terms and conditions of a general Tier I operating permit by: (5-1-94)

a. Stating in the application submitted pursuant to Sections 311 through 315 that the owner or operator has determined that the Tier I source qualifies for coverage under a specifically identified general Tier I operating permit and that the owner or operator requests that operations of the Tier I source be authorized under a specifically identified general Tier I operating permit; or (5-1-94)

b. Complying with the specific application requirements, if any, provided in the general Tier I operating permit. (5-1-94)

04. Procedures for Issuing Authorizations to Operate. Without repeating the public participation procedures required under Section 364, the Department shall issue an authorization to operate a Tier I source under a specifically identified general Tier I operating permit if the Department determines that the Tier I source qualifies for coverage. (3-23-98)

05. Review of Authorizations to Operate. The issuance of an authorization to operate shall be a final agency action for purposes of administrative and judicial review of the authorization. The general Tier I operating permit shall not be subject to administrative or judicial review upon the issuance of an authorization to operate. (5-1-94)

06. Phase II Sources. General Tier I operating permits shall not be authorized for Phase II sources under the acid rain program unless otherwise provided in 40 CFR Part 72. (5-1-94)

336. TIER I OPERATING PERMITS FOR TIER I PORTABLE SOURCES.

01. Issuance of Tier I Operating Permits for Portable Tier I Sources. (5-1-94)

a. The Department may issue a single Tier I operating permit authorizing emissions from similar operations of a portable Tier I source by the owner or operator at multiple temporary locations. (5-1-94)

b. The operation must be temporary and involve at least one (1) change of location for the portable Tier I source during the term of the Tier I operating permit. (5-1-94)

02. Phase II Sources. No Phase II source shall be permitted as a portable Tier I source. (5-1-94)

03. Contents of Tier I Operating Permits for Portable Tier I Sources. Tier I operating permits for portable Tier I sources shall include the following: (5-1-94)

a. Terms and conditions that will ensure compliance with all applicable requirements at all authorized locations; (5-1-94)

b. Requirements that the owner or operator notify the Department at least ten (10) days in advance of each change in location in accordance with Section 500; and (5-1-94)

c. All terms and conditions identified in Sections 322 and 325 through 332. (5-1-94)

337. -- 359. (RESERVED)

360. STANDARD PROCESSING OF TIER I OPERATING PERMIT APPLICATIONS.

The purposes of Sections 360 through 369 is to establish standard procedures and requirements for processing Tier I operating permits. (5-1-94)

361. COMPLETENESS OF APPLICATIONS.

01. Criteria for Completeness. Except as otherwise provided by these rules, the application must comply with Section 314 including that the information must be in sufficient detail. (5-1-94)

02. Timelines for Determinations of Completeness. The Department shall send written notice to the applicant of whether the application is complete within sixty (60) days of receiving the application. If the Department fails to send the written notice to the applicant within sixty (60) days of receipt, the application shall be deemed complete. (3-23-98)

03. Effects of Completeness Determination. (5-1-94)

a. The submittal of a complete application activates the application shield provided by Subsection 361.02. (5-1-94)

b. The submittal of a complete Tier I operating permit application shall not affect the permit to construct requirements of Sections 200 through 225 or 42 U.S.C. Sections 7401 through 7515. (5-1-94)

c. The timelines for final agency action provided in Subsections 367.02 and 367.03 begin on the date of the completeness determination. (5-1-94)

362. TECHNICAL MEMORANDUMS FOR TIER I OPERATING PERMITS.

01. Memorandum for Draft Permit. As part of its review of the Tier I operating permit application, the Department shall prepare a technical memorandum that sets forth the legal and factual basis for the draft Tier I operating permit terms and conditions (including references to the applicable statutory or regulatory provisions) or the draft denial. (5-1-94)

02. Revised Memorandum for Proposed Permit. If the Department revises its analysis, its conclusions or the terms or conditions of the Tier I operating permit in response to public comment, the Department may revise the technical memorandum for the proposed permit or the proposed denial. (5-1-94)

03. Release of Memorandum. The technical memorandum(s) shall be made available to the public in accordance with Section 364 and sent to the EPA with the proposed Tier I operating permit or proposed denial. (5-1-94)

363. PREPARATION OF DRAFT PERMIT OR DRAFT DENIAL.

Except as otherwise provided in these rules, the Department shall prepare a draft permit or draft denial as promptly as practicable or one hundred twenty (120) days before the deadline for final action, whichever is earlier. (5-1-94)

364. PUBLIC NOTICES, COMMENTS AND HEARINGS.

01. Generally. Except as otherwise provided in these rules, all Tier I operating permit proceedings shall provide for public notice and public comment, including offering an opportunity for a hearing, on a draft permit or on a draft denial. (5-1-94)

02. Public Comment Package. A public comment package including the draft permit or draft denial, the technical memorandum and the application shall be prepared and distributed to appropriate public locations, the applicant and affected States. (5-1-94)

03. Giving Notice. Notice shall be given: by publication in a newspaper of general circulation in the area where the Tier I source is located or in a State publication designed to give general public notice; by mailing the notice to persons on a mailing list developed by the Department, including those who request in writing to be on the list; by mailing the notice to all affected States; and by other means if necessary to ensure adequate notice to the affected public. (5-1-94)

04. Content of the Notice. The notice shall identify the affected facility; provide the name and address

of the permittee; provide the name and address of the Department processing the application; identify the draft permit action; identify the emissions change if the permit action is a permit revision or reopening; provide the locations where the public may locate a copy of the public comment package; provide the name, address, and telephone number of a person from whom interested persons may obtain additional information that is relevant to the permit decision by filing a written public documents request and paying any costs; provide a brief description of the comment procedures, including the deadline for comments and the name and address of the person to whom written comments must be delivered; and state the time and place of any hearing that has been scheduled or provide information regarding how a person may request a hearing. (5-1-94)

05. Public Comment Procedures. (5-1-94)

- a.** The Department shall provide at least thirty (30) days for public comment. (5-1-94)
- b.** The Department may designate the person to receive written comments. (5-1-94)
- c.** The Department shall give notice of any public hearing at least thirty (30) days in advance of the hearing. (5-1-94)
- d.** The public hearing, if any, shall be an informal meeting, conducted by a hearing officer designated by the Department and transcribed. Written comments or supporting documents may be submitted during the hearing. (5-1-94)
- e.** The public comments and additional information received during the comment period shall be available to the public upon the filing of a written public documents request and the payment of any costs. (5-1-94)

365. PREPARATION OF PROPOSED PERMIT OR PROPOSED DENIAL.

01. Timeline. Except as otherwise provided by these rules, the Department shall prepare a proposed permit or proposed denial within thirty (30) days after the close of the public comment period, unless the Department determines that additional time is required to evaluate comments and information received. (5-1-94)

02. Availability. The proposed permit or proposed denial shall be available to the public upon the filing a written public documents request and the payment of any costs. (5-1-94)

03. Notice to Affected States. If the Department refuses to accept all recommendations that an affected State submitted during the public comment period, the Department shall send a copy of the notice sent to EPA in accordance with Subsection 366.01.d. to the affected State that submitted the recommendation. (5-1-94)

366. EPA REVIEW PROCEDURES.

01. Submittal of Proposal to EPA. Except as otherwise provided in these rules and unless EPA waives its opportunity to review a proposed permit, the Department will transmit the following to EPA: (5-1-94)

- a.** The proposed permit or proposed denial. (5-1-94)
- b.** The technical memorandum, as revised if appropriate. (5-1-94)
- c.** The application including all supplements and corrections submitted by the applicant, unless the applicant has submitted the information under a claim of confidentiality or unless the Department has entered an agreement with EPA to submit only a summary form and relevant portions of the permit application. (5-1-94)
- d.** Notice of any refusal by the Department to accept all recommendations for the proposal that any affected State submitted during the public comment period. The notice shall include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements. (5-1-94)

02. Opportunity for EPA Objection. (5-1-94)

a. EPA may submit to the Department a written objection to the proposal within forty-five (45) days of receipt of the transmittal identified in Subsection 366.01. (5-1-94)

b. The written objection shall state the EPA's reasons for the objection and provide the terms and conditions that the Tier I operating permit must include to respond to the objection or state that the permit must be denied. (5-1-94)

c. EPA shall provide a copy of the written objection to the applicant. (5-1-94)

03. Response to EPA Objections. Within ninety (90) days of receiving a written objection from EPA, the Department shall prepare a revised proposal and submit it to EPA in accordance with Subsection 366.01. If EPA determines that the revised proposal is objectionable, the Department will review the permit action taken by EPA and take a comparable final permit action in accordance with Section 367. (5-1-94)

04. Public Petitions to EPA. (5-1-94)

a. If the EPA does not object in writing under Subsection 366.02, any person may petition the EPA within sixty (60) days after the expiration of the EPA's forty-five (45) day review period to make such objection. (5-1-94)

b. Any such petition shall be based only on objections to the draft permit or draft denial that were raised with specificity during the public comment period provided for in Section 364 unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. (5-1-94)

c. If the EPA objects to the proposal in accordance with Subsection 366.02 as a result of a petition filed under Subsections 366.04.a. and 366.04.b., the Department shall: (5-1-94)

i. Not issue a permit action until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a Tier I operating permit or its requirements pending EPA's review of the petition and Department review of the objection if the Tier I operating permit was issued by the Department after the end of the forty-five (45) day review period and prior to an EPA objection initiated by a petition. (5-1-94)

ii. Process the objection in accordance with Subsection 366.03. (5-1-94)

367. ACTION ON APPLICATION.

01. Issuance Conditions. Except as otherwise provided by these rules, a Tier I operating permit, or any portion thereof, may be issued only if all of the following conditions have been met: (5-1-94)

a. The owner or operator has submitted a complete application in accordance with Section 361. (5-1-94)

b. The public has been provided notice and opportunities for comment and a hearing in accordance with Section 364. (5-1-94)

c. Affected States have been provided notice in accordance with Section 364 and Subsection 365.03. (5-1-94)

d. The terms and conditions of the Tier I operating permit comply with Sections 321 through 336 including providing for compliance with all applicable requirements. (5-1-94)

e. The EPA has been provided with the proposal and an opportunity to object and the Department has responded as required by Section 366. (5-1-94)

02. Deadlines for Final Actions During Initial Period. Except as otherwise provided in these rules,

during the initial period beginning May 1, 1994 and ending three (3) years after EPA approval of the Tier I operating program, the Department will prioritize all of the applications predicted to be submitted during the initial period considering the groups established in accordance with Subsection 313.02, if any. The prioritization will result in the Department taking final action on one-third (1/3) of all such permit applications during each of the one (1) year periods following EPA approval of the program. (5-1-94)

03. Deadlines for Final Actions After Initial Period. Except as otherwise provided in these rules, during the period beginning three (3) years after EPA approval of the Tier I operating program, the Department shall take final action on complete applications within eighteen (18) months. (5-1-94)

04. Deadline for Tier I Operating Permits with Early Reductions. The Department shall take final action on any complete Tier I operating permit application containing an early reduction demonstration under 42 U.S.C. Section 7412 (i)(5) within nine (9) months of receipt of the complete application. (5-1-94)

05. Deadline for Tier I Operating Permits for Phase II Sources. The permitting of phase II sources shall occur in accordance with the deadlines in 42 U.S.C. Section 7651 through 7651o. (5-1-94)

06. Copy to EPA. The Department shall send a copy of the final Tier I operating permit to EPA. (5-1-94)

07. Original to Permittee. The Department shall send the original Tier I operating permit to the permittee. (5-1-94)

368. EXPIRATION OF PRECEDING PERMITS.

If a timely and complete Tier I permit application is received by the Department and is not acted upon in a timely manner as prescribed by these rules, the permit to construct, Tier I operating permit or Tier II operating permit, if any, that has been previously issued to the owner or operator of the Tier I source by the Department or EPA shall continue in full force until the Department has completed action of the permit application. No Tier I operating permit will be considered to have expired due solely to the Department's inaction on a timely Tier I operating permit application. (5-1-94)

369. TIER I OPERATING PERMIT RENEWAL.

01. Renewal Procedures. Tier I operating permits being renewed are subject to the same procedural requirements, including those for public participation, including affected State review, and EPA review, that apply to initial Tier I operating permit issuance. (5-1-94)

02. Expiration and Renewal Application Shield. Tier I operating permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted. (5-1-94)

370. -- 379. (RESERVED)

380. CHANGES TO TIER I OPERATING PERMITS.

01. Applicability. Sections 380 through 399 establish procedures and requirements for permit revisions and changes requiring notice. These provisions do not alter the requirements for permits to construct set forth at Sections 200 through 228. (7-1-02)

02. Changes Requiring Permit Revisions. Sections 381 through 383 establish procedures and requirements for Tier I operating permit revisions. A permit revision is required for changes that are not addressed or prohibited by the Tier I operating permit if such changes are subject to any requirements under Title IV of the Clean Air Act or are modifications under any provision of Title I of the Clean Air Act. (4-5-00)

03. Changes Requiring Notice. Sections 384 and 385 establish procedures and requirements for providing notice by the permittee to the Department and EPA of certain emission trades and changes that contravene a permit term (Section 384), or certain changes that are not addressed or prohibited by the permit (Section 385). (3-19-99)

04. Reopening. Section 386 establishes procedures for reopening the permit for cause by the Department, EPA, or the permittee. (3-19-99)

05. Acid Rain. Changes regulated under Title IV of the Clean Air Act, 42 U.S.C. Sections 7651 through 7651o, shall be governed by regulations promulgated under Title IV of the Act. (3-19-99)

381. ADMINISTRATIVE PERMIT AMENDMENTS.

01. Criteria. An administrative permit amendment is a permit revision that: (3-19-99)

a. Corrects typographical errors; (3-19-99)

b. Identifies a change in the name, address, or phone number of any person identified in the Tier I operating permit, or provides a similar minor administrative change at the Tier I source; (3-19-99)

c. Requires more frequent monitoring or reporting by the permittee; (3-19-99)

d. Allows for a change in ownership or operational control of a Tier I source where the Department determines that no other change in the Tier I operating permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; (3-19-99)

e. Incorporates into the Tier I operating permit the requirements from a permit to construct that was issued by the Department in accordance with Subsection 209.05.c.; or (4-5-00)

f. Is any other type of change that EPA and the Department have determined as part of the Part 70 program to be similar to those in Subsections 381.01.a. through 381.01.d. (3-19-99)

02. Administrative Permit Amendment Application Procedures. (3-19-99)

a. If initiated by the permittee, the permittee shall submit a request to the Department. The request shall: (3-19-99)

i. State at the beginning of the request that it is a “REQUEST FOR ADMINISTRATIVE PERMIT AMENDMENT.” (3-19-99)

ii. Describe the proposed administrative permit amendment including any permit to construct to be incorporated; (3-19-99)

iii. State the date on which the proposed administrative amendment will occur at the facility; (3-19-99)

iv. Identify any Tier I operating permit term or condition that is no longer applicable as a result of the change; and (3-19-99)

v. Identify any applicable requirement that would apply to the Tier I source as a result of the change. (3-19-99)

b. If initiated by the Department, the Department shall notify the permittee that the Department is initiating an administrative permit amendment and provide a brief summary of the proposed administrative permit amendment including all of the information required by Subsection 381.02.a.i. through 381.02.a.v. (3-19-99)

c. The Department shall, within sixty (60) days of the receipt of a request for an administrative permit amendment, take final action on the request and may incorporate such changes without providing notice to the public or affected States provided that the Department designates any such administrative permit amendment as having been made pursuant to Section 381. The Department shall submit a copy of the revised permit, or an addendum, to the EPA and send the original to the permittee. (4-5-00)

03. Implementation Procedures. (3-19-99)

a. The permittee may implement the changes addressed in the request for an administrative permit amendment under Subsections 381.01.a. through 381.01.f. immediately upon submittal of the request. (3-19-99)

b. If the permittee obtains a permit to construct under Subsection 209.05.c., then so long as the change does not violate any terms or conditions of the existing Tier I operating permit, the permittee may operate the source described in the permit to construct immediately upon submittal of the request for an administrative permit amendment. (4-5-00)

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 shall extend only to administrative permit amendments identified in Subsection 381.01.e. (3-19-99)

382. SIGNIFICANT PERMIT MODIFICATION.

01. Criteria. Significant modification procedures shall be used for applications requesting permit revisions that do not qualify as minor permit modifications or as administrative amendments. Nothing herein shall be construed to preclude the permittee from making changes consistent with this chapter that would render existing permit compliance terms and conditions irrelevant. A significant permit modification is a permit revision for changes that: (3-19-99)

a. Violate an existing Tier I permit term or condition derived from an applicable requirement; (3-19-99)

b. Involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit. Every significant change in existing monitoring terms or conditions (except more frequent monitoring or reporting under Subsection 381.01.c.) and every relaxation of reporting or recordkeeping terms or conditions shall be considered significant; (3-19-99)

c. Require or change a case-by-case determination of an emission limitation or other standard; a source-specific determination for temporary sources of ambient impacts; or a visibility or increment analysis; (3-19-99)

d. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act or an alternative emissions limit for an early reduction of hazardous air pollutants that was approved pursuant to regulations promulgated under 42 U.S.C. Section 7412(i)(5) of the Clean Air Act; (3-19-99)

e. Constitute a modification under any provision of Title I of the Clean Air Act; or (3-19-99)

f. Could be processed as an administrative amendment or as a minor modification, except the permittee has requested the change be processed as a significant modification, including incorporating the requirements of a permit to construct that was issued by the Department in accordance with Subsection 209.05.a. (3-19-99)

02. Significant Permit Modification Application Procedures. A permittee may initiate a significant permit modification by submitting a complete significant permit modification application to the Department. The application shall: (3-19-99)

a. Request the use of significant permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR SIGNIFICANT PERMIT MODIFICATION"; (3-19-99)

b. Meet the standard application requirements of Sections 314 and 315; (3-19-99)

c. Provide a summary sheet; (3-19-99)

- i. Describing the proposed significant permit modification; (3-19-99)
 - ii. Describing and quantifying any change in emissions resulting from the significant permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; (4-5-00)
 - iii. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the significant permit modification; and (3-19-99)
 - iv. Identifying new applicable requirement resulting from the change. (3-19-99)
- d.** Significant permit modifications shall be issued in accordance with all procedural requirements as they apply to Tier I operating permit issuance and renewal, including those for applications (Sections 314 and 315), public participation (Section 364), review by affected States (Sections 364 and 365), and review by EPA (Section 366). (3-19-99)
- e.** The Department will process the majority of significant permit modifications within nine (9) months of receiving a complete application. The Department shall determine which significant permit modification applications will be processed within nine (9) months. (3-19-99)

03. Implementation Procedures. The permittee shall comply with Sections 200 through 223 as applicable, including Subsection 209.05 governing permit to construct procedures for Tier I sources. (4-5-00)

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 shall extend to significant permit modifications. (3-19-99)

383. MINOR PERMIT MODIFICATION.

01. Criteria. (3-19-99)

a. Minor permit modification procedures may be used for permit modifications involving economic incentives, marketable permits, emissions trading, and other similar approaches explicitly provided for in the SIP or applicable requirements promulgated by EPA. A permittee may not use minor modification procedures for changes described in Subsections 382.01.a. through 382.01.e. (3-19-99)

b. Any other permit modification that is not required to be processed as a significant permit modification under Section 382. (3-19-99)

c. Groups of a permittee's applications eligible for processing as minor permit modifications may be processed under minor permit modification procedures if collectively, the changes proposed in the minor modification applications do not exceed the lesser of: (3-19-99)

- i. Ten percent (10%) of the emissions allowed by the existing Tier I operating permit for the emissions unit for which the change is requested; (3-19-99)
- ii. Twenty percent (20%) of the major facility criteria in Section 008; or (4-5-00)
- iii. Five (5) tons per year. (3-19-99)

02. Minor Permit Modification Application Procedures. A permittee may initiate a minor permit modification by submitting a complete standard application described in Section 314 to the Department. The application shall: (3-19-99)

a. Request the use of minor permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR MINOR PERMIT MODIFICATION," designate either "INDIVIDUAL" or "GROUP" processing, and provide a summary sheet; (3-19-99)

- i. Describing the proposed minor permit modification; (3-19-99)
 - ii. Stating the date on which the proposed minor permit modification will occur at the facility; (3-19-99)
 - iii. Describing and quantifying any change in emissions resulting from the minor permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; (4-5-00)
 - iv. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the minor permit modification; (3-19-99)
 - v. Identifying any new applicable requirement that is applicable to the Tier I source as a result of the minor permit modification; (3-19-99)
 - vi. Certifying by a responsible official under Section 123 that the proposed permit modification meets the criteria for a minor permit modification and, if applicable, the use of group processing procedures; and (3-19-99)
 - vii. Listing the permittee's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with the other applications, equals or exceeds the thresholds under Subsection 383.01.c. above. (3-19-99)
- b.** Include completed forms for the Department to use to notify the EPA and affected States as required under Sections 364 and 366. (3-19-99)
- c.** Include the applicant's suggested draft Tier I permit with the minor permit modification. (3-19-99)
- 03. EPA and Affected State Notification Procedures.** (3-19-99)
- a.** Within five (5) working days of receipt of a complete minor permit modification application, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. (3-19-99)
- b.** On a quarterly basis or within five (5) working days of receiving an application demonstrating that the aggregate of a permittee's pending applications equals or exceeds the threshold level established in Subsection 383.01.c. above, whichever is earlier, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. (3-19-99)
- c.** The Department shall promptly notify EPA and any affected States in writing including its reasons for not accepting any such recommendation if the Department refuses to accept all the timely recommendations submitted by affected States. (3-19-99)
- d.** Timetable for Issuance. The Department may not issue a final permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first; although the Department can approve the permit modification prior to that time. (3-19-99)
- e.** Within ninety (90) days of the Department's receipt of a complete minor permit modification application or within fifteen (15) days after the end EPA's forty-five (45) day review period, whichever is later, the Department shall take one (1) of the following actions: (3-19-99)
- i. Issue the minor permit modification as proposed; (3-19-99)
 - ii. Deny the minor permit modification application; (3-19-99)

iii. Determine that the requested minor permit modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or (3-19-99)

iv. Revise the proposed minor permit modification, transmit the revised proposal to the EPA in accordance with Section 366, and notify the permittee. (3-19-99)

f. Within one hundred and eighty (180) days of the Department's receipt of a complete application for modifications eligible for group processing or within fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is later, the Department shall take one (1) of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., 383.03.e.iii., or 383.03.e.iv. (3-19-99)

04. Implementation Procedures. (3-19-99)

a. The permittee may make the change proposed in its minor permit modification immediately upon submittal of a complete application to the Department before final action by the Department. (3-19-99)

b. After the source makes the allowed change and until the Department takes any of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., or 383.03.e.iii., the permittee must comply with both the applicable requirements governing the change and the proposed terms and conditions. (3-19-99)

c. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify; provided that, if the source fails to comply with the applicable requirements governing the change and the proposed revisions, the existing permit terms and conditions it seeks to modify may be enforced against it. (3-19-99)

05. Permit Shield. The permit shield described in Section 325 shall not apply to any minor permit modification. (3-19-99)

384. SECTION 502(B)(10) CHANGES AND CERTAIN EMISSION TRADES.

01. Criteria. This section authorizes emission changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of the Title I of the Clean Air Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or total emissions). (3-19-99)

a. Changes authorized are changes that: (3-19-99)

i. Are Section 502(b)(10) changes; (3-19-99)

ii. Are changes involving trades of increases and decreases of emissions within the permitted facility where the State Implementation Plan provides for such emissions trades without requiring a permit revision. SIP trades are allowed in compliance with this Section even if the Tier I operating permit does not already provide for such emission trading; or (3-19-99)

iii. Are changes made under the terms and conditions of the Tier I permit that authorize the trading of emissions increases and decreases within the permitted facility for the purpose of complying with a federally-enforceable emissions cap that is established by the Department in the Tier I operating permit independent of otherwise applicable requirements. (3-19-99)

b. Changes constituting a modification under Title I of the Clean Air Act or subject to a requirement under Title IV of the Clean Air Act are not authorized by this Section. (3-19-99)

02. Notice Procedures. The permittee may make a change under this Section if the permittee provides written notification to the Department and EPA so that the notification is received at least seven (7) days in advance of the proposed change; or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. The permittee, the Department, and EPA shall attach the notification to their copy of the Tier I operating permit. (3-19-99)

- a. For each such change, the written notification shall: (3-19-99)
 - i. State at the beginning of the notification “NOTIFICATION OF SECTION 502(b)(10) CHANGE” or “NOTIFICATION OF EMISSION TRADE”; (3-19-99)
 - ii. Describe the proposed change; (3-19-99)
 - iii. Provide the date on which the proposed change will occur; (3-19-99)
 - iv. Describe and quantify any expected change in emissions including identification of any new regulated air pollutant(s) that will be emitted; (4-5-00)
 - v. Identify any permit term or condition that is no longer applicable as a result of the change; (3-19-99)
 - vi. Specifically identify and describe the emergency, if any; and (3-19-99)
 - vii. Identify any new applicable requirement that would apply to the Tier I source as a result of the change. (3-19-99)
 - b. For changes described in Subsection 384.01.a.ii., the written notification shall also include: (3-19-99)
 - i. Identification of the provisions in the SIP that provide for the emissions trade; (3-19-99)
 - ii. All of the information required by the provision in the SIP authorizing the emissions trade; (3-19-99)
 - iii. Specific identification of the provisions in the SIP with which the permittee will comply; and (3-19-99)
 - iv. The pollutants subject to the trade. (3-19-99)
 - c. For changes described in Subsection 384.01.a.iii., the written notification shall also describe how the change will comply with the terms and conditions of the permit. (3-19-99)
- 03. Permit Shield.** The permit shield described in Section 325 shall only extend to changes made in accordance with Subsection 384.01.a.iii. (3-19-99)

385. OFF-PERMIT CHANGES AND NOTICE.

- 01. Criteria.** This section authorizes changes that are neither addressed nor prohibited by the Tier I operating permit to be made without a permit revision if each such change meets all applicable requirements and does not violate any existing permit terms or conditions. Changes constituting a modification under Title I of the Clean Air Act, or subject to a requirement under Title IV of the Clean Air Act are not off-permit changes. (3-19-99)
- 02. Notice Procedure.** Sources must provide written notice to the Department and EPA of each such change except changes that qualify as insignificant under Section 317, within seven (7) days of making the off-permit change. (3-19-99)
- a. The written notification provided to the Department and EPA shall: (3-19-99)
 - i. State at the beginning of the notification “NOTIFICATION OF OFF-PERMIT CHANGE”; (3-19-99)
 - ii. Describe the off-permit change; (3-19-99)

- iii. State the date on which the off-permit change will occur or has occurred; (3-19-99)
- iv. Describe and quantify any change in emissions resulting from the off-permit change including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; and (4-5-00)
- v. Identify any new applicable requirement that is applicable to the Tier I source as a result of the off-permit change. (3-19-99)

b. The permittee shall keep a record at the facility describing all off-permit changes made at the Tier I source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and identifying the emissions resulting from those changes. (3-19-99)

03. Permit Shield Applicability. The permit shield described in Section 325 shall not apply to any off-permit change. (3-19-99)

386. REOPENING FOR CAUSE.

The Department shall reopen a Tier I permit if cause exists. (3-19-99)

01. Criteria. Cause for reopening exists under any of the following circumstances: (3-19-99)

a. Additional applicable requirements become applicable to a major Tier I source with a remaining permit term of three (3) or more years; provided that no such reopening is required if the original effective date of the applicable requirement is later than the date on which the Tier I operating permit is due to expire and the original Tier I operating permit or any of its terms and conditions has not been extended pursuant to Section 368; provided further that the permittee must comply with the additional applicable requirement no later than the effective date; (3-19-99)

b. Whenever additional applicable requirements become applicable to an affected source, as defined for the purposes of the acid rain program; (3-19-99)

c. The Department or EPA determines that the Tier I operating permit contains a material mistake or inaccurate statements were used or considered in establishing the emissions standards or other terms or conditions of the Tier I operating permit; or (3-19-99)

d. The Department or EPA determines that the Tier I operating permit does not ensure compliance with the applicable requirements. (3-19-99)

02. Procedures for Reopenings. (3-19-99)

a. The Department shall follow the same procedures for reopening as they apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Reopenings shall be made as expeditiously as practicable in accordance with Sections 360 through 379. (3-19-99)

b. The Department shall notify the permittee in writing of reopening and provide a brief summary of the reason for the reopening at least thirty (30) days prior to the reopening. (3-19-99)

c. The EPA may initiate reopenings for circumstances listed in Subsections 386.01.a. through 386.01.d. by providing written notification to the Department and the permittee. (3-19-99)

i. The Department shall within ninety (90) days after receipt of notification from EPA, forward to EPA a proposed determination of termination, revocation, revision, or revocation and reissuance, as appropriate. The Administrator may extend the ninety (90) day period for an additional ninety (90) days if EPA finds that a new or revised permit application is necessary or that the Department must require the permittee to submit additional information. (3-19-99)

ii. The EPA will review the proposed determination from the Department within ninety (90) days of receipt. (3-19-99)

iii. The Department shall have ninety (90) days from receipt of an EPA objection to resolve any EPA objection and to terminate, modify, or revoke and reissue the permit. (3-19-99)

iv. If the Department fails to submit a proposed determination or fails to resolve any EPA objection, the EPA may terminate, modify, revoke and reissue the permit after taking the following actions: (3-19-99)

(1) Providing at least thirty (30) days' notice to the permittee in writing of the reason for such action, and (3-19-99)

(2) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing. (3-19-99)

387. REGISTRATION AND REGISTRATION FEES.

The purpose of Sections 387 through 397 is to set forth the requirements for the annual registration of Tier I sources, and the annual assessment and payment of fees to support the Tier I permitting program. (4-2-03)

388. APPLICABILITY.

01. Applicability. Sections 387 through 397 shall apply to all major facilities, as defined in Section 008, including facilities that obtained air quality permits that limited potential emissions below major facility levels during the previous year. Facilities, sources and emissions exempt under Section 301 are not required to register or pay fees. (4-2-03)

02. Deferred Sources. Certain sources may qualify for and request deferral from the Tier 1 operating permit program under Subsection 301.02.b.iv. and thereby not pay Tier I fees. On or before such time as those deferred sources are required to submit a Tier 1 operating permit application, the Department shall reconsider Sections 387 through 397 to determine whether an alternative basis upon which those sources shall register and be assessed and pay fees should be developed. (4-2-03)

389. REGISTRATION INFORMATION.

Any person owning or operating a facility or source during the previous calendar year or any portion of the previous calendar year for which Sections 387 through 397 apply shall, by April 1 of each year, register with the Department and submit the following information (submittal forms are located at the DEQ website at <http://www.deq.idaho.gov>): (3-19-07)

01. Facility Information. The name, address, telephone number and location of the facility; (5-1-94)

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; (5-1-94)

03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; and (4-2-03)

04. Pollutant Registration. The actual emissions from the previous calendar year for oxides of sulfur (SO_x), oxides of nitrogen (NO_x), particulate matter (PM₁₀), and volatile organic compounds (VOC) calculated using methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, or the types of materials processed, stored, or combusted. (3-19-07)

05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)

390. REGISTRATION FEE.

This registration fee structure shall be reviewed at least every two (2) years to assure the funds meet the presumptive

minimum as defined by EPA. The annual registration fee as determined in Section 390 shall be paid as provided in Section 393. (3-19-07)

01. Tier I Annual Fee. The Tier I annual fee schedule shall be as follows: (3-19-07)

a. A fixed annual fee for Tier I major sources emitting regulated air pollutants listed in Subsection 389.04 as follows: (4-2-03)

i. Seven thousand (7,000) tons per year and above shall pay seventy-one thousand five hundred dollars (\$71,500); (3-19-07)

ii. Four thousand five hundred (4,500) tons per year and above shall pay forty-two thousand nine hundred dollars (\$42,900); (3-19-07)

iii. Three thousand (3,000) tons per year and above shall pay twenty-eight thousand six hundred dollars (\$28,600); (3-19-07)

iv. One thousand (1,000) tons per year and above shall pay twenty-two thousand seven hundred fifty dollars (\$22,750); (3-19-07)

v. Five hundred (500) tons per year and above shall pay eleven thousand fifty dollars (\$11,050); (3-19-07)

vi. Two hundred (200) tons per year and above shall pay seven thousand one hundred fifty dollars (\$7,150); and (3-19-07)

vii. Less than two hundred (200) tons per year shall pay three thousand five hundred seventy-five dollars (\$3,575); plus (3-19-07)

b. A per ton annual fee of thirty-nine dollars and forty-eight cents (\$39.48) per ton for all regulated air pollutant emissions listed in Subsection 389.04 as follows: (3-19-07)

i. Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred forty-three thousand dollars (\$143,000); (3-19-07)

ii. Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed seventy-one thousand five hundred dollars (\$71,500); (3-19-07)

iii. Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed thirty-five thousand one hundred dollars (\$35,100); (3-19-07)

iv. Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed twenty-five thousand twenty-five dollars (\$25,025); (3-19-07)

v. Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed ten thousand seven hundred twenty-five dollars (\$10,725); and (3-19-07)

vi. Less than two hundred (200) tons per year not to exceed three thousand five hundred seventy-five dollars (\$3,575). (3-19-07)

02. Fee-for-Service. The fee-for-service shall be as follows: Sources requesting Section 300 permit modifications or renewals, or receiving program maintenance services, including but not limited to site visits, response to public inquiries, modeling, responses to site questions and opacity readings by the Department shall be assessed a fee for actual time expended and expenses incurred by the Department in the previous calendar year in an amount not to exceed twenty thousand dollars (\$20,000) per facility per year as a fee-for-service. Service shall be conducted by qualified Department staff or contractors. (3-19-07)

03. Radionuclide Registration Fee. (4-2-03)

a. A registration fee of five dollars per curie per year (\$5/curie/year) shall be paid by facilities regulated under 40 CFR Part 61, Subpart H. (4-2-03)

b. The registration fee may be paid as provided in Section 397. (4-2-03)

391. REQUEST FOR INFORMATION.

Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 387 through 397 shall be furnished on request. (4-2-03)

392. REGISTRATION FEE ASSESSMENT.

All facilities to which Sections 387 through 397 apply shall pay to the Department an annual registration fee as required by Section 390. The Department shall determine the fee based on the information supplied by the registrant and the Department's analysis of information available. In the event of a failure of a facility to submit pertinent registration information, the Department may calculate the fee and shall assess the facility the fee and the costs of calculating the fee. No later than May 15 of each year, or within fifteen (15) days following the adjournment of the regular session of the Idaho State Legislature, whichever is later, the Department shall send to each registrant, to which Sections 387 through 397 apply, by certified mail, an assessment of the annual fee payable by the registrant. (3-19-07)

393. PAYMENT OF TIER I REGISTRATION FEE.

01. Fee Payment Date. The registration fee shall be paid to and received by the Department no later than July 1 of each year, or within forty-five (45) days following the receipt of the registration fee assessment in Section 392, whichever is later. Checks should be made payable to "Department of Environmental Quality." (3-19-07)

02. Fee Payments Mailing Address. All fee payments should be sent to:

Air Quality Tier I Registration Fees
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255 (3-19-07)

394. EFFECT OF DELINQUENCY ON APPLICATIONS.

No permit to construct or operate, other than those issued at the discretion of the Director, shall be accepted for processing, processed, or issued by the Department for any facility or to any person having Tier I operating permit fees delinquent in full or in part. (4-2-03)

395. APPEALS.

Persons may file an appeal within thirty-five (35) days of the date the person received an assessment issued under Section 392. The appeal shall be filed in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-19-07)

396. EXEMPTIONS.

01. Registration Fees. The following facilities or sources are exempt from paying registration fees under Sections 387 through 397: (4-2-03)

a. Facilities and sources specified by the Department, after public notice, as exempt from the payment of registration fees; and (5-1-94)

b. Country grain elevators. (5-1-94)

02. Registering and Paying Fees. The following facilities or sources are exempt from registering and paying registration fees under Sections 387 through 397: (4-2-03)

- a. Facilities and sources specified by the Department, after public notice, as exempt from registration and the payment of registration fees; (3-19-99)
 - b. Confined animal feeding operations; and (3-19-99)
 - c. Insignificant activities identified in Subsection 317.01. (3-19-99)
- 03. Paying Fees.** The following emissions are exempt from registering and paying registration fees under Sections 387 through 397: (4-2-03)
- a. Fugitive emissions from wood products. (3-7-95)L
 - b. Fugitive dust emissions, except facilities listed in Subsections 008.10.c.i. and 008.10.c.ii. Facilities listed in that section shall not be required to pay fees for fugitive dust emission in excess of one hundred (100) tons. (4-5-00)

397. LUMP SUM PAYMENTS OF REGISTRATION FEES.

- 01. Agreement.** The Department may, in its discretion, enter an agreement with any person for the lump sum payment of all, or any addition to, the registration fees required by Section 390. (3-19-07)
- 02. Minimum Amount.** The minimum amount for any lump sum agreement shall be three hundred thousand dollars (\$300,000). (5-1-94)
- 03. Payment Waiver.** Upon the execution and full performance of the agreement by the person, the Department shall waive the payment requirements of Section 390. All other provisions of Sections 387 through 397 shall remain applicable to the person. (3-19-07)

398. -- 399. (RESERVED)

400. PROCEDURES AND REQUIREMENTS FOR TIER II OPERATING PERMITS.

The purpose of Sections 400 through 410 is to establish uniform procedures for the issuance of "Tier II Operating Permits." (7-1-02)

401. TIER II OPERATING PERMIT.

- 01. Optional Tier II Operating Permits.** The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (7-1-02)
- a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)
 - b. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; (4-6-05)
 - c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (4-5-00)
 - d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. (4-5-00)
 - e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)
- 02. Required Tier II Operating Permits.** (4-7-11)
- a. A Tier II operating permit is required for any stationary source or facility which: (4-7-11)
 - i. Is not subject to Sections 300 through 399 with a permit to construct which establishes any

emission standard different from those in these rules. (4-7-11)

ii. Has annual actual mercury emissions in excess of sixty-two (62) pounds. Fugitive emissions shall not be included in a determination of the actual mercury emissions. The owner or operator of the stationary source or facility shall submit a Tier II permit application for review and approval by the Department, no later than twelve (12) months after becoming subject to Subsection 401.02.a.ii., that includes an MBACT analysis for all sources that emit mercury. A determination of applicability under Subsection 401.02 shall be based upon best available information. An MBACT analysis for review and approval by the Department shall be included in a Tier II renewal application for any mercury emitting source not otherwise subject to MBACT. (4-7-11)

b. Stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Subsection 401.02.a.ii. (4-7-11)

03. Tier II Operating Permits Required by the Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (4-5-00)

b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (4-5-00)

05. Tier II Operating Permits Establishing a Facility Emissions Cap. The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. (4-11-06)

402. APPLICATION PROCEDURES.

Application for a Tier II operating permit must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 400 through 410. (7-1-02)

01. Required Information. Site information, plans, description, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)

02. Additional Specific Information. (5-1-94)

a. For emission reduction credits, a description of the emission reduction credits proposed for use, including descriptions of the stationary sources or facilities providing the reductions, a description of the system of continuous emission control which provides the emission reduction credits, emission estimates, and other information necessary to determine that the emission reductions satisfy the requirements for emission reduction credits (Section 460); and (4-5-00)

b. For alternative emission limits (bubbles) or emission offsets, information on the air quality impacts of the traded emissions as necessary to determine the change in ambient air quality that would occur. (5-1-94)

c. For restrictions on potential to emit, a description of the proposed potential to emit limitations including the proposed monitoring and recordkeeping requirements that will be used to verify compliance with the limitations. (4-5-00)

03. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51 Appendix W (Guideline

on Air Quality Models). (4-5-00)

a. Where an air quality model specified in the “Guideline on Air Quality Models” is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 404.01.c. (4-5-00)

b. Methods like those outlined in the U.S. Environmental Protection Agency's “Interim Procedures for Evaluating Air Quality Models (revised)” (1984) should be used to determine the comparability of air quality models. (5-1-94)

04. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 400 through 410 shall be furnished upon request. (7-1-02)

403. PERMIT REQUIREMENTS FOR TIER II SOURCES.

No Tier II operating permit shall be granted unless the applicant shows to the satisfaction of the Department that: (5-1-94)

01. Emission Standards. The stationary source would comply with all applicable local, state or federal emission standards. (5-1-94)

02. NAAQS. The stationary source would not cause or significantly contribute to a violation of any ambient air quality standard. (5-1-94)

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. (4-11-19)

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)

405. CONDITIONS FOR TIER II OPERATING PERMITS.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: (5-1-94)

a. Sampling ports of a size, number, and location as the Department may require; (5-1-94)

b. Safe access to each port; (5-1-94)

c. Instrumentation to monitor and record emissions data; (5-1-94)

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and (5-1-94)

e. Any other sampling and testing facilities as may be deemed reasonably necessary. (5-1-94)

02. Performance Tests. Any performance tests required by the permit shall be performed in accordance with methods and under operating conditions approved by the Department. The owner or operator shall furnish to the Department a written report of the results of such performance test. (5-1-94)

a. Such test shall be at the expense of the owner or operator. (5-1-94)

b. The Department may monitor such test and may also conduct performance tests. (5-1-94)

c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. (5-1-94)

03. Permit Term. Tier II operating permits shall be issued for a period not to exceed five (5) years.

This five (5) year operating permit restriction does not apply to the provisions contained in Section 461.02 (banked emission reduction credits). (5-1-94)

04. Single Tier II Operating Permit. When a facility includes more than one (1) stationary source or emissions unit, a single Tier II operating permit may be issued including all stationary sources and emissions units located at that facility. Such Tier II operating permit shall separately identify each stationary source and emissions unit to which the Tier II operating permit applies. When a single stationary source or facility is subject to permit modification, suspension or revocation, such action by the Director shall only affect that individual stationary source or emissions unit without thereby affecting any other stationary source or emissions unit subject to that Tier II operating permit. (5-1-94)

406. OBLIGATION TO COMPLY.

Receiving a Tier II operating permit shall not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations. (5-1-94)

407. TIER II OPERATING PERMIT PROCESSING FEE.

01. Tier II Operating Permit Processing Fee. A Tier II operating permit processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving a Tier II permit or permit renewal. The fee calculation shall not include fugitive emissions.

TIER II OPERATING PERMIT CATEGORY	FEE
General permit, no facility specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis.)	\$500
Stationary sources or facilities with permitted emissions of less than one (1) ton per year	\$1,250
Stationary sources or facilities with permitted emissions of one (1) to less than ten (10) tons per year	\$2,500
Stationary sources or facilities with permitted emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Stationary sources or facilities with permitted emissions of one hundred (100) tons or more per year	\$10,000
Synthetic minor stationary sources with permitted emissions below a major threshold level	\$10,000

(7-1-02)

02. Tier II Operating Permit Processing Fee Not Required. So long as the Department determines no other review or analysis is required, the Tier II operating permit processing fee is not required to be submitted when: (7-1-02)

- a. A permit to construct issued within the last five (5) years is rolled into a Tier II permit; (7-1-02)
- b. A change to correct typographical errors is requested; (7-1-02)
- c. A change in the name or ownership of the holder of a Tier II operating permit is requested; or (7-1-02)

d. A synthetic minor permit is issued and the Department's processing costs can be charged against fees collected from the person receiving the permit under Title V of the federal Clean Air Act amendments of 1990. (7-1-02)

408. PAYMENT OF TIER II OPERATING PERMIT PROCESSING FEE.

01. Fee Submittal. The Tier II operating permit processing fee shall be payable upon receipt of an assessment sent, along with the final permit or permit renewal, to the person receiving a permit or permit renewal by the Department. The Tier II operating permit fee should be sent to:

Air Quality Tier II Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 (7-1-02)

02. Delinquency. Failure to submit a Tier II operating permit processing fee within forty-five (45) days of receipt of an assessment by the Department will result in a monthly accrual of interest in the amount of twelve percent (12%) per annum on the outstanding balance until the fee is paid in full. (7-1-02)

409. RECEIPT AND USAGE OF FEES.

Tier II operating permit processing fee and delinquency interest receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. The Department will review the Tier II fee schedule at least every two (2) years. (7-1-02)

410. APPEALS.

A person may be able to file an appeal within thirty-five (35) days of the date the person receives an assessment under Section 407, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

411. -- 439. (RESERVED)

440. REQUIREMENTS FOR ALTERNATIVE EMISSION LIMITS (BUBBLES).

The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to authorize an alternative emission limit for any stationary source or emissions unit within the facility. The Department may issue or revise a Tier II operating permit or issue a significant modification to a Tier I operating permit which authorizes an alternative emission limit provided that all of the following are met: (4-5-00)

01. Actual Emissions. There is no increase in actual emissions of the applicable air pollutant at the facility. (4-11-06)

02. Emission Reductions. All emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

03. Trade Requirements. All trades involve the same air pollutant and demonstrate ambient equivalence as specified in Subsection 441.02. (4-11-06)

04. Applicable Requirement Prohibition. No applicable Section of 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, best available control technology requirement, lowest achievable emission rate requirement, or visual emission standard is exceeded. (5-1-94)

05. Actual HAP/TAP Emissions. The actual emissions of any hazardous air pollutant or any toxic air pollutant are not increased. (5-1-94)

06. Fugitive Dust Trades. Where the trade involves fugitive dust, the owner or operator shall undertake an adequate post-approval monitoring program to evaluate the ambient results of the controls. If the monitoring data indicate that the air quality effects are not equivalent, then: (5-1-94)

a. Further reductions must be proposed by the owner or operator; and/or (5-1-94)

- b. The applicable emission standards in the operating permit will be adjusted by the Department; (5-1-94)

07. Compliance Schedule Extension. Any compliance schedule extension for a facility in a nonattainment area is consistent with reasonable further progress. (5-1-94)

08. EPA Approval. Approval of the U.S. Environmental Protection Agency, and where necessary the appropriate court, has been obtained for any individual stationary source or facility which is the subject of a federal enforcement action or outstanding enforcement order. (5-1-94)

441. DEMONSTRATION OF AMBIENT EQUIVALENCE.
The demonstration of ambient equivalence shall: (5-1-94)

01. VOC Trades. For trades involving volatile organic compounds, show that total emissions are not increased for the air basin in which the stationary source or facility is located. (5-1-94)

02. Other Trades. For trades involving any other air pollutant, show through appropriate dispersion modeling that the trade will not cause a significant contribution at any modeled receptor. (4-11-06)

442. -- 459. (RESERVED)

460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.
In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: (5-1-94)

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions which exceed the allowable emissions of the stationary source(s) or emission unit(s). (5-1-94)

02. Timing of Emission Reduction. In an attainment or unclassifiable area any emission reduction which occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date in order to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular air pollutant. (4-11-06)

03. Emission Rate Calculation. The emission rate before and after the reduction must be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. (5-1-94)

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit shall be issued which establishes a new emission standard for the facility, or restricts the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. (4-5-00)

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits shall not be allowed for emission reduction credits. (5-1-94)

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits shall be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. (4-5-00)

461. REQUIREMENTS FOR BANKING EMISSION REDUCTION CREDITS (ERC'S).

- 01. Application to Bank an ERC.** The owner or operator of any facility may apply to the Department

for a Tier I or Tier II operating permit (or a revision thereto) to bank an emission reduction credit. An application to bank an emission reduction credit must be received by the Department no later than one (1) year after the reduction occurs. The Department may issue or revise such a Tier I or Tier II operating permit and a "Certificate of Ownership" for an emission reduction credit, provided that all emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

02. Banking Period. Emission reduction credits may be banked with the Department. The banked emission reduction credits may be used for offsets, netting in accordance with the definition of net emissions increase at Section 007, or alternative emission limits (bubbles), or sold to other facilities. The use of banked emission reduction credits must satisfy the applicable requirements of the program in which they are proposed for use, including approval of a permit to construct or a Tier I or Tier II operating permit. (4-5-00)

03. Certificate of Ownership. Upon issuing or revising a Tier I or Tier II operating permit for an emission reduction credit, the Department will issue a "Certificate of Ownership" which will identify the owner of the credits, quantify the credited emission reduction and describe the characteristics of the emissions which were reduced and emissions unit(s) which previously emitted them. (5-1-94)

04. Adjustment by Department. If at any time the Department, or the owner or operator of a facility which has produced an emission reduction credit, finds that the actual reduction in emissions differs from that in the certificate of ownership, the Department will adjust the amount of banked emission reduction credits to reflect the actual emission reduction and issue a revised certificate of ownership. (5-1-94)

05. Proportional Discounts. If at any time the Department finds that additional emission reductions are necessary to attain and maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment, banked emission reduction credits at facilities in the affected area may be proportionally discounted by an amount which will not exceed the percentage of emission reduction required for that area. (4-5-00)

06. Transfer of Ownership. Whenever the holder of a certificate of ownership for banked emission reduction credits, sells or otherwise transfers ownership of all or part of the banked credits, the holder shall submit the certificate of ownership to the Department. The Department will issue a revised certificate(s) of ownership which reflects the old and new holder(s) and amount(s) of banked emission reduction credits. (5-1-94)

07. Public Registry. The Department will maintain a public registry of all banked emissions reduction credits, indicating the current holder of each certificate of ownership and the amount and type of credited emissions. (5-1-94)

462. -- 499. (RESERVED)

500. REGISTRATION PROCEDURES AND REQUIREMENTS FOR PORTABLE EQUIPMENT.

01. Registration Requirements. All existing portable equipment shall be registered within ninety (90) days after the original effective date of this Section 500 and at least ten (10) days prior to relocating, using forms provided by the Department, except that no registration is required for mobile internal combustion engines, marine installations and locomotives. (5-1-94)

02. Compliance with Rules and Regulations. Possessing a "Certificate of Registration" does not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations. (5-1-94)

501. -- 509. (RESERVED)

510. STACK HEIGHTS AND DISPERSION TECHNIQUES.

The purpose of Sections 510 through 516 is to establish criteria for good engineering practice for stack heights and dispersion techniques. (5-1-94)

511. APPLICABILITY.

The provisions of Sections 510 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 510 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. (4-11-06)

512. DEFINITIONS.

For the purpose of Sections 500 through 516: (5-1-94)

01. Dispersion Technique. Any technique which attempts to affect the concentration of a regulated or toxic air pollutant in the ambient air by: (4-11-06)

a. Using that portion of a stack which exceeds good engineering practice stack height; (5-1-94)

b. Varying the rate of emission of a regulated or toxic air pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or (4-11-06)

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one (1) stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; smoke management in agricultural or silvicultural prescribed burning programs; episodic restrictions on residential woodburning and open burning; techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed five thousand (5,000) tons per year; or the merging of exhaust gas streams where: (5-1-94)

i. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; (5-1-94)

ii. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a regulated or toxic air pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the regulated or toxic air pollutant affected by such change in operation; or (4-11-06)

iii. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source. (5-1-94)

02. Excessive Concentration. For the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study as provided for in Subsection 512.03.c. "Excessive Concentration" means: (5-1-94)

a. For sources seeking credit for stack height exceeding that established under Subsection 512.03.b., a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such effects, and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant

deterioration increment. The allowable emission rate to be used in making demonstrations under Subsection 512.02.a., shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Department, an alternative emission rate shall be established in consultation with the source owner or operator. (5-1-94)

b. For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under Subsection 512.03.b., either: (5-1-94)

i. A maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects as provided in Subsection 512.02.a., except that the emission rate specified by any applicable SIP or, in the absence of such a limit, the actual emission rate shall be used; or (5-1-94)

ii. The actual presence of a local nuisance caused by the existing stack as determined by the authority administering the Department. (5-1-94)

c. For sources seeking credit after January 12, 1979, for a stack height determined under Subsection 512.03.b., where the Department requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subsection 512.03.b., a maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects that is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. (5-1-94)

03. Good Engineering Practice (GEP) Stack Height. The greater of: (5-1-94)

a. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack; (5-1-94)

b. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required,

$$H = 2.5S$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. For all other stacks provided that the Department may require the use of a field study or fluid model to verify GEP stack height for the source,

$$H = S + 1.5L$$

where:

(5-1-94)

i. H = good engineering practice stack height measured from the ground-level elevation at the base of the stack. (5-1-94)

ii. S = height of nearby structure(s) measured from the ground-level elevation at the base of the stack. (5-1-94)

iii. L = lesser dimension, height or projected width, of nearby structure(s). (5-1-94)

c. The height demonstrated by a fluid model or a field study approved by the Department which ensures that the emissions from a stack do not result in excessive concentrations of any regulated or toxic air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain features. (4-11-06)

04. Nearby Structures or Terrain Features. “Nearby” as applied to a specific structure or terrain feature under the definition of “good engineering practice stack height”; and (5-1-94)

a. For purposes of applying the formulae provided under Subsection 512.03.b., means that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than one-half (1/2) mile (0.8 km); and (5-1-94)

b. For conducting demonstrations under Subsection 512.03.c., means not greater than one-half (0.5) mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height of the feature, not to exceed two (2) miles if such feature achieves a height one-half (0.5) mile (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formulae provided in Subsection 512.03.b., or twenty-six (26) meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack. (4-5-00)

05. Stack in Existence. The owner or operator had: (5-1-94)

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or (5-1-94)

b. Entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. (5-1-94)

513. REQUIREMENTS.

The required degree of emission control of any regulated or toxic air pollutant shall not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. (4-11-06)

514. OPPORTUNITY FOR PUBLIC HEARING.

Whenever a new or revised emission limitation is to be based on a good engineering practice stack height that exceeds the height allowed by the formulae in Subsections 512.03.a. and 512.03.b., the Department will notify the public of the availability of the demonstration study submitted under Subsection 512.03.c., and will provide an opportunity for public hearing on the demonstration study. (5-1-94)

515. APPROVAL OF FIELD STUDIES AND FLUID MODELS.

Any field study or fluid model used to demonstrate GEP stack height under Subsection 512.03.b. or 512.03.c., and any determination of "excessive concentration" under Subsection 512.02 must be approved by the EPA prior to an emission limit being established. The construction of any new stack, or any increase to the height of any existing stack to the height determined by the formulae in Subsection 512.03.b., without completing a fluid model and a field study must be approved by the EPA. (5-1-94)

516. NO RESTRICTION ON ACTUAL STACK HEIGHT.

The provisions of Sections 510 through 516 do not restrict, in any manner, the actual stack height of any stationary source or facility. (5-1-94)

517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.

01. Purpose. The purpose of Sections 517 through 527 is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352. (4-4-13)

02. Applicability. Sections 517 through 527 apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder. (4-4-13)

03. Options. (3-29-10)

a. Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may: (3-29-10)

i. Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or (3-29-10)

ii. Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program. (3-29-10)

b. If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program. (3-29-10)

04. Governing Authority. For the purpose of Sections 517 through 527, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 527 of these rules. (4-4-13)

05. Exemptions. Sections 517 through 527 do not apply to the following: (4-4-13)

a. Electric or hybrid motor vehicles; (3-29-10)

b. Motor vehicles with a model year less than five (5) years old; (3-29-10)

c. Motor vehicles with a model year older than 1981; (3-29-10)

d. Classic automobiles as defined by Section 49-406A, Idaho Code; (3-29-10)

e. Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds; (3-29-10)

f. Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code; (3-29-10)

g. Motorized farm equipment; and (3-29-10)

h. Registered motor vehicles engaged solely in the business of agriculture. (3-29-10)

518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.

01. General. (3-29-10)

a. No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority. (3-29-10)

b. No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station. (3-29-10)

02. Applications for License. Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04. (3-29-10)

03. Requirements for Licensed Inspection Stations. In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements: (3-29-10)

a. Must have a permanent location; (3-29-10)

b. Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation; (3-29-10)

c. Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority; (3-29-10)

- d. Must obtain and maintain in force appropriate business liability insurance; and (3-29-10)
- e. Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test. (3-29-10)

04. Requirements for Licensed Retest Stations. In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03. (4-4-13)

05. Approval Procedure. (3-29-10)

a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review. (3-29-10)

b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of the governing authority. (3-29-10)

06. Revocation of Inspection Station or Retest Station License. The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority. (3-29-10)

519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.

01. Applications for License. Application for a license as an emissions technician shall be filed with the governing authority. Applications for the emissions technician license shall be completed on forms provided by the governing authority. (3-29-10)

02. Requirements for Issuance of an Emissions Technician License. An applicant must demonstrate the knowledge and skill necessary to perform an emissions test of motor vehicle engines. The governing authority shall require the minimum standards set forth in 40 CFR 51.367, incorporated by reference into these rules at Section 107. (3-29-10)

03. Revocation of Emissions Technician License. The governing authority has the authority to issue warnings and suspend or revoke an emissions technician license upon a showing that emission tests are not being performed in accordance with these rules or any other specifications or procedures enacted by the governing authority. (3-29-10)

520. INSPECTION FREQUENCY.

The inspections shall occur no more than once every two (2) years. If the owner of the motor vehicle obtains a waiver pursuant to Section 526, the motor vehicle must be inspected the following year. (3-29-10)

521. TEST PROCEDURE REQUIREMENTS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(a), incorporated by reference into these rules at Section 107. (3-29-10)

522. TEST STANDARDS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(b), incorporated by reference into these rules at Section 107. (3-29-10)

523. TEST EQUIPMENT.

The governing authority shall require the minimum standards set forth in 40 CFR 51.358, incorporated by reference into these rules at Section 107. (3-29-10)

524. INSPECTION FEE.

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 527 and to fund an air quality public awareness and outreach program. (4-4-13)

525. PUBLIC OUTREACH.

The governing authority shall issue a pamphlet for distribution to owners of motor vehicles. The pamphlet shall include, but not be limited to, the reasons for and the methods of the inspection. The governing authority may also establish and operate an informational hotline, website, or any other means of outreach that is deemed to be efficient and effective by the governing authority. (3-29-10)

526. WAIVERS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.360(a), incorporated by reference into these rules at Section 107. If the owner of the motor vehicle obtains a waiver, the motor vehicle must be inspected the following year. (3-29-10)

01. Financial Hardship. If repairs required under Section 526 pose a financial hardship on the owner of the motor vehicle, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). Such determination of hardship shall be made on a case-by-case basis by the governing authority. (3-29-10)

02. Public Service Vehicles Operating Less than 1,000 Miles Per Year. For public service vehicles owned by a governmental entity and operated less than one thousand (1,000) miles per year, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). (3-29-10)

527. EXTENSIONS.

The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders. (4-4-13)

528. -- 549. (RESERVED)

550. AIR POLLUTION EMERGENCY RULE.

The purpose of Sections 550 through 562 is to define criteria for an air pollution emergency, to formulate a plan for preventing or alleviating such an emergency, and to specify rules for carrying out the plan. The procedures for implementing Sections 550 through 562 are delineated in Chapter VI of the SIP. (5-1-94)

551. EPISODE CRITERIA.

The purpose of Sections 551 through 556 is to establish criteria for stages of atmospheric stagnation and/or degraded air quality. (5-1-94)

552. STAGES.

The Department has defined four (4) stages of atmospheric stagnation and/or degraded air quality. (5-1-94)

01. Stage 1 -- Air Pollution Forecast and Caution. An internal watch by the Department shall be actuated by a National Weather Service report that an Atmospheric Stagnation Advisory has been issued, or the equivalent local forecast of stagnant atmospheric conditions. (3-15-02)

02. Stage 2 -- Alert. This is the first stage at which air pollution control actions by industrial sources are to begin. (5-1-94)

03. Stage 3 -- Warning. The warning stage indicates that air quality is further degraded and that control actions are necessary to maintain or improve air quality. (5-1-94)

04. Stage 4 -- Emergency. The emergency stage indicates that air quality has degraded to a level that will substantially endanger the public health and that the most stringent control actions are necessary. (5-1-94)

553. EFFECT OF STAGES.

Once an episode stage is reached or the Department determines that reaching a particular stage is imminent, emergency action corresponding to that stage will remain in effect until air quality measurements indicate that another stage (either lower or higher) has been attained or the Department determines that reaching another stage (either lower or higher) is imminent. At such time, actions corresponding to the next stage will go into effect. This procedure will continue until the episode is terminated. The air quality criteria used to define each of the episode stages for carbon monoxide, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide are specified in Section 556. The levels will be determined by the Department through its analysis of meteorological and ambient air quality monitoring data. (3-15-02)

554. -- 555. (RESERVED)

556. CRITERIA FOR DEFINING LEVELS WITHIN STAGES.

The air quality criteria defining each of these levels for carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (PM-10), particles with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers (PM-2.5), and sulfur dioxide (SO₂) are: (3-15-02)

01. Stage 1 -- Forecast and Caution. A Stage 1 Forecast and Caution shall be declared by the Department when particulate concentrations reach, or are forecasted to reach, and persist, at or above the levels listed below. The Department may call a Stage 1 Forecast and Caution, if it determines, after evaluating the pertinent meteorology, weather conditions and air quality conditions such as visibility, and source parameters such as source type, strength, location and projected duration, that a Stage 1 Forecast and Caution is required to protect the public health.

CO	NA
NO ₂	NA
O ₃	NA
SO ₂	NA
PM-2.5	80 ug/m ³ 1 hour average
PM-2.5	50 ug/m ³ 24 hour average
PM-10	385 ug/m ³ 1 hour average
PM-10	150 mg/m ³ 24 hour average

(3-15-02)

02. Stage 2 -- Alert.

CO - 17 mg/m ³ (15 ppm)	8-hour average
NO ₂ - 1130 ug/m ³ (0.6 ppm)	1-hour average
- 282 ug/m ³ (0.15 ppm)	24-hour average
O ₃ - 400 ug/m ³ (0.2 ppm)	1-hour average
PM-10 - 350 ug/m ³	24-hour average
SO ₂ - 800 ug/m ³ (0.3 ppm)	24-hour average

(4-5-00)

03. Stage 3 -- Warning.

CO - 34 mg/m3 (30 ppm)	8-hour average
NO ₂ - 2260 ug/m3 (1.2 ppm),	1-hour average
- 565 ug/m3 (0.3 ppm)	24-hour average
O ₃ - 800 ug/m3 (0.4 ppm)	1-hour average
PM-10 - 420 ug/m3	24-hour average
SO ₂ - 1600 ug/m3 (0.6 ppm)	24-hour average

(4-5-00)

04. Stage 4 -- Emergency.

CO - 46 mg/m3 (40 ppm)	8-hour average
NO ₂ - 3000 ug/m3 (1.6 ppm)	1-hour average
- 750 ug/m3 (0.4 ppm)	24-hour average
O ₃ - 1000 ug/m3 (0.5 ppm)	1-hour average
PM-10 - 500 ug/m3	24-hour average
SO ₂ - 2100 ug/m3 (0.8 ppm)	24-hour average

(4-5-00)

557. PUBLIC NOTIFICATION.

The purpose of Sections 557 through 560 is to establish requirements for public notification regarding atmospheric stagnation and/or degraded air quality. (5-1-94)

558. INFORMATION TO BE GIVEN.

01. Information to Be Given. On the basis of degrading air quality as determined by the Director, and the criteria for emergency episode stages as shown in Section 556, the Director will utilize appropriate media and techniques including, but not limited to, print, electronic and internet, to insure that the following information is announced to the public, affected government, and commercial, industrial institutional and agricultural entities as practicable: (3-15-02)

- a. Definition of the extent of the problem; (5-1-94)
- b. Indication of the action taken by the Director; (5-1-94)
- c. Air pollution forecast for next few days; (5-1-94)
- d. Notice of when the next statement from the Department will be issued; (5-1-94)
- e. Listing of all general procedures which the public, commercial, institutional and industrial sectors are required to follow; (5-1-94)
- f. Specific warnings and advice to those persons who because of acute or chronic health problems, may be most susceptible to the effects of the episode. (3-15-02)
- g. Location and description of the affected area. (3-15-02)

559. MANNER AND FREQUENCY OF NOTIFICATION.

Such announcements will be made by the news media during regularly scheduled television and radio news broadcasts and in all editions of specified newspapers. In addition, when the stage 4 emergency level is reached, television and radio stations designated by the Department will repeat these announcements at one (1) hour intervals during normal broadcasting hours. (5-1-94)

560. NOTIFICATION TO SOURCES.

The Department will assure that all significant sources of the applicable air pollutant(s) are notified of the emergency stage by telephone or other appropriate means. (4-11-06)

561. GENERAL RULES.

All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. (5-1-94)

01. Stage 1 -- Air Pollution Forecast and Caution. There shall be no new ignition of open burning of any kind. The Director may require, if practicable, or in an emergency situation, the cessation of any open burning. (3-15-02)

02. Stage 2 -- Alert. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. (5-1-94)

03. Stage 3 -- Warning. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: (5-1-94)

i. Switch completely to natural gas or distillate oil; or (5-1-94)

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (5-1-94)

04. Stage 4 -- Emergency. This will be called only with specific concurrence of Governor. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. (3-15-02)

- c. All places of employment described below shall immediately cease operations: (5-1-94)
 - i. All mining and quarrying operations; (5-1-94)
 - ii. All construction work except that which must proceed to avoid injury to persons; (5-1-94)
 - iii. All manufacturing establishments except those required to have in force an air pollution emergency plan; (5-1-94)
 - iv. All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food; (5-1-94)
 - v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order; (5-1-94)
 - vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food; (5-1-94)
 - vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices; (5-1-94)
 - viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops; (5-1-94)
 - ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories; (5-1-94)
 - x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways; (5-1-94)
 - xi. Establishments rendering amusement and recreational services including motion picture theaters; (5-1-94)
 - xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries. (5-1-94)
- d. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of the applicable air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit the applicable air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m. (4-11-06)
- e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. (5-1-94)

562. SPECIFIC EMERGENCY EPISODE ABATEMENT PLANS FOR POINT SOURCES.

In addition to the general rules presented in Section 561, the Department shall require that specific point sources adopt and implement their own Emergency Episode Abatement Plans in accordance with the criteria set forth in Sections 551 through 556. An individual plan can be revised periodically by the Department after consultation between the Department and the owners and/or operators of the source. (5-1-94)

563. TRANSPORTATION CONFORMITY.

The purpose of Sections 563 through 574 is to adopt and implement Section 176(c) of the Clean Air Act (CAA), as amended [42 U.S.C. 7401 et seq.], and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects developed, funded, or approved by the United States Department of Transportation (USDOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). These sections set forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to Section 110 and Part D of the CAA. The publications referred to in Sections 563 through 574 are available from the IDEQ. (3-25-16)

564. (RESERVED)

565. ABBREVIATIONS.

01.	CAA. Clean Air Act, as amended.	(3-30-01)
02.	CFR. Code of Federal Regulations.	(3-30-01)
03.	CO. Carbon Monoxide.	(3-30-01)
04.	EPA. Environmental Protection Agency.	(3-30-01)
05.	FHWA. Federal Highway Administration of USDOT.	(3-30-01)
06.	FTA. Federal Transit Administration of USDOT.	(3-30-01)
07.	HPMS. Highway Performance Monitoring System.	(3-30-01)
08.	ICC. Interagency Consultation Committee.	(3-30-01)
09.	IDEQ. Idaho Department of Environmental Quality.	(3-30-01)
10.	ITD. Idaho Transportation Department.	(3-30-01)
11.	LHTAC Local Highway Technical Assistance Council.	(3-30-01)
12.	LRTP. Long Range Transportation Plan.	(3-30-01)
13.	MPO. Metropolitan Planning Organization.	(3-30-01)
14.	NAAQS. National Ambient Air Quality Standards.	(3-30-01)
15.	NEPA. National Environmental Policy Act, as amended.	(3-30-01)
16.	O3. Ozone.	(3-30-01)
17.	PM. Particulate matter.	(3-30-01)
18.	PM_x. Particles with an aerodynamic diameter less than or equal to a nominal X micrometers, where X denotes any size fraction number regulated by the NAAQs (e.g.: 10, 2.5).	(3-30-01)
19.	STIP. Statewide Transportation Improvement Program.	(3-30-01)
20.	TCM. Transportation Control Measure.	(3-30-01)
21.	TIP. Transportation Improvement Program.	(3-30-01)

22. USDOT. United States Department of Transportation. (3-30-01)
23. VMT. Vehicle Miles Traveled. (3-30-01)

566. DEFINITIONS FOR THE PURPOSE OF SECTIONS 563 THROUGH 574 AND 582.

Terms used but not defined in Sections 563 through 574 and 582 shall have the meaning given them by the CAA, Titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other USDOT regulations, in that order of priority. For the purpose of Sections 563 through 574 and 582: (3-30-01)

01. Applicable Implementation Plan. Applicable Implementation Plan is defined in Section 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under Section 110 of the CAA, or promulgated under Section 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under Section 301(d) of the CAA and which implements the relevant requirements of the CAA. (3-30-01)

02. Consult or Consultation. The lead agency confers with other ICC members and persons on the distribution list and considers their views prior to taking actions relating to transportation conformity. The lead agency shall distribute all appropriate information necessary to make a conformity determination and, prior to making a conformity determination, shall consider the views of such parties and shall provide a timely, written response to those views. Such views and written responses shall be included in the record of decision or action. Consultation shall not occur with respect to a transportation plan or transportation improvement program (TIP) revision that merely adds or exempts projects listed in 40 CFR 93.126. (3-30-01)

03. Distribute. Make available relevant documents and information by electronic and manual means, whichever is more appropriate, to all ICC members and persons on the distribution list. Electronic distribution may include existing and future technological applications, such as electronic mail, internet web-site posting including downloadable files, or the use of an electronic mail reply system based on the distribution list. Manual distribution may include the United States Postal Service, the state internal mail system, a facsimile machine, or any commercially available mail service provider. (3-30-01)

04. Distribution List. A list containing the names and addresses of ICC members and any person(s) expressing an interest in receiving information and material pertaining to ICC meetings. To express interest, a person may contact the lead agency by postal mail, electronic mail, telephone or in person, and inform the ICC member of their interest in being on the distribution list for information and material pertaining to ICC meetings. (3-30-01)

05. Exempt Projects. Projects exempt from conformity requirements based on the general criteria of safety, mass transit, and other factors, as described in 40 CFR 93.126. (3-30-01)

06. Lead Agency. The transportation or air quality agency responsible for conducting the consultation process, as identified in Subsections 568.01 through 568.03. (3-30-01)

07. Lead Air Quality Agency. An agency designated pursuant to Section 174 of the CAA as responsible for developing an applicable implementation plan, or alternatively the agency designated by the Governor as the lead air quality agency for a county, region, or any jurisdiction. (3-30-01)

08. Local Highway Jurisdiction. A county with jurisdiction over a highway system, a city with jurisdiction over a highway system, or a highway district, as defined by Section 40-113(3), Idaho Code. (3-30-01)

09. Local Highway Technical Assistance Council (LHTAC). The public agency created in Chapter 24, Title 40, Idaho Code. (3-30-01)

10. Maximum Priority. (3-30-01)

a. All possible actions must be taken to shorten the time periods necessary to complete essential steps in TCM implementation - for example, by increasing the funding rate - even though timing of other projects may be affected. It is not permissible to have prospective discrepancies with the applicable implementation plan's TCM implementation schedule due to: (3-30-01)

- i. Lack of funding in the TIP; (3-30-01)
- ii. Lack of commitment to the project by the sponsoring agency; (3-30-01)
- iii. Unreasonably long periods to complete future work due to lack of staff or other agency resources; (3-30-01)
- iv. Lack of approval or consent by local governmental bodies; or (3-30-01)
- v. Failure to have applied for a permit where necessary work preliminary to such application has been completed. (3-30-01)

b. Where statewide and metropolitan funding resources, planning, and management capabilities are fully consumed within the flexibility of the Transportation Equity Act of 1998 (TEA-21), Pub. L. No. 105-178, 112 Stat 107, as amended by Pub. L. No. 105-206, 112 Stat 685, or future federal omnibus transportation funding bills, with responding to damage from natural disasters, civil unrest, or terrorist acts, TCM implementation can be determined to be timely without regard to the above, provided reasonable efforts are being made. (3-30-01)

11. Metropolitan Planning Organization (MPO). The organization designated as being responsible, together with the State, for conducting the continuing cooperative and comprehensive transportation planning process under 23 U.S.C. 134 and 49 U.S.C. 5303 and 23 CFR 450. It is the forum for cooperative transportation decision-making. (3-30-01)

12. Public Notice. Distribution of the meeting times, location, duration and agenda, to all the ICC members and persons on the distribution list. (3-30-01)

13. Recipient of Funds Designated Under Title 23 U.S.C. or the Federal Transit Laws. Any agency at any level of state, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Laws funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners, developers, contractors, or entities that are only paid for services or products created by their own employees. (3-30-01)

14. Regionally Significant Project. A transportation project, other than an exempt project, that is on a facility which serves regional transportation needs (such as access to and from the area outside the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including, at a minimum: (3-30-01)

- a. All principal arterial highways; (3-30-01)
- b. All fixed guideway transit facilities that offer an alternative to regional highway travel; and (3-30-01)
- c. Any other facilities determined to be regionally significant through Section 570, interagency consultation. (3-30-01)

15. Transportation Agency. The public agency responsible for one (1) or more of the following transportation modes: (3-30-01)

- a. Air; (3-30-01)
- b. Rail; (3-30-01)
- c. Water; (3-30-01)

- d. Highway; (3-30-01)
- e. Bicycle and pedestrian paths; and (3-30-01)
- f. Transit. (3-30-01)

16. Transit Agency. Any agency involved in providing mass transportation services by bus, rail, or other conveyance providing general or special service to the public on a regular and continuing basis. The term “Transit Agency” does not include school buses or charter or sightseeing services. (3-30-01)

567. AGENCIES AFFECTED BY CONSULTATION.

This Section identifies those agencies and other entities (federal, tribal, state and local) involved in the consultation process and those general actions requiring consultation. (3-30-01)

01. Interagency Consultation Committee. A committee of representatives shall be formed in each nonattainment or maintenance area of the state, to convene on conformity determinations, as necessary, and shall be called the Interagency Consultation Committee (ICC) for that nonattainment or maintenance area. The ICC shall undertake consultation procedures, as applicable, in preparing for and before making conformity determinations in developing long-range transportation plans (LRTP), transportation improvement programs (TIP), and applicable implementation plans. (3-30-01)

02. ICC Members. The ICC shall consist of the following agencies or entities, as applicable: (3-30-01)

- a. A Metropolitan Planning Organization (MPO) where one exists; (3-30-01)
- b. The Idaho Transportation Department (ITD); (3-30-01)
- c. The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) divisional office; (3-30-01)
- d. The Idaho Department of Environmental Quality (IDEQ); (3-30-01)
- e. Affected Local Highway Jurisdictions involved in transportation, (3-30-01)
- f. Affected Transit agency(ies); (3-30-01)
- g. The Local Highway Technical Assistance Council (LHTAC); (3-30-01)
- h. Indian Tribal governments with transportation planning responsibilities; and (3-30-01)
- i. The United States Environmental Protection Agency (EPA). (3-30-01)

03. Agencies Entitled to Participate. Agencies which may be affected by the consultation process and which are entitled to participate in the consultation process include: (3-30-01)

a. Any local transit agency or provider, local highway jurisdiction, and any city or county transportation or air quality board or agency where the nonattainment or maintenance area is located; and (3-30-01)

b. Any other state or federal or tribal organization in the state responsible under state or federal law for developing, submitting or implementing transportation related provisions of an implementation plan. (3-30-01)

04. More Than One Pollutant. Areas that are nonattainment for more than one (1) pollutant may conduct consultation, as specified in this section, through a single committee for all pollutants. (3-30-01)

05. Open to the Public. All meetings of the ICC shall be open to the public. (3-30-01)

06. Delegation. An ICC member may delegate its role or responsibility in the consultation process to another entity pursuant to applicable state law. An ICC member making such delegation shall notify all other ICC members in writing when the delegation occurs. The written notice shall provide the name, address, and telephone number of one (1) or more contact persons representing the entity accepting the delegated role or responsibility. (3-30-01)

07. General Actions Requiring Consultation. The ICC shall undertake the consultation process prior to the development of the following: (3-30-01)

a. The implementation plan(s), including the emission budget and list of TCMs in the applicable implementation plan(s), prepared by the lead air quality agency in a nonattainment or maintenance area; (3-30-01)

b. All other conformity determinations for transportation plans, projects, and programs; and (3-30-01)

c. Revisions to the preceding documents which may directly or indirectly affect conformity determinations. (3-30-01)

568. ICC MEMBER ROLES IN CONSULTATION.

The lead agency as identified in this section is the ICC member responsible for initiating the consultation process, preparing the initial and final drafts of the document or decision, and assuring the adequacy of the consultation process for all conformity processes and procedures. (3-30-01)

01. Designated Lead Air Quality Agency. IDEQ or the MPO, as the designated lead air quality agency, shall be the lead agency for the development of the implementation plan, the associated emission budgets, and the list of Transportation Control Measures (TCMs) in the plan. The concurrence of IDEQ on each applicable implementation plan is required before IDEQ adopts the plan and submits it to EPA for inclusion in the applicable implementation plan. (3-30-01)

02. Areas with an MPO. For areas in which an MPO has been established, the designated MPO shall be the lead agency responsible for conformity determinations, development of the LRTP, development of the TIP, and project level documentation under 23 CFR 450. (3-30-01)

03. Areas Without an MPO. For areas in which an MPO has not been established, ITD shall be the lead agency for preparing the final document on conformity determinations, the development of the statewide transportation plan, the development of the STIP, and project level documentation under 23 CFR 450. (3-30-01)

569. ICC MEMBER RESPONSIBILITIES IN CONSULTATION.

This Section identifies the specific responsibilities of ICC members. (3-30-01)

01. Designated Lead Air Quality Agency Responsibilities. The designated lead air quality agency shall be responsible for developing or providing and distributing draft and final documentation, data and analyses for: (3-30-01)

a. Air emission inventories; (3-30-01)

b. Emission budgets; (3-30-01)

c. Attainment and maintenance demonstrations; (3-30-01)

d. Control strategy implementation plan revisions; (3-30-01)

e. Updated motor vehicle emission factors; (3-30-01)

f. Proposal and evaluation of TCMs; and (3-30-01)

g. Public outreach on draft air quality plans pursuant to 40 CFR Part 51. (3-30-01)

- 02. Designated MPO Responsibilities.** The designated MPO shall be responsible for: (3-30-01)
- a.** Conformity determinations corresponding to LRTPs and TIPs; (3-30-01)
 - b.** Making conformity determinations for the entire nonattainment or maintenance area, including areas beyond the boundaries of the MPO, where no agreement is in effect as required by 23 CFR 450.310(f); (3-30-01)
 - c.** Identify regionally significant projects through the consultation process; (3-30-01)
 - d.** Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable; (3-30-01)
 - e.** Providing technical and policy input on emissions budgets; (3-30-01)
 - f.** Performing transportation modeling, regional emissions analyses, and project level analysis, as necessary; (3-30-01)
 - g.** Documenting timely implementation of TCMs, as required, for determining conformity; and (3-30-01)
 - h.** Distributing relevant draft and final project environmental documents to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c. (3-30-01)
- 03. Non-MPO Area Responsibilities.** In areas without an established MPO, ITD shall be responsible for: (3-30-01)
- a.** Conformity determinations corresponding to STIPs and project-level analyses; (3-30-01)
 - b.** Providing technical and policy input on proposed revisions to motor vehicle emissions factors and to emission budgets; (3-30-01)
 - c.** Distributing relevant draft and final project environmental documentation prepared by, or for ITD, to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c.; (3-30-01)
 - d.** Convening air quality technical review meetings on specific projects when requested by other ICC members, or as needed; (3-30-01)
 - e.** Convening interagency consultation meetings required for purposes of making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary; (3-30-01)
 - f.** Making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary; and (3-30-01)
 - g.** Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable. (3-30-01)
- 04. FHWA and FTA Responsibilities.** FHWA and FTA shall be responsible for: (3-30-01)
- a.** Assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings after consultation with other agencies as provided in Section 569 and 40 CFR 93.105; and (3-30-01)
 - b.** Providing guidance on conformity and the transportation planning process to ICC members. FHWA and FTA may rely solely on the consultation process initiated by ITD or the MPO, where one exists, and shall not be required to duplicate that process. (3-30-01)

05. EPA Responsibilities. EPA shall be responsible for providing policy and technical guidance on conformity criteria to ICC members. (3-30-01)

06. Responsibility to Disclose Potentially Regionally Significant Projects. ITD, the local highway jurisdiction, transit agency, or transportation project sponsor shall be responsible for disclosing potentially regionally significant projects within air quality nonattainment and maintenance areas to the ICC in a timely manner. (3-30-01)

a. Local Highway Jurisdictions shall disclose of potentially regionally significant projects upon written request of ITD within fourteen (14) days of such request, or when annual local and MPO project lists are due to ITD District Offices as part of the annual STIP development process; (3-30-01)

b. In an MPO area, to help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose such projects to the MPO annually on or before March 1 of that calendar year; and (3-30-01)

c. In MPO nonattainment and maintenance areas, the TIP and associated conformity demonstration shall be deemed to be incomplete if any regionally significant project has not been disclosed to the ICC in a timely manner. Therefore, such a TIP shall be considered to be non-conforming to applicable implementation plan(s). (3-30-01)

570. GENERAL CONSULTATION PROCESS.

Section 570 provides the general procedures for interagency consultation (federal, tribal, state, and local) and public participation for transportation conformity determinations in air quality nonattainment and maintenance areas in the state of Idaho. (3-30-01)

01. Lead Agency in Consultation. The following are the responsibilities of the lead agency at each stage of the consultation process: (3-30-01)

a. Initiating the consultation process by notifying other ICC members of the document or decision that must undergo the consultation process and by scheduling and convening consultation meetings and agendas; (3-30-01)

b. Developing and maintaining a distribution list of all ICC members and any other persons expressing an interest in receiving information and materials pertaining to ICC meetings; (3-30-01)

c. Distributing an agenda and all supporting material, including minutes of ICC meetings, to ICC members and persons on the distribution list as follows: (3-30-01)

i. Fourteen (14) days in advance of an ICC meeting if there are non-technical issues to be resolved by the ICC; (3-30-01)

ii. Thirty (30) days in advance of an ICC meeting if there are technical issues to be resolved by the ICC; or (3-30-01)

iii. If distribution of technical material pursuant to Subsection 570.01.c.ii. is not feasible thirty (30) days prior to an ICC meeting, then the lead agency shall notify the ICC members and persons on the distribution list in writing at least thirty (30) days prior to the ICC meeting. Together with the notification, the lead agency shall distribute and disclose all available material and documentation to the ICC members and persons on the distribution list, informing them of the nature, purpose, and details of possible program changes that are expected to occur from earlier analyses of the actions. All technical material and documentation shall be distributed at a minimum of fourteen (14) days prior to the ICC meeting. (3-30-01)

d. Conferring with other agencies and persons not on the distribution list that have expressed an interest in the document or decision to be developed; (3-30-01)

e. Providing ICC members and persons on the distribution list access to all information needed for

meaningful input; (3-30-01)

- f.** Soliciting early and continuing input from other ICC members and persons on the distribution list; (3-30-01)
- g.** Following the public consultation procedures outlined in Section 574; (3-30-01)
- h.** Providing an opportunity for informal question and answer on the draft document or proposed decision; (3-30-01)
- i.** Considering the views of ICC members and persons on the distribution list and responding in writing to significant comments in a timely and substantive manner prior to finalizing or taking any final action on those documents or determinations enumerated in Section 567.07.a. through 567.07.c.; and (3-30-01)
- j.** Assuring all comments and written responses of ICC members and persons on the distribution list are made part of the record of any action. (3-30-01)

02. Public Comment Period to Satisfy Thirty Day Document Distribution Requirement. A lead agency may use all or any part of another public comment period established for public outreach procedures pursuant to 23 CFR 450 for a transportation plan, program, or project to satisfy the thirty (30) day advance distribution requirement for technical issues, and shall notify all ICC members and other persons on the distribution list when so doing fourteen (14) days prior to commencement of the public comment period. (3-30-01)

03. Separate Times or in Combination. The above actions may be conducted at separate times or in combination, as required, to enhance the efficiency of the process. (3-30-01)

04. Final Document Distribution. A lead agency, upon completion of a final document subject to the consultation process under Sections 563 through 574 of these rules (including any federal agency), shall distribute each final document to all other ICC members and persons on the distribution list within thirty (30) days of adopting or approving such document or making such determination. (3-30-01)

05. Use of Checklist for Distribution of Material. The lead agency may supply a checklist of available supporting information to ICC members and persons on the distribution list to be used to request all or part of the supporting information, in lieu of generally distributing all supporting information. (3-30-01)

06. Use of Other Meetings for Consultation. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation only if the public notice for the meeting identifies consultation as an agenda item. (3-30-01)

571. CONSULTATION PROCEDURES.

The consultation process among ICC members and persons on the distribution list shall be undertaken for the following specific major activities (federal, tribal, state, and local), specific routine activities and specific air quality related activities, in accordance with the procedures in Section 570. Participating agencies shall be all ICC members unless otherwise specified in Subsections 571.01 through 571.04. (3-30-01)

01. Specific Major Activities. The consultation process shall be undertaken for the following specific major activities. The lead agency for each activity shall be the designated MPO or ITD in the absence of an MPO. (3-30-01)

a. Evaluating and choosing each air quality model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles traveled forecasting. The hot-spot analyses shall be performed consistent with procedures described in 40 CFR 93.116 and 40 CFR 93.123 and regional emissions analysis shall be performed using procedures outlined on 40 CFR 93.122. (3-30-01)

b. Determining which minor arterials and other transportation projects should be considered “regionally significant” for the purposes of regional emissions analysis, in addition to those functionally classified as principal arterial or higher or fixed guideway transit systems or extensions that offer an alternative to regional

highway travel. (3-30-01)

c. Evaluating whether projects otherwise exempted from meeting the requirements of Sections 563 through 574 of these rules should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason per 40 CFR 93.126 and 127. (3-30-01)

d. Making a determination as to whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This consultation procedure shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs with other emission reduction measures. (3-30-01)

e. Identifying projects located at sites in PM nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM hot-spot analysis. In case a method for quantitative hot-spot analysis has not been formally adopted by EPA, a sound qualitative analysis developed in conjunction with FHWA may be used for the same. (3-30-01)

f. Making a determination whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. (3-30-01)

g. For areas in the state with no MPOs, making a determination whether a project has undergone project-level analysis and whether the project's design concept and scope have changed significantly from those which were included in the project-level analysis, or in a manner which would significantly impact use of the facility. (3-30-01)

h. Establishing appropriate public participation opportunities for project-level conformity determinations, as applicable, in the manner specified by Section 574, to be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act. (3-30-01)

i. Choosing conformity tests and methodologies for isolated and rural nonattainment and maintenance areas as required by 40 CFR 93.109(g)(2)(iii). (3-30-01)

02. Specific Routine Activities. The consultation process shall be undertaken for the following specific routine activities. The lead agency shall be the MPO or ITD in the absence of an MPO. (3-30-01)

a. Evaluating events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies. (3-30-01)

b. Consulting on emissions analysis for transportation activities that cross the borders of MPOs or nonattainment or maintenance areas. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies. (3-30-01)

c. Determining whether the project sponsor or MPO has demonstrated that the requirements are satisfied without a particular mitigation, such as emissions offsets or other control measures, or determining that a conforming project approved with mitigation no longer requires mitigation. (3-30-01)

d. Assuring that plans for construction of regionally significant projects that are not FHWA/FTA projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed to the MPO or ITD in the absence of an MPO on a regular basis, and assuring that any changes to those plans are immediately disclosed. (3-30-01)

e. Determining whether a project, which was previously found to conform, has or will have a

significant change in design concept and scope since the project plan and TIP conformity determination. (3-30-01)

f. Designing, scheduling, and funding of research and data collection effort pertaining to transportation or air quality planning with implications for transportation conformity. (3-30-01)

g. Reviewing and recommending regional transportation model development by the MPO (e.g., household/travel transportation surveys). (3-30-01)

h. Development of transportation improvement programs. (3-30-01)

i. Development of regional transportation plans. (3-30-01)

j. Consulting when the metropolitan planning area does not include the entire nonattainment area or maintenance area, for planning requirements which may fall under the jurisdiction of more than one (1) MPO or the MPO and ITD. (3-30-01)

03. Specific Air Quality Related Activities. The consultation process shall be undertaken when preparing an applicable implementation plan that includes the revision or addition of a motor vehicle emissions inventory and budget activities in accordance with the procedures in Section 570. Consultation is not required for administrative amendments that do not affect conformity. The lead agency for each activity shall be IDEQ or the MPO. In addition to the Section 570 consultation process, the lead agency shall undertake the following: (3-30-01)

a. Scheduling consultation meetings early in the process of decision on the applicable implementation plan, and prior to making a final recommendation to their management, committees, boards or commissions, for a final decision on such documents; (3-30-01)

b. Arranging for technical committees or teams to assist ICC members in reviewing documents provided by the lead agency. The lead agency may convene technical meetings as necessary; and (3-30-01)

c. Scheduling and conducting meetings of the ICC at regularly scheduled intervals, no less frequently than quarterly. (3-30-01)

d. The ICC may appoint subcommittees to address specific issues pertaining to applicable implementation plan development. Any recommendations of a subcommittee shall be considered by the ICC. (3-30-01)

04. Notification Process. The designated MPO, or ITD in the absence of an MPO, shall notify ICC members and persons on the distribution list of a transportation plan or TIP revisions that merely add or delete exempt projects listed in 40 CFR 93.126 early in the process of decision, and by supplying all relevant documents and information to the same. (3-30-01)

572. FINAL CONFORMITY DETERMINATIONS BY USDOT.

Section 572 establishes the process USDOT shall follow when making final determinations on proposed or anticipated transportation actions subject to transportation conformity. (3-30-01)

01. Final Conformity Determination Process. USDOT will make making final determinations on proposed or anticipated STIP or transportation plan or project conformity by: (3-30-01)

a. Distributing a draft conformity determination to EPA for review and comment. USDOT shall allow a maximum of thirty (30) days for EPA to respond; and (3-30-01)

b. USDOT shall respond in writing to any significant comments raised by EPA within fourteen (14) days of receipt in writing before making a final decision. (3-30-01)

02. New or Revised Information. If USDOT requests any new or revised information to support a STIP, TIP or transportation plan or project conformity determination, then USDOT shall either return the conformity determination for additional consultation pursuant to Section 570, or USDOT shall distribute the new information to

the ICC members and persons on the distribution list for review and comment; (3-30-01)

a. When USDOT distributes such new or additional information to ICC members and persons on the distribution list, USDOT shall allow for a maximum of thirty (30) days for the lead agency to respond to any new or revised supporting information; and (3-30-01)

b. USDOT shall distribute a written response within fourteen (14) days of receipt to any significant comments raised by the ICC members and persons on the distribution list on the new or revised supporting information before making a final decision. (3-30-01)

573. RESOLVING CONFLICTS.

Conflicts between state agencies or between state agencies and the MPO regarding a determination of conformity, applicable implementation plan submittal, or other policy decision under Sections 563 through 574, shall be resolved in the following manner. (3-30-01)

01. Conflict Resolution at the Level of IDEQ Regions and ITD Districts. Every effort shall be made to resolve any conflicts among state agencies or between state agencies and an MPO at the regional level. The regional administrator of IDEQ, the District Engineer of ITD and the other agency managers at the regional level of the affected jurisdictions, or their designated representatives shall be involved in conflict resolution at the regional level. (3-30-01)

02. Conflict Resolution at the Level of IDEQ and ITD Headquarters. If conflict(s) are not resolved at the regional level, the issue shall be raised to the level of agency directors for resolution. (3-30-01)

03. Conflict Resolution at the Governor's Level. If conflict(s) are not resolved through Subsection 569.02, then IDEQ shall raise the conflict to the Governor, as follows: (3-30-01)

a. The IDEQ administrator shall request in writing that ITD or the MPO provide IDEQ with written notification of resolution of IDEQ's comments. ITD or the MPO shall provide IDEQ with the requested written notification within fourteen (14) days of receipt of IDEQ's written request. (3-30-01)

b. Within fourteen (14) days of its receipt of the requested written notification, IDEQ may appeal the conformity determination in writing to the Governor. If IDEQ appeals to the Governor, then the final conformity determination must have the concurrence of the Governor. If IDEQ does not appeal in writing to the Governor within fourteen (14) days of its receipt of written notification of resolution of its comments, then the lead transportation agency may proceed with the final conformity determination. (3-30-01)

c. The fourteen (14) days shall start on the date when the IDEQ administrator receives notification of the written resolution of his comments regarding a determination of conformity, applicable implementation plan submittal, or other decision under Sections 563 through 574. (3-30-01)

04. Process for Conflict Resolution at the Governor's Level. The Governor may delegate to another independent official or agency within the state his or her role in this process. The Governor may not delegate his or her role to the head or staff of the state air quality agency or any local air quality agency, ITD, a state transportation commission or board, any agency that has responsibility for any one (1) of these functions, or an MPO. (3-30-01)

574. PUBLIC CONSULTATION PROCEDURES.

Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, reasonable public access to technical and policy information considered by the agency, and consistent with these requirements and those of 23 CFR 450. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. In addition, these agencies must specifically address, in writing, all public comments relating to known plans for a regionally significant project, which is not receiving FHWA or FTA funding, or approval. This is especially important if the project's emissions have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in

conformity determinations for projects where otherwise required by law. (3-30-01)

575. AIR QUALITY STANDARDS AND AREA CLASSIFICATION.

Ambient Air Quality Standards. The purpose of Sections 575 through 587 is to establish air quality standards for the state of Idaho which define acceptable ambient concentrations consistent with established air quality criteria. (4-11-06)

576. GENERAL PROVISIONS FOR AMBIENT AIR QUALITY STANDARDS.

01. Applicability. The ambient air quality standards established herein shall apply to all of the state. (5-1-94)

02. Standard Conditions. Where applicable, air quality measurements shall be corrected to a reference temperature of twenty-five degrees Celsius (25C) and to a reference pressure of seven hundred and sixty (760) millimeters of mercury absolute. (5-1-94)

03. Revisions. As pertinent air quality criteria information becomes available, such information shall be considered and new or revised air quality standards promulgated as appropriate. (5-1-94)

04. Control of Unregulated Contaminants. The absence of an air quality standard for a specific contaminant shall not preclude action by the Department to control such contaminants to assure the health, welfare and comfort of the people of the State. (5-1-94)

05. Methods. All measurement techniques for determining compliance with 40 CFR Part 50 shall be consistent with those specified in 40 CFR Parts 50 and 53. (5-1-94)

577. AMBIENT AIR QUALITY STANDARDS FOR FLUORIDES.

Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: (5-1-94)

01. Annual Standard. Forty (40) ppm, dry basis -- annual arithmetic mean. (5-1-94)

02. Bimonthly Standard. Sixty (60) ppm, dry basis -- monthly concentration for two (2) consecutive months. (5-1-94)

03. Monthly Standard. Eighty (80) ppm, dry basis -- monthly concentration never to be exceeded. (5-1-94)

578. DESIGNATION OF ATTAINMENT, UNCLASSIFIABLE, AND NONATTAINMENT AREAS.

01. Annual Review. The Department shall annually review the available ambient air quality data and when appropriate, redesignate areas as attainment, unclassifiable or nonattainment with the standards in 40 CFR Part 50. (5-1-94)

02. Boundaries. Boundaries for such areas will be based, as much as possible, on actual ambient concentrations and shall take into account such things as the location of air pollutant sources, modeled air quality concentrations, terrain, geographical boundaries and political jurisdictions. (5-1-94)

03. Area Designation. Designation of attainment and unclassifiable areas shall generally be made on a county basis. Redesignation of attainment or unclassifiable areas cannot intersect or be smaller than the area of impact of any major facility or major modification which establishes the baseline date or is subject to a PSD permit. (5-1-94)

04. Redesignations. Redesignations shall be adopted by the Department after public notice and opportunity for a public hearing and will be submitted by the Governor (or if delegated, the Director) to the U.S. Environmental Protection Agency. (5-1-94)

579. BASELINES FOR PREVENTION OF SIGNIFICANT DETERIORATION.

- 01. Baseline Date(s).** (5-1-94)
- a.** Major Source Baseline Date. (4-11-15)
- i.** In the case of PM₁₀ and sulfur dioxide, January 6, 1975; (4-11-15)
- ii.** In the case of nitrogen dioxide, February 8, 1988; and (4-11-15)
- iii.** In the case of PM_{2.5}, October 20, 2010. (4-11-15)
- b.** Minor Source Baseline Date. The earliest date after the trigger date on which a major stationary source or a major modification subject to prevention of significant deterioration (PSD) submits a complete application. The trigger date is: (4-5-00)
- i.** In the case of PM₁₀ and sulfur dioxide, August 7, 1977; and (4-11-15)
- ii.** In the case of nitrogen dioxide, February 8, 1988. (4-5-00)
- iii.** In the case of PM_{2.5}, October 20, 2011. (4-11-15)
- c.** The baseline date is established for each pollutant for which increments or other equivalent measures have been established if: (4-5-00)
- i.** The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d) of the Clean Air Act for the pollutant on the date of its complete prevention of significant deterioration (PSD) application; and (4-5-00)
- ii.** In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant. (4-5-00)
- d.** Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions. (4-5-00)
- 02. Baseline Area.** Any intrastate area designated as attainment or unclassifiable under 42 U.S.C. Section 7407(d), in which the major facility or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 µg/m³ (annual average) for SO₂, NO₂, or PM₁₀; or equal or greater than 0.3 µg/m³ (annual average) for PM_{2.5}. (4-11-15)
- 03. Baseline Concentration.** The ambient concentration for a particular regulated air pollutant which exists in the applicable baseline area on the applicable minor source baseline date. (4-5-00)
- a.** The baseline concentration shall represent: (5-1-94)
- i.** The actual emissions from sources in existence on the applicable minor source baseline date; and (5-1-94)
- ii.** The allowable emissions of major facilities and major modifications which commenced construction before the applicable major source baseline date, but were not in operation by the applicable minor source baseline date. (5-1-94)
- b.** The baseline concentration shall not include the actual emissions of new major facilities and major

modifications which commenced construction on or after the applicable major source baseline date. (5-1-94)

580. CLASSIFICATION OF PREVENTION OF SIGNIFICANT DETERIORATION AREAS.

01. Restrictions On Area Classification. (5-1-94)

a. All of the following areas which were in existence on August 7, 1977, are Class I and may not be redesignated: (5-1-94)

i. International parks; (5-1-94)

ii. National wilderness areas which exceed five thousand (5,000) acres; (5-1-94)

iii. National memorial parks which exceed five thousand (5,000) acres; (5-1-94)

iv. National parks which exceed six thousand (6,000) acres. (5-1-94)

b. The following areas are Class II and may be redesignated only as Class I or II: (5-1-94)

i. National monuments, national primitive areas, national preserves, national recreational areas, national wild and scenic rivers, national wildlife refuges, and national lakeshores or seashores which exceed ten thousand (10,000) acres; or (5-1-94)

ii. National parks or national wilderness areas established after August 7, 1977, which exceed ten thousand (10,000) acres. (5-1-94)

c. All other areas in the State are Class II and may be redesignated Class I, II or III. (5-1-94)

02. Procedures for Redesignation of Prevention of Significant Deterioration (PSD) Areas. The Governor may submit to the U.S. Environmental Protection Agency a proposal to redesignate areas as a revision to the SIP. In preparing any such proposal the Department shall: (4-5-00)

a. Consult with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation; (5-1-94)

b. Prepare a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposal. This document will be made available for public inspection at least thirty (30) days prior to the public hearing on the proposed redesignation and the notice announcing the hearing will include notification of the availability of the document; (5-1-94)

c. Provide written notice to the appropriate Federal Land Manager of any federal lands proposed for redesignation and provide at least thirty (30) days for the Federal Land Manager to confer with the Department and to submit written comments and recommendations. If written comments and recommendations are submitted, the Department shall publish a list of any inconsistency between the proposed redesignation and the comments and recommendations, including the reasons for making a redesignation against the recommendation of the Federal Land Manager; (5-1-94)

d. Notify other states, Indian governing bodies, and federal land managers whose land may be affected by the proposed redesignation at least thirty (30) days prior to the public hearing; (5-1-94)

e. For a redesignation to Class III: After consulting with the appropriate committees of the legislature, if it is in session, or the leadership of the legislature, if it is not in session, obtain specific approval by the Governor and by all general purpose units of local government representing a majority of the residents of the area to be redesignated; demonstrate that the redesignation would not cause, or contribute to, violations of any ambient air quality standard, or violations of PSD increments in any other area; and make available, for public inspection prior to the public hearing, any permit application and accompanying material for any major facility or major modification

which could only be permitted if the area were designated as Class III; and (5-1-94)

- f. Hold at least one (1) public hearing on the proposed redesignation. (5-1-94)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. Incorporated Federal Program Requirements - Class I, II and III Areas. Class I, II, and III area PSD increment requirements contained in 40 CFR 52.21(c) are incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR at www.ecfr.gov. (4-7-91)

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

- a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

- b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

- c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

- d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

- i. Would not affect the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (4-11-06)

- ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

582. -- 584. (RESERVED)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. (6-30-95)

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	--	0.002	0.0003
64-19-7	Acetic acid	25	1.67	1.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-24-7	Acetic anhydride	20	1.33	1
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein	0.25	0.017	0.0125
79-10-7	Acrylic acid	30	2	1.5
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22	1.47	1.1
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum Including:			
NA	Metal & Oxide	10	0.667	0.5
NA	Pyro powders	5	0.333	0.25
NA	Soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10
141-43-5	2-Aminoethanol, See Ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fume	10	0.667	0.5
3825-26-1	Ammonium perfluorooctanoate	0.1	0.007	0.05
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530	35.3	26.5
626-38-0	Sec-Amyl acetate	665	44.3	33.25
7440-36-0	Antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	Arsine	0.2	0.013	0.01
86-50-0	Azinphos-methyl	0.2	0.013	0.01
7440-39-3	Barium, soluble compounds, as Ba	0.5	0.033	0.025
17804-35-2	Benomyl	10	0.67	0.5
7106-51-4	p-Benzoquinone, See Quinone			
94-36-0	Benzoyl peroxide	5	0.333	0.25
92-52-4	Biphenyl	1.5	0.1	0.075
1304-82-1	Bismuth telluride undoped	10	0.667	0.05
NA	Bismuth telluride if selenium doped	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1303-96-4	Borates, tetra odium salts - Including:			
NA	Anhydrous	1	0.067	0.05
NA	Decahydrate	5	0.333	0.25
NA	Pentahydrate	1	0.067	0.05
1303-86-2	Boron oxide	10	0.667	0.5
10294-33-4	Boron tribromide	10	0.667	0.5
7637-07-2	Boron trifluoride	3	0.2	0.25
314-40-9	Bromacil	10	0.667	0.5
7726-95-6	Bromine	0.7	0.047	0.035
7789-30-2	Bromine penta-fluoride	0.7	0.047	0.035
75-25-2	Bromoform	5	0.333	0.25
109-79-5	Butanethiol, see Butyl mercaptan			
78-93-3	2-Butanone, see Methyl ethyl ketone			
112-07-2	2-butoxyethyl acetate	---	8.33	1.25
111-76-2	2-Butoxyethanol (EGBG)	120	8	6
123-86-4	n-Butyl acetate	710	47.3	35.5
105-46-4	sec-Butyl acetate	950	63.3	47.5
540-88-5	tert-Butyl acetate	950	63.3	47.5
141-32-2	Butyl acrylate	55	3.67	2.75
71-36-3	n-Butyl alcohol	150	10	7.5
78-92-2	Sec-Butyl alcohol	305	20.3	15.25
75-65-0	tert-Butyl alcohol	300	20	15
109-73-9	Butylamine	15	1	.75
124-17-4	Butyl carbitol acetate (ID)	---	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO3	0.1	0.007	.005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
1317-65-3	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25
1305-78-8	Calcium oxide	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - Including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captafol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	3	0.2	0.15
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde	0.32	0.021	0.015
78-95-5	Chloroacetone	0.38	0.0253	0.019
532-27-4	a-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01
108-90-7	Chlorobenzene	350	23.3	17.5
510-15-6	Chlorobenzilate (PL1)	---	0.047	0.035
2698-41-1	O-Chlorobenzylidene malononitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Ethylene chlorohydrin			
600-25-9	1-Chloro-1-nitro propane	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
95-57-8	2-Chlorophenol (and all isomers) (ID)	---	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037
126-99-8	B-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin			
2921-88-2	Chlorpyrifos	0.2	0.013	0.01
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
16065-83-1	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1
123-73-9	Crotonaldehyde	5.7	0.38	0.285
299-86-5	Cruformate	5	0.333	0.25
98-82-8	Cumene	245	16.3	12.25
420-04-2	Cyanamide	2	0.133	0.1
592-01-8	Cyanide and compounds as CN	5	0.333	0.25
110-82-7	Cyclohexane	1050	70	52.5
108-93-0	Cyclohexanol	200	13.3	10
108-94-1	Cyclohexanone	100	6.67	5
110-83-8	Cyclohexene	1015	67.7	50.75
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075
542-92-7	Cyclopentadiene	200	13.3	10

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
287-92-3	Cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	Decaborane	0.3	0.02	0.015
8065-48-3	Demeton	0.1	0.007	0.005
123-42-2	Diacetone alcohol	240	16	12
39393-37-8	Dialkyl phthalate (ID)	---	16.4	2.46
107-15-3	1,2-Diaminoethane, See Ethylenediamine			
333-41-5	Diazinon	0.1	0.007	0.005
334-88-3	Diazomethane	0.34	0.023	0.017
19287-45-7	Diborane	0.1	0.007	0.005
102-81-8	2-N-Dibutylamino ethanol	14	0.933	0.7
2528-36-1	Dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	Dibutyl phosphate	8.6	0.573	0.43
84-74-2	Dibutyl phthalate	5	0.333	0.25
7572-29-4	Dichloroacetylene	0.39	0.0026	0.0195
95-50-1	o-Dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3-Dichloro-5, 5-dimethyl hydantoin	0.2	0.013	0.025
75-34-3	Dichloroethane	405	27	20.25
540-59-0	1,2-Dichloroethylene	790	52.7	39.5
111-44-4	Dichloroethyl ether	30	2	1.5
75-43-4	Dichlorofluoromethane	40	2.67	2
594-72-9	1, I-Dichloro-I-nitroethane	10	0.667	0.5
78-87-5	1,2-Dichloropropane, see Propylene dichloride			
75-99-0	2,2-Dichloropropionic acid	6	0.4	0.3
62-73-7	Dichlorvos	1	0.067	0.05
141-66-2	Dicrotophos	0.25	0.017	0.125
77-73-6	Dicyclopentadiene	30	2	1.5
102-54-5	Dicyclopentadienyl iron	10	0.667	0.5
111-42-2	Diethanolamine	15	1	0.75
109-89-7	Diethylamine	30	2	1.5
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2
60-29-7	Diethyl ether	1200	80	60

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
96-22-0	Diethyl Ketone	705	47	35.25
84-66-2	Diethyl phthalate	5	0.333	0.25
2238-07-5	Diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	Dihydroxybenzene, see Hydroquinone			
108-83-8	Diisobutyl ketone	145	9.67	7.25
108-18-9	Diisopropylamine	20	1.33	1
127-19-5	Dimethyl acetamide	35	2.33	1.75
124-40-3	Dimethylamine	9.2	0.613	0.46
60-11-7	Dimethyl aminoazo-benzene (NY)	---	0.002	0.0003
1300-73-8	Dimethylamino-benzene, see Xylidine			
121-69-7	Dimethylaniline (N,N-Dimethylaniline)	25	1.67	1.25
1330-20-7	Dimethylbenzene, see Xylene			
300-76-5	Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled			
68-12-2	Dimethylformamide	30	2	1.5
108-83-8	2,6-Dimethyl-4-heptanone, see Diisobutyl ketone			
131-11-3	Dimethylphthalate	5	0.333	0.25
148-01-6	Dinitolmide	5	0.333	0.25
528-29-0	Dinitrobenzene	1	0.067	0.05
99-65-0	m (or) 1,3-Dinitrobenzene	1	0.067	0.05
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.2	0.013	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5
	Diphenyl methane diisocyanate, see Methylenediphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1
298-04-4	Disulfoton	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
128-37-0	2,6-Ditert. butyl-p-cresol	10	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005
13838-16-9	Enflurane	566	37.7	28.3
1395-21-7	Enzymes, see Subtilisins			
2104-64-5	EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine)	0.5	0.033	0.025
106-88-7	1,2-Epoxybutane (MI)	---	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Ethanethiol, see Ethyl mercaptan			
141-43-5	Ethanolamine	8	0.533	0.4
563-12-2	Ethion	0.4	0.027	0.02
110-80-5	2-Ethoxyethanol	19	1.27	0.95
111-15-9	2-Ethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Ethyl acetate	1400	93.3	70
64-17-5	Ethyl alcohol	1880	125	94
75-04-7	Ethylamine	18	1.2	0.9
541-85-5	Ethyl amyl ketone	130	8.67	6.5
100-41-4	Ethyl benzene	435	29	21.75
74-96-4	Ethyl bromide	22	1.47	1.1
106-35-4	Ethyl butyl ketone	230	15.3	11.5
51-79-6	Ethyl carbamate (Urethane) (WA)	---	0.002	0.0015
75-00-3	Ethyl chloride	2640	176	132
107-07-3	Ethylene chlorohydrin	3	0.2	0.15
107-15-3	Ethylenediamine	25	1.67	1.25
107-06-2	Ethylene dichloride	40	2.667	2
107-21-1	Ethylene glycol vapor (CL)	127	0.846	6.35
628-96-6	Ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			
96-45-7	Ethylene thiourea (PL2)	---	0.047	0.035

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
109-94-4	Ethyl formate	300	20	15
16219-75-3	Ethylidene norbornene (CL)	25	0.167	1.25
75-08-1	Ethyl mercaptan	1	0.067	0.05
100-74-3	N-Ethylmorpholine	23	1.53	1.15
78-10-4	Ethyl silicate	85	5.67	4.25
22224-92-6	Fenamiphos	0.1	0.007	0.005
115-90-2	Fensulfothion	0.1	0.007	0.005
55-38-9	Fenthion	0.2	0.013	0.01
14484-64-1	Ferbam	10	0.667	0.5
12604-58-9	Ferrovandium dust	1	0.067	0.05
NA	Fibrous glass dust	10	0.667	0.5
NA	Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	--	0.661	0.5
NA	Fluorides, as F	2.5	0.167	0.125
7782-41-4	Fluorine	2	0.133	0.1
944-22-9	Fonofos	0.1	0.007	0.005
75-12-7	Formamide	30	2	1.5
64-18-6	Formic acid	9.4	0.627	0.47
98-01-1	Furfural	8	0.533	0.4
98-00-0	Furfuryl alcohol	40	2.67	2
7782-65-2	Germanium tetrahydride	0.6	0.04	0.03
NA	Glass, Fibrous or dust, see Fibrous glass dust			
111-30-8	Glutaraldehyde (CL)	0.82	0.0047	0.041
556-52-5	Glycidol	75	5	3.75
110-80-5	Glycol monoethyl ether, see 2-Ethoxyethanol			
7440-58-6	Hafnium	0.5	0.033	0.025
110-43-0	2-Heptanone, see Methyl n-amyl ketone			
106-35-4	3-Heptanone, see Ethyl butyl ketone			
151-67-7	Halothane	404	26.9	20.2
142-82-5	Heptane (n-Heptane)	1640	109	82
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010
684-16-2	Hexafluoroacetone	0.7	0.047	0.035

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
822-06-0	Hexamethylene diisocyanate	0.03	0.002	0.0015
680-31-9	Hexamethylphosphoramide (WA)	---	0.002	0.0015
110-54-3	Hexane (n-Hexane)	180	12	9
591-78-6	2-Hexanone, see Methyl n-butyl ketone			
108-10-1	Hexone, see Methyl isobutyl ketone			
108-84-9	sec-Hexyl acetate	300	20	15
107-41-5	Hexylene glycol (CL)	121	0.806	6.05
37275-59-5	Hydrogenated terphenyls	5	0.333	0.25
10035-10-6	Hydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	Hydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	Hydrogen peroxide	1.5	0.1	0.075
7783-06-4	Hydrogen sulfide	14	0.933	0.7
123-31-9	Hydroquinone	2	0.133	0.1
123-42-2	4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol			
999-61-1	2 -Hydroxypropyl acrylate	3	0.2	0.15
95-13-6	Indene	45	3	2.25
7440-74-6	Indium & compounds as In	0.1	0.007	0.005
7553-56-2	Iodine (CL)	0.1	0.0067	0.005
75-47-8	Iodoform	10	0.667	0.5
1309-37-1	Iron oxide fume (Fe2O3) as Fe	5	0.333	0.25
13463-40-6	Iron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	Iron salts, soluble, as Fe	1	0.067	0.05
123-92-2	Isoamyl acetate	525	35	26.25
123-51-3	Isoamyl alcohol	360	24	18
110-19-0	Isobutyl acetate	700	46.7	35
78-83-1	Isobutyl alcohol	150	10	6
26952-21-6	Isooctyl alcohol	270	18	13.5
78-59-1	Isophorone	28	1.867	1.4
4098-71-9	Isophorone diisocyanate	0.09	0.006	0.0045
109-59-1	Isopropoxyethanol	105	7	5.25
108-21-4	Isopropyl Acetate	1040	69.3	52
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6
643-28-7	N-Isopropylaniline	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-20-3	Isopropyl ether	1040	69.3	52
4016-14-2	Isopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	Kaolin (respirable dust)	2	0.133	0.1
463-51-4	Ketene	0.9	0.06	0.045
7580-67-8	Lithium hydride	0.025	0.002	0.00125
546-93-0	Magnesite	10	0.667	0.5
1309-48-4	Magnesium oxide fume	10	0.667	0.5
121-75-5	Malathion	10	0.667	0.5
108-31-6	Maleic anhydride	1	0.067	0.05
7439-96-5	Manganese as Mn Including:			
7439-96-5	Dust & compounds	5	0.333	0.25
7439-96-5	Fume	1	0.067	0.05
101-68-8	MDI, see Methylene diphenyl isocyanate			
NA	Mercaptans not otherwise listed (ID)	---	0.033	0.025
141-79-7	Mesityl oxide	60	4	3
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25
108-65-6	1-methoxy-2-proanol acetate (ID)	n/a	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35	2.33	1.75
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	12	0.8	0.6
108-11-2	Methyl emyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1
74-83-9	Methyl bromide	19	1.27	0.95

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
591-78-6	Methyl n-butyl ketone	20	1.33	1
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8	0.533	0.4
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene bis (4-cyclohexyl isocyanate)	0.11	0.007	0.0055
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075
107-31-3	Methyl formate	246	16.4	12.3
541-85-5	5-Methyl-3-heptanone, see Ethyl amyl ketone			
110-12-3	Methyl isoamyl ketone	240	16	12
108-11-2	Methyl isobutyl carbinol	104	6.93	5.2
108-10-1	Methyl isobutyl ketone	205	13.7	10.25
624-83-9	Methyl isocyanate	0.05	0.003	0.0025
563-80-4	Methyl isopropyl ketone	705	47	35.25
74-93-1	Methyl mercaptan	0.5	0.033	0.025
80-62-6	Methyl methacrylate	410	27.3	20.5
298-00-0	Methyl parathion	0.2	0.013	0.01
107-87-9	Methyl propyl ketone	700	46.7	35
681-84-5	Methyl silicate	6	0.4	0.3
98-83-9	a-Methyl styrene	240	16	10.20
109-87-5	Methylal (dimethoxymethane)	3110	207	155.5
108-87-2	Methylcyclohexane	1610	107	80.5
21087-64-9	Metribuzin	5	0.333	0.25
7786-34-7	Mevinphos	0.1	0.007	0.005
12001-26-2	Mica (Respirable dust)	3	0.2	0.15
NA	Mineral Wool Fiber (no asbestos)	10	0.667	0.5
7439-98-7	Molybdenum as Mo - Including:			
NA	Soluble compounds	5	0.333	0.25
NA	Insoluble compounds	10	0.667	0.5
108-90-7	Monochlorobenzene, see Chlorobenzene			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
6923-22-4	Monocrotophos	0.25	0.017	0.0125
110-91-8	Morpholine	70	4.67	0.35
300-76-5	Naled	3	0.2	0.15
91-20-3	Naphthalene	50	3.33	2.5
54-11-5	Nicotine	0.5	0.033	0.025
1929-82-4	Nitrapyrin	10	0.667	0.5
7697-37-2	Nitric acid	5	0.333	0.25
100-01-6	p-Nitroaniline	3	0.2	0.15
98-95-3	Nitrobenzene	5	0.333	0.25
100-00-5	p-Nitrochlorobenzene	3	0.2	0.15
79-24-3	Nitroethane	310	20.7	15.5
7783-54-2	Nitrogen trifluoride	29	1.93	1.45
55-63-0	Nitroglycerin	0.46	0.031	0.023
75-52-5	Nitromethane	50	3.333	2.5
108-03-2	1-Nitropropane	90	6	4.5
99-08-1	m (or) 3-Nitrotoluene	11	0.733	0.55
88-72-2	o (or) 2-Nitrotoluene	11	0.733	0.55
99-99-0	p (or) 4-Nitrotoluene	11	0.733	0.55
76-06-2	Nitrotrichloromethane, see Chloropicrin			
10024-97-2	Nitrous oxide	90	6	4.5
111-84-2	Nonane	1050	70	52.5
2234-13-1	Octachloronaphthalene	0.1	0.007	0.005
111-65-9	Octane	1400	93.3	70
NA	Oil mist, mineral	5	0.333	0.25
20816-12-0	Osmium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	Oxalic acid	1	0.067	0.05
7783-41-7	Oxygen difluoride (CL)	0.11	0.0007	0.0005
8002-74-2	Paraffin wax fume	2	0.133	0.1
4685-14-7	Paraquat	0.1	0.007	0.007
NA	Paraquat, all Compounds	0.1	0.007	0.005
56-38-2	Parathion	0.1	0.007	0.005
19624-22-7	Pentaborane	0.01	0.001	0.0005
1321-64-8	Pentachloronaphthalene	0.5	0.033	0.025
82-68-8	Pentachloronitrobenzene	0.5	0.0333	0.025

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
87-86-5	Pentachlorophenol	0.5	0.033	0.025
109-66-0	Pentane	1770	118	88.5
107-87-9	2-Pentanone, see Methyl propyl ketone			
594-42-3	Perchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	Perchloryl Fluoride	13	0.867	0.65
93763-70-3	Perlite	10	0.667	0.5
532-27-4	Phenacyl chloride, see a-Chloroacetophenone			
108-95-2	Phenol	19	1.27	0.95
92-84-2	Phenothiazine	5	0.333	0.25
108-45-2	m-Phenylenediamine	0.1	0.0067	0.005
106-50-3	p-Phenylenediamine	0.1	0.007	0.005
101-84-8	Phenyl ether, vapor	7	0.467	0.035
122-60-1	Phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	Phenyl mercaptan	2	0.133	0.1
638-21-1	Phenylphosphine (CL)	0.25	0.0017	0.00125
298-02-2	Phorate	0.05	0.003	0.001
7786-34-7	Phosdrin, see Mevinphos			
75-44-5	Phosgene	0.4	0.027	0.02
7803-51-2	Phosphine	0.4	0.027	0.02
7664-38-2	Phosphoric acid	1	0.067	0.05
7723-14-0	Phosphorus	0.1	0.007	0.005
10025-87-3	Phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	Phosphorus penta-chloride	1	0.067	0.05
1313-80-3	Phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	Phosphorus pentoxide (ID)	--	0.067	0.05
7719-12-2	Phosphorus trichloride	1.5	0.1	0.075
85-44-9	Phthalic anhydride	6	0.4	0.3
626-17-5	m-Phthalodinitrile	5	0.333	0.25
1918-02-1	Picloram	10	0.667	0.5
88-89-1	Picric acid	0.1	0.006	0.005
83-26-1	Pindone	0.1	0.007	0.005
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25
83-26-1	2-Pivaloyl-1,3-indandione, see Pindone			
7440-06-4	Platinum - Including:			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7440-06-4	Metal	1	0.067	0.05
NA	Soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	Portland cement	10	0.667	0.5
1310-58-3	Potassium hydroxide	2	0.133	0.1
107-19-7	Propargyl alcohol	2.3	0.153	0.115
123-38-6	Propionaldehyde (LA)	0.43	0.0287	0.0215
79-09-4	Propionic acid	30	2	1.5
114-26-1	Propoxur (Baygon)	0.5	0.033	0.025
109-60-4	n-Propyl acetate	840	56	42
71-23-8	Propyl alcohol	500	33.3	25
78-87-5	Propylene dichloride	347	23.133	17.35
6423-43-4	Propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	Propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-Propyl nitrate	105	7	5.25
8003-34-7	Pyrethrum	5	0.333	0.25
110-86-1	Pyridine	15	1	0.75
120-80-9	Pyrocatechol, see Catechol			
106-51-4	Quinone	0.4	0.027	0.02
121-84-4	RDX, see Cyclonite			
NA	Refractory Ceramic Fibers (see entry for specific content of emissions, ex: silica)			
108-46-3	Resorcinol	45	3	2.25
7440-16-6	Rhodium - Including:			
7440-16-6	Metal	1	0.067	0.05
NA	Insoluble compounds, as Rh	1	0.067	0.05
NA	Soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	Ronnel	10	0.667	0.5
83-79-4	Rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent (Naphtha)	1590	106	79.5
14167-18-1	Salcoine as CO	0.1	0.007	0.005
7782-49-2	Selenium	0.2	0.013	0.010
NA	Selenium and compounds as Se	0.2	0.013	0.01

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
136-78-7	Sesone	10	0.667	0.5
7803-62-5	Silane, see silicon tectrahydride			
NA	Silica - amorphous - Including:			
61790-53-2	Diatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	Precipitated silica	10	0.667	0.5
112926-00-8	Silica gel	10	0.667	0.5
NA	Silica, crystalline - Including:			
14464-46-1	Cristobalite	0.05	0.0033	0.0025
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	Silicon	10	0.667	0.5
409-21-2	Silicon carbide	10	0.667	0.5
7803-62-5	Silicon tetrahydride	7	0.467	0.35
7440-22-4	Silver - Including			
7440-22-4	Metal	0.1	0.007	0.005
7440-22-4	Soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	Sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	Sodium bisulfite	5	0.333	0.25
136-78-7	Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone			
62-74-8	Sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	Sodium hydroxide	2	0.133	0.1
7681-57-4	Sodium metabisulfite	5	0.333	0.25
NA	Stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	Stibine	0.5	0.033	0.025
8052-41-3	Stoddard solvent	525	35	26.25
57-24-9	Strychnine	0.15	0.01	0.0075
60-41-3	Strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	Styrene monomer (ID)	--	6.67	1
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.OE-07	3.0E-7
3689-24-5	Sulfotep	0.2	0.013	0.01
7664-93-9	Sulfuric acid	1	0.067	0.05

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
10025-67-9	Sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	Sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	Sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	Sulfuryl fluoride	20	1.33	1
35400-43-2	Sulprofos	1	0.067	0.05
8065-48-3	Systox, see Demeton			
93-76-5	2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T)	10	0.667	0.05
7440-25-7	Tantalum	5	0.333	0.25
3689-24-5	TEDP, see Sulfotep			
13494-80-9	Tellurium & Compounds as Te	0.1	0.007	0.005
7783-80-4	Tellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	Temephos	10	0.667	0.5
107-49-3	TEPP (Tetraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	Terphenyls	4.7	0.313	0.235
1335-88-2	Tetrachloronaphthalene	2	0.133	0.10
78-00-2	Tetraethyl Lead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	Tetrahydrofuran	590	39.3	29.5
75-74-1	Tetramethyl lead, as Pb	0.15	0.01	0.0075
3333-52-6	Tetramethyl succinonitrile	3	0.2	0.15
509-14-8	Tetranitromethane	8	0.533	0.4
7722-88-5	Tetrasodium pyrophosphate	5	0.333	0.25
479-45-8	Tetryl	1.5	0.1	0.075
7440-28-0	Thallium, soluble Compounds, as Tl	0.1	0.007	0.005
96-69-5	4,4-Thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	Thioglycolic acid	4	0.267	0.2
7719-09-7	Thionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	Thiram	5	0.333	0.25
7440-31-5	Tin - Including:			
7440-31-5	Metal	2	0.133	0.1
NA	Oxide & inorganic compounds, except SnH4, as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005
108-88-3	Toluene (toluol)	375	25	18.75
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
10-41-54	p-Toluenesulfonic acid (ID)	n/a	0.067	0.05
126-73-8	Tributyl phosphate	2.2	0.147	0.11
76-03-9	Trichloroacetic acid	7	0.467	0.35
120-82-1	1,2,4-Trichlorobenzene (CL)	37	2.47	1.85
79-01-6	Trichloroethylene	269	17.93	13.45
1321-65-9	Trichloronaphthalene	5	0.333	0.25
76-06-2	Trichloronitromethane, See Chloropicrin			
95-95-4	2,4,5-Trichlorophenol (MA)	---	---	0.0016
96-18-4	1,2,3-Trichloropropane	60	4	3
121-44-8	Triethylamine	4.1	0.27	0.2
1582-09-8	Trifluralin (PL3)	---	7.7	1.15
552-30-7	Trimellitic anhydride	0.04	0.003	0.002
75-50-3	Trimethylamine	12	0.8	0.6
25551-13-7	Trimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4-Trimethyl-pentane	350	23.3	17.5
121-45-9	Trimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6-Trinitrophenyl-methylnitramine, see Tetryl			
78-30-8	Triorthocresyl phosphate	0.1	0.007	0.005
603-34-9	Triphenyl amine	5	0.333	0.25
115-86-6	Triphenyl phosphate	3	0.2	0.15
7440-33-7	Tungsten - Including:			
NA	Insoluble compounds	5	0.333	0.25
NA	Soluble compounds	1	0.067	0.05
8006-64-2	Turpentine	560	37.3	28
7440-61-1	Uranium (natural) Soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n-Valeraldehyde	175	11.7	8.75
1314-62-1	Vanadium, as V2O5 Respirable Dust & fume	0.05	0.003	0.0025
108-05-4	Vinyl acetate	35	2.3	1.75
25013-15-4	Vinyl toluene	240	16	12
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005
1330-20-7	Xylene (o-, m-, p-isomers)	435	29	21.75
1477-55-0	m-Xylene a, a-diamine (CL)	0.1	0.0007	0.0005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

(4-4-13)

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

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
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 Volatiles 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
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	4.0E-06	1.7E-03	2.5E-01
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

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
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
302-01-2	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
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	Polyaromatic 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

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
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

(4-11-19)

587. LISTING OR DELISTING TOXIC AIR POLLUTANT INCREMENTS.

Persons may request the listing of any toxic substance or delisting of any toxic air pollutant in Sections 585 or 586 by filing a petition for adoption of rules in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

588. -- 589. (RESERVED)

590. NEW SOURCE PERFORMANCE STANDARDS.

The owner or operator of any stationary source shall comply with 40 CFR Part 60 as applicable to the stationary source. The applicable definitions for this Section shall be the definitions set forth in 40 CFR Part 60. (4-5-00)

591. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS.

The owner or operator of any stationary source shall comply with 40 CFR Part 61 and 40 CFR Part 63 as applicable to the stationary source. (5-1-94)

592. STAGE 1 VAPOR COLLECTION.

The purpose of Sections 592 through 598 is to set forth requirements for Stage 1 vapor collection systems. Section 599 sets forth the requirements for gasoline cargo tanks that deliver gasoline to those required to install and operate Stage 1 vapor collection systems. These sections apply to gasoline dispensing facilities (GDF) and gasoline cargo tanks in Ada and Canyon Counties only. Nothing in these rules is intended to supersede or render inapplicable any federal, state, or local laws, including, but not limited to, the National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities, 40 CFR Part 63, Subpart CCCCCC, of the federal Clean Air Act. (3-29-10)

593. AFFECTED EQUIPMENT OR PROCESSES.

01. Applicability. Sections 592 through 598 apply to transfers of gasoline to underground storage tanks with a tank capacity of ten thousand (10,000) gallons and not otherwise subject to 40 CFR 63.11118. The emission sources include the underground gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDFs. Pressure/vacuum vents on underground gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDFs are covered emission sources. (3-29-10)

02. New Sources. A source is a new source if construction commenced on the source after April 1, 2009. (3-29-10)

03. Reconstructed Sources. A source is reconstructed if meeting the criteria for reconstruction as defined in 40 CFR 63.2, incorporated by reference into these rules at Section 107. (3-29-10)

04. Existing Sources. A source is an existing source if it is not new or reconstructed. (3-29-10)

594. COMPLIANCE DATES.

01. New or Reconstructed Sources. For a new or reconstructed source, the owner or operator must comply with the standards in Sections 595 and 596 no later than April 1, 2009 or upon startup, whichever is later. Owners or operators of new sources shall install dual point systems. (3-29-10)

02. Existing Sources. For an existing source, the owner or operator must comply with the standards in Sections 595 and 596 upon installation of the Stage 1 vapor collection system, or by May 1, 2010, whichever is earlier. (3-29-10)

595. SUBMERGED FILL REQUIREMENTS.

The owner or operator must only load gasoline into underground storage tanks at the facility by utilizing submerged filling. (3-29-10)

01. Installed On or Before November 9, 2006. Submerged fill pipes installed on or before November 9, 2006 must be no more than twelve (12) inches from the bottom of the storage tank. (3-29-10)

02. Installed After November 9, 2006. Submerged fill pipes installed after November 9, 2006 must be no more than six (6) inches from the bottom of the storage tank. (3-29-10)

596. VAPOR BALANCE REQUIREMENTS.

The owner or operator of a GDF must comply with the following requirements on and after the applicable compliance date in Section 594: (3-29-10)

01. Loading. When loading an underground gasoline storage tank equipped with a vapor balance system, connect and ensure the proper operation of the vapor balance system whenever gasoline is being loaded. (3-29-10)

02. Maintenance. Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order. (3-29-10)

03. Inspection. In order to ensure that the vapor balance equipment is maintained to be vapor tight and in good working order, inspect the vapor balance equipment on an annual basis to discover potential or actual equipment failures. A log form is available on the Department's website at <http://www.deq.idaho.gov>. (3-29-10)

04. Repair. Replace, repair or modify any worn or ineffective component or design element within twenty-four (24) hours to ensure the vapor-tight integrity and efficiency of the vapor balance system. If repair parts must be ordered, either a written or verbal order for those parts must be initiated within two (2) working days of detecting such a leak. Such repair parts must be installed within five (5) working days after receipt. (3-29-10)

597. TESTING AND MONITORING REQUIREMENTS.

The owner or operator of a GDF must comply with the following requirements within ninety (90) days of registration under Section 598 and every three (3) years thereafter. (3-29-10)

01. Testing. (3-29-10)

a. The owner or operator must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, incorporated by reference into these rules at Section 107, for pressure-vacuum vent valves installed on underground gasoline storage tanks using the test methods identified in Subsection 597.01.a.i. or 597.01.a.ii. (3-29-10)

i. California Air Resources Board Vapor Recovery Test Procedure TP-201.1E,--Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003 (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). (3-29-10)

ii. Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f), incorporated by reference into these rules at Section 107. (3-29-10)

b. The owner or operator must demonstrate compliance with the static pressure performance

requirement, specified in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, for the vapor balance system by conducting a static pressure test on the underground gasoline storage tanks using the test methods identified in paragraph 597.01.b.i. or 597.01.b.ii. (3-29-10)

i. California Air Resources Board Vapor Recovery Test Procedure TP-201.3,--Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). (3-29-10)

ii. Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f), incorporated by reference into these rules at Section 107. (3-29-10)

02. Alternative Testing. The owner or operator of a GDF, choosing, under the provisions of 40 CFR 63.6(g), to use a vapor balance system other than that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, must demonstrate to the Department the equivalency of their vapor balance system to that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, using the procedures specified in Subsections 597.02.a. and 597.02.b. (3-29-10)

a. The owner or operator must demonstrate compliance by conducting a performance test on the vapor balance system to demonstrate that the vapor balance system achieves 95 percent reduction using the California Air Resources Board Vapor Recovery Test Procedure TP-201.1,--Volumetric Efficiency for Phase I Vapor Recovery Systems, adopted April 12, 1996, and amended February 1, 2001, and October 8, 2003, (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). (3-29-10)

b. The owner or operator must, during the performance test required under Subsection 597.02.a., determine and document alternative acceptable values for the leak rate and cracking pressure requirements specified in item 1(g) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, and for the static pressure performance requirement in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC. (3-29-10)

598. REGISTRATION, RECORDKEEPING, AND REPORTING REQUIREMENTS.

01. Registration. (3-29-10)

a. Any GDF subject to these rules shall: (3-29-10)

i. Within thirty (30) days of installation of the Stage 1 vapor collection system, the owner or operator of the GDF shall submit to the Department a registration which provides, at a minimum, the operation name and address, signature of the owner or operator in accordance with Section 123 of these rules, the location of records and reports required by Subsections 598.02 and 598.03 (including contact person's name, address and telephone number), the number of underground gasoline storage tanks, the number of gasoline tank pipe vents, and the date of completion of installation of the Stage 1 vapor collection system and pressure/vacuum relief valve; and (3-29-10)

ii. The registration certification shall be displayed at the GDF. (3-29-10)

b. Upon modification of an existing Stage 1 vapor collection system or pressure/vacuum relief valve, the owner or operator of the GDF shall submit to the Department a registration that details the changes to the information provided in the previous registration and which includes the signature of the owner or operator. The registration must be submitted to the Department within thirty (30) days after completion of such modification. (3-29-10)

c. A new registration must be submitted to the Department within thirty (30) days after any change in ownership of the GDF. (3-29-10)

02. Recordkeeping Requirements. (3-29-10)

a. Each owner or operator must keep the following records: (3-29-10)

- i. Records of all tests performed under Section 597; (3-29-10)
 - ii. Records related to the operation and maintenance of vapor balance equipment required under Section 596. Any vapor balance component defect must be logged and tracked by station personnel on a monthly basis using forms provided by the Department or a reasonable facsimile; and (3-29-10)
 - iii. Records of permanent changes made at the GDF and vapor balance equipment which may affect emissions. (3-29-10)
- b.** Records required under 598.02.a. must be kept for a period of five (5) years and must be made available for inspection by the Department upon request. (3-29-10)

03. Reporting Requirements. Each owner or operator subject to the management practices in Section 596 must report to the Department the results of all volumetric efficiency tests required under Section 597. Reports submitted under these rules must be submitted within thirty (30) days of the completion of the performance testing. (3-29-10)

599. GASOLINE CARGO TANKS.

01. Prohibitions. After May 1, 2010, or if a Stage 1 vapor collection system is installed and operating, whichever is earlier, owners or operators of gasoline cargo tanks that unload gasoline into an underground gasoline storage tank with a capacity of ten thousand (10,000) gallons or more, in Ada or Canyon Counties, shall comply with Table 2 to 40 CFR Part 63, Subpart CCCCCC, incorporated by reference into these rules at Section 107. Table 2 requires that the following conditions are met prior to unloading the gasoline: (3-29-10)

- a.** All hoses in the vapor balance system are properly connected; (3-29-10)
- b.** The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect; (3-29-10)
- c.** All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight; (3-29-10)
- d.** All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank; and (3-29-10)
- e.** All hatches on the tank truck are closed and securely fastened. (3-29-10)
- f.** The filling of storage tanks at GDF shall be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 (40 CFR Part 60, Appendix A-8, incorporated by reference into these rules at Section 107), shall be carried on the cargo tank. (3-29-10)

02. Compliance. The owner or operator of a gasoline cargo tank subject to Section 599 shall ensure compliance with Table 2 to 40 CFR Part 63, Subpart CCCCCC, by visually inspecting the requirements set out in Subsections 599.01.a., 599.01.b., 599.01.d., and 599.01.e. and by successfully completing the testing requirements set out in Subsections 599.01.c. and 599.01.f. (3-29-10)

03. Recordkeeping and Reporting. (3-29-10)

- a.** The owner or operator of the gasoline cargo tank subject to Section 599 shall maintain records of all certification testing and repairs. The records must identify the gasoline cargo tank; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two (2) years after the date of testing or repair was completed and must be available for inspection by the Department upon request. (3-29-10)
- b.** Copies of all tests required under Subsection 599.01 shall be submitted to the Department within thirty (30) days of certification testing. (3-29-10)

600. RULES FOR CONTROL OF OPEN BURNING.

The purpose of Sections 600 through 624 is to reduce the amount of emissions and minimize the impact of open burning to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. (5-8-09)

601. FIRE PERMITS, HAZARDOUS MATERIALS, AND LIABILITY.

Compliance with the provisions of Sections 600 through 623 does not exempt or excuse any person from complying with applicable laws and ordinances of other jurisdictions responsible for fire control or hazardous material disposal or from liability for damages or injuries which may result from open burning. (5-8-09)

602. NONPREEMPTION OF OTHER JURISDICTIONS.

The provisions of Sections 600 through 623 are not intended to interfere with the rights of any city, county or other governmental entities or agencies to provide equal or more stringent control of open burning within their respective jurisdictions. (5-8-09)

603. GENERAL RESTRICTIONS.

01. Categories and Materials. No person shall allow, suffer, cause or permit any open burning operation unless it is a category of open burning set forth in Sections 600 through 623 and the materials burned do not include any of the following: (5-8-09)

- a. Garbage, as defined in Section 006. (3-21-03)
- b. Dead animals, animal parts, or animal wastes (feces, feathers, litter, etc.) except as provided in Section 616. (3-21-03)
- c. Motor vehicles, parts, or any materials resulting from a salvage operation. (3-21-03)
- d. Tires or other rubber materials or products. (3-21-03)
- e. Plastics. (3-21-03)
- f. Asphalt or composition roofing or any other asphaltic material or product. (3-21-03)
- g. Tar, tar paper, waste or heavy petroleum products, or paints. (3-21-03)
- h. Lumber or timbers treated with preservatives. (3-21-03)
- i. Trade waste, as defined in Section 006, except as specifically allowed under Sections 600 through 623. (5-8-09)
- j. Insulated wire. (3-21-03)
- k. Pathogenic wastes. (3-21-03)
- l. Hazardous wastes. (5-1-94)

02. Air Pollution Episodes. No person shall allow, suffer, cause or permit any open burning to be initiated during any stage of an air pollution episode declared by the Department in accordance with Sections 550, through 562. (3-21-03)

03. Emergency Authority. In accordance with Title 39, Chapter 1, Idaho Code, the Department has the authority to require immediate abatement of any open burning in cases of emergency requiring immediate action to protect human health or safety. (3-21-03)

604. -- 605. (RESERVED)

606. CATEGORIES OF ALLOWABLE BURNING.

The purpose of Sections 606 through 623 is to establish categories of open burning that are allowed when done according to prescribed conditions. Unless specifically exempted each category in Sections 606 through 623 is subject to all of the provisions of Sections 600 through 605. (5-8-09)

607. RECREATIONAL AND WARMING FIRES.

Fires used for the preparation of food or for recreational purposes (e.g. campfires, ceremonial fires, and barbecues), or small fires set for handwarming purposes, are allowable forms of open burning. (3-21-03)

608. WEED CONTROL FIRES.

Open outdoor fires used for the purpose of weed abatement such as along fence lines, canal banks, and ditch banks is an allowable forms of open burning. (5-1-94)

609. TRAINING FIRES.

Fires used by qualified personnel to train firefighters in the methods of fire suppression and fire fighting techniques, or to display certain fire ecology or fire behavior effects are allowable forms of open burning. Training facilities shall notify the Department prior to igniting any training fires. Training fires shall not be allowed to smolder after the training session has terminated. Training fires are exempt from Subsections 603.01.c. and 603.01.e. through 603.01.j. (3-21-03)

610. INDUSTRIAL FLARES.

Industrial flares, used for the combustion of flammable gases are allowable forms of open burning. Industrial flares are subject to permitting requirements in Sections 200 through 223. (3-21-03)

611. RESIDENTIAL SOLID WASTE DISPOSAL FIRES.

01. Fires Allowed. Open outdoor fires used to dispose of solid waste (e.g. rubbish, tree leaves, yard trimmings, gardening waste, etc.) excluding garbage produced by the operation of a domestic household is an allowable form of open burning when the following provisions are met: (5-1-94)

- a.** No scheduled house to house solid waste collection service is available; and (5-1-94)
- b.** The burning is conducted on the property where the solid waste was generated. (5-1-94)

02. Fires Exempt. Open outdoor fires used to dispose of tree leaves, gardening waste or yard trimmings are exempt from Subsection 611.01.a. when conducted in accordance with local governmental ordinances or rules which allow for the open burning of tree leaves, gardening waste or yard trimming during certain periods of the year. (5-1-94)

612. LANDFILL DISPOSAL SITE FIRES.

The use of fires for the disposal of solid waste at any solid waste landfill disposal site or facility is an allowable form of open burning only if conducted in accordance with IDAPA 58.01.06, "Solid Waste Management Rules and Standards" or the Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. (3-21-03)

613. ORCHARD FIRES.

The use of heating devices to protect orchard crops from frost damage and the use of fires to dispose of orchard clippings are allowable forms of open burning when the following provisions are met: (3-21-03)

01. Open-Pot Heaters. The use of stackless open-pot heaters is prohibited. (5-1-94)

02. Heating Device Opacity. Orchard heating device with visible emissions exceeding forty percent (40%) opacity at normal operating conditions shall not be used. Opacity shall be determined by the procedures contained in Section 625. (3-21-03)

03. Heating Device Emissions. All heaters purchased after September 21, 1970, shall emit no more than one (1.0) gram per minute of solid carbonaceous matter at normal operating conditions as certified by the

manufacturer. At the time of purchase, the seller shall certify in writing to the purchaser that all new equipment is in compliance with Section 613. (3-21-03)

04. Orchard Clippings. The open burning of orchard clippings shall be conducted on the property where the clippings were generated. (5-1-94)

614. PRESCRIBED BURNING.

The use of open outdoor fires to obtain the objectives of prescribed fire management burning is an allowable form of open burning when the provisions of Section 614 are met. (5-1-94)

01. Burning Permits or Prescribed Fire Plans. (5-1-94)

a. Whenever a burning permit or prescribed fire plan is required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all permit and/or plan conditions and terms which control smoke. (5-1-94)

b. The Department will seek interagency agreements to assure permits or plans issued by agencies referred to in Subsection 614.01.a. provide adequate consideration for controlling smoke from prescribed burning. (5-1-94)

02. Smoke Management Plans for Prescribed Burning. (5-1-94)

a. Whenever a permit or plan is not required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all conditions set forth in a Smoke Management Plan for Prescribed Burning. (5-1-94)

b. The Department will develop and put into effect a Smoke Management Plan for Prescribed Burning consistent with the purpose of Sections 600 through 616. (5-1-94)

03. Rights-of-Way Fires. The open burning of woody debris generated during the clearing of rights of way shall be open burned according to Sections 38-101 and 38-401, Idaho Code, IDAPA 20 Title 16 and Sections 606 through 616 of these rules. (5-1-94)

615. DANGEROUS MATERIAL FIRES.

Fires used or permitted by a public or military fire chief to dispose of materials (including military ordnance) which present a danger to life, valuable property or the public welfare, or for the purpose of prevention of a fire hazard when no practical alternative method of disposal or removal is available are allowable forms of open burning. (3-21-03)

616. INFECTIOUS WASTE BURNING.

Upon the order of a public health officer, fires used to dispose of diseased animals or infested material are an allowable form of open burning and exempt from Subsection 603.01.k. (3-21-03)

617. CROP RESIDUE DISPOSAL.

The open burning of crop residue on fields where the crops were grown is an allowable form of open burning if conducted in accordance with Section 39-114, Idaho Code, and Sections 618 through 624 of these rules. (3-29-12)

618. PERMIT BY RULE.

01. General Requirements. All persons shall be deemed to have a permit by rule if they comply with all the provisions of Sections 618 through 624. No person shall conduct an open burn of crop residue without obtaining the applicable permit by rule. Those persons applying for a spot burn, baled agricultural residue burn, or propane flaming permit shall comply with the provisions in Section 624. The permit by rule does not relieve the applicant from obtaining all other required permits and approvals required by other state and local fire agencies or permitting authorities. (3-29-12)

02. Forms. The Department shall provide the appropriate forms to complete the permit by rule. Forms

may be available at the Department offices or on the Department website <http://www.deq.idaho.gov>. (5-8-09)

619. REGISTRATION FOR PERMIT BY RULE.

Any person applying to burn crop residue shall annually provide the following registration information to the Department at least thirty (30) days prior to the date the applicant proposes to burn: (5-8-09)

01. Location of Property. Street address of the property upon which the proposed burning of crop residue will occur or, if there is no street address of the property, the legal description of the property using longitude and latitude coordinates or township, range and section for the Idaho meridian; (5-8-09)

02. Applicant Information. Name, mailing address, and telephone number of the applicant, and the person who will be responsible for conducting the proposed burning of crop residue and the portable form of communication referenced in Subsection 622.01.c. of this rule; (5-8-09)

03. Plot Plan. A plot plan showing the location of each proposed crop residue burning area in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, and roads; (5-8-09)

04. Type, Acreage and Fuel Characteristics of Crop Residue Proposed to be Burned. The crop type, area over which burning will be conducted (acres), and other fuel characteristics; (5-8-09)

05. Preventive Measures. A description of the measures that will be taken to prevent escaped burns or withhold additional material such that the fire burns down, including but not limited to, the availability of water and plowed firebreaks; and (5-8-09)

06. Date of Burning. The requested date(s) when the proposed crop residue burning would be conducted or the proposed date the field will be available to be burned. (5-8-09)

620. BURN FEE.

01. Burn Fee. The burn fee in Section 39-114, Idaho Code, shall be paid in its entirety within thirty (30) days 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 burn fee should be sent to:

Crop Residue Burn Fee
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 (4-11-19)

02. Effect of Delinquent Fee Payment. The Department shall not accept or process a registration for a permit by rule to burn for any person having burn fees delinquent, in full or in part. (4-11-19)

621. BURN DETERMINATION.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: (3-28-18)

a. Expected Emissions. Expected emissions from all burns proposed for the same dates; (5-8-09)

- b.** Proximity of Other Burns. The proximity of other burns and other potential emission sources within the area to be affected by the proposed burn; (5-8-09)
- c.** Moisture Content. Moisture content of the material to be burned; (5-8-09)
- d.** Acreage, Crop Type, and Fuel Characteristics. Acreage, crop type, and fuel characteristics to be burned; (5-8-09)
- e.** Meteorological Conditions. Meteorological conditions; (5-8-09)
- f.** Proximity to Institutions with Sensitive Populations. The proximity of the burn to institutions with sensitive populations, including public schools while in session; hospitals; residential health care facilities for children, the elderly or infirm; and other institutions with sensitive populations as approved by the Department. The Department shall not authorize a burn if conditions are such that institutions with sensitive populations will be adversely impacted or when the plume is predicted to impact such institutions; (5-8-09)
- g.** Proximity to Public Roadways. Proximity to public roadways; (5-8-09)
- h.** Proximity to Airports. Proximity to airports; and (5-8-09)
- i.** Other Relevant Factors. Any other factors relevant to preventing exceedances of the air quality concentrations of Section 621. (5-8-09)

02. Notification of Approval. If the Department approves the burn, then it will post on its website written notification of the approval and any specific conditions under which the burn is approved. Special conditions may include, but are not limited to: (5-8-09)

- a.** Conditions for burns near institutions with sensitive populations; (5-8-09)
- b.** The requirement to withhold additional material such that the fire burns down if the Department determines pollutant concentrations reach the levels in Subsection 621.01 of this rule; (5-8-09)
- c.** Conditions to ensure the burn does not create a hazard for travel on a public roadway; and (5-8-09)
- d.** The requirement to consult with the Department to determine actions to be taken if conditions at the burn site fail to satisfy the conditions specified in the notice of approval to burn. (5-8-09)

622. GENERAL PROVISIONS.

01. Burn Provisions. All persons in Idaho intending to dispose of crop residue through burning shall abide by the following provisions: (5-8-09)

- a.** Burning Prohibitions. Burning of crop residue shall not be conducted on weekends, federal or state holidays, or after sunset or before sunrise; (5-8-09)
- b.** Designated Burn Day. Burning of crop residue shall not be conducted unless the Department has designated that day a burn day and the permittee has received individual approval specifying the conditions under which the burn may be conducted; (5-8-09)
- c.** Portable Form of Communication. The person conducting the burning must have on their possession a portable form of communication such as a cellular phone or radio of compatible frequency with the Department in order to receive burn approval information or information that might require measures to withhold additional material such that the fire burns down; (5-8-09)
- d.** Location of Field Burning. Open burning of crop residue shall be conducted in the field where it was generated; (5-8-09)

e. Limitations on Burning. When required by the conditions of the notice of approval to burn, the permittee burning in proximity to institutions with sensitive populations shall immediately extinguish the fire or withhold additional material such that the fire burns down, unless the Department determines that the burn will not have an adverse impact on such institutions; (5-8-09)

f. Training Session. All persons intending to burn crop residue shall attend a crop residue burning training session provided by the Idaho Department of Environmental Quality or the Idaho State Department of Agriculture and shall attend a crop residue disposal refresher training session every five (5) years; (5-8-09)

g. Air Stagnation or Degraded Air Quality. All field burning shall be prohibited when the Department issues an air quality forecast and caution, alert, warning or emergency as identified in Section 552 of these rules; (5-8-09)

h. Allowable Forms of Open Burning. The use of reburn machines, propane flammers, or other portable devices to ignite or reignite a field for the purposes of crop residue burning shall be considered an allowable form of open burning. Tires and other restricted material described in Subsection 603.01, of this rule, are not allowed for ignition of fields; (5-8-09)

i. Additional Burn Permits. All persons intending to burn crop residue shall obtain any additional applicable permits from federal, state or local fire control authorities prior to receiving approval from the Department to burn crop residue; and (5-8-09)

j. Reporting to the Department. All persons burning crop residue shall report to the Department the date burning was conducted, the actual number and location of acres burned, and other information as required by the Department. The Department may restrict further burning by a permittee until completed burns are reported. (5-8-09)

k. Specific Conditions. The open burning of crop residue shall be conducted in accordance with the specific conditions in the permittee's permit by rule. (3-29-12)

02. Annual Report. The Department shall develop an annual report that shall include, at a minimum, an analysis of the causes of each exceedance of a limitation in Section 621 of this rule, if any, and an assessment of the circumstances associated with any reported endangerment to human health associated with a burn. The report shall include any proposed revisions to these rules or the Crop Residue Operating Guide deemed necessary to prevent future exceedances. (5-8-09)

03. Advisory Committee. The Department will assemble an advisory committee consisting of representatives from environmental organizations, farming organizations, health organizations, tribal organizations, the Idaho State Department of Agriculture, the Idaho Department of Environmental Quality, and others to discuss open burning of crop residue issues. (5-8-09)

623. PUBLIC NOTIFICATION.

01. Designation of Burn Days. The Director or his designee shall designate for a given county or airshed within a county burn or no-burn days. (5-8-09)

02. Posting on Website. The Department shall post daily on its website (www.deq.idaho.gov): (3-29-12)

a. Whether a given day is a burn or no-burn day; (5-8-09)

b. The location and number of acres permitted to be burned; (5-8-09)

c. Meteorological conditions and any real time ambient air quality monitoring data; and (5-8-09)

d. A toll-free number to receive requests for information (1-800-345-1007). (3-29-12)

03. E-Mail Update Service. The Department shall provide an opportunity for interested persons to sign up to receive automatic e-mail updates for information regarding the open burning of crop residue. (5-8-09)

624. SPOT BURN, BALED AGRICULTURAL RESIDUE BURN, AND PROPANE FLAMING PERMITS.

01. Applicability. (3-29-12)

a. Spot Burn. A spot burn includes no more than one (1) acre of evenly distributed crop residue or two (2) tons of piled crop residue. The open burning of weed patches, spots of heavy residue, equipment plugs and dumps, pivot corners of fields, and pastures may constitute a spot burn. Spot burn does not include the open burning of wind rows. (3-29-12)

b. Baled Agricultural Residue Burn. An open burn used to dispose of broken, mildewed, diseased, or otherwise pest-ridden bales still in the field where they were generated. (3-29-12)

c. Propane Flaming. The use of flame-generating equipment to briefly apply flame and/or heat to the topsoil of a cultivated field of pre-emerged or plowed-under crop residue with less than five hundred fifty (550) pounds of burnable, non-green residue per acre in order to control diseases, insects, pests, and weed emergence. (3-29-12)

02. Spot and Baled Agricultural Residue Burn Permit. (3-29-12)

a. Registration and Fee Requirements. Any person applying for a spot and baled agricultural residue burn permit under Section 624 shall provide the registration information listed in Subsections 619.01 and 619.02 and pay a nonrefundable fee of twenty dollars (\$20) to the Department (see Section 620) at least fourteen (14) days prior to the date the applicant proposes to conduct the first burn of the calendar year. (3-29-12)

b. Term and Acreage. A spot and baled agricultural residue burn permit is valid for the calendar year in which it is issued and is good for a cumulative total of no more than ten (10) acres of spots and/or equivalent piled or baled agricultural residue during the year and no more than one (1) acre of spots and/or equivalent piled or baled agricultural residue per day. Two (2) tons of piled or baled agricultural residue is assumed to be equivalent to one (1) acre. (3-29-12)

03. Propane Flaming Permit. Persons conducting propane flaming as defined under Subsection 624.01.c. shall be deemed to have a permit by rule if they comply with the applicable provisions in Subsections 624.04 and 624.05. (3-29-12)

04. General Provisions. All persons intending to burn under Section 624 shall comply with the provisions of Subsections 622.01.c., 622.01.d., 622.01.f., through 622.01.i., and 622.01.k. in addition to the following: (3-29-12)

a. The permittee is responsible to ensure that adequate measures are taken so the burn does not create a hazard for travel on a public roadway. (3-29-12)

b. Burning is not allowed if the proposed burn location is within three (3) miles of an institution with a sensitive population and the surface wind speed is greater than twelve (12) miles per hour or if the smoke is adversely impacting or is expected to adversely impact an institution with a sensitive population. (3-29-12)

c. Designated Burn Day. Burning shall not be conducted unless the Department has designated that day a burn day, which for purposes of Section 624 may include weekends and holidays, and the permittee burns within the burn window provided on the Department's website at www.deq.idaho.gov. Spot and baled agriculture residue burns shall not smolder and create smoke outside of the designated time period burning is allowed. (3-29-12)

05. Recordkeeping. Permittees shall record the date, time frame, type of burn, type of crop, and amount burned on the date of the burn. Records of such burns shall be retained for two (2) years and made available

to the Department upon request. (3-29-12)

625. VISIBLE EMISSIONS.

A person shall not discharge any air pollutant into the atmosphere from any point of emission for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by this section. (4-5-00)

- 01. Exemptions.** The provisions of this section shall not apply to: (4-5-00)
 - a.** Kraft Process Lime Kilns, if operating prior to January 24, 1969; or (5-1-94)
 - b.** Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or (5-1-94)
 - c.** Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or (5-1-94)
 - d.** Wigwam Burners; or (5-1-94)
 - e.** Kraft Process Recovery Furnaces. (5-1-94)
 - f.** Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969. (5-1-94)

02. Standards for Exempted Sources. Except as provided in Section 626, for sources exempted from the provisions of this section, a person shall not discharge into the atmosphere from any point of emission, for any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than forty percent (40%) opacity as determined by this section. (4-5-00)

03. Exception. The provisions of this section shall not apply when the presence of uncombined water, nitrogen oxides and/or chlorine gas are the only reason(s) for the failure of the emission to comply with the requirements of this rule. (4-5-00)

04. Test Methods and Procedures. The appropriate test method under this section shall be EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows: (4-5-00)

- a.** Opacity evaluations shall be conducted using forms available from the Department or similar forms approved by the Department. (4-5-00)
- b.** Opacity shall be determined by counting the number of readings in excess of the percent opacity limitation, dividing this number by four (4) (each reading is deemed to represent fifteen (15) seconds) to find the number of minutes in excess of the percent opacity limitation. This method is described in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986. (4-5-00)
- c.** Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60. (4-5-00)

05. Applicability. Section 625 shall not apply to the open burning of crop residue. (5-8-09)

626. GENERAL RESTRICTIONS ON VISIBLE EMISSIONS FROM WIGWAM BURNERS.

Except for a period of one (1) hour following start up a person shall not discharge into the atmosphere from any wigwam burner any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by the procedures contained in Section 625. (4-5-00)

627. -- 649. (RESERVED)

650. RULES FOR CONTROL OF FUGITIVE DUST.

The purpose of Sections 650 through 652 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust. (4-11-15)

651. GENERAL RULES.

All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities, the proximity to mandatory Class I Federal Areas and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following: (3-30-07)

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land. (5-1-94)

02. Application of Dust Suppressants. Application, where practical, of asphalt, oil, water or suitable chemicals to, or covering of dirt roads, material stockpiles, and other surfaces which can create dust. (5-1-94)

03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations. (5-1-94)

04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts. (5-1-94)

05. Paving. Paving of roadways and their maintenance in a clean condition, where practical. (5-1-94)

06. Removal of Materials. Prompt removal of earth or other stored material from streets, where practical. (5-1-94)

652. AGRICULTURAL ACTIVITIES.

For agricultural activity purposes, operating in conformance with generally recognized agricultural practices constitutes reasonable control of fugitive dust. For the purpose of Section 652: (4-11-15)

01. Agricultural Activity. An "agricultural activity" means any activity that is exempt from the requirement to obtain a permit to construct under Subsection 222.02.f., wherein "agricultural activities and services" is defined in Section 007, that occurs in connection with the production of agricultural products for food, fiber, fuel, feed and other lawful purposes, and including, but not limited to: (4-11-15)

a. Preparing land for agricultural production; (4-11-15)

b. Applying or handling pesticides herbicides, or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil; (4-11-15)

c. Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticulture crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plant products, plant by-products, plant waste and animal compost; (4-11-15)

d. Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, fur-bearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal by-products, animal waste, animal compost, and bees, bee products and bee by-products; (4-11-15)

e. Transporting agricultural products to or from an agricultural facility; (4-11-15)

f. Grinding, chopping, cubing, or any other means of preparing or converting a commodity for animal feed; and (4-11-15)

- g.** Piling, stacking or other means of storing commodities outdoors. (4-11-15)

02. Generally Recognized Agricultural Practices. “Generally recognized agricultural practices” means economically feasible practices that are customary among or appropriate to farms and ranches of a similar nature in the local area. In determining whether an agricultural activity is consistent with generally recognized agricultural practices, the Idaho Department of Environmental Quality shall consult with the Idaho Department of Agriculture. (4-11-15)

653. -- 664. (RESERVED)

665. REGIONAL HAZE RULES.

The purpose of Sections 665 through 668 is to address regional haze visibility impairment in mandatory Class I Federal Areas. The intent of Sections 665 through 668 is to set forth the requirements to implement the federal programs for visibility protection and regional haze. (3-30-07)

666. REASONABLE PROGRESS GOALS.

The Department will establish reasonable progress goals, expressed in deciviews for each mandatory Class I Federal Area located within Idaho. These goals will provide for reasonable progress toward achieving natural visibility conditions. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The reasonable progress goals are not directly enforceable, but will be implemented through enforceable strategies in the long-term strategy. (3-30-07)

01. Process for Setting Reasonable Progress Goals. In establishing a reasonable progress goal for any mandatory Class I Federal Area within Idaho, the Department shall: (3-30-07)

a. Consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal. (3-30-07)

b. Analyze and determine the rate of progress needed to attain natural visibility conditions by the year 2064. To calculate this rate of progress, the Department will compare baseline visibility conditions to natural visibility conditions in the mandatory Class I Federal Area and determine the uniform rate of visibility improvement (measured in deciviews) that would need to be maintained during each implementation period in order to attain natural visibility conditions by 2064. In establishing the reasonable progress, the Department will consider the uniform rate of improvement in visibility and the emission reduction measures needed to achieve it for the period covered by the implementation plan. (3-30-07)

c. Consult with those states which may reasonably be anticipated to cause or contribute to visibility impairment in the mandatory Class I Federal Area. (3-30-07)

02. Justification for Reasonable Progress Goals. If the Department establishes a reasonable progress goal that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the Department will demonstrate, based on the factors in Subsection 666.01.a., that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and that the progress goal adopted by the Department is reasonable. The Department will provide to the public for review, as part of its implementation plan, an assessment of the number of years it would take to attain natural conditions if visibility improvement continues at the rate of progress selected by the Department as reasonable. (3-30-07)

667. LONG-TERM STRATEGY FOR REGIONAL HAZE.

The purpose of Section 667 is to develop a long-term strategy for making reasonable progress toward the national goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal Areas in which impairment results from man-made air pollution. (3-30-07)

01. Submittal of Long-Term Strategy. The Department will submit to EPA a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I Federal Area within the state and for each mandatory Class I Federal Area located outside the state which may be affected by emissions from the state.

(3-30-07)

02. Enforceable Emission Limitations. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by the Department. (3-30-07)

03. Requirements for Long-Term Strategy. In establishing long-term strategy for regional haze, the Department will meet the following requirements: (3-30-07)

a. The Department will document the technical basis, including modeling, monitoring and emissions information, on which the state is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal Area it affects. The Department may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all state participants. The Department will identify the baseline emission inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidated periodic emissions inventory. (3-30-07)

b. The Department will identify all anthropogenic sources of visibility impairment considered by the Department in developing its long-term strategy. The Department should consider major and minor stationary sources, mobile sources, and area sources. (3-30-07)

c. The Department will consider, at a minimum, the following factors in developing its long-term strategy: (3-30-07)

i. Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (3-30-07)

ii. Measures to mitigate the impacts of construction activities; (3-30-07)

iii. Emissions limitations and schedules for compliance to achieve the reasonable progress goal; (3-30-07)

iv. Source retirement replacement schedules; (3-30-07)

v. Smoke management techniques for agricultural and forestry management purposes including plans as currently exist with the state for these purposes; (3-30-07)

vi. Enforceability of emissions limitations and control measures; and (3-30-07)

vii. The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. (3-30-07)

04. Interstate Consultation. The Department will undertake the following process in developing the long-term strategy where interstate consultation is required. (3-30-07)

a. Where Idaho has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area located in another state or states, the Department will consult with the other state(s) in order to develop coordinated emission management strategies. (3-30-07)

b. The Department will consult with any other state having emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area within Idaho. (3-30-07)

c. Where other states cause or contribute to impairment in a mandatory Class I Federal Area, the Department must demonstrate that the state has included in its implementation plan all measures necessary to obtain its share of the emission reductions needed to meet the progress goal for the area. If the state of Idaho has participated in a regional planning process, the Department must ensure the state has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. (3-30-07)

668. BART REQUIREMENT FOR REGIONAL HAZE.

The purpose of Section 668 is to implement the BART requirements in 40 CFR 51.308(e). The following analysis and documentation is required for each BART-eligible source: (3-30-07)

01. BART-Eligible Sources. The Department shall identify a list of all BART-eligible sources within the state. (3-30-07)

02. BART Determination. The Department shall complete a determination of BART for each BART-eligible source in the state that emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class 1 Federal Area. All such sources are subject to BART. (3-30-07)

a. A single source that is responsible for a one (1.0) deciview change or more in any mandatory Class I Federal Area is considered to “cause” visibility impairment. (3-30-07)

b. A single source that is responsible for a one-half (0.5) deciview change or more in any mandatory Class I Federal Area is considered to “contribute” to visibility impairment. (3-30-07)

c. The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source that is subject to BART within the state. In this analysis, the following must be taken into consideration: (3-30-07)

- i. Costs of compliance; (3-30-07)
- ii. Energy and non-air quality environmental impacts of compliance; (3-30-07)
- iii. Any pollution control equipment in use at the source; (3-30-07)
- iv. The remaining useful life of the source; and (3-30-07)
- v. The degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)

- d.** The Department may determine that a BART determination is not required: (3-30-07)
 - i. For sulfur dioxide (SO₂) or for nitrogen oxides (NO_x) if a BART-eligible source has the potential to emit less than forty (40) tons per year of such pollutant(s); or (3-30-07)
 - ii. For PM₁₀ if a BART-eligible source emits less than fifteen (15) tons per year of such pollutant. (3-30-07)

03. Alternative to Infeasible Emission Standards. If the Department determines in establishing BART that technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice, or operation and must provide for compliance by means which achieve equivalent results. (3-30-07)

04. BART Installation and Operation Due Date. Each source subject to BART is required to install and operate BART as expeditiously as practicable, but in no event later than five (5) years after approval of the implementation plan. (3-30-07)

05. Maintenance of BART Equipment. Each source subject to BART is required to maintain the control equipment required by the Department and establish procedures to ensure such equipment is properly operated and maintained. (3-30-07)

06. BART Alternative. As an alternative to the installation of BART for a source or sources, the Department may approve a BART alternative. If the Department approves source grouping as a BART alternative, only sources (including BART-eligible and non-BART eligible sources) causing or contributing to visibility impairment to the same mandatory Class I Federal Area may be grouped together. (3-30-07)

a. If a source(s) proposes a BART alternative, the resultant emissions reduction and visibility impacts must be compared with those that would result from the BART options evaluated for the source(s). (3-30-07)

b. Source(s) proposing a BART alternative must demonstrate that this BART alternative will achieve greater reasonable progress than would be achieved through the installation and operation of BART. (3-30-07)

c. Source(s) proposing a BART alternative shall include in the BART analysis an analysis and justification of the averaging period and method of evaluating compliance with the proposed emission limitation. (3-30-07)

07. Reasonable Progress Goal Requirements for BART-Eligible Sources. Once the Department has met the requirements for BART or BART alternative, as identified in Subsection 668.06, BART-eligible sources will be subject to the requirements of reasonable progress goals, as defined in 40 CFR 51.308(d), in the same manner as other sources. (3-30-07)

669. -- 674. (RESERVED).

675. FUEL BURNING EQUIPMENT -- PARTICULATE MATTER.

The purpose of Sections 675 through 681 is to establish particulate matter emission standards for fuel burning equipment. (4-5-00)

676. STANDARDS FOR NEW SOURCES.

A person shall not discharge into the atmosphere from any fuel burning equipment with a maximum rated input of ten (10) million BTU's per hour or more, and commencing operation on or after October 1, 1979, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.050	8%
Wood Product	.080	8%

The effluent gas volume shall be corrected to the oxygen concentration shown. (5-1-94)

677. STANDARDS FOR MINOR AND EXISTING SOURCES.

A person shall not discharge into the atmosphere from any fuel burning equipment in operation prior to October 1, 1979, or with a maximum rated input of less than ten (10) million BTU per hour, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.100	8%
Wood Product	.200	8%

The effluent gas volume shall be corrected to the oxygen concentration shown. (5-1-94)

678. COMBINATIONS OF FUELS.

When two (2) or more types of fuel are burned concurrently, the allowable emission shall be determined by proportioning the gross heat input and emission standards for each fuel. (5-1-94)

679. AVERAGING PERIOD.

For purposes of Sections 675 through 680, emissions shall be averaged according to the following, whichever is the lesser period of time: (5-1-94)

01. One Cycle. One (1) complete cycle of operation; or (5-1-94)

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of particulate matter. (4-11-06)

680. ALTITUDE CORRECTION.

For purposes of Sections 675 through 680, standard conditions shall be adjusted for the altitude of the source by subtracting one-tenth (0.10) of an inch of mercury for each one hundred (100) feet above sea level from the standard atmospheric pressure at sea level of twenty-nine and ninety-two one hundredths (29.92) inches of mercury. (5-1-94)

681. TEST METHODS AND PROCEDURES.

The appropriate test method under Sections 675 through 680 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall also comply with Section 157. (4-5-00)

682. -- 699. (RESERVED)

700. PARTICULATE MATTER -- PROCESS WEIGHT LIMITATIONS.

01. Particulate Matter Emission Limitations. The purpose of Sections 700 through 703 is to establish particulate matter emission limitations for process equipment. (5-3-03)

02. Minimum Allowable Emission. Notwithstanding the provisions of Sections 701 and 702, no source shall be required to meet an emission limit of less than one (1) pound per hour. (4-5-00)

03. Averaging Period. For the purposes of Sections 701 through 703, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

a. One (1) complete cycle of operation; or (4-5-00)

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (4-5-00)

04. Test Methods and Procedures. The appropriate test method under Sections 700 through 703 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (4-5-00)

701. PARTICULATE MATTER -- NEW EQUIPMENT PROCESS WEIGHT LIMITATIONS.

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment commencing operation on or after October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour. (4-5-00)

a. If PW is less than 9,250 pounds per hour,
 $E = 0.045(PW)^{0.60}$ (4-5-00)

b. If PW is equal to or greater than 9,250 pounds per hour,

$$E = 1.10(PW)^{0.25} \quad (4-5-00)$$

02. Exemption. The provisions of Section 701 shall not apply to fuel burning equipment. (4-5-00)

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 701.

PROCESS WEIGHT	ALLOWABLE EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	13.08
200	1.08	40,000	15.56
400	1.64	60,000	17.22
600	2.09	80,000	18.50
800	2.40	100,000	19.56
1,000	2.84	200,000	23.26
2,000	4.30	400,000	27.66
4,000	6.52	600,000	30.61
6,000	8.32	800,000	32.90
8,000	9.89	1,000,000	34.79
10,000	11.00	2,000,000	41.37

(4-5-00)

702. PARTICULATE MATTER -- EXISTING EQUIPMENT PROCESS WEIGHT LIMITATIONS.

The provisions of Section 702 shall become effective on January 1, 1981. (4-5-00)

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment operating prior to October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour: (4-5-00)

a. If PW is less than 17,000 pounds per hour,
 $E = 0.045 (PW)^{0.60}$ (4-5-00)

b. If PW is equal to or greater than 17,000 pounds per hour,
 $E = 1.12 (PW)^{0.27}$. (4-5-00)

02. Exemptions. The provisions of Section 702 shall not apply to: (4-5-00)

a. Fuel burning equipment; or (5-1-94)

b. Equipment used exclusively to dehydrate sugar beet pulp or alfalfa. (5-1-94)

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 702.

PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	16.24
200	1.08	40,000	19.58
400	1.64	60,000	21.84
600	2.09	80,000	23.61
800	2.48	100,000	25.07
1,000	2.84	200,000	30.23
2,000	4.30	400,000	36.46
4,000	6.52	600,000	40.67
6,000	8.32	800,000	43.96
8,000	9.89	1,000,000	46.69
10,000	11.30	2,000,000	56.30

(4-5-00)

703. PARTICULATE MATTER -- OTHER PROCESSES.

01. Other Processes. No person with processes exempt under Subsection 702.02.b. shall emit particulate matter to the atmosphere from any process or process equipment in excess of the amount shown in the following equations, where E is the total rate of emission from all emission points from the source in pounds per hour and P is the process weight rate in pounds per hour. (4-5-00)

a. If P is less than sixty thousand (60,000) pounds per hour,
 $E = 0.02518(P)^{0.67}$ (4-5-00)

b. If P is greater than or equal to sixty thousand (60,000) pounds per hour,
 $E = 23.84(P)^{0.11} - 40$ (4-5-00)

02. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 703.

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE			
Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
100	0.551	16,000	16.5
200	0.877	18,000	17.9
400	1.40	20,000	19.2
600	1.83	30,000	25.2

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE			
Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
800	2.22	40,000	30.5
1,000	2.58	50,000	35.4
1,500	3.38	60,000	40.0
2,000	4.10	70,000	41.3
2,500	4.76	80,000	42.5
3,000	5.38	90,000	43.6
3,500	5.96	100,000	44.6
4,000	6.52	120,000	46.3
5,000	7.58	140,000	47.8
6,000	8.56	160,000	49.0
7,000	9.49	200,000	51.2
8,000	10.4	1,000,000	69.0
9,000	11.2	2,000,000	77.6
10,000	12.0	6,000,000	92.7
12,000	13.6		

(4-5-00)

704. -- 724. (RESERVED)

725. RULES FOR SULFUR CONTENT OF FUELS.

This section applies to fuel burning sources in Idaho. Its purpose is to prevent excessive ground level concentrations of sulfur dioxide. The reference test method for measuring fuel sulfur content shall be ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.

(5-8-09)

01. Definitions. (5-8-09)

a. ASTM. American Society for Testing and Materials. (5-1-94)

b. Distillate Fuel Oil. Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils. (5-1-94)

c. Residual Fuel Oil. Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils. (5-1-94)

02. Residual Fuel Oils. No person shall sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight. (5-8-09)

03. Distillate Fuel Oil. No person shall sell, distribute, use or make available for use, any distillate fuel

oil containing more than the following percentages of sulfur: (5-8-09)

a. **ASTM Grade 1.** ASTM Grade 1 fuel oil - zero point three percent (0.3%) by weight. (5-8-09)

b. **ASTM Grade 2.** ASTM Grade 2 fuel oil - zero point five percent (0.5%) by weight. (5-8-09)

04. Coal. No person shall sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight. (5-8-09)

05. Alternative. The Department may approve in a permit issued in accordance with these rules an alternative fuel sulfur content if the applicant demonstrates that, through control measures or other means, sulfur dioxide emissions (based on a one (1) hour averaging period) are equal to or less than those resulting from the combustion of fuels complying with the limitations of Subsections 725.01 through 725.04. (4-11-15)

726. -- 749. (RESERVED)

750. RULES FOR CONTROL OF FLUORIDE EMISSIONS.

The purpose of Sections 750 through 751 is to prevent the emission of fluorides such that the accumulation of fluorine in feed and forage for livestock does not exceed the safe limits specified below. (5-1-94)

751. GENERAL RULES.

Any owner or operator of a facility subject to Sections 750 and 751 shall demonstrate compliance with Section 751 by January 1, 1982, in accordance with a compliance schedule, listing increments of progress, which shall be submitted to the Department on or before August 1, 1980. (5-1-94)

01. Emission Limitations -- Phosphate Fertilizer Plants. No person shall allow, suffer, cause or permit the discharge into the atmosphere of total fluoride emissions in gaseous and in particulate form, expressed as fluoride (F-), from the phosphate fertilizer plant sources listed in Subsection 751.03 in excess of thirty hundredths (0.30) pounds of fluoride per ton of P₂O₅ input to the calciner operation, calculated at maximum rated capacity. (5-1-94)

02. Monitoring, Testing, and Reporting Requirements. Compliance with Subsection 751.01 will be adjudged upon the results of the continuing program of fluoride sampling of potential grazing areas and alfalfa growing areas conducted by the Department. Sampling conducted by any person subject to Section 751 may be accepted for determining compliance with Subsection 751.01 if such sampling is conducted at sites approved by the Department in advance of sampling, using analytical procedures appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods) or equivalent methods approved by the Department in advance of sampling. Compliance with Subsection 751.01 shall be demonstrated by testing methods approved in advance by the Department. When approved by the Director in advance of sampling, engineering calculations may be submitted in lieu of emission data. Monitoring and reporting requirements shall be included in operating permits granted to each facility. (5-1-94)

03. Source Specific Permits. To assure compliance with Subsection 751.01, the Director shall specify methods for calculating total allowable emissions and shall issue source specific permits containing emission limitations for the following sources within phosphate fertilizer plants: (5-1-94)

a. Calciner operation; and (5-1-94)

b. Wet phosphoric acid plants; and (5-1-94)

c. Super phosphoric acid production; and (5-1-94)

d. Diammonium phosphate plants; and (5-1-94)

e. Monoammonium phosphate production; and (5-1-94)

f. Triple super phosphate (mono calcium phosphate) production. (5-1-94)

04. Exemptions. The provisions of Subsections 751.01, 751.02, and 751.03 shall not apply to any phosphate fertilizer facility which produces mono ammonium phosphate exclusively if no animal feed is grown or if no animal grazing occurs or if the animal feed and forage meets the ambient air quality standards for fluorides specified in Section 577 within a three (3) mile radius of such facility. This exemption shall only apply if the owner or operator of the facility, on an annual basis: (4-7-11)

a. Conducts a fluoride sampling program of potential grazing areas at locations approved in advance of sampling by the Department, using analytical techniques appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods); and (5-1-94)

b. Submits the results of such sampling program to the Department as soon as they become available. (5-1-94)

752. -- 759. (RESERVED)

760. RULES FOR THE CONTROL OF AMMONIA FROM DAIRY FARMS.

The purpose of Sections 760 through 764 is to set forth the requirements for the control of ammonia through best management practices (BMPs) for certain size dairy farms licensed by the Idaho State Department of Agriculture to sell raw milk for human consumption. Compliance with these sections does not relieve the owner or operator of a dairy farm from the responsibility of complying with all other federal, state and local applicable laws, regulations, and requirements, including, but not limited to, Sections 161, 650 and 651 of these rules. Registration forms and guidance documents relating to these rules are located at www.deq.idaho.gov. (3-30-07)

761. GENERAL APPLICABILITY.

The requirements of Sections 760 through 764 apply to the following size dairy farms:

SUMMARY: Animal Unit (AU) or mature cow threshold to produce 100 ton NH₃/year

Animal Unit (AU) Basis	Drylot	Free Stall/Scrape	Free Stall/Flush
AU (100 t NH ₃) Threshold			
No land app	7089	3893	2293
27% volatilization 1	6842	3827	
80% volatilization 2	6397	3700	
Total Cows (100 t NH ₃) Threshold			
Cow Basis (1400 lbs)	Drylot	Free Stall/Scrape	Free Stall/Flush
No land app	5063	2781	1638
27% volatilization 1	4887	2733	
80% volatilization 2	4569	2643	
1 Assumes: Expected level of N->NH ₃ volatilization for: drop-hose or ground level liquid manure application 2 Assumes: Expected level of N->NH ₃ volatilization for: center pivot or other conventional sprinkler irrigation liquid manure application			

(3-30-07)

762. PERMIT BY RULE.

01. General Requirement. Owners and operators of dairy farms shall be deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 760 through 764. Owners and operators of dairy farms subject to Sections 760 through 764 shall not operate without obtaining the applicable permit by rule within the time frame specified. (3-30-07)

02. Optional Permit by Rule. Nothing in Sections 760 through 764 shall preclude any owner or operator of a dairy farm from requesting and obtaining an air quality permit pursuant to Section 200, nor shall Sections 760 through 764 preclude an owner or operator of a dairy farm below the threshold size in Section 761 from complying with Sections 760 through 764 and thereby obtaining a permit by rule. (3-30-07)

03. Exemption. If a dairy farm not subject to Sections 760 through 764 otherwise would become subject to those sections as a result of an emergency, the dairy farm shall notify the Director in writing within fourteen (14) days of the emergency. The notification shall include an explanation of the emergency circumstances. The dairy farm shall be exempt from the requirements of Sections 760 through 764 as long as the consequences of the emergency continue (but in no case for more than one (1) year) unless for good cause the Director determines it is appropriate to limit, condition or revoke the exemption. For the purpose of this rule “emergency” shall be defined as a serious situation or occurrence that happens unexpectedly and demands immediate action. (3-30-07)

763. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a new dairy farm subject to sections 760 through 764, or an existing dairy farm that becomes subject to these sections due to change in size or type of operation, shall register prior to fifteen (15) days of triggering the threshold for which a permit is required. (3-30-07)

02. Registration Due Date. Any owner or operator of an existing dairy farm subject to Sections 760 through 764 shall register within fifteen (15) days of the effective date of Sections 760 through 764. (3-30-07)

03. Registration Information. The following information shall be provided by the registrant to the Department of Environmental Quality and the Department of Agriculture: (3-30-07)

- a. Name, address, location of dairy farm, and telephone number. (3-30-07)
- b. Information sufficient to establish that the dairy farm is of the size and type described in Section 761. (3-30-07)
- c. Information describing what BMPs, as described in Section 764, are employed to total twenty-seven (27) points. (3-30-07)

04. Exemption from Registration Fee. Dairy farms subject to Sections 760 through 764 are exempt from paying the permit by rule registration fee set forth in Section 800. (3-30-07)

05. Inspection. Within thirty (30) days of receipt of the registration information, the state of Idaho shall conduct a qualifying inspection to ensure the requisite point total of BMPs are employed. (3-30-07)

764. DAIRY FARM BEST MANAGEMENT PRACTICES.

01. BMPs. Each dairy farm subject to Sections 760 through 764, or that otherwise obtains a permit by rule under these sections, shall employ BMPs for the control of ammonia to total twenty-seven (27) points. Points may be obtained through third party export with sufficient documentation. The table located at Subsection 764.02. lists available BMPs and the associated point value. As new information becomes available or upon request, the Director may determine a practice not listed in the table constitutes a BMP and assign a point value. (3-30-07)

02. Table - Ammonia Control Practices for Idaho Dairies.

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
Waste Storage and Treatment Systems	Synthetic Lagoon Cover	15	20	20	1
	GeoteXtile Covers	10	13	13	1
	Solids Separation	3	3	3	3, 4
	Composting	4	4	4	1
	Separate Slurry and Liquid Manure Basins	6	10	-	1
	In-House Separation	0	12	0	1
	Direct Utilization of Collected Slurry	6	10	-	1, 3, 4
	Direct Utilization of Parlor Wastewater	10	10	10	1
	Direct Utilization of Flush Water	8	0	13	3, 4
	Anaerobic Digester	-	-	-	-
	Anaerobic Lagoon	-	-	-	-
	Aerated Lagoon	10	12	15	2
	Sequencing-Batch Reactor	15	20	20	2
	Lagoon Nitrification/Denitrification Systems	15	20	20	2
	Fixed-Media Aeration Systems	15	20	20	2
Zeolite Treatment of Liquid Manure 1lb/cow/day	4	5	5	2	
Zeolite Treatment of Liquid Manure 2lb/cow/day	8	10	10	2	
General Practices	Vegetative or Wooded Buffers (established)	7	7	7	1
	Vegetative or Wooded Buffers (establishing)	2	2	2	1
	Alternatives to Copper Sulfate	-	-	-	-
Freestall Barns	Scrape Built Up Manure	-	3	3	1
	Frequent Manure Removal	UD	UD	UD	-
	Tunnel Ventilation	-	-	-	-

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
	Tunnel Ventilation w/Biofilters	-	10	10	1
	Tunnel Ventilation w/Washing Wall	-	10	10	3, 4
Open Lots and Corrals	Rapid Manure Removal	4	2	2	1, 2
	Corral Harrowing	4	2	2	1
	Surface Amendments	10	5	5	2
	In-Corral Composting / Stockpiling	4	2	2	1
	Summertime Deep Bedding	10	5	5	1
Animal Nutrition	Manage Dietary Protein	2	2	2	2
Composting Practices	Alum Incorporation	12	8	6	2
	Carbon:Nitrogen Ratio (C:N) Ratio Manipulation	10	7.5	5	2
	Composting with Windrows	-	-	-	-
	Composting Static Pile	6	4.5	3	1
	Forced Aeration Composting	10	7.5	5	1
	Forced Aeration Composting with Biofilter	12	8	6	1
	Zeolite Incorporation	12	8	6	2
Land Application ²	Soil Injection - Slurry	10	15	7.5	2
	Incorporation of Manure within 24 hrs	10	10	10	2
	Incorporation of Manure within 48 hrs	5	5	5	2
	Nitrification of Lagoon Effluent	10	10	15	3, 4
	Low Energy/Pressure Application Systems	7	7	10	1
	Freshwater Dilution	5	8	8	1, 2
	Pivot Drag Hoses	8	8	10	1
	Subsurface Drip Irrigation	10	10	12	1

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
Notes:					
<p>1. The ammonia emission reduction effectiveness of each practice is rated numerically based on practical year-round implementation. Variations due to seasonal practices and expected weather conditions have been factored into these ratings. Not implementing a BMP when it is not practicable to do so, does not reduce the point value assigned to the BMP, nor does it constitute failure to perform the BMP. UD indicates that the practice is still under development.</p> <p>2. Land application practices assume practice is conducted on all manure; points will be pro-rated to reflect actual waste treatment; points can be obtained on exported material with sufficient documentation.</p> <p>3. Method used by inspector to determine compliance 1=Observation by Inspector 2=On-Site Recordkeeping Required 3, 4=Deviation Reporting Required. Equipment upsets and/or breakdowns shall be recorded in a deviation log and if repaired in a reasonable timeframe does not constitute non-compliance with this rule.</p>					

(5-8-09)

765. -- 774. (RESERVED)

775. RULES FOR CONTROL OF ODORS.

The purpose of Sections 775 through 776 is to control odorous emissions from all sources for which no gaseous emission control rules apply. (5-1-94)

776. GENERAL RULES.

01. General Restrictions. No person shall allow, suffer, cause or permit the emission of odorous gases, liquids or solids into the atmosphere in such quantities as to cause air pollution. (5-1-94)

02. Restrictions on Rendering Plants. No person shall allow, suffer, cause or permit any plant engaged in the processing of animal, mineral, or vegetable matter or chemical processes utilizing animal, mineral or vegetable matter to be operated without employing reasonable measures for the control of odorous emissions including wet scrubbers, incinerators, chemicals or such other measures as may be approved by the Department. (5-1-94)

777. -- 784. (RESERVED)

785. RULES FOR CONTROL OF INCINERATORS.

The purpose of Sections 785 through 788 is to prevent excessive emissions of particulate matter from incinerators. (5-1-94)

786. EMISSION LIMITS.

01. General Restrictions. No person shall allow, suffer, cause or permit any incinerator to discharge more than two-tenths (0.2) pounds of particulates per one hundred (100) pounds of refuse burned. (4-5-00)

02. Averaging Period. For the purposes of Section 786, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

- a. One (1) complete cycle of operation; or (4-5-00)
- b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (4-5-00)

03. Test Methods and Procedures. The appropriate test method under Sections 785 through 788 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (4-5-00)

787. EXCEPTIONS.
Sections 785 and 786 do not apply to wigwam burners. (3-23-98)

788. -- 789. (RESERVED)

790. RULES FOR THE CONTROL OF NONMETALLIC MINERAL PROCESSING PLANTS.
The purpose of Sections 790 through 799 is to set forth the requirements for nonmetallic mineral processing plants, frequently referred to as rock crushers. Definitions specific to nonmetallic mineral processing permits are located in Section 011 while other general terms may be defined in Sections 006 through 008. Compliance with Section 790 does not relieve the owner or operator of a nonmetallic mineral processing plant from the responsibility of complying with other federal, state, and local applicable laws, regulations, and requirements. (3-15-02)

791. GENERAL CONTROL REQUIREMENTS.

01. Prohibition. No owner or operator of a nonmetallic mineral processing plant shall allow, suffer, or cause the emissions of any air pollutant to the atmosphere 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. (3-15-02)

02. Control of Fugitive Dust. In accordance with Sections 650 and 651, owners and operators of nonmetallic mineral processing plants shall take all reasonable precautions to prevent the generation of fugitive dust. In determining what is reasonable, consideration will be given to factors such as the proximity to human habitations and/or activities and atmospheric conditions which might affect the movement of particulate matter. (3-15-02)

792. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS SUBJECT TO 40 CFR 60, SUBPART OOO.

01. Applicability and Designation of Affected Facilities. The provisions of 40 CFR 60.670(a)(1) are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants that commence construction, modification, or reconstruction after August 31, 1983: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Also, crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including the first storage silo or bin, are subject to the provisions of 40 CFR 60.670(a)(1). (4-4-13)

02. Facilities Not Applicable to 40 CFR 60.670(a)(2), (b), and (c). The provisions of 40 CFR 60.670(a)(2), (b), and (c) do not apply to the following operations: all facilities located in underground mines, plants without crushers or grinding mills above ground, and wet processing operations (as defined in 40 CFR 60.671). (4-4-13)

a. An affected facility that is subject to the provisions of 40 CFR 60, Subpart F (Standards of Performance for Portland Cement Plants) or Subpart I (Standards of Performance for Hot Mix Asphalt Plants) or that follows the in plant process any facility subject to the provisions of 40 CFR 60, Subparts F or I, is not subject to the provisions of 40 CFR 60, Subpart OOO. (4-4-13)

b. Facilities at the following plants are not subject to the provisions of 40 CFR 60, Subpart OOO: (4-4-13)

i. Fixed sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671, of twenty-three (23) megagrams per hour (twenty-five (25) tons per hour) or less; (4-4-13)

ii. Portable sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671, of one hundred thirty-six (136) megagrams per hour (one hundred fifty (150) tons per hour) or less; and (4-4-13)

iii. Common clay plants and pumice plants with capacities, as defined in 40 CFR 60.671, of nine (9) megagrams per hour (ten (10) tons per hour) or less. (4-4-13)

03. Standards of Performance for Nonmetallic Mineral Processing Plants. Affected facilities subject to 40 CFR 60, Subpart OOO, shall comply with all applicable emissions standards, monitoring requirements, test methods and procedures, and reporting and recordkeeping requirements. (4-4-13)

793. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS NOT SUBJECT TO 40 CFR 60, SUBPART OOO.

Owners and operators of nonmetallic mineral processing plants that are not subject to a NSPS requirement shall comply with the emissions standards set forth in Section 793. (3-15-02)

01. Processing Plants Not Regulated by NSPS. Fixed or portable plants that commenced construction, reconstruction, or modification before August 31, 1983 are not subject to 40 CFR 60, Subpart OOO. (3-15-02)

02. Emissions Standards for Fugitive Emissions. No owner or operator shall cause to be discharged into the atmosphere emissions which exhibit greater than twenty percent (20%) opacity from any crusher, grinding mill, screening operation, bucket elevator, belt conveyor, conveying system, transfer point, vent, capture system, storage bin, stockpile, truck dumping operation, vehicle traffic on an affected paved public roadway, vehicle traffic on or wind erosion of an unpaved haul road, or other source of fugitive emissions. Opacity shall be determined using the test methods and procedures in Section 625. The plant is not required to have a certified opacity reader. (3-15-02)

794. PERMIT REQUIREMENTS.

No owner or operator may commence construction, reconstruction, modification or operation of any nonmetallic mineral processing plant regardless of whether or not the source is an affected facility pursuant to 40 CFR 60.670(e) without first obtaining a permit or complying with Sections 795 through 799. The owner or operator shall comply with the permitting requirements of Subsection 794.02 or Subsection 794.03 and the applicable portions of Subsection 794.04 and/or Subsection 794.05. (4-11-15)

01. Permit by Rule Eligibility. New major facilities or major modifications subject to Sections 204 and 205 are not eligible for a Permit by Rule. (4-11-15)

02. Permit by Rule. Owners and operators of nonmetallic mineral processing plants that meet all of the applicable requirements set forth in Sections 795 through 799 shall be deemed to have a permit by rule (PBR) and shall not be required to obtain a permit to construct under Sections 200 through 228. (3-15-02)

03. Permit to Construct. Owners and operators of nonmetallic mineral processing plants that do not meet all of the requirements set forth in Sections 795 through 799, or that operate or intend to operate a nonmetallic mineral processing plant at a single site of operations for more than twelve (12) consecutive months, or that choose to construct and operate under specific permit requirements rather than the provisions of the permit by rule shall obtain a permit to construct pursuant to Sections 200 through 228. An existing permit to construct shall be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. Existing permits to construct may be terminated by the Department by registering the source under the permit by rule provisions in accordance with Section 797 after June 15, 2001. (3-15-02)

04. Tier I Operating Permits. Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of the New Source Performance Standards (NSPS) in 40 CFR 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 399. (4-11-06)

05. Tier II Operating Permits. Owners and operators of nonmetallic mineral processing plants that are required by the Department or choose to obtain a Tier II operating permit pursuant to Sections 400 through 410 shall operate in accordance with the specific provisions of the Tier II operating permit until such time as the operating permit is terminated in writing by the Department. The Department may require owners and operators of nonmetallic mineral processing plants to obtain a Tier II operating permit whenever the Department determines that: (3-15-02)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (3-15-02)

b. Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (3-15-02)

795. PERMIT BY RULE REQUIREMENTS.

The purpose of Sections 795 through 799 is to establish the requirements for a permit by rule for nonmetallic mineral processing plants. (3-15-02)

796. APPLICABILITY.

01. Permit by Rule. Owners and operators of nonmetallic mineral processing plants shall be deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 795 through 799. Nothing in Sections 795 through 799 shall preclude any owner or operator from obtaining a permit. Portable sources that operate or may be operated at a single location or site of operations for more than twelve (12) consecutive months must obtain a permit to construct or a Tier II operating permit. (3-15-02)

02. Permit Option. Owners and operators of nonmetallic mineral processing plants that hold a valid permit to construct or a Tier II operating permit must comply with the terms and conditions of the permit and are not subject to the requirements of the permit by rule in Sections 795 through 799. (3-15-02)

797. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a nonmetallic mineral processing plant that opts to operate under the permit by rule shall register in the following manner: (3-15-02)

a. Any new or modified processing plant shall register fifteen (15) days prior to commencing operation or modification. The Department shall acknowledge registration in writing within fifteen (15) days. (3-15-02)

b. Any permitted processing plant shall register with the Department and request termination of the current permit to construct or Tier II operating permit. The Department shall normally act on the request within fifteen (15) days and notify the registrant in writing. (3-15-02)

Registration for permit by rule does not relieve the owner or operator of portable equipment from the registration and relocation requirements of Section 500. (3-15-02)

02. Registration Information. The following information shall be provided by the registrant to the Department: (3-15-02)

a. For all crushers and grinding mills, the registrant shall supply information on the manufacturer, crusher type (such as jaw, cone), serial number, date of manufacture, and maximum throughput capacity; (3-15-02)

b. For all screen decks, the registrant shall supply manufacturer name, physical size of screen, number of decks, serial number, and date of manufacture; and (3-15-02)

c. For all electrical generators, the registrant shall supply manufacturer name, rated output, and fuel. (3-15-02)

798. ELECTRICAL GENERATORS.

The following requirements apply to all electrical generators used to provide electrical power to any nonmetallic mineral processing plant. The requirements apply to each site of operations. (3-15-02)

01. Fuel Type. Only ASTM (American Society of Testing and Materials) Grade 1 or 2 fuel oil shall be used. The sulfur content of the fuel used shall not exceed the percentages of sulfur given in Section 725. (5-8-09)

02. Generator Operating Requirements. For the purposes of Sections 790 through 799, the following apply to all electrical generators.

Rated Output Capacities (kW)	Allowable Operating Hours (hr/day)		Allowable Operating Hours (hr/yr)	
	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas
0 - 454	24	8	8760	2880
455 - 1000	24	24	8760	8760
1001 - 2000	24	24	5200	5200

kW = kilowatts

hr/day = hours per day

hr/yr = hours per year

(3-15-02)

03. Generator Opacity Limit. Visible emissions from any generator stack, vent, or other functionally equivalent opening shall not exceed twenty percent (20%) opacity for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period. Opacity shall be determined using the test methods and procedures contained in Section 625. (3-15-02)

04. Monitoring and Recordkeeping Requirements. (3-15-02)

a. The owner or operator shall monitor and record the following information. (3-15-02)

i. The rated output capacity, in kilowatts (kW), of the electrical generator(s) used; (3-15-02)

ii. Operating hours on a monthly and annual basis so compliance can be continuously determined for the previous twelve (12) month period; and (3-15-02)

iii. Vendor receipts of the fuel oil purchased clearly identifying the ASTM Grade. (3-15-02)

b. Records of monitoring and recordkeeping requirements for current operations shall be maintained at the site of operations for the duration of operations at that location and shall be available to Department representatives upon request. Records for previous sites of operation shall be kept for the most recent two (2) year period at a location where they can be reasonably accessed and shall be made available to the Department upon request. (3-15-02)

799. NONMETALLIC MINERAL PROCESSING PLANT FUGITIVE DUST BEST MANAGEMENT PRACTICE.

The owner or operator of a nonmetallic mineral processing plant shall use the Best Management Practices (BMP) contained in Section 799 to control the emissions of fugitive dust. Fugitive dust emissions shall be reasonably controlled as required by Sections 650 and 651. It shall be the responsibility of the owner or operator to reasonably control fugitive emissions at each site of operations but only for the duration of operations at each site under the control of the owner or operator. (3-15-02)

01. Generally Applicable Requirements. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. The following requirements apply generally to this Fugitive Dust BMP. (3-15-02)

a. Control strategy triggers. The owner or operator of a nonmetallic mineral processing plant shall at all times be observant of all sources of fugitive dust emissions and monitor control strategies at least once per day when operating. When fugitive dust emissions are observed at any time to be exceeding any control strategy trigger specified in Subsections 799.02 through 799.06, that event shall trigger initiation of the prescribed control strategy or control strategies to control the fugitive dust emissions. (3-15-02)

b. Control strategies. A progressive control strategy shall be used to reasonably control the emissions of fugitive dust. Progressive control strategy means that if the initial control strategy or strategies chosen do not adequately control fugitive dust emissions, the owner or operator shall employ successive control strategies as listed until fugitive dust control is achieved. Fugitive dust control shall be applied on a frequency such that visible emissions do not exceed any emission standard specified in Sections 790 through 799. (3-15-02)

c. Monitoring and recordkeeping. The owner or operator shall maintain a record of each event where a control strategy is triggered. The trigger shall be recorded with a summary of the control strategy employed. If the trigger is a citizen complaint, the owner or operator shall record the complaint, an evaluation of whether the complaint has merit, and a summary of the corrective action taken. The record shall be maintained on forms provided by the Department or other forms that contain similar information. Records for current operations shall be maintained at the site of operations for the duration of operations at that location and shall be available to Department representatives upon request. Records for previous sites of operation shall be kept for the most recent two (2) year period at a location where they can be reasonably accessed and shall be made available to the Department upon request. (3-15-02)

02. Requirements for Paved Public Roadways. (3-15-02)

a. Definitions. (3-15-02)

i. Paved public roadway. A paved public roadway means a roadway accessible to the general public having a surface of asphalt or concrete. (3-15-02)

ii. Track-out. Track-out means the deposition of mud, dirt, or similar debris onto the surface of a paved public roadway from the tires and/or undercarriage of any vehicle associated with the operation of a nonmetallic mineral processing plant. (3-15-02)

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from track-out include, but are not limited to: (3-15-02)

i. Visible deposition of mud, dirt, or similar debris on the surface of a paved public roadway. (3-15-02)

ii. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-15-02)

iii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for track-out. (3-15-02)

i. Prompt removal of mud, dirt, or similar debris from the affected surface of a paved public roadway. (3-15-02)

ii. Water flush, and/or water flush and vacuum sweep, the affected surface of the paved public roadway. Runoff shall be controlled so it does not saturate the surface of the adjacent unpaved haul road such that track-out is enhanced. If runoff is not, or cannot be controlled, gravel shall be applied to the surface of the adjacent unpaved haul road over an area sufficient to control track-out. (3-15-02)

iii. Apply gravel to the surface of the adjacent unpaved haul road. The area of application shall be sufficient to control track-out. (3-15-02)

iv. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the adjacent unpaved haul road. The area of application shall be sufficient to control track-out. (3-15-02)

v. Other control strategy or strategies as approved by the Department. (3-15-02)

03. Requirements for Unpaved Haul Roads. (3-15-02)

a. Definition of “unpaved haul roads.” Any unsurfaced roadway within the physical boundary of a nonmetallic mineral processing facility that is used as a haul road, access road, or similar. (3-15-02)

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from unpaved haul roads include, but are not limited to: (3-15-02)

i. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-15-02)

ii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for fugitive dust emissions from unpaved haul roads. (3-15-02)

i. Limit vehicle traffic on unpaved haul roads. (3-15-02)

ii. Limit vehicle speeds on unpaved haul roads. If a speed limit is imposed, signs shall be posted along the haul road route and clearly indicate the speed limit. Signs shall be placed so they are visible to vehicles entering and leaving the site of operations. (3-15-02)

iii. Apply water to the surface of the unpaved haul road. Runoff shall be controlled so it does not saturate the surface of the unpaved haul road such that it causes track-out. If runoff is not, or cannot be controlled, gravel shall be applied to the surface of the unpaved haul road over an area sufficient to control track-out. (3-15-02)

iv. Apply gravel to the surface of the unpaved haul road. (3-15-02)

v. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the unpaved haul road. (3-15-02)

vi. Other control strategy or strategies as approved by the Department. (3-15-02)

04. Requirements for Transfer Points, Screening Operations, and Stacks and Vents. (3-15-02)

a. Definitions. (3-15-02)

i. Transfer point. Transfer point means a point in a conveying operation where the nonmetallic

mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile. (3-15-02)

ii. Belt conveyor. Belt conveyor means a conveying device that transports material from one (1) location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end. (3-15-02)

iii. Conveying system. Conveying system means a device for transporting materials from one (1) piece of equipment or location to another location within a plant. Conveying systems include but are not limited to the following: feeders, belt conveyors, bucket elevators and pneumatic systems. (3-15-02)

iv. Bucket elevator. Bucket elevator means a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached. (3-15-02)

v. Screening operation. Screening operation means a device for separating material according to size by passing undersize material through one (1) or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens). (3-15-02)

vi. Capture system. Capture system means the equipment (including enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one (1) or more process operations to a control device. (3-15-02)

vii. Control device. Control device means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one (1) or more process operations at a nonmetallic mineral processing plant. (3-15-02)

viii. Vent. Vent means an opening through which there is mechanically induced air flow for the purpose of exhausting from a building air carrying particulate matter emissions from one (1) or more affected facilities. (3-15-02)

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents include, but are not limited to, the following: (3-15-02)

i. NSPS regulated processing plants. (3-15-02)

(1) Opacity greater than ten percent (10%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. (3-15-02)

(2) For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation located within a building, opacity greater than seven percent (7%) from any building vent. (3-15-02)

(3) Opacity greater than seven percent (7%) from any capture system stack. (3-15-02)

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

ii. Processing plants not regulated by NSPS. (3-15-02)

(1) Opacity greater than twenty percent (20%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. (3-15-02)

(2) For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening

operation located within a building, opacity greater than twenty percent (20%) from any building vent. (3-15-02)

(3) Opacity greater than twenty percent (20%) from any capture system stack. (3-15-02)

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control Strategies. The following are control strategies for transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents. Controls shall be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. (3-15-02)

i. Limit drop heights of materials such that there is a homogeneous flow of material. (3-15-02)

ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at transfer points on belt conveyors, conveying systems, bucket elevators, and screening operations as necessary. (3-15-02)

iii. Other control strategy or strategies as approved by the Department. (3-15-02)

05. Requirements for Crushers and Grinding Mills. (3-15-02)

a. Definitions. (3-15-02)

i. Crusher. Crusher means a machine used to crush any nonmetallic mineral, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor. (3-15-02)

ii. Grinding mill. Grinding mill means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used. (3-15-02)

iii. Initial crusher. Initial crusher means any crusher into which nonmetallic minerals can be fed without prior crushing in the plant. (3-15-02)

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from any crusher, grinding mill, building vent, or capture system stack include, but are not limited to, the following. (3-15-02)

i. NSPS regulated processing plants. (3-15-02)

(1) Opacity greater than fifteen percent (15%) from any crusher or grinding mill at which capture system is not used. (3-15-02)

(2) For any crusher or grinding mill located within a building, opacity greater than seven percent (7%) from any building vent. (3-15-02)

(3) Opacity greater than seven percent (7%) from any capture system stack. (3-15-02)

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

ii. Processing plants not regulated by NSPS. (3-15-02)

(1) Opacity greater than twenty percent (20%) from any crusher or grinding mill at which capture system is not used. (3-15-02)

(2) For any crusher or grinding mill located within a building, opacity greater than twenty percent (20%) from any building vent. (3-15-02)

(3) Opacity greater than twenty percent (20%) from any capture system stack. (3-15-02)

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for any crusher, grinding mill, building vent, or capture system stack. Controls shall be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. (3-15-02)

i. Limit drop heights of materials such that there is a homogeneous flow of material. (3-15-02)

ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at crusher drop points as necessary. (3-15-02)

iii. Other control strategy or strategies as approved by the Department. (3-15-02)

06. Requirements for Stockpiles. (3-15-02)

a. Definitions. (3-15-02)

i. Stockpile. Stockpile means any nonmetallic mineral storage pile, reserve supply, or similar. Nonmetallic minerals shall have the meaning given in 40 CFR Part 60, Subpart OOO. Nonmetallic minerals may be stockpiled by belt conveyor, truck dumping, or similar. (3-15-02)

ii. Truck dumping. Truck dumping means the unloading of nonmetallic minerals from movable vehicles designed to transport nonmetallic minerals from one (1) location to another. Movable vehicles include but are not limited to: trucks, front-end loaders, skip hoists, and railcars. (3-15-02)

b. Control strategy triggers. Triggers that require immediate initiation of a strategy or strategies to control fugitive dust emissions from stockpiles include, but are not limited to: (3-15-02)

i. Visible fugitive emissions from wind erosion of any stockpile that approaches twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-15-02)

ii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for stockpiles. (3-15-02)

i. Limit the height of the stockpiles. (3-15-02)

ii. Limit the disturbance of the stockpiles. (3-15-02)

- iii. Apply water onto the surface of the stockpile. (3-15-02)
- iv. Other control strategy or strategies as approved by the Department. (3-15-02)

800. REGISTRATION FEE FOR PERMIT BY RULE.

A registration fee of two hundred fifty dollars (\$250) shall be submitted to the Department with each permit by rule registration. (7-1-02)

801. PAYMENT OF FEES FOR PERMITS BY RULE REGISTRATION.

The permit by rule registration fee shall be paid in its entirety at the time the required registration form is submitted to the Department. The permit by rule registration form and fee should be sent to:

Permit by Rule Registration Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 (7-1-02)

802. RECEIPT AND USAGE OF FEES.

Permit by rule registration fee receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. Fees payable under Section 800 shall be retained by the Department regardless of whether a permit by rule registration is accepted by the Department in response to a registration request. (7-1-02)

803. -- 804. (RESERVED)

805. RULES FOR CONTROL OF HOT-MIX ASPHALT PLANTS.

The purpose of Sections 805 through 808 is to establish for hot-mix asphalt plants restrictions on the emission of particulate matter. (5-1-94)

806. EMISSION LIMITS.

No person shall cause, allow or permit a hot-mix asphalt plant to have particulate emissions which exceed the limits specified in Sections 700 through 703. (5-1-94)

807. MULTIPLE STACKS.

In the case of more than one (1) stack to a hot-mix asphalt plant, the emission limitation will be based on the total emission from all stacks. (5-1-94)

808. FUGITIVE DUST CONTROL.

01. Fugitive Emission Controls. No person shall cause, allow or permit a plant to operate that is not equipped with an efficient fugitive dust control system. The system shall be operated and maintained in such a manner as to satisfactorily control the emission of particulate material from any point other than the stack outlet. (5-1-94)

02. Plant Property Dust Controls. The owner or operator of the plant shall maintain fugitive dust control of the plant premises and plant owned, leased or controlled access roads by paving, oil treatment or other suitable measures. Good operating practices, including water spraying or other suitable measures, shall be employed to prevent dust generation and atmospheric entrainment during operations such as stockpiling, screen changing and general maintenance. (5-1-94)

809. -- 814. (RESERVED)

815. RULES FOR CONTROL OF KRAFT PULP MILLS.

The purpose of Sections 815 through 818 is to establish emission standards for recovery furnaces and notification and reporting requirements for low volume high concentration (LVHC) and high volume low concentration (HVLC) gas

venting at kraft pulp mills. (3-29-12)

816. RECOVERY FURNACE TRS STANDARD.

The average daily emissions of total reduced sulfur (TRS) from each recovery furnace shall not exceed fifteen (15) ppm expressed as hydrogen sulfide on a dry basis. Recovery furnaces at kraft pulp mills subject to 40 CFR Part 60 TRS standards are exempt from the requirements of Section 816. (3-29-12)

817. RECOVERY FURNACE TRS MONITORING AND RECORDKEEPING.

Owners and operators of each recovery furnace subject to the TRS emission standard in Section 816 shall maintain and operate equipment to continuously monitor and record the daily average TRS concentrations. (3-29-12)

818. KRAFT PULP MILL LVHC AND HVLC GAS VENTING NOTIFICATION AND REPORTING.

Section 818 is applicable to kraft pulp mill LVHC and HVLC gas venting from sources required to be controlled pursuant to 40 CFR 63, Subpart S. For purposes of Sections 130 through 136, an excess emission is defined as a continuous uncontrolled gas venting in excess of five (5) minutes. Excess emissions notification and reporting shall be conducted pursuant to the requirements contained in Sections 130 through 136 and the permit issued to the kraft pulp mill. (3-29-12)

819. -- 834. (RESERVED).

835. RULES FOR CONTROL OF RENDERING PLANTS.

The purpose of Sections 835 through 839 is to establish for rendering plants limitations on the emission of odors. (5-1-94)

836. CONTROL OF COOKERS.

No person shall allow, suffer, cause, or permit the operation or use of any device, machine, equipment, or other contrivance to cook inedible animal or marine matter unless all gases, vapors, and gas entrained effluents from these processes are passed through condensers to remove all steam and other condensable materials. All noncondensibles passing through the condensers must then be incinerated at one thousand two hundred degrees Fahrenheit (1,200) for a minimum of three-tenths (0.3) seconds, or treated in an equally effective manner. (5-1-94)

837. CONTROL OF EXPELLERS.

No person shall allow, suffer, cause, or permit the installation or operation of an expeller unless it is properly hooded and all exhaust gases are ducted to odor control equipment. (5-1-94)

838. CONTROL OF PLANT AIR.

No person shall allow, suffer, cause, or permit the installation or operation of a rendering plant unless plant ventilation air is collected and ducted to odor control equipment. (5-1-94)

839. EXCEPTIONS.

Section 838 shall not apply when it can be demonstrated that without ducting plant ventilation air to the odor control equipment no noticeable odors from the plant can be detected at the property line. (5-1-94)

840. -- 844. (RESERVED)

845. RULES FOR CONTROL OF SULFUR OXIDE EMISSIONS FROM SULFURIC ACID PLANTS.

The purpose of Sections 845 through 848 is to establish sulfur oxide emission limits for sulfuric acid plants using elemental sulfur for the production of sulfuric acid. (5-1-94)

846. EMISSION LIMITS.

01. General Restrictions. No person shall allow, suffer, cause or permit the operation of any sulfuric acid plant which emits sulfur oxides into the atmosphere in excess of twenty-eight (28) lbs/ton of one hundred percent (100%) sulfuric acid produced. (4-5-00)

02. Averaging Period. For the purposes of Section 846, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

- a. One (1) complete cycle of operation; or (4-5-00)
- b. Three (3) hours of operation representing worst-case conditions for the emissions of sulfur oxide. (4-5-00)

847. MONITORING AND TESTING.

The appropriate test method under Sections 845 through 848 shall be EPA Method 8 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (4-5-00)

848. COMPLIANCE SCHEDULE.

Any owner or operator of a source subject to Sections 845 through 848 shall no later than December 31, 1972, submit to the Department a proposed Compliance Schedule that demonstrates compliance as expeditiously as feasible but no later than July 31, 1975. (5-1-94)

849. -- 854. (RESERVED)

855. COMBINED ZINC AND LEAD SMELTERS.

The purpose of Sections 855 through 858 is to establish requirements for combined zinc and lead smelters. (5-1-94)

856. COMBINED ZINC AND LEAD SMELTERS -- CONTROL OF FUGITIVE SULFUR DIOXIDE EMISSIONS.

The owner or operator of any combined zinc and lead smelter shall utilize best engineering techniques to capture and vent fugitive sulphur dioxide emissions through one (1) or more stacks. Such techniques shall include, but not be limited to: (5-1-94)

01. Condition of Ducts, Flues, and Stacks. Maintaining and operating all ducts, flues, and stacks in a leak free condition. (5-1-94)

02. Prevention of Leakage in Equipment and Systems. Maintaining and operating all process equipment and gas collection systems in such a fashion that leakage of sulfur dioxide gases will be prevented to the maximum extent possible. (5-1-94)

03. Other Techniques. Wherever possible, using gas collection systems and/or ducting emissions through the tallest stack or stacks serving the facility. (5-1-94)

857. COMBINED ZINC AND LEAD SMELTERS -- OXIDES OF SULFUR.

01. Final Emission Limitation. Oxides of sulfur, expressed as sulfur dioxide (SO₂), in excess of one thousand nine hundred (1900) pounds per hour from all sources within any combined zinc and lead smelter shall not be discharged into the atmosphere. To assure compliance with this requirement, the Director shall issue permits specifying emission limits for equipment within the smelter. (5-1-94)

02. Effective Date. Compliance with the emission limitation established in Subsection 857.01 may be delayed until December 31, 1984, provided that there is compliance with the provisions of Subsections 857.04, 857.05 and 857.06. (5-1-94)

03. Exception. The provisions of Section 857 shall not apply to emissions generated solely from the combustion of fuel for the exclusive purpose of space heating or steam generation. (5-1-94)

04. Interim Emission Limitations. The owner or operator of the combined zinc and lead smelter shall obtain a non-ferrous smelter order for sulfur dioxide emissions issued pursuant to 42 U.S.C. Section 7419, which may be in the form of an interim compliance agreement, permit to operate, or regulation, covering the period from September 1, 1979, until December 31, 1982. Failure to adhere to the terms and conditions of such order shall result in the provisions contained in Subsection 857.01 becoming effective in accordance with a compliance schedule to be established by the Director which shall require compliance within the minimum time the Director determines is

technically feasible. (5-1-94)

a. Review of Non-Ferrous Smelter Order Provisions. The owner or operator of a combined zinc and lead smelter shall obtain the Director's approval of any interim control measure to be employed pursuant to Subsection 857.04. (5-1-94)

i. Use of any such interim control measure shall be disapproved by the Director if he has reasonable cause to believe it is not designed or implemented adequately to achieve and maintain the state and federal ambient air quality standards for sulfur dioxide. (5-1-94)

ii. Prior to the Director's disapproval of use of any such interim control measure, he shall notify the owner or operator of the smelter of his intention and reasons for his decision. (5-1-94)

iii. Prior to the Director's decision becoming final, the owner or operator of the smelter shall have thirty (30) days in which to either: amend the interim control measure to the Director's satisfaction; or request a public hearing on the matter. (5-1-94)

iv. The Director shall not require enactment of any new interim control measures earlier than the timetable for implementation established by the nonferrous smelter order described in Subsection 857.04. (5-1-94)

b. Violations. Once approved by the Director, a violation of any term or condition of an interim control measure shall constitute a violation of Section 857. (5-1-94)

c. Records Required. The owner or operator of a combined zinc and lead smelter shall submit, on a monthly basis and within two (2) weeks after the end of each calendar month, copies of all records required pursuant to an applicable non-ferrous smelter order, as described in Subsection 857.04. (5-1-94)

05. Compliance Schedule. If the owner or operator of a combined zinc and lead smelter qualifies for a second nonferrous smelter order pursuant to 42 U.S.C. Section 7419, which may be in the form of an interim compliance agreement, permit to operate, or rule, and if the provisions of Subsection 857.01 are not being complied with on or before December 31, 1982, he shall comply with the following schedule of increments of progress. During the period of this compliance schedule, the owner or operator of the combined zinc and lead smelter shall comply with interim emission limitations established in the first non-ferrous smelter order which has been approved by the Director and issued pursuant to 42 U.S.C. Section 7419. (5-1-94)

a. By January 1, 1983, submit final plans and specifications of equipment or modifications to achieve compliance with Subsection 857.01. (5-1-94)

b. By May 1, 1983, issue contracts or purchase orders for the required emission controls or process modifications. (5-1-94)

c. By September 1, 1983, initiate on-site construction of the required emission controls or process modifications. (5-1-94)

d. By September 1, 1984, complete on-site construction of the required emission controls or process modifications. (5-1-94)

e. By December 31, 1984, assure final compliance with the provisions of Subsection 857.01. (5-1-94)

06. Extension of Compliance Date. The following dates shall be extended for a period as prescribed by a second non-ferrous smelter order, issued pursuant to 42 U.S.C. Section 7419, provided that such order has been approved by the Director and provided that such order shall not exceed three (3) years: (5-1-94)

a. The compliance date extension allowed pursuant to Subsection 857.02; and (5-1-94)

b. The compliance schedule specified in Subsection 857.05. (5-1-94)

07. Appeal. On or before January 1, 1982, the owner or operator of the combined zinc and lead smelter may request a hearing on the emission limit set forth in Subsection 857.01. (5-1-94)

a. After public hearing and consideration of all testimony, if the Board determines that use of increased stack height or other dispersion techniques are valid pursuant to law, the Board shall amend Section 857 in accordance with the Idaho Administrative Procedure Act, Sections 67-5201 through 67-5299, Idaho Code, setting a new emission limit at a level to assure compliance with state and federal ambient air quality standards for sulfur dioxide. (5-1-94)

b. The emission limit in Subsection 857.01 shall become final after Board action in accordance with the Idaho Administrative Procedure Act either: (5-1-94)

i. As specified in Subsection 857.07.a.; or (5-1-94)

ii. On January 1, 1982, if no appeal and public hearing is requested pursuant to Subsection 857.07. (5-1-94)

858. STACK MONITORING REQUIREMENTS.

The provisions of Section 858 shall apply during any time when a nonferrous smelter order, which may be in the form of an interim compliance agreement, permit to operate, or rule, is not in effect. (5-1-94)

01. Measurement Systems. The owner or operator of the combined zinc and lead smelter shall install, calibrate, maintain and operate measurement systems for continuously monitoring and recording emission rates of sulfur dioxide from each stack with an emission potential of fifty (50) tons or more sulfur dioxide per year. Measurement systems required pursuant to Subsection 858.01 shall be: (5-1-94)

a. Demonstrated in accordance with procedures prescribed by the Director; and (5-1-94)

b. Maintained, operated and calibrated in accordance with the methods prescribed by the Director. (5-1-94)

02. Record-Keeping and Reporting Requirements. The owner or operator of the combined zinc and lead smelter shall maintain a record of all measurements required by Section 858. (5-1-94)

a. One (1) hour average sulfur dioxide emission rates shall be calculated each calendar month and submitted to the Director within fifteen (15) days following the end of each calendar month to enable him to determine the impact of the smelter on ambient air quality. The records of such measurements shall be retained by the owner or operator for a minimum of two (2) years following the date of such measurements. (5-1-94)

b. Records of maintenance and/or calibration of any measurement system required pursuant to Section 858 shall be kept on site for a minimum of two (2) years and shall be submitted to the Director upon request. These records shall clearly show instrument readings before and after such calibration and/or maintenance. (5-1-94)

c. When any ambient air quality monitor from which data are telemetered to the smelter indicates that a state or federal ambient air quality standard for sulfur dioxide is equalled or exceeded, the owner or operator of the combined zinc and lead smelter shall notify the Director within twelve (12) hours of the occurrence. (5-1-94)

859. STANDARDS OF PERFORMANCE FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION, RECONSTRUCTION OR MODIFICATION ON OR AFTER MAY 30, 1991.

01. Applicability. All owners or operators of each small or large municipal solid waste landfills in any one (1) of the following categories are subject to Section 859: (4-5-00)

a. Landfills constructed after May 30, 1991; (4-5-00)

b. Existing landfills with modifications after May 30, 1991; or (4-5-00)

- c. Landfills that closed after November 8, 1987 with modifications after May 30, 1991. (4-5-00)

02. Definitions. Unless specifically provided otherwise immediately below, the definitions for all terms set forth in Section 859 shall be the definitions set forth in 40 CFR Part 60. The following definitions apply to this Section: (4-5-00)

a. “Closed municipal solid waste landfill” (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60. (4-5-00)

- b. “Effective date” means July 2, 1999. (4-5-00)

c. “Existing municipal solid waste landfill” (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before May 30, 1991 and has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition. (4-5-00)

d. “Large municipal solid waste landfill” (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

e. “Modification” means an action that results in an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. (4-5-00)

f. “Municipal solid waste landfill” (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification). (4-5-00)

g. “New municipal solid waste landfill” (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after May 30, 1991. (4-5-00)

h. “Small municipal solid waste landfill” (small landfill) means a municipal solid waste landfill with a design capacity less than two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

03. General Requirements. All owners or operators of landfills subject to Section 859 must comply with 40 CFR Part 60, Subpart WWW, as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257- 62 (February 24, 1999) and incorporated by reference into these rules at Section 107. Where “Administrator” or “EPA” appears in 40 CFR Part 60, “Department” shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (4-5-00)

04. Permitting Requirements. All owners or operators of landfills subject to Section 859 must comply with Federal Operating Permit Requirements (Title V) as specified in Sections 300 through 399 of these rules: (4-5-00)

a. All owners or operators of existing large landfills with modifications after May 30, 1991 must submit a complete Federal Operating Permit application by June 1, 2000. (4-5-00)

- b. All owners or operators of existing large landfills with modifications after March 12, 1996 must

submit a complete Federal Operating Permit application the earliest of one (1) year from the date EPA approves the Clean Air Act Section 111(d) State Plan for Section 859, or within one (1) year of the modification. (4-5-00)

c. All owners or operators of new large landfills, which includes newly constructed large landfills after March 12, 1996 and existing small landfills that become large landfills after March 12, 1996 must submit a complete Federal Operating Permit application within one (1) year of becoming subject to this requirement. (4-5-00)

d. All owners or operators of new and modified existing small landfills that are major sources as defined in 40 CFR Part 60, Subpart WWW, as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999), must submit a complete Federal Operating Permit application within one (1) year of becoming a major source. (4-5-00)

05. Reporting Requirements. All owners or operators of landfills subject to Section 859 must comply with the following: (4-5-00)

a. All owners or operators of large landfills must: (4-5-00)

i. Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of the effective date of Section 859; and (4-5-00)

ii. Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are less than fifty (50) Mg/yr. (4-5-00)

b. All owners or operators of small landfills of Section 859 must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of the effective date of Section 859. (4-5-00)

c. All owners or operators of landfills subject to Section 859 after the effective date of Section 859 must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of becoming subject to Section 859. (4-5-00)

860. EMISSION GUIDELINES FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION, RECONSTRUCTION OR MODIFICATION BEFORE MAY 30, 1991.

01. Applicability. All owners or operators of any small or large municipal solid waste landfills in the following categories are subject to Section 860: (4-5-00)

a. Landfills that have accepted waste since November 8, 1987; (4-5-00)

b. Landfills with no modifications after May 30, 1991; or (4-5-00)

c. Landfills that closed after November 8, 1987 with no modifications after May 30, 1991. (4-5-00)

02. Definitions. Unless specifically provided otherwise immediately below, the definitions for all terms set forth in Section 860 shall be the definitions set forth in 40 CFR Part 60. The following definitions apply to Section 860: (4-5-00)

a. "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60. (4-5-00)

b. "Effective date" means July 2, 1999. (4-5-00)

c. "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before May 30, 1991 and has accepted waste at any time since

November 8, 1987 or has additional design capacity available for future waste deposition. (4-5-00)

d. “Large municipal solid waste landfill” (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

e. “Modification” means an action that results in an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. (4-5-00)

f. “Municipal solid waste landfill” (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification). (4-5-00)

g. “New municipal solid waste landfill” (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after May 30, 1991. (4-5-00)

h. “Small municipal solid waste landfill” (small landfill) means a municipal solid waste landfill with a design capacity less than two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

03. General Requirements. All owners or operators of landfills subject to Section 860 must comply with, 40 CFR Section 60.30c through 60.36c and 40 CFR Section 60.751 through 60.759 as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999) and incorporated by reference into these rules at Section 107. Where “Administrator” or “EPA” appears in 40 CFR Part 60, “Department” shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (4-5-00)

04. Permitting Requirements. All owners or operators of landfills subject to Section 860 must comply with Federal Operating Permit Requirements (Title V) as specified in Sections 300 through 399 of these rules: (4-5-00)

a. All owners or operators of existing large landfills must submit a complete Federal Operating Permit application one (1) year after EPA approves the Clean Air Act Section 111(d) State Plan associated with Section 860. (4-5-00)

b. All owners or operators of existing small landfills that are major sources must submit a complete Federal Operating Permit application within one (1) year of becoming a major source. (4-5-00)

05. Reporting Requirements. All owners or operators of landfills subject to Section 860 shall comply with the following: (4-5-00)

a. All owners or operators of large landfills must: (4-5-00)

i. Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of Section 860 and; (4-5-00)

ii. Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are less than fifty (50) Mg/yr. (4-5-00)

b. All owners or operators of small landfills must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of Section 860. (4-5-00)

06. Compliance Schedules and Increments of Progress. All owners or operators of landfills subject to Section 860 that have a nonmethane organic compound emission rate fifty (50) Mg/yr or greater as specified in 40 CFR Section 60.752(b)(2) shall comply with the following schedule: (4-5-00)

a. The owner or operator of an existing large landfill must submit their first Annual Emission Rate Report with the design capacity report no later than July 31, 2000. (4-5-00)

b. The owner or operator of an existing landfill shall submit a collection and control system design plan within one (1) year of the date of the first Annual Emission Rate Report showing that the nonmethane organic compound emission rate is fifty (50) Mg/yr or greater as specified in 40 CFR Section 60.752(b)(2). (4-5-00)

c. The owner or operator of an existing landfill shall award contracts for construction of collection and control systems or orders for purchase of components no later than January 31, 2002. (4-5-00)

d. The owner or operator of an existing landfill shall initiate on-site construction or installation of the collection and control systems no later than April 30, 2002. (4-5-00)

e. The owner or operator of an existing landfill shall complete, no later than September 30, 2002, on-site construction or installation of collection and control systems capable of meeting the requirements of Section 860. (4-5-00)

f. The owner or operator of an existing landfill shall comply with Section 860 no later than September 30, 2002. (4-5-00)

07. Compliance Schedules and Increments of Progress for Municipal Solid Waste Landfills That Have Nonmethane Organic Compound Emission Rates Less Than 50 Mg/yr. All owners or operators of landfills subject to Section 860 that have nonmethane organic compound emission rates less than fifty (50) Mg/yr on or after November 19, 1999 shall install collection and control systems within thirty (30) months after the date the first annual nonmethane organic compound emission rate equals or exceeds fifty (50) Mg/yr as specified in 40 CFR Section 60.36c(b). (4-5-00)

861. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1901

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 13 and 14, 2019, the Idaho Department of Environmental Quality (DEQ) will present Rule Docket No. 58-0102-1901 to the Idaho Board of Environmental Quality (Board) for adoption of a pending rule.

BOARD MEETING SCHEDULE:

PUBLIC MEETING
November 13 & 14, 2019
Call to Order at 9:00 a.m. (MST)
DEQ State Office
1410 N Hilton Street
Conference Rooms A & B
Boise, Idaho

The Board meeting agenda will be available on November 1, 2019, 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 conferencing can be made. To request accommodations for language translation or telephone conferencing, contact the undersigned by November 8, 2019.

DESCRIPTIVE SUMMARY: Proposed Rule Docket No. 58-0102-1901 was published in the Idaho Administrative Bulletin on September 4, 2019, **Vol. 19-9**, and is available at www.deq.idaho.gov/58-0102-1901. The written comment deadline for Docket No. 58-0102-1901 is October 4, 2019. 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 2020 legislative session if adopted by the Board and approved by the Legislature.

Dated this 4th day of September, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208) 373-0418 / Fax: (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1901

NOTICE OF RULEMAKING – PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This 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 September 20, 2019. 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 13 and 14, 2019.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to revise Subsection 287.03 for consistency with recent EPA review and action regarding site-specific selenium criterion effective for Clean Water Act purposes.

Under Docket No. 58-0102-1701, the state of Idaho promulgated new and revised selenium criteria for aquatic life. The rule was adopted by the Idaho Board of Environmental Quality in 2017, approved by the Idaho Legislature in 2018, and submitted to EPA for review on August 24, 2018. On July 9, 2019, EPA approved the final rule except for application of Subsection 287.03 to certain water bodies. Specifically, EPA disapproved the application of the site-specific criterion in Subsection 287.03 to North Fork Sage Creek, Pole Canyon Creek, and their tributaries. Until EPA approves the application of any new site-specific selenium criterion to North Fork Sage and Pole Canyon Creeks, and their tributaries, the criterion at Subsection 287.05 is the effective selenium criterion for Clean Water Act purposes in North Fork Sage Creek, Pole Canyon Creek, and their tributaries.

Docket No. 58-0102-1701 was promulgated so that the existing rule, effective for Clean Water Act purposes, would remain in the Idaho Administrative Code until EPA approved the rule revisions. Notations explaining the effectiveness of the rule sections were also included. This proposed rule deletes the text and notations that are now obsolete due to EPA's review and action of Docket No. 58-0102-1701.

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 2019 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2020 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: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking. This is an administrative revision necessary for consistency with recent EPA review and action regarding site-specific selenium criterion.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact the undersigned.

SUBMISSION OF WRITTEN COMMENTS: 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 October 4, 2019.

Dated this 4th day of September, 2019.

Paula J. Wilson
 Hearing Coordinator
 Department of Environmental Quality
 1410 N. Hilton
 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. 58-0102-1901
(Only Those Sections With Amendments Are Shown.)

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as provided in Tables 1 and 2. (3-28-18)

a. Table 1 contains criteria set for protection of aquatic life. Criteria for metals (arsenic through zinc) are expressed as dissolved fraction unless otherwise noted. For purposes of these criteria, dissolved fraction means that which passes through a forty-five hundredths (0.45) micron filter. (3-28-18)

Table 1. Criteria for Protection of Aquatic Life					
Compound	^a CAS Number	^b CMC (µg/L)		^b CCC (µg/L)	
Inorganic Compounds/Metals					
Arsenic	7440382	340	c	150	c
Cadmium	7440439	1.3	f	0.6	f
Chromium III	16065831	570	f	74	f
Chromium VI	18540299	16	c	11	c
Copper	7440508	12.3	k	7.6	k
Lead	7439921	65	f	2.5	f
Mercury	7439976		e		e

Table 1. Criteria for Protection of Aquatic Life					
Compound	^a CAS Number	^b CMC (µg/L)		^b CCC (µg/L)	
<p>Note: In 2005, Idaho adopted EPA's recommended methylmercury fish tissue criterion for protection of human health (docket 58-0102-0302). The decision was made to remove the old tissue-based aquatic life criteria and rely on the fish tissue criterion to provide protection for aquatic life as well as human health. Thus, current Idaho water quality standards do not have mercury water column criteria for the protection of aquatic life. While EPA approved Idaho's adoption of the fish tissue criterion in September 2005, it had withheld judgment on Idaho's removal of aquatic life criteria. On December 12, 2008, EPA disapproved Idaho's removal of the old aquatic life criteria. The water column criteria for total recoverable mercury published in 2004 Idaho Administrative Code continue to apply and are effective for CWA purposes. For more information go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.</p>					
Nickel	7440020	470	f	52	f
Selenium¹	7782492	20	e	5	e
<p>¹Effective for CWA purposes. The CMC value and footnote and the CCC value are effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.</p>					
Selenium ²	7782492	m		l	
<p>²Not yet effective for CWA purposes. The CMC footnote m, and CCC footnote l, are not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.</p>					
Silver	7440224	3.4	f		
Zinc	7440666	120	f	120	f
Inorganic Compounds/Non-Metals					
Chlorine		19	h	11	h
Cyanide	57125	22	g	5.2	g
Organic Compounds					
Acrolein	107028	$\frac{--^1}{3^2}$		$\frac{--^1}{3^2}$	
<p>¹Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.</p> <p>²Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.</p>					
Aldrin	39002	3			
gamma-BHC (Lindane)	58899	2		0.08	
Carbaryl	63252	$\frac{--^1}{2.1^2}$		$\frac{--^1}{2.1^2}$	

Table 1. Criteria for Protection of Aquatic Life					
Compound	^a CAS Number	^b CMC (µg/L)		^b CCC (µg/L)	
¹ Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved. ² Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Chlordane	57749	2.4		0.0043	
4,4'-DDT	50293	1.1		0.001	
Diazinon	333415	$\frac{--^1}{0.17^2}$		$\frac{--^1}{0.17^2}$	
¹ Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved. ² Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Dieldrin	60571	2.5		0.0019	
alpha-Endosulfan	959988	0.22		0.056	
beta-Endosulfan	33213659	0.22		0.056	
Endrin	72208	0.18		0.0023	
Heptachlor	76448	0.52		0.0038	
Heptachlor Epoxide	1024573	0.52		0.0038	
Pentachlorophenol	87865	20	i	13	i
Polychlorinated Biphenyls PCBs	j			0.014	j
Toxaphene	8001352	0.73		0.0002	
Footnotes for Table 1. Criteria for Protection of Aquatic Life					
a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.					
b. See definitions of Acute Criteria (CMC) and Chronic Criteria (CCC), Section 010 of these rules.					
c. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = CMC column value X WER. CCC = CCC column value X WER.					
d. Criterion expressed as total recoverable (unfiltered) concentrations.					
e. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.					
f. Aquatic life criteria for these metals are a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii. and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the example values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).					

Table 1. Criteria for Protection of Aquatic Life					
Compound	^a CAS Number	^b CMC (µg/L)		^b CCC (µg/L)	
g. Criteria are expressed as weak acid dissociable (WAD) cyanide.					
h. Total chlorine residual concentrations.					
i. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = $\exp(1.005(\text{pH})-4.830)$ CCC = $\exp(1.005(\text{pH})-5.290)$					
j. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
k. Aquatic life criteria for copper shall be derived in accordance with Subsection 210.03.c.v. For comparative purposes only, the example values displayed in this table correspond to the Biotic Ligand Model output based on the following inputs: temperature = 14.9°C, pH = 8.16, dissolved organic carbon = 1.4 mg/L, humic acid fraction = 10%, calcium = 44.6 mg/L, magnesium = 11.0 mg/L, sodium = 11.7 mg/L, potassium = 2.12 mg/L, sulfate = 46.2 mg/L, chloride = 12.7 mg/L, alkalinity = 123 mg/L CaCO ₃ , and sulfide = 1.00×10^{-8} mg/L.					
I. Chronic					Short-term
Egg-Ovary (mg/kg dw)		Fish Tissue (mg/kg dw)		Water Column (µg/L)	
Egg-Ovary	Whole-Body	Muscle	Water Lentic	Water Lotic	Water
15.1 ¹	8.5 ²	11.3 ²	1.5 (30 day average) ³	3.1 (30 day average) ³	Intermittent Exposure Equation ^{3,4}
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter					
1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.					
2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole body or muscle data to determine compliance with this criterion element.					
3. Water column values are based on dissolved total selenium in water and are derived from fish tissue values via bioaccumulation modeling. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance using methods provided in Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value (June 2016) .					

Table 1. Criteria for Protection of Aquatic Life			
Compound	^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)
<p>4. Intermittent Exposure Equation=</p> $\frac{WQC - C_{bkgnd}(1 - f_{int})}{f_{int}}$ <p>where WQC is the applicable water column element, for either lentic or lotic waters; C_{bkgnd} is the average background selenium concentration, and f_{int} is the fraction of any 30-day period during which elevated selenium concentrations occur, with f_{int} assigned a value ≥ 0.033 (corresponding to one day).</p> <p><i>(Footnote l. is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.)</i></p>			
<p>m. There is no specific acute criterion for aquatic life; however, the aquatic life criterion is based on chronic effects of the selenium on aquatic life and is expected to adequately protect against acute effects.</p> <p><i>(Footnote m. is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.)</i></p>			

(3-28-18)()

b. Table 2 contains criteria set for protection of human health. The Water & Fish criteria apply to waters designated for domestic water supply use. The Fish Only criteria apply to waters designated for primary or secondary contact recreation use. (3-28-18)

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	^a CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Inorganic Compounds/Metals						
Antimony	7440360		5.2	b	190	b
Arsenic	7440382	Y	10	cdj	10	cdj
<p>Note: In 2008, Idaho adopted 10 µg/L as its CWA arsenic criterion for both exposure through fish consumption only and exposure through drinking water+fish consumption, choosing the SDWA MCL due to concerns about background levels that exceed EPA’s 304(a) criteria (docket 58-0102-0801). EPA approved this action in 2010. In June 2015, Northwest Environmental Advocates challenged EPA’s 2010 approval. Court remanded action back to EPA. On September 15, 2016, EPA disapproved Idaho’s adoption of 10 µg/L. Neither EPA nor the state of Idaho has promulgated replacement criteria. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.</p>						
Beryllium	7440417			e		e
Cadmium	7440439			e		e
Chromium III	16065831			e		e
Chromium VI	18540299			e		e
Copper	7440508		1300	j		

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	^a CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Lead	7439921			e		e
Methylmercury	22967926				0.3mg/kg	i
Nickel	7440020		58	b	100	b
Selenium	7782492		29	b	250	b
Thallium	7440280		0.017	b	0.023	b
Zinc	7440666		870	b	1,500	b
Inorganic Compounds/Non-Metals						
Cyanide	57125		3.9	b	140	b
Asbestos	1332214		7,000,000 Fibers/L	j		
Organic Compounds						
Acenaphthene	83329		26	b	28	b
Acenaphthylene	208968			e		e
Acrolein	107028		3.2	b	120	b
Acrylonitrile	107131	Y	0.60	bf	22	bf
Aldrin	309002	Y	2.5E-06	bf	2.5E-06	bf
Anthracene	120127		110	b	120	b
alpha-BHC	319846	Y	0.0012	bf	0.0013	bf
beta-BHC	319857	Y	0.036	bf	0.045	bf
gamma-BHC (Lindane)	58899		1.4	b	1.4	b
delta-BHC	319868			e		e
Benzene	71432		3.0	bf	28	b
Benidine	92875	Y	0.0014	bf	0.033	bf
Benzo(a)Anthracene	56553	Y	0.0042	bf	0.0042	bf
Benzo(b)Fluoranthene	205992	Y	0.0042	bf	0.0042	bf
Benzo(k)Fluoranthene	207089	Y	0.042	bf	0.042	bf
Benzo(ghi)Perylene	191242			e		e
Benzo(a)Pyrene	50328	Y	0.00042	bf	0.00042	bf
Bis(2-Chloroethoxy) Methane	111911			e		e
Bis(2-Chloroethyl) Ether	111444	Y	0.29	bf	6.8	bf

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	^a CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Bis(2-Chloroisopropyl) Ether	108601		220	b	1,200	b
Bis(Chloromethyl) Ether	542881	Y	0.0015	bf	0.055	bf
Bis(2-Ethylhexyl) Phthalate	117817	Y	1.2	bf	1.2	bf
Bromoform	75252	Y	62	bf	380	bf
4-Bromophenyl Phenyl Ether	101553			e		e
Butylbenzyl Phthalate	85687		0.33	b	0.33	b
Carbon Tetrachloride	56235	Y	3.6	bf	15	bf
Chlorobenzene	108907		89	b	270	b
Chlordane	57749	Y	0.0010	bf	0.0010	bf
Chlorodibromomethane	124481	Y	7.4	bf	67	bf
Chloroethane	75003			e		e
2-Chloroethylvinyl Ether	110758			e		e
Chloroform	67663		61	b	730	b
2-Chloronaphthalene	91587		330	b	380	b
2-Chlorophenol	95578		30	b	260	b
Chlorophenoxy Herbicide (2,4-D)	94757		1,000	b	3,900	b
Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]	93721		82	b	130	b
4-Chlorophenyl Phenyl Ether	7005723			e		e
Chrysene	218019	Y	0.42	bf	0.42	bf
4,4'-DDD	72548	Y	0.00042	bf	0.00042	bf
4,4'-DDE	72559	Y	5.5E-05	bf	5.5E-05	bf
4,4'-DDT	50293	Y	9.8E-05	bf	9.8E-05	bf
Di-n-Butyl Phthalate	84742		8.2	b	8.3	b
Di-n-Octyl Phthalate	117840			e		e
Dibenzo (a,h) Anthracene	53703	Y	0.00042	bf	0.00042	bf
1,2-Dichlorobenzene	95501		700	b	1,100	b
1,3-Dichlorobenzene	541731		3.5	b	4.8	b
1,4-Dichlorobenzene	106467		180	b	300	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	^a CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
3,3'-Dichlorobenzidine	91941	Y	0.29	bf	0.48	bf
Dichlorobromomethane	75274	Y	8.8	bf	86	bf
1,1-Dichloroethane	75343			e		e
1,2-Dichloroethane	107062	Y	96	bf	2,000	bf
1,1-Dichloroethylene	75354		310	b	5,200	b
2,4-Dichlorophenol	120832		9.6	b	19	b
1,2-Dichloropropane	78875	Y	8.5	bf	98	bf
1,3-Dichloropropene	542756	Y	2.5	bf	38	bf
Dieldrin	60571	Y	4.2E-06	bf	4.2E-06	bf
Diethyl Phthalate	84662		200	b	210	b
2,4-Dimethylphenol	105679		110	b	820	b
Dimethyl Phthalate	131113		600	b	600	b
Dinitrophenols	25550587		13	b	320	b
2,4-Dinitrophenol	51285		12	b	110	b
2,4-Dinitrotoluene	121142	Y	0.46	bf	5.5	bf
2,6-Dinitrotoluene	606202			e		e
1,2-Diphenylhydrazine	122667	Y	0.25	bf	0.65	bf
2, 3, 7, 8-TCDD Dioxin	1746016	Y	1.8E-08	bf	1.9E-08	bf
alpha-Endosulfan	959988		7.0	b	8.5	b
beta-Endosulfan	33213659		11	b	14	b
Endosulfan Sulfate	1031078		9.9	b	13	b
Endrin	72208		0.011	b	0.011	b
Endrin Aldehyde	7421934		0.38	b	0.40	b
Ethylbenzene	100414		32	b	41	b
Fluoranthene	206440		6.3	b	6.4	b
Fluorene	86737		21	b	22	b
Heptachlor	76448	Y	2.0E-05	bf	2.0E-05	bf
Heptachlor Epoxide	1024573	Y	0.00010	bf	0.00010	bf
Hexachlorobenzene	118741	Y	0.00026	bf	0.00026	bf
Hexachlorobutadiene	87683	Y	0.031	bf	0.031	bf
Hexachlorocyclohexane (HCH)-Technical	608731	Y	0.027	bf	0.032	bf

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	^a CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Hexachloro-cyclopentadiene	77474		1.3	b	1.3	b
Hexachloroethane	67721		0.23	b	0.24	b
Ideno (1,2,3-cd) Pyrene	193395	Y	0.0042	bf	0.0042	bf
Isophorone	78591	Y	330	bf	6,000	bf
Methoxychlor	72435		0.0054	b	0.0055	b
Methyl Bromide	74839		130	b	3,700	b
Methyl Chloride	74873			e		e
3-Methyl-4-Chlorophenol	59507		350	b	750	b
2-Methyl-4,6-Dinitrophenol	534521		1.6	b	8.6	b
Methylene Chloride	75092		38	b	960	b
Naphthalene	91203			e		e
Nitrobenzene	98953		12	b	180	b
2-Nitrophenol	88755			e		e
4-Nitrophenol	100027			e		e
N-Nitrosodimethylamine	62759	Y	0.0065	bf	9.1	bf
N-Nitrosodi-n-Propylamine	621647	Y	0.046	bf	1.5	bf
N-Nitrosodiphenylamine	86306	Y	3.14	bf	18	bf
Pentachlorobenzene	608935		0.035	b	0.036	b
Pentachlorophenol	87865	Y	0.11	bf	0.12	bf
Phenanthrene	85018			e		e
Phenol	108952		3,800	b	85,000	b
Polychlorinated Biphenyls PCBs	g	Y	0.00019	bfh	0.00019	bfh
Pyrene	129000		8.1	b	8.4	b
1,2,4,5-Tetrachlorobenzene	95943		0.0093	b	0.0094	b
1,1,2,2-Tetrachloroethane	79345	Y	1.4	bf	8.6	bf
Tetrachloroethylene	127184		15	b	23	b
Toluene	108883		47	b	170	b
Toxaphene	8001352	Y	0.0023	bf	0.0023	bf
1,2-Trans-Dichloroethylene	156605		120	b	1,200	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	a CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
1,2,4-Trichlorobenzene	120821		0.24	b	0.24	b
1,1,1-Trichloroethane	71556		11,000	b	56,000	b
1,1,2-Trichloroethane	79005	Y	4.9	bf	29	bf
Trichloroethylene	79016		2.6	b	11	b
2,4,5-Trichlorophenol	95954		140	b	190	b
2,4,6-Trichlorophenol	88062		1.5	b	2.0	b
Vinyl Chloride	75014	Y	0.21	bf	5.0	bf

Footnotes for Table 2. Criteria for Protection of Human Health

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. This criterion is based on input values to human health criteria calculation specified in [Idaho's Technical Support Document \(TSD\) for Human Health Criteria Calculations - 2015](#). Criteria for non-carcinogens are calculated using the formula:

$$AWQC = RfD * RSC * \left(\frac{BW}{DI + (FI * BAF)} \right)$$

and criteria for carcinogens are calculated using the formula:

$$AWQC = RSD * \left(\frac{BW}{DI + (FI * BAF)} \right)$$

Where:

AWQC = Ambient water quality criterion (mg/L)

BW = Human Body Weight (kg), 80 is used in these criteria

DI = Drinking Water Intake, (L/day), 2.4 is used in these criteria

FI = Fish Intake, (kg/day), 0.0665 is used in these criteria

BAF = Bioaccumulation Factor, L/kg, chemical specific value, see TSD

RfD = Reference dose (mg/kg-day), chemical specific value, see TSD

$$RSD = \frac{\text{Target Incremental Cancer Risk}}{\text{Cancer Potency Factor}} \text{ (mg/kg-day), chemical specific value, see TSD}$$

RSC = Relative Source Contribution, chemical specific value, see TSD

c. Inorganic forms only.

d. Criterion expressed as total recoverable (unfiltered) concentrations.

Table 2. Criteria for Protection of Human Health (based on consumption of:)				
Compound	^a CAS Number	Carcinogen?	Water & Fish (µg/L)	Fish Only (µg/L)
e. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.				
f. EPA guidance allows states to choose from a range of 10 ⁻⁴ to 10 ⁻⁶ for the incremental increase in cancer risk used in human health criteria calculation. Idaho has chosen to base this criterion on carcinogenicity of 10 ⁻⁵ risk.				
g. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.				
h. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).				
i. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: TRC = [BW x {RfD - (RSCxRfD)}] / \sum TL. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.				
j. This criterion is based on the drinking water Maximum Containment Level (MCL).				

(3-28-18)

02. Factors for Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a. $CMC = WER \exp\{mA[\ln(\text{hardness})] + bA\}$ X Acute Conversion Factor. (5-3-03)

b. $CCC = WER \exp\{mc[\ln(\text{hardness})] + bc\}$ X Chronic Conversion Factor.

Metal	mA	bA	mc	bc	aAcute Conversion Factor	aChronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	0.8367	-3.560	0.6247	-3.344	0.944 see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c

Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986
<p>Note to table: The term “exp” represents the base e exponential function.</p> <p style="text-align: center;">Footnotes to table:</p> <p>a. Conversion factors (CF) are from “Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth.” The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i.) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table. The conversion factor shall not exceed one (1).</p> <p style="padding-left: 40px;">Cadmium Acute: $CF=1.136672-[(\ln \text{hardness})(0.041838)]$ NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.</p> <p style="padding-left: 40px;">Chronic: $CF=1.101672-[(\ln \text{hardness})(0.041838)]$</p> <p style="padding-left: 40px;">Lead (Acute and Chronic): $CF=1.46203-[(\ln \text{hardness})(0.145712)]$</p> <p>b. Not applicable</p> <p>c. No chronic criteria are available for silver.</p>						

(3-28-18)

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications. Mixing zones may be applied to toxic substance criteria subject to the limitations set forth in Section 060 and set out below. (3-25-16)

a. For all waters for which the Department has determined mixing zones to be applicable, the toxic substance criteria apply at the boundary of the mixing zone(s) and beyond. Absent an authorized mixing zone, the toxic substance criteria apply throughout the waterbody including at the end of any discharge pipe, canal or other discharge point. (3-25-16)

b. Low flow design conditions. Water quality-based effluent limits and mixing zones for toxic substances shall be based on the following low flows in perennial receiving streams. Numeric chemical criteria may be exceeded in perennial streams outside any applicable mixing zone only when flows are less than these values:

Aquatic Life		Human Health	
CMC (“acute” criteria)	1Q10 or 1B3	Non-carcinogens	Harmonic mean flow
CCC (“chronic” criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(3-25-16)

i. Where “1Q10” is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where “1B3” is biologically based and indicates an allowable exceedance of once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

iii. Where “7Q10” is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where “4B3” is biologically based and indicates an allowable exceedance for four (4) consecutive days once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

v. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of aquatic life metals criteria. (3-25-16)

i. For metals other than cadmium, for purposes of calculating hardness dependent aquatic life criteria from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. For cadmium, the minimum hardness for use in those equations shall not be less than ten (10) mg/l, as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (3-29-10)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (arsenic through zinc in Table 1 in Subsection 210.01) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes c. and f. in Table 1 in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (3-28-18)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at www.deq.idaho.gov. (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue

criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

- v. Copper Criteria for Aquatic Life. (3-28-18)
 - (1) Aquatic life criteria for copper shall be derived using: (3-28-18)
 - (a) Biotic Ligand Model (BLM) software that calculates criteria consistent with the “[Aquatic Life Ambient Freshwater Quality Criteria – Copper](#)”: EPA-822-R-07-001 (February 2007); or (3-28-18)
 - (b) An estimate derived from BLM outputs that is based on a scientifically sound method and protective of the designated aquatic life use. (3-28-18)
 - (2) To calculate copper criteria using the BLM, the following parameters from each site shall be used: temperature, pH, dissolved organic carbon (DOC), calcium, magnesium, sodium, potassium, sulfate, chloride, and alkalinity. The BLM inputs for humic acid (HA) as a proportion of DOC and sulfide shall be based on either measured values or the following default values: 10% HA as a proportion of DOC, 1.00×10^{-8} mg/L sulfide. Measured values shall supersede any estimate or default input. (3-28-18)
 - (3) BLM input measurements shall be planned to capture the most bioavailable conditions for copper. (3-28-18)
 - (4) A criterion derived under Subsection 210.03.c.v.(1)(a) shall supersede any criterion derived under Subsection 210.03.c.v.(1)(b). Acceptable BLM software includes the “[US EPA WQC Calculation](#)” for copper in [BLM Version 3.1.2.37 \(October 2015\)](#). (3-28-18)
 - (5) Implementation Guidance for the Idaho Copper Criteria for Aquatic Life. The “[Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model](#)” describes in detail methods for implementing the aquatic life criteria for copper using the BLM. This guidance, or its updates, will provide assistance to the Department and the public for determining minimum data requirements for BLM inputs and how to estimate criteria when data are incomplete or unavailable. The “[Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model](#)” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at www.deq.idaho.gov. (3-28-18)
- d. Application of toxics criteria. (3-25-16)
 - i. Frequency and duration for aquatic life toxics criteria. CMC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a one-hour average more than once in three (3) years unless otherwise specified. CCC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a four-day average more than once in three (3) years unless otherwise specified. (3-28-18)
 - ii. Frequency and duration for human health toxics criteria. Criteria in Table 2 in Subsection 210.01 are not to be exceeded based on an annual harmonic mean. (3-28-18)

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents

are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

a. “Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria,” EPA, October 1993, <http://www.deq.idaho.gov/media/827413-epa-guidance-dissolved-criteria-1093.pdf>. (4-5-00)

b. “Guidance Document on Dynamic Modeling and Translators,” EPA, August 1993, <http://www.deq.idaho.gov/media/827417-epa-guidance-dynamic-modeling-translators-0893.pdf>. (4-5-00)

c. “Guidance Document on Clean Analytical Techniques and Monitoring,” EPA, October 1993, <http://www.deq.idaho.gov/media/827421-epa-guidance-analytical-techniques-1093.pdf>. (4-5-00)

d. “Interim Guidance on Determination and Use of Water-Effect Ratios for Metals,” EPA, February 1994, <http://www.deq.idaho.gov/media/827409-epa-guidance-water-effect-ratios-for-metals-0294.pdf>. (4-5-00)

e. “Technical Support Document for Water Quality-Based Toxics Control.” EPA, March 1991. <http://www.deq.idaho.gov/media/60177101/58-0102-1201-epa-technical-support-document-1991.pdf>. (3-25-16)

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's ECOTOX database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (3-25-16)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department using best available science on toxicity thresholds (i.e. reference dose or cancer slope factor), such as defined in EPA's Integrated Risk Information System (IRIS) or other peer-reviewed source acceptable to the Department. (3-25-16)

ii. When using toxicity thresholds to derive water quality criteria to protect human health, a fish consumption rate representative of the population to be protected, a mean adult body weight, an adult 90th percentile water ingestion rate, a trophic level weighted BAF or BCF, and a hazard quotient of one (1) for non-carcinogens or a cancer risk level of 10^{-5} for carcinogens shall be utilized. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

287. SITE-SPECIFIC AQUATIC LIFE CRITERIA FOR SELENIUM.

Site-specific water column values (30-day average) are based on dissolved total selenium in water and are derived using a performance-based approach from fish tissue values via either the mechanistic modeling or empirical bioaccumulation factor (BAF) method in [Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value \(June 2016\)](#). (3-28-18)

01. Subsection of Blackfoot Subbasin. Blackfoot River - confluence of Lanes and Diamond Creeks to Blackfoot Reservoir (unit US-10), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term exposure water column criterion elements set out in Subsection 210.01., table footnote **I**., are also applicable to the water bodies identified in this subsection.

Chronic			
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)		Water Column (µg/L)
Egg-Ovary	Whole-Body	Muscle	Water Lotic
24.5 ¹	12.5 ²	12.8 ²	11.9 ^{3,4,5}
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter			
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.</p> <p>3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example value displayed in this table represents the lotic water column value for Sheep Creek based on the average BAF for Cutthroat Trout among all sampling locations and years.</p> <p>4. Lotic Water Column Equation=</p> $\frac{\text{Tissue}_{\text{criterion}}}{\text{BAF}}$ <p>where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.</p> <p>5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.</p>			

(3-28-18)

02. Subsection of Bear Lake Subbasin. Georgetown Creek - source to mouth (unit B-22), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term water column criterion elements set out in Subsection 210.01., table footnote **I**., are also applicable to the water bodies identified in this subsection.

Chronic			
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)		Water Column (µg/L)
Egg-Ovary	Whole-Body	Muscle	Water Lotic
21.0 ¹	12.5 ²	12.8 ²	3.8 ^{3,4,5}

mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body and muscle data to determine compliance with this criterion element.</p> <p>3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example displayed in this table represents the lotic water column value for Georgetown Creek, upstream of the intermittent reach, based on the average BAF for Brook Trout in all sampling locations and years.</p> <p>4. Lotic Water Column Equation=</p> $\frac{\text{Tissue}_{\text{criterion}}}{\text{BAF}}$ <p>where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.</p> <p>5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.</p>		

(3-28-18)

03. Subsection of Salt Subbasin — Sage Creek. Sage Creek – source to mouth (unit US-9) including, Hoopes Spring channel downstream of the spring complex, South Fork Sage Creek downstream of the spring complex, Sage Creek downstream of the confluence of Hoopes Spring with Sage Creek to its confluence with Crow Creek, ~~North Fork Sage Creek and tributaries (including Pole Canyon Creek)~~ **and tributaries; excluding North Fork Sage Creek, Pole Canyon Creek, and their tributaries.** Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote **L**, are also applicable to the water bodies identified in this subsection.

Chronic		
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)	Water Column (µg/L)
Egg-Ovary	Whole-Body	Water Lotic
20.5 ¹	13.6 ²	16.7 ³
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p>		

2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element.
3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance.

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

04. Subsection of Salt Subbasin — Crow Creek. Crow Creek – Downstream of Sage Creek confluence to Wyoming state line (US-8). Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote I., are also applicable to the water bodies identified in this subsection.

Chronic		
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)	Water Column (µg/L)
Egg-Ovary	Whole-Body	Water Lotic
20.5 ¹	12.5 ²	4.2 ³
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<ol style="list-style-type: none"> 1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element. 2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element. 3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance. 		

(3-28-18)

05. Portions of Idaho.

(3-28-18)

- a. This site-specific criterion applies in the HUC subbasins set out in the following table.

HUC	Subbasin		HUC	Subbasin
16010102	Central Bear		17040208	Portneuf
16010201	Bear Lake		17040209	Lake Walcott
16010202	Middle Bear		17040210	Raft
16010203	Little Bear-Logan		17040211	Goose

HUC	Subbasin	HUC	Subbasin
16010204	Lower Bear-Malad	17040214	Beaver-Camas
16020309	Curlew Valley	17040215	Medicine Lodge
17010302	South Fork Coeur d Alene	17040216	Birch
17010306	Hangman	17040218	Big Lost
17010308	Little Spokane	17040220	Camas
17040104	Palisades	17040221	Little Wood
17040105	Salt	17050104	Upper Owyhee
17040201	Idaho Falls	17050105	South Fork Owyhee
17040202	Upper Henrys	17050106	East Little Owyhee
17040203	Lower Henrys	17050107	Middle Owyhee
17040204	Teton	17050108	Jordan
17040205	Willow	17060109	Rock
17040206	American Falls		
17040207	Blackfoot		

(3-28-18)

b. Site-specific egg-ovary, whole-body, and muscle criterion elements for the water bodies identified in Subsection 287.05.a. are set out in the following table. The water column criterion elements set out in Subsection 210.01., table footnote **L**, are also applicable to the water bodies identified in Subsection 287.05.a.

Chronic		
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)	
Egg-Ovary	Whole-Body	Muscle
19.0 ¹	9.5 ²	13.1 ²
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.</p>		

(3-28-18)

Section 287 is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-1902

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 pursuant Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules

This rulemaking also includes revisions made to IDAPA 58.01.03 in response to **Executive Order No. 2019-02, Red Tape Reduction Act**, issued by Governor Little on January 21, 2019. Upon review of its administrative rules, DEQ determined that two rule chapters could be consolidated into a single chapter. DEQ proposes to combine IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks, with IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules, by moving IDAPA 58.01.15, Sections 003 and 004, into IDAPA 58.01.03 as new Sections 050 and 051.

IDAPA 58.01.03 and IDAPA 58.01.15 were adopted by the Idaho Board of Environmental Quality in May 2019, effective June 30, 2019, and published in the Idaho Administrative Bulletin, July 3, 2019, **Vol. 19-7**. After consideration of public comments on this proposed rule, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2019 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2020 legislative session if adopted by the Board and approved by the Legislature. Temporary rule IDAPA 58.01.15 will expire at that time.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0103-1902.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules, regulate activities not regulated by the federal government. The following is a summary of additional

information required by Sections 39-107D(2) through (4), Idaho Code, supporting the adoption of these rules. These rules regulate the installation of cottage site sewage treatment facilities and the issuance of pollution source permits and septic tank pumping permits under Title 39, Chapters 1 and 36, Idaho Code. Title 39, Chapter 1, Idaho Code, also grants to the Director the authority to issue pollution source permits; charges the Director to enforce all laws, rules, regulations, and standards relating to environmental protection and health, and those relating to the storage, handling and transportation of solids, liquids and gases which may cause or contribute to water pollution; and authorizes the Department of Environmental Quality to review for approval the plans and specifications for all proposed waste treatment facilities prior to their construction.

IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks, adopted in 1960, are added to the Individual/Subsurface Sewage Disposal Rules as new Sections 050 and 051. The Rules Governing the Cleaning of Septic Tanks are not based on a specific science or standard; rather, they are in place to ensure disposal of excrement from the cleaning of septic tanks is discharged to a public sewer; discharged to a sewage treatment plant; or buried under earth, or dried in, a location and by a method approved by the Department.

The Individual/Subsurface Sewage Disposal Rules were originally approved in 1985 following standard practices in place at the time. In 1989 the Idaho Legislature rejected the 1985 rules and instructed the Board of Health & Welfare to promulgate the rules that were in effect prior to 1985. The legislative intent accompanying House Concurrent Resolution 53 stated that the Idaho Legislature did not object to the adoption of the 1985 rules provided that the rules allow the use of seepage pits on a case-by-case basis within the boundaries of the district seven health department. The Department of Health and Welfare proceeded with an emergency rule in 1989-90 that re-instated the 1985 rules regarding subsurface sewage disposal with the addition of Subsection 008.11, Seepage Pit.

With the exception of the specific sections called out in the table below, the majority of the Individual/Subsurface Sewage Disposal Rules have been in place and relatively unchanged since 1985. With the creation of the Department of Environmental Quality, some sections of the rules were updated to reflect that change. There were no substantive changes to the standards or criteria reflected in those changes. Rules updated in 2017 provided a Section 107D statement during the negotiated rulemaking and are therefore not discussed in this statement. Rules updated in 2002 were specific to the administrative provisions regarding appeals of the agency decision and confidentiality of records. These updates are not based on scientific data, nor do they relate to the protection of human health or the environment, and therefore are not subject to the Section 107D requirements.

Rule Section	Date Updated
58.01.03.003.30	July 1, 2017
58.01.03.006.01 – 06	July 1, 2017
58.01.03.006.09 – 10	July 1, 2017
58.01.03.009.03 – 04	July 1, 2017
58.01.03.996 – 997	March 15, 2002

The following summary of Sections 107D(2) and (3) will focus on the decisions made in 1985 to promulgate changes to the Individual/Subsurface Sewage Disposal Rules with regard to best available science and information and decisions made to protect human health and the environment. DEQ believes this is the only approach to fulfilling this requirement at this time, as current science and data would likely lead to changes to the rule that should be addressed appropriately through negotiated rulemaking specific to the topic and not the general re-authorization of the rules that this proposed rule is addressing.

Section 107D(2)(a), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

Standards and performance criteria for construction, installation, and operation of individual sewage disposal

systems were proposed as modifications to the 1979 rules by members of interested parties and the Division of Environmental Quality, a division within the Department of Health and Welfare. These standards and criteria were derivations of industry accepted practices and standards in use at the time of promulgation. As such, these standards and criteria were reviewed and accepted by Idaho's regulated community and the Board of Health and Welfare.

The US EPA published in 1980 a Design Manual: Onsite Wastewater Treatment and Disposal Systems (USEPA 1980). These standards were considered and used along with other available studies including Manual of Septic – Tank Practices (US Department of Health, Education, and Welfare 1969).

Section 107D(2)(b), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

Data was not collected or analyzed as part of the rulemaking process.

Section 107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

Onsite septic systems treat domestic sewage through use of subsurface infiltration and have the potential to adversely impact beneficial uses in both surface and ground waters. These systems are recognized as potentially viable, low-cost, long-term approaches to wastewater treatment if they are planned, designed, installed, operated, and maintained properly.

Section 107D(3)(b) through (e), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk, of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty, and studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effect or environmental effects and the methodology used to reconcile inconsistencies in the data.

The proposed rules include standards intended to protect human health and the environment. The standards, however, are for the design, construction, and installation of individual subsurface sewage disposal systems, for example, requirements for wastewater flow into a system and appropriate sizing of the system. The rules are not based on any express estimate or analysis of risk to public health or the environment. Instead, the standards are based on guidelines set forth in documents readily available at the time of initial promulgation including Design Manual: Onsite Wastewater Treatment and Disposal Systems (USEPA 1980) and Manual of Septic – Tank Practices (US Department of Health, Education, and Welfare 1969). These standards are generally accepted and used by engineers and state regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned. Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 4th day of September, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208) 373-0418 / Fax: (208)373-0481

paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 58-0103-1902

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as two separate temporary rules.

The original text of the temporary rules was published in the Idaho Administrative Bulletin, Volume 19-7, July 3, 2019, pages 482 through 506 and Vol. 19-7, pages 543–546.

(No substantive changes have been made to the reauthorized/temporary rules and they are being combined and published as a single proposed rule in its entirety)

**58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES
AND RULES FOR CLEANING OF SEPTIC TANKS**

000. (RESERVED)

001. LEGAL AUTHORITY.

Title 39, Chapter 1 and Title 39, Chapter 36, Idaho Code, grants authority to the Board of Environmental Quality to adopt rules and standards to protect the environment and the health of the State, for the installation of cottage site sewage treatment facilities and for the issuance of pollution source permits. Title 39, Chapter 1, Idaho Code, grants to the Director the authority to issue pollution source permits; charges the Director to enforce all laws, rules, regulations, and standards relating to environmental protection and health, and those relating to the storage, handling and transportation of solids, liquids and gases which may cause or contribute to water pollution, and authorizes the Department of Environmental Quality to review for approval the plans and specifications for all proposed waste treatment facilities prior to their construction. (5-7-93)

002. TITLE, SCOPE, CONFLICT AND RESPONSIBILITIES.

01. Title. These rules are titled IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks.” (5-7-93)()

02. Scope. The provisions of these rules establish limitations on the construction and use of individual and subsurface sewage disposal systems and establish the requirements for obtaining an installation permit and an installer’s registration permit. These rules apply to every individual and every subsurface blackwaste and wastewater treatment system in Idaho. These rules also establish general requirements for the handling, transportation and disposal of septic tank wastes and for obtaining a septic tank pumping permit. (5-7-93)()

03. Conflict of Rules, Standards, and Ordinances. In any case where a provision of these rules is found to be in conflict with a provision of any state or local zoning, building, fire, safety, or health regulation, standard or ordinance, the provision that, in the judgment of the Director, establishes the higher standard for the promotion and protection of the health and safety of the people, shall prevail. (5-7-93)

04. Responsibilities. (7-1-93)

a. Every owner of real property is jointly and individually responsible for: (10-1-90)

i. Storing, treating, and disposing of blackwaste and wastewater generated on that property. (10-1-90)

ii. Connecting all plumbing fixtures on that property that discharge wastewaters to an approved

wastewater system or facility. (10-1-90)

iii. Obtaining necessary permits and approvals for installation of individual or subsurface blackwaste and wastewater disposal systems. (10-1-90)

iv. Abandonment of an individual or subsurface sewage disposal system. (10-1-90)

b. Each engineer, building contractor, individual or subsurface system installer, excavator, plumber, supplier, and every other person, who for compensation shall design, construct, abandon, or provide any system or part thereof, is jointly and individually responsible for compliance with each of these rules that are relevant to that service or product. (5-7-93)

003. DEFINITIONS.

For the purposes of these rules, the following definitions apply. (5-7-93)

01. Abandoned System. A system which has ceased to receive blackwaste or wastewater due to diversion of those wastes to another treatment system or due to termination of waste flow. (10-1-90)

02. Alternative System. Any system for which the Department has issued design guidelines or which the Director judges to be a simple modification of a standard system. (10-1-90)

03. Authorized or Approved. The state of being sanctioned or acceptable to the Director as stated in a written document. (10-1-90)

04. Blackwaste. Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (10-1-90)

05. Blackwater. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (10-1-90)

06. Board. Idaho State Board Of Environmental Quality. (10-1-90)

07. Building Sewer. The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (10-1-90)

08. Central System. Any system which receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (10-1-90)

09. Construct. To make, form, excavate, alter, expand, repair, or install a system, and, their derivations. (5-7-93)

10. Director. The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (10-1-90)

11. Existing System. Any system which was installed prior to the effective date of these rules. (5-7-93)

12. Expand. To enlarge any nonfailing system. (10-1-90)

13. Failing System. Any system which exhibits one (1) or more of the following characteristics: (10-1-90)

a. The system does not meet the intent of these rules as stated in Subsection 004.01. (5-7-93)

b. The system fails to accept blackwaste and wastewater. (10-1-90)

- c. The system discharges blackwaste or wastewater into the waters of the State or onto the ground surface. (10-1-90)
- 14. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (5-7-93)
- 15. High Groundwater Level -- Normal, Seasonal.** High ground water level may be established by the presence of low chroma mottles, actual ground water monitoring or historic records. (5-7-93)
- a. The normal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of six (6) weeks a year. (5-7-93)
- b. The seasonal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of one (1) week a year. (5-7-93)
- 16. High Water Mark.** The line which the water impresses on the soil by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation. (10-1-90)
- 17. Individual System.** Any standard, alternative or subsurface system which is not a central system. (10-1-90)
- 18. Install.** To excavate or to put in place a system or a component of a system. (10-1-90)
- 19. Installer.** Any person, corporation, or firm engaged in the business of excavation for, or the construction of individual or subsurface sewage disposal systems in the State. (10-1-90)
- 20. Large Soil Absorption System.** A large soil absorption system is a subsurface sewage disposal system designed to receive two thousand five hundred (2,500) gallons of wastewater or more per day, including where the total wastewater flow from the entire proposed project exceeds two thousand five hundred (2,500) gallons per day but the flow is separated into absorption modules which receive less than two thousand five hundred (2,500) gallons per day. (5-7-93)
- 21. Limiting Layer.** A characteristic subsurface layer or material which will severely limit the capability of the soil to treat or absorb wastewater including, but not limited to, water tables, fractured bedrock, fissured bedrock, excessively permeable material and relatively impermeable material. (10-1-90)
- 22. Mottling.** Irregular areas of different color in the soil that vary in contrast, density, number and size. Mottling generally indicates poor aeration and impeded drainage. (5-7-93)
- 23. New System.** A system which is or might be authorized or approved on or after the effective date of these rules. (5-7-93)
- 24. Nondischarging System.** Any system which is designed and constructed to prevent the discharge of blackwaste or wastewater. (10-1-90)
- 25. Permit.** An individual or subsurface system installation permit or installer's registration permit. (10-1-90)
- 26. Pollutants.** Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a public nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, aesthetic, or other beneficial uses. (10-1-90)
- 27. Public System.** Any system owned by a county, city, special service district, or other governmental entity or Indian tribe having the authority to dispose of blackwaste or wastewater; a municipal wastewater treatment facility. (10-1-90)

- 28. Repair.** To remake, reform, replace, or enlarge a failing system or any component thereof as is necessary to restore proper operation. (10-1-90)
- 29. Scarp.** The side of a hill, canyon, ditch, river bank, roadcut or other geological feature characterized by a slope of forty-five (45) degrees or more from the horizontal. (10-1-90)
- 30. Service Provider.** Any person, corporation, or firm engaged in the business of providing operation, maintenance, and monitoring of complex alternative systems in the state of Idaho. (7-1-17)
- 31. Sewage.** Sewage has the same meaning as wastewater. (10-1-90)
- 32. Soil Texture.** The relative proportion of sand, silt, and clay particles in a mass of soil. (10-1-90)
- 33. Standard System.** Any system recognized by the Board through the adoption of design and construction regulations. (10-1-90)
- 34. Subsurface System.** Any system with a point of discharge beneath the earth's surface. (10-1-90)
- 35. Surface Water - Intermittent, Permanent, Temporary.** (7-1-93)
- a.** Any waters of the State which flow or are contained in natural or man-made depressions in the earth's surface. This includes, but is not limited to, lakes, streams, canals, and ditches. (10-1-90)
- b.** An intermittent surface water exists continuously for a period of more than two (2) months but not more than six (6) months a year. (10-1-90)
- c.** A permanent surface water exists continuously for a period of more than six (6) months a year. (10-1-90)
- d.** A temporary surface water exists continuously for a period of less than two (2) months a year. (10-1-90)
- 36. System.** Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater. (10-1-90)
- 37. Wastewater.** Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, grey water or commercial or industrial pollutants; and sewage. (10-1-90)
- 38. Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, which flow through or border upon the state of Idaho. (10-1-90)
- 39. Water Table.** The surface of an aquifer. (10-1-90)

004. GENERAL REQUIREMENTS.

- 01. Intent of Rules.** The Board, in order to protect the health, safety, and environment of the people of the state of Idaho establishes these rules governing the design, construction, siting and abandonment of individual and subsurface sewage disposal systems. These rules are intended to insure that blackwastes and wastewater generated in the state of Idaho are safely contained and treated and that blackwaste and wastewater contained in or discharged from each system: (5-7-93)
- a.** Are not accessible to insects, rodents, or other wild or domestic animals; (10-1-90)

- b. Are not accessible to individuals; (10-1-90)
- c. Do not give rise to a public nuisance due to odor or unsightly appearance; (10-1-90)
- d. Do not injure or interfere with existing or potential beneficial uses of the waters of the State. (10-1-90)

02. Compliance with Intent Required. The Director shall not authorize or approve any system if, in the opinion of the Director, the system will not be (is not) in compliance with the intent of these rules. (5-7-93)

03. System Limitations. Cooling water, backwash or backflush water, hot tub or spa water, air conditioning water, water softener brine, groundwater, oil, or roof drainage cannot be discharged into any system unless that discharge is approved by the Director. (10-1-90)

04. Increased Flows. Unless authorized by the Director, no person shall provide for or connect additional blackwaste or wastewater sources to any system if the resulting flow or volume would exceed the design flow of the system. (10-1-90)

05. Failing System. The owner of any failing system shall obtain a permit and cause the failing system's repair: (10-1-90)

- a. As soon as practical after the owner becomes aware of its failure; or (10-1-90)
- b. As directed in proper notice from the Director. (10-1-90)

06. Subsurface System Replacement Area. An area of land which is suitable in all respects for the complete replacement of a new subsurface system disposal field shall be reserved as a replacement area. This area will be kept vacant, free of vehicular traffic and free of any soil modification which would negatively affect its use as a replacement disposal field construction site. (10-1-90)

07. Technical Guidance Committee. The Director shall appoint a Technical Guidance Committee composed of three (3) representatives from the seven (7) Health Districts, one (1) representative from the Department of Environmental Quality, one (1) professional engineer licensed in the state of Idaho and one (1) licensed installer. Initially two (2) committee members shall be appointed to each of one (1), two (2) and three (3) year terms. Appointments to vacancies thereafter shall be to three (3) year terms. (12-31-91)

08. Duties of the Technical Guidance Committee. The Committee shall maintain a technical guidance manual which shall be used in the design, construction, alteration, operation, and maintenance of conventional systems, their components and alternatives. The Committee shall review variances at the request of the Director and provide recommendations on such variances. (10-1-90)

09. Technical Guidance Manual for Individual and Subsurface Alternative Sewage Disposal. The manual maintained by the Technical Guidance Committee shall provide state-of-the-art technical guidance on alternative sewage disposal components and systems, soil type determination methodology and other information pertinent to the best management practices of individual and subsurface sewage disposal. (10-1-90)

10. Alternative System. If a standard system as described in these rules cannot be installed on a parcel of land, an alternative system may be permitted if that system is in accordance with the recommendations of the Technical Guidance Committee and is approved by the Director. (5-7-93)

005. PERMIT AND PERMIT APPLICATION.

01. Permit Required. Except as specified in Subsection 005.02 it shall be unlawful for any person to cause or to perform the modification, repair or construction of any individual or subsurface sewage disposal system within the state of Idaho unless there is a valid installation permit authorizing that activity. (12-31-91)

02. Exceptions to Permit Requirement. The activities listed in this subsection may be lawfully performed in the absence of a valid installation permit. They are, however, subject to all other relevant rules and regulations. (10-1-90)

a. Portable nondischarging systems may be installed where needed as temporary blackwaste or wastewater systems if they are properly maintained and if they are of a design which has been approved by the Director. (10-1-90)

b. Individual and subsurface systems may be repaired when needed as a result of clogged or broken solid piping or of malfunctions in an electrical or mechanical system. Such repair may not expand the system unless authorized by the Director. (10-1-90)

03. Permit Application. The owner of the system or the owner's authorized representative shall make application to the Director in writing and in a manner or form prescribed by the Director. (10-1-90)

04. Contents of Application. A permit application will be used to help determine if the proposed construction will be in conformance with applicable rules and regulations. Information required in the application may include, but is not limited to: (10-1-90)

- a.** The name and address of the owner of the system and of the applicant, if different; (10-1-90)
- b.** The legal description of the parcel of land; (10-1-90)
- c.** The type of establishment served; (10-1-90)
- d.** The maximum number of persons served, number of bedrooms, or other appropriate measure of wastewater flow; (10-1-90)
- e.** The type of system; (10-1-90)
- f.** The construction activity (new construction, enlargement, repair); (10-1-90)
- g.** A scaled or dimensioned plot plan including, if needed, adjacent properties illustrating: (10-1-90)
- i.** The location and size of all existing and proposed wastewater systems including disposal field replacement areas; (10-1-90)
- ii.** The location of all existing water supply system features; (10-1-90)
- iii.** The location of all surface waters; (10-1-90)
- iv.** The location of scarps, cuts, and rock outcrops; (10-1-90)
- v.** Land elevations, surface contours, and ground slopes between features of interest; (10-1-90)
- vi.** Property lines, easements, and rights-of-way; and (10-1-90)
- vii.** Location and size of buildings and structures. (7-1-93)
- h.** The plans and specifications of the proposed system which include: (10-1-90)
 - i.** Diagrams of all system facilities which are to be made or fabricated at the site; (10-1-90)
 - ii.** The manufacturer's name and identification of any component approved pursuant to Sections 007 and 009; and (12-31-91)
 - iii.** List of materials. (10-1-90)

- i.** Soil description and profile, groundwater data, percolation or permeability test results and/or a site evaluation report; (10-1-90)
- j.** The nature and quantity of blackwaste and wastewater which the system is to receive including the basis for that estimate; (10-1-90)
- k.** Proposed operation, maintenance, and monitoring procedures to insure the system's performance and failure detection; (10-1-90)
- l.** Copies of legal documents relating to access and to responsibilities for operation, maintenance, and monitoring; (10-1-90)
- m.** A statement from the local zoning or building authority indicating that the proposed system would not be contrary to local ordinances; (10-1-90)
- n.** The signature of the owner of the proposed system and, if different, of the applicant; and (10-1-90)
- o.** Any other information, document, or condition that may be required by the Director to substantiate that the proposed system will comply with applicable rules and regulations. (10-1-90)
- 05. Basis for Permit Application Denial.** The Director may deny a permit application if in the Director's judgment: (10-1-90)

 - a.** The application is incomplete, inaccurate, or misleading; (10-1-90)
 - b.** The system as proposed is not in compliance with applicable rules and regulations; (10-1-90)
 - c.** The system as proposed would, when put into use, be considered a failing system; (10-1-90)
 - d.** The design and description of a public system was not made by a professional engineer; (10-1-90)
 - e.** Public or central wastewater treatment facilities are reasonably accessible. (10-1-90)
- 06. Notice of Denial.** Upon denial of an application the Director shall notify the applicant of the reason for denial. (10-1-90)
- 07. Issuance of Permit.** When, in the opinion of the Director the system as proposed will be in conformance with applicable rules and regulations, the Director shall issue an "Individual and Subsurface System Installation Permit". (10-1-90)
- 08. Application and Permit Valid for One Year.** Unless otherwise stated on the application or permit, it shall become invalid if the authorized construction or activity is not completed and approved within one (1) year of the date of issuance. (10-1-90)
- 09. Permit Renewal.** At the discretion of the Director, a permit may be renewed one (1) or more times upon request by the applicant or owner provided that the request is received by the Director prior to the permit's date of expiration. (10-1-90)
- 10. Immediate Effect of the Permit.** A valid permit authorizes the construction of an individual or subsurface system and requires that the construction be conducted in compliance with plans, specifications, and conditions contained in the approved permit application. Any deviation from the plans, specifications, and conditions is prohibited unless it is approved in advance by the Director. (10-1-90)
- 11. Cottage Site Facility Certification.** A valid permit shall constitute certification and approval for the purposes of Section 39-3637, Idaho Code. (10-1-90)

12. Existing Installation Permits. Individual and subsurface sewage disposal installation permits or other lot-specific approvals for systems issued prior to February 7, 1978, pursuant to Idaho Code Title 39, Chapter 1 and Title 39, Chapter 36, will become invalid one (1) year after written notice is given by the Director notifying the owner or holder of such a permit or approval that the permit or approval will no longer be valid unless construction or installation of the system provided for in the permit or approval is commenced within one (1) year after giving of the notice. This provision does not apply to certificates filed to satisfy a sanitary restriction pursuant to Section 50-1326, Idaho Code. (10-1-90)

13. Abandonment May Be Required. The Director may require as a condition for issuing a permit that the system be abandoned by a specified date or under specific predetermined circumstances. The date or circumstances will be established before the issuance of the permit and be contained in the permit application. These conditions may relate to a specific date, dwelling density, completion of a municipal system or other circumstances relative to the availability of central sewerage system services. (10-1-90)

14. Operation, Maintenance and Monitoring. The Director may require as a condition of issuing a permit, that specific operation, maintenance, and monitoring procedures be observed. Those procedures will be contained in the permit application. (10-1-90)

15. As-Built Plans and Specifications. The Director may require as a condition of issuing a permit, that complete and accurate record drawings and specifications depicting the actual construction be submitted to the Director within thirty (30) days after the completion of the construction. Alternately, if the construction proceeded in compliance with the approved plans and specifications, a statement to that effect may be submitted. (10-1-90)

16. Permit Fee. All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 110, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

006. INSTALLER'S REGISTRATION PERMIT AND SERVICE PROVIDER CERTIFICATION.

01. Permit and Certification Required. Every installer and service provider shall secure from the Director an installer's registration permit. Service providers must also obtain a service provider's certification. Two (2) types of installer permits and one (1) type of service provider certification are available. (7-1-17)

a. A standard and basic alternative system installer's registration permit is required to install all individual systems not listed under Subsection 006.01.b. (5-7-93)

b. A complex alternative system installer's registration permit is required to install evapotranspiration systems, extended treatment package systems, lagoon systems, large soil absorption systems, pressure distribution systems, intermittent sand filters, sand mounds or other systems as may be specified by the Director. (7-1-17)

c. A service provider certification is required to perform operation, maintenance, or monitoring of complex alternative systems. (7-1-17)

02. Examination. The initial issuance of the installer's permit and service provider certification shall be based on the completion of an examination, with a passing score of seventy percent (70%) or more, of the applicant's knowledge of the principles set forth in these rules and the applicable sections of the Technical Guidance Manual. The examinations will be prepared, administered and graded by the Director. The installer examination and service provider examination shall be separate exams. (7-1-17)

03. Permits and Certifications Required Annually. Registration permits and service provider certifications expire annually on the first (1st) day of January, and all permits and certifications issued thereafter will be issued for the balance of the calendar year. Additionally, installers and service providers shall attend at least one (1) refresher course approved by the state of Idaho, Department of Environmental Quality, every three (3) years. Individuals holding both a complex installer registration permit and service provider certification shall attend one refresher course for the complex installer registration permit and another course for the service provider certification. Installer and service provider refresher courses are not interchangeable. (7-1-17)

- 04. Contents of Application.** (7-1-17)
- a.** Applications for installer permits and service provider certifications shall: (7-1-17)
 - i.** Be in writing: (7-1-17)
 - ii.** Be signed by the applicant or by an officer or authorized agent of a corporation: (7-1-17)
 - iii.** Contain the name and address of the applicant: (7-1-17)
 - iv.** Indicate whether the permit is to be for: (7-1-17)
 - (1)** Installation of standard and basic alternative systems: (7-1-17)
 - (2)** Installation of standard, basic and complex alternative systems; or (7-1-17)
 - (3)** Installation of standard, basic and complex alternative systems and certification as a service provider; and (7-1-17)
 - v.** Contain the expiration date of the bond required by Subsection 006.05. (7-1-17)
 - b.** Additionally, for applicants seeking certification as a service provider, the application shall also contain annual documentation of manufacturer specific training, as required by Subsection 006.06.a. (7-1-17)

05. Bond Required. At the time of application, all applicants, including those seeking a service provider certification, shall deliver to the Director a bond in a form approved by the Director in the sum of five thousand dollars (\$5,000) for a standard and basic alternative system installer's registration permit, or in the sum of fifteen thousand dollars (\$15,000) for standard, basic and complex alternative system installer's registration permit. The bond will be executed by a surety company duly authorized to do business in the state of Idaho and must run concurrent with the installer's registration permit. The bond shall be approved by the Director and must guarantee the installer or service provider's faithful performance of all work undertaken under the provisions of the installer's registration permit or service provider certification, or both. Any person who suffers damage as the result of negligent or wrongful acts of the installer or service provider or by the installer or service provider's failure to competently perform any of the work agreed to be done under the terms of the registration permit or certification shall, in addition to other legal remedies, have a right of action on the bond for all damages not exceeding five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, or monitoring by certified service providers. The maximum liability of the surety and/or sureties on the bond, regardless of the number of claims filed against the bond, shall not exceed the sum of five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, or monitoring by certified service providers. (7-1-17)

06. Service Provider Responsibilities. All certified service providers who provide operation, maintenance, or monitoring for any complex alternative system are responsible for compliance with each of these rules that are relevant to those services. Additionally, each certified service provider shall: (7-1-17)

- a.** Obtain documentation of the completed manufacturer-specific training of each manufactured and packaged treatment system for which the service provider intends to provide operation, maintenance, or monitoring. Proper documentation includes a certificate or letter of training completion provided by the manufacturer. If a system manufacturer is no longer in business, that manufacturer-specific training is not required. (7-1-17)
- b.** Maintain a comprehensive list of real property owners who contracted with the certified service provider. The list shall include the current real property owner name, service property address, real property owner contact address, and subsurface sewage disposal permit number. This list shall be provided to the Director as part of the annual operation, maintenance, and monitoring reports for individual real property owners; and (7-1-17)
- c.** Submit all operation, maintenance, and monitoring records in the form of an annual report for each

individual real property owner with whom the service provider contracts to fulfill the real property owner's operation, maintenance, or monitoring responsibilities required through the real property owner's subsurface sewage disposal installation permit as allowed in Subsection 005.14. The annual reports shall be provided to the Director by the timeframe specified in the Technical Guidance Manual for the specific complex alternative system for which operation, maintenance, or monitoring is required. (7-1-17)

07. Exemption. An installer's permit shall not be required for: (10-1-90)

a. Any person, corporation, or firm constructing a central or municipal subsurface sewage disposal system if that person, corporation, or firm is a licensed public works contractor as provided in Title 54, Chapter 19, Idaho Code, is experienced in the type of system to be installed and is under the direction of a professional engineer licensed in the state of Idaho; or (5-7-93)

b. Owners installing their own standard or basic alternative systems. (7-1-17)

08. Application Fee. All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 120, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

09. Grounds for Revocation. Failure to comply with these rules shall be grounds for revocation of the permit or the certification, or both. (7-1-17)

10. Transfer from Non-Profit Operation and Maintenance Entity to Certified Service Provider. (7-1-17)

a. Real property owners who want to install extended treatment package systems must retain a permitted installer and certified service provider. An easement granting general access to a non-profit operation and maintenance entity is no longer required for extended treatment package system installation permits. (7-1-17)

b. Beginning July 1, 2017, real property owners who had extended treatment package systems installed are not required to be members of non-profit operation and maintenance entities. To meet the operation, maintenance, and monitoring requirements of their extended treatment package systems, real property owners shall retain a certified service provider for their existing extended treatment package systems. (7-1-17)

007. SEPTIC TANKS DESIGN AND CONSTRUCTION STANDARDS.

01. Materials. New septic tanks will be constructed of concrete, or other materials approved by the Director. Steel tanks are unacceptable. (10-1-90)

02. Construction Requirements. All septic tanks will be water tight, constructed of sound, durable materials and not subject to excessive corrosion, decay, frost damage or cracking. (10-1-90)

03. Concrete Septic Tanks. New concrete septic tanks will at a minimum meet the following requirements: (10-1-90)

a. The walls and floor must be at least two and one-half (2 1/2) inches thick if adequately reinforced and at least six (6) inches thick if not reinforced. (10-1-90)

b. Concrete lids or covers must be at least three (3) inches thick and adequately reinforced. (10-1-90)

c. The floor and at least a six (6) inch vertical portion of the walls of a poured tank must be poured at the same time (monolithic pour). (10-1-90)

d. Wall sections poured separately must have interlocking joints on joining edge. (10-1-90)

e. All concrete outlet baffles must be finished with an asphalt or other protective coating. (10-1-90)

04. Horizontal Dimension Limit. No interior horizontal dimension of a septic tank or compartment may be less than two (2) feet. (10-1-90)

05. Liquid Depth. The liquid depth shall be at least two and one-half (2 1/2) feet but not greater than five (5) feet. (10-1-90)

06. Manufactured Tank Markings. Septic tanks manufactured in accordance with a specified design approved by the Director, will be legibly and indelibly marked with the manufacturer's name or trademark, total liquid capacity and shall indicate the tank's inlet and outlet. (10-1-90)

07. Minimum Tank Capacities. (7-1-93)

a. Tanks serving one (1) or two (2) single dwelling units:

MINIMUM CAPACITY PER DWELLING UNIT	
Number of Bedrooms	Minimum Liquid Capacity (Gallons)
1 or 2	900
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons. (10-1-90)

b. Tanks serving all other flows. Septic tank capacity shall be equal to two (2) times the average daily flow as determined from Subsection 007.08. The minimum tank capacity shall be seven hundred and fifty (750) gallons. (12-31-91)

08. Wastewater Flows from Various Establishments in Gallons per Day.

ESTABLISHMENTS	
Single Family Dwelling and Mobile Homes, 3 bedroom. Add/subtract 50 gallons/bedroom	250/Unit
MULTIPLE RESIDENTIAL	
Hotel: With Private Baths Without Private Baths	60/Bedspace 40/Bedspace
Motel: With Kitchenette	40/Bedspace 60/Bedspace
Boarding House: Add for each nonresident	150/Bedspace 25
Rooming House/Bunk House Staff Resident Nonresident	40/Resident 40/Staff 15/Staff
Apartments	250/Unit
INSTITUTIONAL	
Assembly Hall/Meeting House	2/Seat
Church: With Kitchen	3/Seat 7/Seat

ESTABLISHMENTS	
Hospital: Kitchen only Laundry only	250/Bedspace 25/Bedspace 40/Bedspace
Nursing Home/Rest Home	125/Bedspace
Day School: Without Showers With Showers With Cafeteria, add Staff-Resident Nonresident	20/Student 25/Student 3/Student 40/Staff 20/Staff
FOOD SERVICE	
Conventional Service: Toilet & Kitchen Wastes Kitchen Wastes	13/Meal 3.3/Meal
Take Out or Single Service	2/Meal
Dining Hall: Toilet & Kitchen Wastes Kitchen Wastes	8/Meal 3.3/Meal
Drinking Establishment	2/Person
Food Service Employee	15/Employee
COMMERCIAL AND INDUSTRIAL	
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
SEASONAL AND RECREATIONAL	
Fairground (Peak Daily Attend)	1/Person

ESTABLISHMENTS	
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person
Parks & Camps (Day Use): Toilet & Shower Wastes	15/Person
Roadside Rest Area: Toilet & Shower Wastes Toilet Waste	10/Person 5/Person
Overnight Accommodation: Central Toilet Central Toilet & Shower	25/Person 35/Person
Designated Camp Area: Toilet & Shower Wastes Toilet Wastes	90/Space 65/Space
Seasonal Camp	50/Space
Luxury Cabin	75/Person
Travel Trailer Park with Sewer & Water Hook-up	125/Space
Construction Camp	50/Person
Resort Camps	50/Person
Luxury Camps	100/Person
Country Clubs Resident Member Add for Nonresident Member	100/Member 25/Person
Public Restrooms: Toilet Wastes Toilet & Shower Wastes	5/Person 15/Person

(10-1-90)

09. Total Volume. The total volume of a septic tank will at a minimum be one hundred fifteen percent (115%) of its liquid capacity. (10-1-90)

10. Inlets. (7-1-93)

a. The inlet into the tank will be at least four (4) inches in diameter and enter the tank three (3) inches above the liquid level. (10-1-90)

b. The inlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)

c. Vented tees or baffles will extend above the liquid level seven (7) inches or more but not closer than one (1) inch to the top of the tank. (10-1-90)

d. Tees should not extend horizontally into the tank beyond two (2) times the diameter of the inlet. (10-1-90)

11. Outlets. (7-1-93)

- a. The outlet of the tank will be at least four (4) inches in diameter. (10-1-90)
- b. The outlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)
- c. Vented tees and baffles will extend above the liquid level seven (7) inches or more above the liquid level but no closer than one (1) inch to the inside top of the tank. (10-1-90)
- d. Tees and baffles will extend below the liquid level to a depth where forty percent (40%) of the tank's liquid volume is above the bottom of the tee or baffle. For vertical walled rectangular tanks, this point is at forty percent (40%) of the liquid depth. In horizontal cylindrical tanks this point is about thirty-five percent (35%) of the liquid depth. (10-1-90)
- e. Tees and baffles should not extend horizontally into the tank beyond two (2) times the diameter of the outlet. (10-1-90)

12. Scum Storage. A septic tank will provide an air space above the liquid level which will be equal to or greater than fifteen percent (15%) of the tank's liquid capacity. For horizontal cylindrical tanks, this condition is met when the bottom of the outlet port is located at nineteen percent (19%) of the tank's diameter when measured from the inside top of the tank. (10-1-90)

13. Manholes. Access to each septic tank or compartment shall be provided by a manhole twenty (20) inches in minimum dimension or a removable cover of equivalent size. Each manhole cover will be provided with a corrosion resistant strap or handle to facilitate removal. (10-1-90)

14. Inspection Ports. An inspection port measuring at least eight (8) inches in its minimum dimension will be placed above each inlet and outlet. Manholes may be substituted for inspection ports. (10-1-90)

15. Split Flows. The wastewater from a single building sewer or sewer line may not be divided and discharged into more than one (1) septic tank or compartment. (10-1-90)

16. Multiple Tank or Compartment Capacity. Multiple septic tanks or compartmented septic tanks connected in series may be used so long as the sum of their liquid capacities is at least equal to the minimum tank capacity computed in Subsection 007.07 and the initial tank or compartment has a liquid capacity of more than one-half (1/2) but no more than two-thirds (2/3) of the total liquid capacity of the septic tank facility. (12-31-91)

17. Minimum Separation Distances Between Septic Tanks and Features of Concern.

Features of Concern	Minimum Distance to Septic Tank in Feet	
Well or Spring or Suction Line	Public Water	100
	Other	50
Water Distribution Line	Public Water	25
	Other	10
Permanent or Intermittent Surface Water		50
Temporary Surface Water		25
Downslope Cut or Scarp		25
Dwelling Foundation or Building		5
Property Line		5
Seasonal High Water Level (Vertically from Top of Tank)		2

(10-1-90)

18. Installation of Manufactured Tanks. If written installation instructions are provided by the manufacturer of a septic tank, those instructions relative to the stability and integrity of the tank are to be followed unless otherwise specified in the installation permit of these rules. (5-7-93)

19. Manhole Extension. If the top of the septic tank is to be located more than twenty-four (24) inches below the finished grade, manholes will be extended to within eighteen (18) inches of the finished grade. (10-1-90)

20. Sectional Tanks. Sectional tanks will be joined in a manner that will insure that the tank is watertight. (10-1-90)

21. Inlet and Outlet Piping. Unless otherwise specified in the installation permit, piping to and from a septic tank or dosing chamber, to points three (3) feet beyond the tank excavation shall be of a material approved by the Director. The following materials are required: (5-7-93)

a. ABS schedule forty (40) or material of equal or greater strength piping shall be used to span the excavations for the septic tank and dosing chamber. (5-7-93)

b. ASTM D-3034 plastic pipe may be used to span the septic tank and dosing chamber if the excavation is compacted with fill material. (5-7-93)

i. The fill material must be granular, clean and compacted to ninety percent (90%) standard proctor density. (5-7-93)

ii. Placement of ASTM D-3034 on undisturbed earth is suitable, but in no installation shall there be less than twelve (12) inches of cover over the pipe. (5-7-93)

22. Effluent Pipe Separation Distances. Effluent pipes shall not be installed closer than fifty (50) feet from a well. (5-7-93)

23. Septic Tank Abandonment. Responsibility of properly abandoning a septic tank shall remain with the property owner. Septic tanks shall be abandoned in accordance with the following: (5-7-93)

a. Disconnection of the inlet and outlet piping; (5-7-93)

b. Pumping of the scum and septage with approved disposal; (5-7-93)

c. Filling the septic tank with earthen materials; or (5-7-93)

d. Physically destroying the septic tank or removing the septic tank from the ground. (5-7-93)

008. STANDARD SUBSURFACE DISPOSAL FACILITY DESIGN AND CONSTRUCTION.

01. Standard Drainfield. A drainfield consisting of an effluent sewer, one (1) or more aggregate filled trenches and a gravity flow wastewater distribution system. These standards will be the basis of acceptable design and configuration. Overall dimensions of a specific facility will depend upon site characteristics and the volume of wastewater. (10-1-90)

02. Site Suitability. The area in which a standard drainfield is to be constructed must meet the conditions stated in this subsection: (10-1-90)

a. Slope. The natural slope of the site will not exceed twenty percent (20%). (10-1-90)

b. Soil types. Suitable soil types must be present at depths corresponding with the sidewalls of the proposed drainfield and at depths which will be between the bottom of the proposed drainfield and any limiting soil layer (effective soil depth).

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification	
Unsuitable	Gravel	10 Mesh	
	Coarse Sand	10-35 Mesh	Sand
A	Medium Sand	35-60 Mesh	Sand
	Fine Sand	65-140 Mesh	Sand
	Loamy Sand		Sand
B	Very Fine Sand	140-270 Mesh	Sand
	Sandy Loam		Sandy Loam
	Very Fine Loamy Sand		Sandy Loam
C	Loam		
	Silt Loam		Silt Loam
	Silt		Silt Loam
	Clay Loam		Clay Loam
	Sandy Clay Loam		Clay Loam
	Silty Clay Loam		Clay Loam
Unsuitable	Sandy Clay		Clay
	Silty Clay		Clay
	Clay		Clay
	Clay soils with high shrink/swell potential		Clay
	Organic mucks		
	Claypan, Duripan, Hardpan		

(10-1-90)

c. Effective Soil Depths. Effective soil depths, in feet, below the bottom of the drainfield must be equal to or greater than those values listed in the following table.

EFFECTIVE SOIL DEPTHS TABLE			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	4	4	4
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	6	4	3
Normal High Groundwater Level	6	4	3
Seasonal High Groundwater Level	1	1	1

(5-7-93)

d. Separation Distances. The drainfield must be located so that the separation distances given be maintained or exceeded according to the following Table:

Feature of Interest	Soil Types All	A	B	C
Public Water Supply	100			
All Other Domestic Water Supplies including Springs and Suction Lines	100			
Water Distribution Lines: Pressure Suction	25 100			
Permanent or Intermittent Surface Water other than Irrigation Canals & Ditches		300	200	100
Temporary Surface Water and Irrigation Canals and Ditches	50			
Downslope Cut or Scarp: Impermeable Layer Above Base Impermeable Layer Below Base		75 50	50 25	50 25
Building Foundations: Crawl Space or Slab Basement	10 20			
Property Line	5			

(5-7-93)

03. Subsurface Disposal Facility Sizing. The size of a subsurface disposal system will be determined by the following procedures: (10-1-90)

a. Daily flow estimates should be determined in the same manner as are flow estimates for septic tank sizing in Subsection 007.08. (5-7-93)

b. The total required absorption area is obtained by dividing the estimated daily flow by a value below.

Design Soil Group	A	B	C
Absorption Area - Gallons/Square Foot/Day	1.0	0.5	0.2

(10-1-90)

c. Required Area. The size of an acceptable site must be large enough to construct two (2) complete drainfields in which each are sized to receive one hundred percent (100%) of the design wastewater flow. (10-1-90)

04. Standard Subsurface Disposal Facility Specifications. The following table presents additional design specifications for new subsurface sewage disposal facilities.

SUBSURFACE DISPOSAL FACILITY TABLE	
Item	All Soil Groups
Length of Individual Distribution Laterals	100 Feet Maximum
Grade of Distribution Laterals and Trench Bottoms	Level
Width of Trenches	1 Foot Minimum 6 Feet Maximum
Depth of Trenches	2 Feet Minimum 4 Feet Maximum
Total Square Feet of Trench	1500 Sq.ft. Max.
Undisturbed Earth Between Trenches	6 Feet Minimum
Undisturbed Earth Between Septic Tank and Trenches	6 Feet Minimum
Depth of Aggregate:	
Total	12 In. Minimum
Over Distribution Laterals	2 In. Minimum
Under Distribution Laterals	6 In. Minimum
Depth of Soil Over Top of Aggregate	12 In. Minimum

(10-1-90)

05. Wastewater Distribution. Systems shall be installed to maintain equal or serial effluent distribution. (10-1-90)

06. Excavation. Trenches will not be excavated during the period of high soil moisture content when that moisture promotes smearing and compaction of the soil. (10-1-90)

07. Soil Barrier. The aggregate will be covered throughout with untreated building paper, a synthetic filter fabric (geotextile), a three (3) inch layer of straw or other acceptable permeable material. (10-1-90)

08. Aggregate. The trench aggregate shall be crushed rock, gravel, or other acceptable, durable and inert material which is, free of fines, and has an effective diameter from one-half (1/2) to two and one-half (2 1/2) inches. (10-1-90)

09. Impermeable Surface Barrier. No treatment area trench or replacement area shall be covered by an impermeable surface barrier, such as tar paper, asphalt or tarmac or be used for parking or driving on or in any way compacted and shall be adequately protected from such activities. (5-7-93)

10. Standard Absorption Bed. Absorption bed disposal facilities may be considered when a site is suitable for a standard subsurface disposal facility except that it is not large enough. (10-1-90)

a. General Requirements. Except as specified in this section, rules and regulations applicable to a standard subsurface disposal system are applicable to an absorption bed facility. (10-1-90)

b. Slope Limitation. Sites with slopes in excess of eight percent (8%) are not suitable for absorption bed facilities. (10-1-90)

c. Vehicular Traffic. Rubber tired vehicles must not be driven on the bottom surface of any bed excavation. (10-1-90)

d. Distribution Lateral Spacing. Distribution laterals within a bed must be spaced on not greater than six (6) feet centers nor may any sidewall be more than three (3) feet from a distribution lateral. (10-1-90)

11. Seepage Pit. Seepage pit disposal facilities may be used on a case by case basis within the boundaries of District Health Department Seven when an applicant can demonstrate to the district director's satisfaction that the soils and depth to ground water are sufficient to prevent ground water contamination. The district director shall document all such cases. (4-2-91)L

a. General Requirements. Except as specified in Subsection 008.11.b., rules and regulations applicable to a standard subsurface disposal system are applicable to a seepage pit. (12-31-91)

b. Other conditions for approval, sizing and construction will be as provided for in the seepage pit section of the Technical Guidance Manual for Individual and Subsurface Sewage Disposal, except that the site size restriction in condition two (2) of the Conditions for Approval will not apply. (10-1-90)

12. Failing Subsurface Sewage Disposal System. If the Director determines that the public's health is at risk from a failed septic system and that the replacement of a failing subsurface sewage disposal system cannot meet the current rules and regulations, then the replacement system must meet the intent of the rules and regulations by utilizing a standard subsurface sewage disposal design or alternative system design as specified by the Director. (5-7-93)

009. OTHER COMPONENTS.

01. Design Approval Required. Commercially manufactured blackwaste and wastewater treatment and storage components may not be used in the construction of a system unless their design is approved by the Director. (10-1-90)

02. Plan and Specification Submittal. Plans and specifications for all commercially manufactured individual and subsurface treatment and storage components will be submitted to the Director for approval. Plans and specifications will show or include as requested by the Director, detailed construction drawings, capacities, structural calculations, list of materials, evidence of stability and durability, manufacturers installation, operation and maintenance instructions, and other relevant information. (10-1-90)

03. Effect of Design Approval. The Director may condition a design approval by specifying circumstances under which the component must be installed, used, operated, maintained, or monitored. (7-1-17)

a. The Director shall specify the complex alternative systems that must undergo professionally managed operation, maintenance, service, or effluent testing. (7-1-17)

b. Manufacturers shall provide training to a reasonable number of service providers to perform required operation, maintenance, or monitoring as specified by the Director. (7-1-17)

c. Manufacturers may enter into agreements with certified service providers trained in their technology but shall not limit the service providers from being trained in the technology of other manufacturers. (7-1-17)

04. Notice of Design Disapproval. If the Director is satisfied that the component described in the submittal may not be in compliance with or may not consistently function in compliance with these rules, or that the manufacturer of the proposed system failed to comply with Subsection 009.03, the Director will disapprove the design as submitted. The manufacturer or distributor submitting the design for approval will be notified in writing of the disapproval and the reason for that action. (7-1-17)

010. VARIANCES.

01. Technical Allowance. The Director may make a minor technical allowance to the dimensional or construction requirements of these rules for a standard system if: (5-7-93)

- a. The allowance will not affect adjacent property owners or the public at large; (10-1-90)
 - b. The allowance will not violate the conditions of Subsection 004.01; and (12-31-91)
 - c. The allowance will not be in conflict with any other rule, regulation, standard, or ordinance. (10-1-90)
 - d. The allowance to a dimensional requirement is not more than ten percent (10%) of the requirements of these rules unless otherwise provided for in the Technical Guidance Manual. (5-7-93)
- 02. Petition for Variance.** If a petition of variance to these rules is desired, a request for a variance may be filed with the Director. The petition shall contain the following: (10-1-90)
- a. A concise statement of the facts upon which the variance is requested including a description of the intended use of the property, the estimates of the quantity of blackwaste or wastewater to be discharged, and a description of the existing site conditions; (10-1-90)
 - b. A concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, and of the injury that the grant of the variance would impose on the public; and (10-1-90)
 - c. A clear statement of the precise extent of the relief sought. (10-1-90)
- 03. Public Notice.** At the time of filing a petition evidence shall also be submitted that: (10-1-90)
- a. A notice has appeared in the local newspaper advising the public of the request for variance; (10-1-90)
 - b. All property owners within three hundred (300) feet of the affected site have been notified; and (10-1-90)
 - c. Such notices to the public have been made fifteen (15) days prior to the filing of the petition. (10-1-90)
- 04. Objections to Petition.** Any person may file with the Department, within twenty-one (21) days after the filing of the petition, a written objection to the grant of the variance. A copy of such objection shall be provided by the Department to the petitioner. (10-1-90)
- 05. Investigation and Decision.** After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Director shall, within sixty (60) days after the filing of the petition, make a decision as to the disposition of the petition. The decision, a copy of which shall be served on the petitioner, shall include: (10-1-90)
- a. A description of the efforts made by the Director to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained; (10-1-90)
 - b. A statement of the degree to which, if at all, the Director disagrees with the facts as alleged in the petition; (10-1-90)
 - c. Allegations of any other facts believed relevant to the disposition of the petition; and (10-1-90)
 - d. The Director's decision. (10-1-90)
- 06. Limitations on Decision.** No technical allowance or variance shall be granted unless: (10-1-90)
- a. Adequate proof is shown by the petitioner that compliance would impose an arbitrary or unreasonable hardship; (10-1-90)

b. The technical allowance or variance rendered is consistent with the recommendations of the Technical Guidance Committee or the Technical Guidance Manual in use at the time of the petition; and (10-1-90)

c. The Director has determined that the approval of the technical allowance or variance will not have an adverse impact on the public health or the environment. (10-1-90)

011. INSPECTIONS.

01. One or More Inspections Required. Such inspection as are necessary to determine compliance with any requirement or provision of these rules shall be required by the Director. (5-7-93)

02. Duty to Uncover. The permittee shall, at the request of the Director, uncover or make available for inspection any portion or component of an individual or subsurface sewage disposal system which was covered or concealed in violation of these rules. (5-7-93)

03. Advance Notice by Permittee. If an inspection requires some type of preparation, such as test hole excavation or partial construction of the system, the applicant or permittee will notify the Director at least forty-eight (48) hours in advance, excluding weekends and holidays, before the time preparation will be completed. (10-1-90)

04. Substantiating Receipts and Delivery Slips. The permittee shall upon request by the Director provide copies of receipts, delivery slips or other similar documents to substantiate the origin, quality, or quantity of materials used in the construction of any individual or subsurface system. (10-1-90)

012. VIOLATIONS AND PENALTIES.

01. Failure to Comply. All individual and subsurface sewage disposal systems shall be constructed and installed according to these rules. Failure by any person to comply with the permitting, licensing, approval, installation, or variance provisions of these rules shall be deemed a violation of these rules. (5-7-93)

02. System Operation. No person shall discharge pollutants into the underground water of the state of Idaho through an individual or subsurface sewage disposal system unless in accordance with the provisions of these rules. (5-7-93)

03. Violation a Misdemeanor. Pursuant to Section 39-117, Idaho Code, any person who willfully or negligently violates any of the provisions of these rules shall be guilty of a misdemeanor. (5-7-93)

013. LARGE SOIL ABSORPTION SYSTEM DESIGN AND CONSTRUCTION.

01. Site Investigation. A site investigation for a large soil absorption system by a soil scientist and/or hydrogeologist may be required by the Director for review and approval and shall be coordinated with the Director. Soil and site investigations shall conclude that the effluent will not adversely impact or harm the waters of the State. (5-7-93)

02. Installation Permit Plans. Installation permit application plans, as outlined in Subsection 005.04, for a large soil absorption system submitted for approval shall include provisions for inspections of the work during construction by the design engineer or his designee and/or by the Director. (5-7-93)

03. Module Size. The maximum size of any subsurface sewage disposal module shall be ten thousand (10,000) gallons per day. Developments with greater than ten thousand (10,000) gallons per day flow shall divide the system into absorption modules designed for ten thousand (10,000) gallons per day or less. (5-7-93)

04. Standard Large Soil Absorption System Design Specifications. (5-7-93)

a. All design elements and applications rates shall be arrived at by sound engineering practice and shall be provided by a professional engineer licensed by the state of Idaho and specializing in environmental or sanitary engineering. (5-7-93)

b. Within thirty (30) days of system installation completion the design engineer shall provide either as-built plans or a certificate that the system has been installed in substantial compliance with the installation permit application plans. (5-7-93)

c. Effective Soil Depths. Effective soil depths, in feet, below the bottom of the absorption module to the site conditions must be equal to or greater than the following table:

TABLE -- EFFECTIVE SOIL DEPTHS			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	8	8	8
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	12	8	6
Normal High Groundwater Level	12	8	6
Seasonal High Groundwater Level	2	2	2

(5-7-93)

d. Separation Distances. The disposal area absorption module must be located so that the following separation distances given, in feet, are maintained or exceeded as outlined in the following table:

TABLE -- SEPARATION DISTANCES			
Feature of Interest	Design	Soil	Group
	A	B	C
All Domestic Water Supplies			
Sewage Volume - 2,500-5,000 GPD	250	200	150
Sewage Volume - 5,000-10,000 GPD	300	250	200
Property Lines			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
Building Foundations - Basements			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
Downslope Cut or Scarp			
Impermeable Layer - Below Base	100	50	50
Separation Distance - Between Modules	12	12	12

(5-7-93)

e. No large soil absorption system shall be installed above a downslope scarp or cut unless it can be demonstrated that the installation will not result in effluent surfacing at the cut or scarp. (5-7-93)

f. A minimum of two (2) disposal systems will be installed, each sized to accept the daily design flow, and a replacement area equal to the size of one (1) disposal system will be reserved. (5-7-93)

g. The vertical and horizontal hydraulic limits of the receiving soils shall be established and flows shall not exceed such limits so as to avoid hydraulically overloading any absorption module and replacement area. (5-7-93)

h. The distribution system must be pressurized with a duplex dosing system. (5-7-93)

i. A geotextile filter fabric shall cover the aggregate. (5-7-93)

j. An in-line effluent filter between an extended treatment system or lagoon system and the large soil absorption area shall be installed. (5-7-93)

k. Observation pipes shall be installed to the bottom of the drainrock throughout the drainfield. (5-7-93)

l. Pneumatic tired machinery travel over the excavated infiltrative surface is prohibited. (5-7-93)

m. The drainfield disposal area shall be constructed to allow for surface drainage and to prevent ponding of surface water. Before the system is put into operation the absorption module disposal area shall be seeded with typical lawn grasses and/or other appropriate shallow rooted vegetation. (5-7-93)

05. Large Septic Tanks. Large Septic Tanks shall be constructed according to Section 007, except as outlined in this Subsection: (5-7-93)

a. Length to width ratios shall be maintained at least at a three to one (3:1) ratio. (5-7-93)

b. Tank inlet shall allow for even distribution of the influent across the width of the tank. (5-7-93)

c. The width to liquid depth ratio shall be between one to one (1:1) and two and one-quarter to one (2.25:1). (5-7-93)

06. Monitoring and Reporting. Before an installation permit is issued, a monitoring and reporting plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

a. Monthly recording and inspection for ponding in all observation pipes. (5-7-93)

b. Monthly recording of influent flows based on lapse time meter and/or event meter of the dosing system. (5-7-93)

c. Monthly recording of groundwater elevation measurements at all monitoring wells if high seasonal groundwater is within fifteen (15) feet of the ground surface. (5-7-93)

d. Semi-annual groundwater monitoring at all monitoring wells. (5-7-93)

e. Monitoring shall conform to the requirements of all federal, state, and local rules and regulations. (5-7-93)

f. An annual "Large Soil Absorption System Report" shall be filed with the Director no later than January 31 of each year for the last twelve (12) month period and shall include section on operation, maintenance and monthly and annual monitoring data. (5-7-93)

07. Operation and Maintenance. Before an installation permit is issued, an operation and maintenance plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

a. Annual or more frequent rotation of the disposal systems, and whenever ponding is noted. (5-7-93)

b. A detailed operation and maintenance manual, fully describing and locating all elements of the system and outlining maintenance procedures needed for operation of the system and who will be responsible for system maintenance, shall be submitted to the Director prior to system use. (5-7-93)

c. A maintenance entity shall be specified to provide continued operation and maintenance. Approval of the entity shall be made by the Director prior to issuance of an installation permit. (5-7-93)

014. -- 049. (RESERVED)

050. CLEANING OF SEPTIC TANKS – GENERAL REQUIREMENTS.

All persons, firms or corporations operating any tank truck or any other device or equipment used or intended to be used for the purpose of pumping or cleaning septic tanks and/or transporting or disposing of human excrement, shall conform with the following requirements. (3-1-60)

01. Equipment to Be Watertight. *The tank or transporting equipment shall be watertight and so constructed as to prevent spilling or leaking while being loaded, transported and/or unloaded. (3-1-60)*

02. Equipment to Be Cleanable. *The tank or transporting equipment shall be constructed in such a manner that every portion of the interior and exterior can be easily cleaned and maintained in a clean condition at all times while not in actual use. (3-1-60)*

03. Disposal Methods. *Disposal of excrement from septic tanks shall be by the following methods only: (3-1-60)*

- Quality:*
- a. *Discharging to a public sewer; (3-1-60)*
 - b. *Discharging to a sewage treatment plant; (3-1-60)*
 - c. *Burying under earth in a location and by a method approved by the Department of Environmental Quality; (3-1-60)*
 - d. *Drying in a location and by a method approved by the Department of Environmental Quality. (3-1-60)*

051. CLEANING OF SEPTIC TANKS – PERMIT REQUIREMENTS.

All persons operating septic tank pumping equipment shall obtain a permit from the Idaho Department of Environmental Quality for the operation of such equipment. Permits shall be renewed annually. Applications for renewal of permits shall be made on or before March 1 of each year. (3-1-60)

01. Permit Application Contents. *Applications for permits shall submit the following information on forms prepared by the Department: (3-1-60)*

- a. *Number of tank trucks operated by owner; (3-1-60)*
- b. *Vehicle license number of each tank truck; (3-1-60)*
- c. *Name and address of owner and/or operator of equipment; (3-1-60)*
- d. *Name and address of business, if different from Subsection 051.01.c.; (3-1-60)*
- e. *Methods of disposal to be used in all areas of operation; (3-1-60)*
- f. *Location of all disposal sites used by applicant; (3-1-60)*
- g. *A complete basis of charges made for payment of the work performed. (3-1-60)*

02. Permit Fee. *All applications shall be accompanied by payment of the fee specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.14, Section 115, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services."* (12-31-91)

03. Vehicle Number to Be Displayed. *For each permit issued, a number will be assigned to the owner and/or operator of the tank truck or trucks. The assigned number shall be displayed at all times on the door of the vehicle or vehicles in a manner easily legible.* (3-1-60)

04. Permit Suspension or Revocation. *Permits issued are the property of the Department of Environmental Quality and may be suspended or revoked at any time the operator is not in compliance with the requirements of these rules.* (3-1-60)

052. -- 995. (RESERVED)

996. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

997. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." (3-15-02)

998. -- 999.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.09 – RULES REGULATING SWINE FACILITIES

DOCKET NO. 58-0109-1901 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized pursuant to Idaho §§ 39-104A, 39-105, and 39-107.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rulemaking adopts and re-publishes the following existing and previously approved and codified fee rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.09, Rules Regulating Swine Facilities

A temporary rule was adopted by the Idaho Board of Environmental Quality in May 2019, effective June 30, 2019, and published in the Idaho Administrative Bulletin, July 3, 2019, **Vol. 19-7, pages 507–523**. More information regarding this rule docket is available at www.deq.idaho.gov/58-0109-1901.

FEE SUMMARY: The attached rules provide a specific description of the fee or charge imposed by this rulemaking. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. The fee category and statutory authority for imposition of the fees are listed below. Idaho Code § 39-119, permit application fee.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: These rules were specifically promulgated pursuant to a legislative directive in Idaho Code § 39-104A to address the surface and ground water impacts of large swine feeding operation development in the state.

The legislature directs that any rule formulated and recommended by the department to the board which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under Chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

The majority of these rules are either (1) not broader in scope or more stringent than federal law nor propose to regulate an activity not regulated by the federal government, or (2) have previously been approved as meeting the

requirements of Idaho Code § 39-107D. However, because there are no federal water quality protection requirements applicable to commercial swine facilities, IDAPA 58.01.09.250 proposes to regulate activities not regulated by the federal government.

To the degree that a proposed rule subject to Idaho Code § 39-107D is based on science, Idaho Code § 39-107D(2) requires the department to utilize (a) the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and (b) data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justify use of the data. The provisions of IDAPA 58.01.09.250.01 are derived from best practices described in the National Resources Conservation Service Agricultural Waste Management Field Handbook, particularly Chapter 10, Agricultural Waste Management System Component Design, available at <https://www.wcc.nrcs.usda.gov/ftpref/wntsc/AWM/handbook/ch10.pdf> (last checked June 18, 2019).

Because IDAPA 58.01.09.250 does not propose a standard necessary to protect human health and the environment, Idaho Code § 39-107D(3) is inapplicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned. Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 4th day of September, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208) 373-0418 / Fax: (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 58-0109-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

**The original text of the temporary rule was published in the Idaho Administrative Bulletin,
[Volume 19-7, July 3, 2019, pages 507 through 523.](#)**

**(No changes have been made to the reauthorized/temporary rule
and it is being published as proposed in its entirety)**

IDAPA 58
TITLE 01
CHAPTER 09

58.01.09 – RULES REGULATING SWINE FACILITIES

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Idaho Board of Environmental Quality the authority to promulgate Rules Regulating Swine Facilities pursuant to Sections 39-104A, 39-105, and 39-107, Idaho Code. (3-29-12)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.09, “Rules Regulating Swine Facilities.” (3-29-12)

02. Scope. These rules establish the procedures and requirements for the issuance of a permit to construct, operate, close or expand swine facilities of a defined capacity. The intent of these rules is to ensure animal waste from swine facilities are properly controlled so as not to adversely affect public health or the environment. (3-29-12)

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (4-1-00)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Animal Unit. An animal unit equals two and a half (2.5) swine, each weighing over twenty-five (25) kilograms (approximately fifty-five (55) pounds), or ten (10) weaned swine, each weighing under twenty-five (25) kilograms. Total animal units are calculated by adding the number of swine weighing over twenty-five (25) kilograms multiplied by four-tenths (.4) plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (.1). (3-29-12)

02. Animal Waste. Animal excrement, feed wastes, process wastewater or any other waste associated with the confinement of swine. (3-29-12)

03. Animal Waste Management System. Any structure or system that provides for the collection, treatment, disposal, distribution, or storage of animal waste. (4-1-00)

04. Certified Planner. A person who has completed the nutrient management certification in accordance with the Nutrient Management Standard. (4-1-00)

05. Department. The Idaho Department of Environmental Quality. (4-1-00)

06. Director. The Director of the Department of Environmental Quality or his designee. (4-1-00)

07. Existing Facility. A facility built and in operation one (1) year or more prior to the original

effective date of these rules. (4-1-00)

08. Expanding Facility. A swine facility of less than two thousand (2,000) animal units that increases its one-time animal unit capacity to two thousand (2,000) or more animal units or an existing facility that increases its one-time animal unit capacity by ten percent (10%). (3-29-12)

09. Facility or Swine Facility. Any place, site or location or part thereof where swine are kept, handled, housed, or otherwise maintained and includes but is not limited to buildings, lots, pens, and animal waste management system, and which has the one-time animal unit capacity of two thousand (2000) or more animal units. (3-29-12)

10. Land Application. The spreading on or incorporation of animal waste into the soil mantle primarily for beneficial purposes. (4-1-00)

11. Nutrient Management Plan. A plan prepared in compliance with the Nutrient Management Standard or other equally protective standard approved by the Director for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production and to minimize the potential for environmental degradation, particularly impairment of water quality. (4-1-00)

12. Nutrient Management Standard. The United States Department of Agriculture-Natural Resource Conservation Service Code 590 or the Idaho Agricultural Pollution Abatement Plan-Nutrient Management Standard Component Practice. (4-1-00)

13. One-Time Animal Unit Capacity. The maximum number of animal units that a facility is capable of housing at any given point in time. (4-1-00)

14. Operate. Confine, feed, propagate, house, or otherwise sustain swine. (3-29-12)

15. Permit. A written authorization by the Director to construct, operate, or expand a swine facility. (3-29-12)

16. Permittee. The person in whose name a permit is issued. (4-1-00)

17. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (4-1-00)

18. Process Wastewater. Any water used in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste. (3-29-12)

19. Unauthorized Discharge. A release of animal waste to the environment or waters of the state that is not authorized by the permit or the terms of an NPDES permit issued by the federal EPA. (4-1-00)

20. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-00)

011. -- 099. (RESERVED)

100. APPLICABILITY.

01. Permit Required. No person shall construct, operate, or expand a regulated swine facility without first obtaining a permit issued by the Director as provided in these rules. (3-29-12)

02. Regulated Facilities. New swine facilities having a one-time animal unit capacity of two thousand (2,000) or more animal units and expanding facilities are required to be permitted as provided in these rules. (3-29-12)

03. Common Control. Two (2) or more swine facilities under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than two thousand (2,000) animal units, if they use a common animal waste management system or land application site. (3-29-12)

04. Existing Swine Facilities. Those swine facilities built and in operation one (1) year or more prior to the original effective date of these rules are exempt from the requirements of these rules except as provided in Section 210. (3-29-12)

101. -- 199. (RESERVED)

200. PERMIT APPLICATION.

01. Permit Application. Every person requiring a permit under these rules shall submit a permit application to the Department. A permit application will be used to determine if the construction, operation, and closure of a swine facility will be in conformance with these and other applicable rules. (3-29-12)

02. Preapplication Conference. Prospective applicants are encouraged to meet with the Department to discuss application requirements and procedures. (4-1-00)

03. Contents of Application. Each application shall include, in the format set forth by the Director and when determined applicable by the Director, the following information in Subsections 200.04 through 200.08 in sufficient detail to allow the Director to make necessary application review decisions concerning design, environmental protection and public health. (4-1-00)

04. Relevant Information. (4-1-00)

a. Name, mailing address and phone number of the facility owner. (4-1-00)

b. Name, mailing address and phone number of the facility operator. (4-1-00)

c. Name and mailing address of the facility. (4-1-00)

d. Legal description of the facility location. (4-1-00)

e. The legal structure of the entity owning the facility, including the names and addresses of all directors, officers, registered agents and partners. (4-1-00)

f. The names and locations of all swine facilities owned and/or operated by the applicant within the last ten (10) years. (3-29-12)

g. The one-time animal unit capacity of the facility. (4-1-00)

h. The type of animals to be confined at the facility. (4-1-00)

i. Evidence that a valid water right exists to supply adequate water for the proposed facility or a copy of either an application for permit to appropriate water or an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with the Idaho Department of Water Resources which, if approved, will supply adequate water for the proposed operation. (4-1-00)

j. Proof of financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. The mechanism used to demonstrate financial capability must be legally valid, binding and enforceable under applicable law and must insure that the funds necessary to meet the costs of remediation and

closure will be available whenever they are needed in accordance with Section 205. The mechanisms include, but are not limited to, trust funds, surety bonds, letters of credit, insurance and corporate guarantees. (3-15-02)

k. The facility's biosecurity and sanitary standards. (4-1-00)

l. A statement of estimated annual income and operating expenses that demonstrate, to the satisfaction of the Department, financial capability to operate the facility. (3-15-02)

05. Construction Plan. Plans and specifications for the facility's animal waste management system that include the following information: (4-1-00)

a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (4-1-00)

i. Layout of the facility, including buildings and animal waste management system; (4-1-00)

ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; (4-1-00)

iii. The location of occupied dwellings, public and private gathering places, such as schools, churches and parks, and incorporated municipalities which are within a two (2) mile radius of the facility; and (4-1-00)

iv. Private and community domestic water wells, irrigation wells, irrigation conveyance and drainage structures, monitoring wells, wetlands, streams, springs, and reservoirs which are within a one (1) mile radius of the facility. (4-1-00)

b. Facility construction specifications including: (4-1-00)

i. A site plan showing: (4-1-00)

(1) Building locations; (4-1-00)

(2) Waste facilities; (4-1-00)

(3) All waste conveyance systems; and (4-1-00)

(4) All irrigation systems used for land application, including details of approved water supply protection devices. (4-1-00)

ii. Building plans showing: (4-1-00)

(1) All wastewater collection systems in housed units; (4-1-00)

(2) All freshwater supply systems, including details of approved water supply protection devices; (4-1-00)

and (3) Detailed drawings of wastewater collection and conveyance systems and containment construction; (4-1-00)

(4) Detailed construction and installation procedures. (4-1-00)

06. Site Characterization. A characterization of the facility and any land application site(s) owned or operated by the applicant, prepared by a registered professional geologist, a registered professional engineer or a qualified ground water hydrologist, that includes the following information: (4-1-00)

a. A description of monitoring methods, frequency, and reporting components related to either leak detection systems and/or ground water monitoring wells; (4-1-00)

- b. The climatic, hydrogeologic, and soil characteristics; (4-1-00)
 - c. The depth to water and a potentiometric map for the uppermost and regional aquifer; (4-1-00)
 - d. The vertical and horizontal conductivity, gradient, and ground water flow direction and velocity; (4-1-00)
 - e. Estimates of recharge to the uppermost aquifer; (4-1-00)
 - f. Information which characterizes the relationship between the ground water and adjacent surface waters; and (4-1-00)
 - g. A summary of local ground water quality data. (4-1-00)
- 07. Nutrient Management Plan.** A plan prepared by a Certified Planner demonstrating compliance with the Nutrient Management Standard for land application. (4-1-00)
- 08. Closure Plan.** A plan describing the procedures for final closure of a facility that ensures no adverse impacts to the environment and waters of the state and that includes: (4-1-00)
- a. The estimated length of operation of the facility; and (4-1-00)
 - b. A description of the procedures, methods, and schedule to be implemented at the facility for final disposal, handling, management and/or treatment of all animal waste. (4-1-00)
- 09. Other Information.** An applicant shall provide any other information relative to Subsections 200.04 through 200.08 deemed necessary by the Director to assess protection of human health and the environment (4-1-00)
- 10. Application Fee.** A fee shall be submitted with each permit application as follows: (4-1-00)
- a. Three thousand dollars (\$3,000) for facilities that have a one-time animal unit capacity of less than five-thousand (5,000) animal units; (4-1-00)
 - b. Five thousand dollars (\$5,000) for facilities that have a one-time animal unit capacity of five thousand to ten thousand (5,000-10,000) animal units; and (4-1-00)
 - c. Ten thousand dollars (\$10,000) for facilities that have a one-time animal unit capacity over ten thousand (10,000) animal units. (4-1-00)
- 201. -- 204. (RESERVED)**
- 205. FINANCIAL ASSURANCE REQUIREMENTS.**
- 01. Written Estimate of Costs.** The owner of a swine facility shall submit, as part of the permit application, a detailed written estimate, in current dollars, of the cost of hiring a third party to: (3-29-12)
- a. Remediate potential contamination caused by the operation of the facility or of any potential spill or breach, including, without limitation, remediation pursuant to the facility's Spill Contingency Plan; and (3-15-02)
 - b. Close the facility in accordance with an approved closure plan. (3-15-02)
 - c. The Department must approve the cost estimate as reasonable prior to the issuance of a permit. (3-15-02)
- 02. Financial Assurance Mechanisms.** The owner shall submit as part of the permit application

evidence of financial assurance to cover the approved remediation and closure cost estimates. However, if the Department has determined, prior to October 19, 2000, that a complete application has been submitted, the owner shall submit the remediation and closure cost estimates and financial assurance mechanism to the Department for approval prior to the issuance of a permit. The mechanism used to demonstrate financial assurance shall be submitted to the Department for approval and shall ensure that the funds necessary to meet the approved costs of remediation and closure will be available whenever they are needed. The financial assurance mechanisms allowed for swine facilities shall include any mechanism or a combination of mechanisms meeting the criteria set forth below or other mechanism approved by the Department. (3-29-12)

a. Trust Fund. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by establishing a trust fund and submitting an originally signed duplicate of the trust agreement to the Department. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. (3-15-02)

ii. After the trust fund is established, whenever the current remediation and closure cost estimates change, the owner must compare the new estimates with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner, within sixty (60) days after the change in the cost estimate, must either deposit an amount equal into the fund so that its value after this deposit at least equals the amount of the current remediation or closure cost estimate, or obtain other financial assurance as specified in Subsection 205.02 to cover the difference. (3-15-02)

iii. If the value of the trust fund is greater than the total amount of the current remediation or closure cost estimate, the owner may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate. (3-15-02)

iv. If an owner substitutes other financial assurance as specified in Subsection 205.02 for all or part of the trust fund, he may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate covered by the trust fund. (3-15-02)

b. Surety Bond. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a payment or performance surety bond and submitting a certified copy of the bond to the Department. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury. (3-15-02)

ii. The penal sum of the bond must be in an amount at least equal to the current remediation and closure cost estimates. (3-15-02)

iii. Under the terms of the bond, the surety will become liable on the bond obligation when: (3-15-02)

(1) The owner fails to perform as guaranteed by the bond; or (3-15-02)

(2) The Department notifies the owner that he has failed to meet requirements of these rules. (3-15-02)

iv. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and the Department one hundred twenty (120) days in advance of cancellation. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The surety shall remain liable on the bond for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

c. Letter of Credit. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining an irrevocable standby letter of credit and submitting a certified copy of the letter to the Department. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. (3-15-02)

ii. The letter of credit must be accompanied by a letter from the owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: the type of facility, name and address of the facility, and the amount of funds assured for remediation and closure of the facility by the letter of credit. (3-15-02)

iii. The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner and the Department by certified mail of a decision not to extend the expiration date. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The issuing institution shall remain liable on the letter of credit for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

iv. The letter of credit must be issued in an amount at least equal to the current remediation and closure cost estimates. (3-15-02)

d. Insurance. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining remediation and closure insurance and submitting a certificate of such insurance to the Department. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one (1) or more states. (3-15-02)

ii. The insurance policy must be issued for a face amount at least equal to the current remediation and closure cost estimates. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments. (3-15-02)

iii. Each insurance policy must contain a provision allowing assignment of the policy to a successor. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused. (3-15-02)

iv. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. The insurer may cancel the policy by sending notice by certified mail to the owner and the Department one hundred twenty (120) days in advance. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The insurer shall remain liable on the policy for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

e. Corporate Guarantee. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a written guarantee and submitting a certified copy of the guarantee and appropriate letter from the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner, a firm whose parent corporation is also the parent corporation of the owner, or a firm with a "substantial business relationship" with the owner. (3-15-02)

ii. If the guarantor's parent company is also the parent corporation of the owner, a letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. (3-15-02)

iii. If the guarantor is a firm with a “substantial business relationship” with the owner, the letter must describe the “substantial business relationship” and the value received in consideration of the guarantee. (3-15-02)

iv. The terms of the guarantee shall provide that if the owner fails to perform remediation or closure of a facility covered by the guarantee, the guarantor will: (3-15-02)

(1) Perform, or pay a third party to perform, remediation and closure as required (performance guarantee); or (3-15-02)

(2) Establish a fully funded trust fund as specified in Subsection 205.02.a. in the name of the owner (payment guarantee). (3-15-02)

v. The guarantee shall remain in force for as long as the owner must comply with the applicable financial assurance requirements of Subsection 205.02 unless the guarantor sends notice of cancellation by certified mail to the owner and to the Department one hundred twenty (120) days in advance. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice by the Department, as evidenced by the return receipt. The guarantor shall remain liable on the guarantee for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

f. If a financial assurance mechanism is cancelled by the issuing entity, the owner shall obtain alternate financial assurance, within sixty (60) days of receipt of notice of cancellation by the Department, which shall be submitted to the Department for approval. The alternate financial assurance must become effective not later than the effective date of cancellation or termination of the existing financial assurance. An owner may only cancel a financial assurance mechanism after first obtaining an alternative mechanism approved by the Department. (3-15-02)

03. Continuous Coverage. The owner shall provide continuous coverage for remediation and closure until released from financial assurance requirements by the Department. (3-15-02)

04. Adjustment of Financial Assurance Amounts. The following provisions apply to the adjustment of the amount of financial assurance: (3-15-02)

a. The owner shall increase the remediation and closure cost estimates and the amount of financial assurance if changes to the closure plan or facility conditions or operations increase the cost estimates at any time during the active life of the facility. The cost estimates and financial assurance shall also be adjusted to reflect inflation. Increased cost estimates and financial assurance shall be submitted to the Department for approval. (3-15-02)

b. The owner may reduce the remediation and closure cost estimates and the amount of financial assurance if the cost estimates exceed the maximum cost of remediation or closure at any time during the active life of the facility. The owner shall first notify the Department and obtain its approval of the justification for the reduction of the remediation and closure cost estimates. (3-15-02)

05. Release from Financial Assurance Requirements. When remediation and closure conditions required by a permit are complete, financial assurance shall be released by the Department as follows: (3-15-02)

a. When the Department determines that initial closure activities have been completed, financial assurance, less identified retainages, shall be released. (3-15-02)

b. A sufficient amount of financial assurance shall be retained by the Department, up to five (5) years after closure, to ensure proper remediation and closure of a facility. (3-15-02)

c. Release of any amount of financial assurance shall not release the owner from any responsibility for meeting remediation or closure requirements. (3-15-02)

06. Owner Liability. Nothing in these rules shall relieve the owner of liability for remediation and closure costs. The use of all financial assurance shall not relieve the owner from responsibility and liability for remediation and closure costs. (3-15-02)

206. -- 209. (RESERVED)

210. EXISTING FACILITIES.

01. Registration Requirement. Existing facility owners shall register with the Department within three (3) months after the original effective date of these rules. Registration shall include the information in Subsection 200.04 except for Subsection 200.04.j. Nothing in Section 210 shall be construed to deny an existing facility the opportunity to apply for, and receive, a permit under these rules. (4-1-00)

02. Plan Requirement. Existing facilities shall submit a nutrient management plan and closure plan to the Director for approval within two (2) years of the original effective date of these rules in accordance with Subsections 200.07 and 200.08. An application fee shall not be required unless the facility is expanding. (4-1-00)

03. Expanding Facility. The owner of an existing facility shall not increase the one-time animal unit capacity of the facility by ten percent (10%) or more without first obtaining a permit for the expansion as required by these rules. The ten percent (10%) increase is measured cumulatively from the original effective date of these rules. (4-1-00)

211. -- 249. (RESERVED)

250. REQUIREMENTS FOR WATER QUALITY PROTECTION.

The following minimum design and performance standards are intended as a baseline for protection of public health and the waters of the state. These standards shall apply to all facilities and be reflected in the permit unless the Director approves, based on an applicant's site specific information, that compliance with a specific standard is not required to protect water quality and the public health. Other conditions, as determined by the Director to be necessary to protect water quality, may be included in a permit. (4-1-00)

01. Animal Waste Management System Design Criteria. A facility's animal waste management system shall be designed and constructed in accordance with the NRCS and the American Society of Agricultural Engineers standards, whichever is most stringent and shall: (4-1-00)

a. Contain the maximum expected operating water balance and the twenty-five (25) year twenty-four (24) hour rainfall event and the one (1) in five (5) year winter runoff. (4-1-00)

b. Provide capacity to store the peak volume of process wastewater that will be generated during a six (6) month period. (4-1-00)

c. Provide a one (1) foot freeboard in addition to the storage requirements, specified in Subsections 250.01.a. and 250.01.b. (4-1-00)

d. Impoundments, other than for emergency runoff, containing or designed to contain process wastewater shall be designed for efficient leak detection and shall not be located in the one-hundred (100) year floodplain. (4-1-00)

e. Seepage rates for impoundments shall be no greater than 1×10^{-7} cm/sec. (4-1-00)

02. Water Quality Monitoring. Ground water and/or leak detection monitoring shall be conducted for every facility with a liquid storage impoundment and shall be designed to give the earliest possible detection of an unauthorized discharge to ground water. (4-1-00)

03. Discharges. Facilities shall be constructed, operated and maintained to not cause unauthorized discharges. (4-1-00)

04. Spill Contingency Plan. Facilities shall prepare a discharge response strategy that describes procedures and methods to be implemented for the abatement and cleanup of any pollutant. (4-1-00)

05. Stockpile Areas. Animal waste stockpile areas, including compost areas, shall be constructed to ensure that all water and precipitation, which comes into contact with the stockpiles, does not enter waters of the state. (4-1-00)

251. -- 299. (RESERVED)

300. APPLICATION PROCESSING PROCEDURE.

01. Application Completeness. Within thirty (30) days of receipt of an application, the Director shall provide written notice to the applicant as to whether the application meets all the requirements of Section 200. The Department shall provide public notice of the receipt of a complete application. An application which does not, on its face, meet all the requirements of Section 200 of these rules shall be returned to the applicant by the Director with a written list of the deficiencies. The Director will not process an application until it is determined to be complete in accordance with these rules. (4-1-00)

02. Notice of Environmental Suitability of Facility Location. Within thirty (30) days of the Director's notice that the application is complete, the Director shall determine whether the facility is environmentally suitable for the selected location. In making this decision, the Director shall review the location of the facility relative to flood zones, dwellings, wells, surface and ground water and those other items the applicant must identify on the vicinity map. Written notice of the Director's determination will be sent to the applicant, with a copy sent to the appropriate county and city officials for the selected location, along with a Department analysis that includes the following: (4-1-00)

a. A brief description of the proposed facility, its animal waste management system and its nutrient management plan; (4-1-00)

b. A brief summary of the basis for the determination on environmental suitability including references to applicable requirements and supporting materials; (4-1-00)

c. A description of the schedule for issuing a permit; and (4-1-00)

d. The name and phone number of the Department staff to contact for additional information. (4-1-00)

03. Draft Permit. Within sixty (60) days of the Director's determination that a facility is environmentally suitable for its proposed location, the Director shall either issue a draft permit or a notice of denial of a permit to the applicant. The draft permit shall be in the same form as a final permit and shall specify conditions of construction, operation and closure. (4-1-00)

04. Public Comments. The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a time period and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments. (4-1-00)

05. Permit Denial. The Director may deny a permit if: (4-1-00)

a. The owner of a facility is not in substantial compliance with a final agency order or any final order or judgement of a court secured by any state or federal agency relating to the operation of a swine facility; (3-29-12)

b. The application is inaccurate; (4-1-00)

c. The facility as proposed cannot meet the requirements set forth in these rules or cannot be constructed, operated and closed in a manner that protects human health and the environment; or (4-1-00)

d. The appropriate county or city does not approve the location of the facility. (4-1-00)

06. Final Permit. Within sixty (60) days of the issuance of a draft permit, the Director shall issue a final permit to the applicant, however, a permit shall not be issued by the Director until the applicant has received final approval from the appropriate county or city for the location of the facility and has received approval for a water right from the Department of Water Resources. The permit shall be effective for a fixed term of not more than five (5) years, and may be reissued upon receipt of an updated application and demonstration of compliance with the rules and permit requirements existing at the time of reissuance. (4-1-00)

07. Additional Information. At any time during the application process an applicant shall provide the Director with additional information the Director deems necessary to process a permit, within thirty (30) days of the Director's request. The time period within which the Director must act with regard to the permit shall be stayed until the information requested is provided. If an applicant fails to provide the information within this time period, unless a longer time period is allowed by the Director, the Director may cease the application process and require the applicant to submit a new application. (4-1-00)

301. -- 399. (RESERVED)

400. PERMIT CONDITIONS.

The following conditions shall apply to all permittees. (4-1-00)

01. Compliance Required. The permittee shall comply with all conditions of the permit. The permit shall not relieve the permittee of the responsibility to comply with all other applicable local, state, and federal laws. (4-1-00)

02. Financial Capability. Permittees shall have the financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. (3-15-02)

03. Construction and Operation of Facility. The permittee shall ensure that construction, operation and maintenance of the facility proceed according to the construction plans and specifications and the approved monitoring, nutrient management and closure plans, and comply with the following: (4-1-00)

a. Within thirty (30) days of completion of construction, submit as built plans. (4-1-00)

b. Apply appropriate management practices as approved by the Director. (4-1-00)

c. The facility or operations associated with the facility shall not create a public health hazard or nuisance conditions including odors. (4-1-00)

d. The facility shall not dispose of any material not approved for disposal under the permit into the animal waste management system including, but not limited to, human waste. (4-1-00)

e. The removal of animal waste from an impoundment or storage structure shall be performed in a manner to not damage the integrity of the liner. (4-1-00)

f. Dead animals shall be removed from the facility for rendering, cremation, burial, composting or other disposal in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-15-02)

g. Nutrient management plans shall be amended if modifications to the facility operation, as outlined in the Nutrient Management Standard or other conditions, warrant the amendment. (4-1-00)

h. Soil tests shall be conducted on all land application sites owned or leased by the permittee every year to determine compliance with the nutrient management plan and Nutrient Management Standard. The Director may require more frequent soil tests if deemed necessary. (4-1-00)

04. Provide Information. The permittee shall furnish to the Director within a reasonable time, any information including copies of records required by the permit or other applicable rules, which the Director may

reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (4-1-00)

05. Entry and Access. The permittee shall allow the Director, consistent with Title 39, Chapter 1, Idaho Code, and in compliance with the biosecurity and sanitary standards of a facility, so long as the standards and requirements do not inhibit reasonable access, to: (4-1-00)

- a. Enter at reasonable times upon the premises of a permitted facility or where records are kept; (4-1-00)
- b. Have access to and copy at reasonable times any records that must be kept under conditions of the permit; (4-1-00)
- c. Inspect any facility or land application site; and (4-1-00)
- d. Sample or monitor at reasonable times, substances or parameters directly related to compliance with the permit or these rules. (4-1-00)

06. Reporting. The permittee shall report to the Director under the circumstances and in the manner specified in Section 400: (4-1-00)

a. Orally, no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment; and (4-1-00)

b. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which has resulted or which may result in noncompliance with these rules. The report shall contain: (4-1-00)

- i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (4-1-00)
- ii. The period of the event including, to the extent possible, times and dates; (4-1-00)
- iii. Measures taken to mitigate the event or eliminate the event and protect the public health; and (4-1-00)
- iv. Steps taken to prevent recurrence of the event. (4-1-00)

c. In writing, when the permittee knows or should reasonably know of material relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director. (4-1-00)

07. Begin Construction. If a permittee fails to begin construction or expansion of a facility within two (2) years of the effective date of a permit, the Director may void the permit and require a new application. (4-1-00)

08. Permit Renewal. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee shall apply for a new permit at least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules. (4-1-00)

401. -- 449. (RESERVED)

450. SPECIFIC PERMIT CONDITIONS.

01. Basis for Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and animal waste compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to, the following: (4-1-00)

- a. Chemical, biological, physical and volumetric characteristics of the process wastewater; (4-1-00)
 - b. Geological and climatic nature of the facility site; (4-1-00)
 - c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-00)
 - d. Legal considerations relative to land use and water rights; (4-1-00)
 - e. Techniques used in process wastewater distribution and the disposition of that vegetation exposed to process wastewaters; and (4-1-00)
 - f. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-00)
- 02. Limitations to Operation.** Conditions of the permit may specify or limit: (4-1-00)
- a. Process wastewater composition; (4-1-00)
 - b. Method, manner and frequency of process wastewater treatment; (4-1-00)
 - c. Physical, chemical and biological characteristics of a facility; (4-1-00)
 - d. An odor management plan; and (4-1-00)
 - e. Any other condition the Director finds necessary to protect public health or the environment. (4-1-00)
- 03. Compliance Schedules.** The Director may establish a compliance schedule for facilities as part of the permit conditions including: (4-1-00)
- a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or permit conditions; and (4-1-00)
 - b. Dates by which those steps or actions are to be taken. (4-1-00)
- 04. Monitoring Requirements.** Any facility may be subject to monitoring requirements including, but not limited to, the following: (4-1-00)
- a. The type, installation, use and maintenance of monitoring equipment; (4-1-00)
 - b. Monitoring or sampling methodology, frequency and locations; (4-1-00)
 - c. Monitored substances or parameters; (4-1-00)
 - d. Testing and analytical procedures; and (4-1-00)
 - e. Reporting requirements including both frequency and form. (4-1-00)

451. -- 499. (RESERVED)

500. PERMIT MODIFICATION.

- 01. Minor Modifications.** Minor modifications are those which do not have a potential affect to the environment or the public health. Such modifications shall be made by the Director. Minor modifications are generally limited to: (4-1-00)

- a. The correction of typographical errors; (4-1-00)
- b. Transfer of ownership or operational control in accordance with Section 550; or (4-1-00)
- c. Certain minor changes in monitoring or operational conditions. (4-1-00)

02. Major Modifications. All modifications not considered minor shall be considered major modifications. The procedure for making major modifications shall be the same as that used for a new permit under these rules. (4-1-00)

501. -- 549. (RESERVED)

550. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility shall submit a transfer application to the Director that includes at least the following: (4-1-00)

- a. The relevant information required by Subsection 200.04; and (4-1-00)
- b. Any change of conditions at the facility resulting from the transfer of ownership or operation. (4-1-00)

c. The Director shall review the transfer application and within sixty (60) days of its receipt either approve or deny the transfer. (4-1-00)

02. Transfer Approval. An approved permit transfer shall be a minor modification in accordance with Subsection 500.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at a facility will be subject to the provisions of Subsection 500.02. (4-1-00)

03. Transfer Denial. A notification of a permit denial shall set forth the reasons for the denial, steps necessary to meet the requirements for a permit transfer and the opportunity for the applicant to request a hearing. (4-1-00)

04. Permit Obligations. The new permittee assumes all rights and responsibilities of the transferred permit. (4-1-00)

551. -- 599. (RESERVED)

600. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition shall be deemed a violation of these rules. (4-1-00)

02. Falsification of Statements and Records. It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (4-1-00)

03. Discharges. Any unauthorized discharge from a facility shall be a violation of these rules. (4-1-00)

04. Penalties. Any person violating any provision of these rules or any permit or order issued thereunder shall be liable for a civil or criminal penalty in accordance with Title 39, Chapter 1, Idaho Code. (4-1-00)

05. Permit Revocation. The Director may revoke a permit for: (4-1-00)

- a. A material violation of any condition of a permit; or (4-1-00)
- b. If the permit was obtained by misrepresentation or failure to disclose all relevant facts. (4-1-00)

06. Revocation Hearing. Prior to revoking a permit, the Director shall issue a notice of intent which shall become final unless the permittee timely requests an administrative hearing in writing. Such hearing shall be conducted in accordance with Section 003 of these rules. (4-1-00)

601. -- 998. (RESERVED)

999. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-1-00)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 – GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-1901 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized pursuant to Idaho §§ 39-105, 39-107, 39-120, and 39-126.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rulemaking adopts and re-publishes the following existing and previously approved and codified fee rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.11, Ground Water Quality Rule

A temporary rule was adopted by the Idaho Board of Environmental Quality in May 2019, effective June 30, 2019, and published in the Idaho Administrative Bulletin, July 3, 2019, **Vol. 19-7, pages 524–542**. More information regarding this rule docket is available at www.deq.idaho.gov/58-0111-1901.

FEE SUMMARY: The attached rules provide a specific description of the fee or charge imposed by this rulemaking. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. The fee category and statutory authority for imposition of the fees are listed below. Idaho Code § 39-119, point of compliance application fee

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: IDAPA 58.01.11, Ground Water Quality Rule, regulates activities not specifically regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(2) through (4), Idaho Code, supporting the adoption of these rules. The Ground Water Quality Rule establishes minimum requirements to maintain and protect ground water quality. This rule applies to all activities with the potential to degrade ground water quality.

These rules were originally approved in 1997 with the intent to implement policies from the Protection and Prevention Sections of the Idaho Ground Water Quality Plan, adopted by the legislature, 1992 Idaho Sess. Laws 310, page 92, and required by Idaho Code § 39-120 and 126.

Section 107D(2) and (3) potentially apply to Section 200, Ground Water Quality Standards.

Section 107D(2)(a) requires that, to the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

In accordance with The Ground Water Quality Protection Act of 1989 and Idaho Code § 39-102, the quality of the state's ground water should be protected to satisfy existing and future beneficial uses including drinking water. Furthermore, Idaho Code § 39-120(4) states "The director of the department of environmental quality may develop and recommend for approval by the board, through rulemaking, ambient ground water quality standards for contaminants for which the administrator of the United States environmental protection agency has established drinking water maximum contaminant levels." The maximum contaminant level (MCL) is the maximum level allowed of a contaminant in water which is delivered to any user of a public water system.

The numerical and narrative standards in Section 200 identify the minimum level of protection of ground water quality that shall be not exceeded unless otherwise allowed in the rule. IDAPA 58.01.11.200. The Idaho Primary Constituent Standards were consistent with USEPA MCLs at the time of promulgation in 1997. Changes to the Idaho Ground Water Quality Standard for total coliform were made in 2007. According to the EPA website, <https://www.epa.gov/dwregdev/how-epa-regulates-drinking-water-contaminants>, MCLs are determined in a manner that "maximizes health risk reduction benefits at a cost that is justified by the benefits." The MCL is the maximum level allowed of a contaminant in water which is delivered to any user of a public water system.

Consequently, although the federal government does not specifically regulate ground water, it does require that public drinking water systems meet the MCLs adopted by Idaho in Section 200.

Section 107D(2)(b) requires that, to the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

Data was not collected or analyzed as part of the rulemaking process. DEQ relied on standards set by the USEPA.

Section 107D(3)(a) requires the identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

In Idaho, ground water supplies drinking water to approximately 95% of Idaho's citizens. Of these consumers, approximately one million rely on regulated public water systems for drinking water. Another 500,000 Idahoans utilize ground water from private wells for drinking water. Protection of this resource is critical to the health of the citizens of Idaho. The health effects of each regulated contaminant are variable and have been studied by EPA prior to setting an MCL.

Ground water also replenishes surface water supplies throughout Idaho. In areas with degraded ground water, the quality of the interconnected ground water can negatively impact surface water quality resulting in adverse environmental effects on aquatic habitat such as increased algal blooms or endocrine disruption in susceptible species.

Section 107D(3)(b) through (e) requires identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk, of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty, and studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effect or environmental effects and the methodology used to reconcile inconsistencies in the data.

The proposed rules include standards intended to protect human health and the environment. The standards are based on estimates or analyses of risk to public health or the environment conducted in accordance with 40 CFR Part 141 – National Primary Drinking Water Regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned. Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 4th day of September, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208) 373-0418 / Fax: (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 58-01111-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

**The original text of the temporary rule was published in the Idaho Administrative Bulletin,
[Volume 19-7, July 3, 2019, pages 524 through 542.](#)**

**(No changes have been made to the reauthorized/temporary rule
and it is being published as proposed in its entirety)**

**IDAPA 58
TITLE 01
CHAPTER 11**

58.01.11 – GROUND WATER QUALITY RULE

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Board of Environmental Quality authority to promulgate the Ground Water Quality Rule pursuant to Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code. The authority to formulate and adopt rules as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Director and Board pursuant to Sections 39-105 and 39-107, Idaho Code. Under Section 39-120, Idaho Code, the Board is authorized to adopt, by rule, ambient ground water quality standards. Under Section 39-126, Idaho Code, all state agencies shall incorporate the Ground Water Quality Plan, adopted by the legislature, in the administration of their programs and are granted authority to promulgate rules to protect ground water quality as necessary to administer such programs. (3-20-97)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 58.01.11, Rules of the Department of Environmental Quality, IDAPA 58.01.11, “Ground Water Quality Rule.” (3-20-97)

02. Scope. Under Section 39-120, Idaho Code, the Department of Environmental Quality is designated

as the primary agency to coordinate and administer ground water quality protection programs for the state. This rule establishes minimum requirements for protection of ground water quality through standards and an aquifer categorization process. The requirements of this rule shall serve as a basis for the administration of programs which address ground water quality. This rule does not in and of itself create a permit program. (3-20-97)

002. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

003. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied, at cost, at the Department of Environmental Quality, 1410 North Hilton, Boise, ID 83706-1255. (3-20-97)

004. -- 005. (RESERVED)

006. POLICIES.

It is the intent of the Department to implement, through this rule, the following policies from the Protection and Prevention Sections of the Idaho Ground Water Quality Plan, adopted by the legislature, 1992 Session Law, Chapter 310, Page 922. These policies are: (3-20-97)

01. Ground Water Quality Protection. It is the policy of the state of Idaho to maintain and protect the existing high quality of the state's ground water. (3-20-97)

02. Existing and Projected Future Beneficial Uses. The policy of the state of Idaho is that existing and projected future beneficial uses of ground water shall be maintained and protected, and degradation that would impair existing and projected future beneficial uses of ground water and interconnected surface water shall not be allowed. (3-20-97)

03. Categorization of Ground Water. The policy of the state of Idaho is to provide differential protection for the state's ground water resources. A ground water categorization system should be established for aquifers or portions of aquifers. The categorization system should be based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations. (3-20-97)

04. Ground Water Quality Standards. The policy of the state of Idaho is to establish ground water quality standards for biological, radiological, and chemical constituents. (3-20-97)

05. Prevention of Ground Water Contamination. The policy of the state of Idaho is to prevent contamination of ground water from all regulated and nonregulated sources of contamination to the maximum extent practical. (7-1-98)

06. Mining. The policy of the state of Idaho is to protect ground water and allow for the extraction of minerals above and within ground water. (7-1-98)

007. DEFINITIONS.

01. Agricultural Chemical. Any pesticide, nutrient or fertilizer used for the benefit of agricultural production or pest management. (3-20-97)

02. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (3-20-97)

03. Beneficial Uses. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, aquacultural water supplies, and mining. A beneficial use is defined as actual current or projected future uses of ground water. (3-20-97)

- 04. Best Available Method.** Any system, process, or method which is available to the public for commercial or private use to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)
- 05. Best Management Practice.** A practice or combination of practices determined to be the most effective and practical means of preventing or reducing contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (3-20-97)
- 06. Best Practical Method.** Any system, process, or method that is established and in routine use which could be used to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)
- 07. Board.** The Idaho Board of Environmental Quality. (3-20-97)
- 08. Cleanup.** The removal, treatment or isolation of a contaminant from ground water through the directed efforts of humans or the removal or treatment of a contaminant in ground water through management practice or the construction of barriers, trenches and other similar facilities for prevention of contamination, as well as the use of natural processes such as ground water recharge, natural decay and chemical or biological decomposition. (3-20-97)
- 09. Constituent.** Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (3-20-97)
- 10. Contaminant.** Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (3-20-97)
- 11. Contamination.** The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. (3-20-97)
- 12. Crop Root Zone.** The zone that extends from the surface of the soil to the depth of the deepest crop root and is specific to a species of plant, group of plants, or crop. (3-20-97)
- 13. Degradation.** The lowering of ground water quality as measured in a statistically significant and reproducible manner. (3-20-97)
- 14. Department.** The Department of Environmental Quality. (3-20-97)
- 15. Extraction.** Physical removal of ore or waste rock from mineral-bearing deposits. Extraction does not include processing, which is the removal of target minerals from ores by physical or chemical methods. (7-1-09)
- 16. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-20-97)
- 17. Ground Water Quality Standard.** Values, either numeric or narrative, assigned to any constituent for the purpose of establishing minimum levels of protection. (3-20-97)
- 18. Highly Vulnerable Ground Water.** Ground water characterized by a relatively high potential for contaminants to enter and/or be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (3-20-97)
- 19. Irreplaceable Source.** A ground water source serving a beneficial use(s) where the reliable delivery of comparable quality and quantity of water from an alternative source in the region would be economically infeasible or precluded by institutional constraints. (3-20-97)
- 20. Mine Operator.** Any person authorized to engage in mining activities, including without limitation

those authorized by law, lease, contract, permit, or plan of operation. It does not include a governmental agency that grants mineral leases or similar contracts or permits unless the agency is engaged in mining activities. (7-1-09)

21. Mining Activity. Recovery of a mineral from mineral-bearing deposits, which includes reclamation, extraction, excavation, overburden placement, disposal of tailings resulting from processing, and disposal of mineral extraction wastes, including tailings that are the result of extraction, waste rock, and other extraction wastes uniquely associated with mining. (7-1-09)

22. Mining Area. The area on or within which one (1) or more mining activities occur. The Department shall determine the boundaries of the mining area as provided in Section 401. Distinct mining activities may constitute separate mining areas. (7-1-09)

23. Natural Background Level. The level of any constituent in the ground water within a specified area as determined by representative measurements of the ground water quality unaffected by human activities. (3-20-97)

24. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (3-20-97)

25. Point of Compliance. The vertical surface where the Department determines compliance with ground water quality standards as provided in Subsection 400.05 and Section 401. (7-1-09)

26. Practical Quantitation Level. The lowest concentration of a constituent that can be reliably quantified among laboratories within specified limits of precision and accuracy during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. (3-20-97)

27. Projected Future Beneficial Uses. Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (3-20-97)

28. Recharge Area. An area in which water infiltrates into the soil or geological formation from, including but not limited to precipitation, irrigation practices and seepage from creeks, streams, and lakes, and percolates to one (1) or more aquifers. (3-20-97)

29. Reclamation. The process of restoring an area affected by a mining activity to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (7-1-09)

30. Remediation. Any action taken (1) to control the source of contamination, (2) to reduce the level of contamination, (3) to mitigate the effects of contaminants, and/or (4) to minimize contaminant movement. Remediation includes providing alternate drinking water sources when needed. (3-20-97)

31. Site Background Level. The ground water quality at the hydraulically upgradient site boundary. (3-20-97)

008. -- 010. (RESERVED)

011. INCORPORATION BY REFERENCE.

Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in this rule. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations: (3-20-97)

01. Department of Environmental Quality. Department of Environmental Quality, 1410 N. Hilton,

Boise, ID 83706-1255. (3-20-97)

02. Law Library. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051. (3-20-97)

03. U.S. Government Printing Office. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174. (3-20-97)

012. -- 149. (RESERVED)

150. IMPLEMENTATION.

This rule establishes minimum requirements to maintain and protect ground water quality. This rule applies to all activities with the potential to degrade ground water quality. (3-20-97)

01. Ground Water Quality Standards. The numerical and narrative standards in Sections 200 and 301 identify minimum levels of protection for ground water quality and shall be used as a basis for: (3-20-97)

- a.** Evaluating or comparing ground water quality when developing or modifying best available methods, best management practices, or best practical methods; (3-20-97)
- b.** Identifying permit conditions; (3-20-97)
- c.** Establishing cleanup levels; and (3-20-97)
- d.** Determining appropriate actions when ground water quality standards are exceeded. (3-20-97)

02. Aquifer Categorization. Aquifers of the state shall be categorized based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing water quality, and social and economic considerations. There shall be three aquifer categories, Sensitive Resource, General Resource, and Other Resource, to provide different levels of protection. The level of protection required for each category and application of standards to these categories are shown in Table I.

Table 1. Level of Protection and Application of Standards to Aquifer Categories		
Category	Level of Protection	Application of Standards
Sensitive Resource	Apply best management practices and best available methods. This category provides the highest level of ground water protection.	May apply stricter standards than in Section 200.
General Resource	Apply best management practices and best practical methods to the maximum extent practical.	Apply numerical and narrative standards in Section 200.
Other Resource	Apply best management practices and best practical methods to the maximum extent practical.	May apply less strict standards than in Section 200.

(3-25-16)

a. All aquifers where there are activities with the potential to degrade ground water quality are categorized in Section 300. Those aquifers where no activities with the potential to degrade ground water quality are occurring will remain uncategorized until such activities are commenced. If no action is taken to categorize an aquifer when an activity(ies) with the potential to degrade ground water quality is initiated, the aquifer will automatically be categorized as General Resource. (3-20-97)

b. Categorization should be considered when an activity with the potential to degrade ground water quality is proposed over an aquifer or portion of an aquifer which presently has no such activities and, based on the criteria in Section 350, the aquifer may be most appropriately categorized as Sensitive Resource or Other Resource. (3-20-97)

c. Recategorization should be considered when information on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations, in conjunction with one or more of the criteria in Section 350, demonstrates that the aquifer or portion of an aquifer may be more appropriate in another category. (3-20-97)

03. Ground Water-Surface Water Interconnection. The beneficial uses of interconnected surface water shall be recognized when evaluating ground water quality protection. The implementation of water quality programs shall ensure that the quality of ground water that discharges to surface water does not impair the identified beneficial uses of the surface water and that surface water infiltration does not impair beneficial uses of ground water. (3-20-97)

04. Interagency Coordination. The Department will coordinate with other federal, state, and local agencies to pursue interagency agreements when necessary to ensure implementation of this rule for activities which have the potential to degrade ground water quality. (3-20-97)

151. -- 199. (RESERVED)

200. GROUND WATER QUALITY STANDARDS.

The following numerical and narrative standards apply to all ground water of the state and shall not be exceeded unless otherwise allowed in this rule. (3-20-97)

01. Numerical Ground Water Quality Standards. (3-20-97)

a. The Primary Constituent Standards are based on protection of human health and are identified in Table II.

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
7440-36-0	Antimony	0.006
7440-38-2	Arsenic	0.05
1332-21-4	Asbestos	7 million fibers/l longer than 10 um
7440-39-3	Barium	2
7440-41-7	Beryllium	0.004
7440-43-9	Cadmium	0.005
7440-47-3	Chromium	0.1
7440-50-8	Copper	1.3
57-12-5	Cyanide	0.2
16984-48-8	Fluoride	4
7439-92-1	Lead	0.015
7439-97-6	Mercury	0.002

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
*1	Nitrate (as N)	10
*1	Nitrite (as N)	1
*1	Nitrate and Nitrite (both as N)	10
7782-49-2	Selenium	0.05
7440-28-0	Thallium	0.002
15972-60-8	Alachlor	0.002
1912-24-9	Atrazine	0.003
71-43-2	Benzene	0.005
50-32-8	Benzo(a)pyrene (PAH)	0.0002
75-27-4	Bromodichloromethane (THM)	0.1
75-25-2	Bromoform (THM)	0.1
1563-66-2	Carbofuran	0.04
56-23-5	Carbon Tetrachloride	0.005
57-74-9	Chlordane	0.002
124-48-1	Chlorodibromomethane (THM)	0.1
67-66-3	Chloroform(THM)	0.002
94-75-7	2,4-D	0.07
75-99-0	Dalapon	0.2
103-23-1	Di(2-ethylhexyl) adipate	0.4
96-12-8	Dibromochloropropane	0.0002
541-73-1	Dichlorobenzene m-	0.6
95-50-1	Dichlorobenzene o-	0.6
106-46-7	1,4(para)-Dichlorobenzene or Dichlorobenzene p-	0.075
107-06-2	1,2-Dichloroethane	0.005
75-35-4	1,1-Dichloroethylene	0.007
156-59-2	cis-1, 2-Dichloroethylene	0.07
156-60-5	trans-1, 2-Dichloroethylene	0.1
75-09-2	Dichloromethane	0.005
78-87-5	1,2-Dichloropropane	0.005
117-81-7	Di(2-ethylhexyl)phthalate	0.006
88-85-7	Dinoseb	0.007

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
85-00-7	Diquat	0.02
145-73-3	Endothall	0.1
72-20-8	Endrin	0.002
100-41-4	Ethylbenzene	0.7
106-93-4	Ethylene dibromide	0.00005
1071-83-6	Glyphosate	0.7
76-44-8	Heptachlor	0.0004
1024-57-3	Heptachlor epoxide	0.0002
118-74-1	Hexachlorobenzene	0.001
77-47-4	Hexachlorocyclopentadiene	0.05
58-89-9	Lindane	0.0002
72-43-5	Methoxychlor	0.04
108-90-7	Monochlorobenzene	0.1
23135-22-0	Oxamyl (Vydate)	0.2
87-86-5	Pentachlorophenol	0.001
1918-02-1	Picloram	0.5
1336-36-3	Polychlorinated biphenyls (PCBs)	0.0005
122-34-9	Simazine	0.004
100-42-5	Styrene	0.1
1746-01-6	2,3,7,8-TCDD (Dioxin)	3.0 x 10 ⁻⁸
127-18-4	Tetrachloroethylene	0.005
108-88-3	Toluene	1
*1	Total Trihalomethanes [the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)]	0.1
8001-35-2	Toxaphene	0.003
93-72-1	2,4,5-TP (Silvex)	0.05
120-82-1	1,2,4-Trichlorobenzene	0.07
71-55-6	1,1,1-Trichloroethane	0.2
79-00-5	1,1,2-Trichloroethane	0.005
79-01-6	Trichloroethylene	0.005
75-01-4	Vinyl Chloride	0.002

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
1330-20-7	Xylenes (total)	10
*1	Gross alpha particle activity (including radium -226, but excluding radon and uranium)	15 pCi/l
*1	Combined beta/photon emitters	4 millirems/year effective dose equivalent
*1	Combined Radium - 226 and radium 228	5 pCi/l
*1	Strontium 90	8 pCi/l
*1	Tritium	20,000 pCi/l
*1	Total Coliform ²	1 colony forming unit/100 ml
	Escherichia coliform (E. coli)	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
	Fecal coliform	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
Table Footnotes		
* ¹ No Chemical Abstract Service Number exists for this constituent.		
* ² An exceedance of the primary ground water quality standard for total coliform is not a violation of these rules. If the primary ground water quality standard for total coliform is exceeded, additional analysis for fecal coliform or E. coli will be conducted. An exceedance of the primary ground water quality standards for either fecal coliform or E. coli is a violation of these rules.		

(3-30-07)

b. The Secondary Constituent Standards are generally based on aesthetic qualities and are identified in Table III.

TABLE III - SECONDARY CONSTITUENT STANDARDS	
Constituent	Standard (mg/l unless otherwise specified)
Aluminum	0.2
Chloride	250
Color	15 Color Units
Foaming Agents	0.5
Iron	0.3
Manganese	0.05

TABLE III - SECONDARY CONSTITUENT STANDARDS	
Constituent	Standard (mg/l unless otherwise specified)
Odor	3.0 Threshold Odor Number
pH	6.5 to 8.5 (no units apply)
Silver	0.1
Sulfate	250
Total Dissolved Solids	500
Zinc	5

(3-20-97)

c. Sample preservation and analytical procedures to determine compliance with the standards identified in Subsection 200.01 shall be in accordance with the following, except that cyanide shall be analyzed as weak acid dissociable cyanide using a method approved by the Department: (5-3-03)

i. Environmental Protection Agency, Code of Federal Regulations, Title 40, Parts 141 and 143, revised as of July 2001; or (5-3-03)

ii. Another method approved by the Department. (3-20-97)

02. Narrative Ground Water Quality Standards. Contaminant concentrations, alone or in combination with other contaminants or properties, shall not cause the ground water to be hazardous, deleterious, carcinogenic, mutagenic, teratogenic, or toxic. Determinations of specific numerical levels when applying this standard shall be based on: (3-20-97)

a. Best scientific information currently available on adverse effects of the contaminant(s); (3-20-97)

b. Protection of a beneficial use; or (3-20-97)

c. Practical quantitation levels for the contaminant(s), if they exceed the levels identified in Subsection 200.02.a. or 200.02.b. (3-20-97)

03. Natural Background Level. If the natural background level of a constituent exceeds the standard in this section, the natural background level shall be used as the standard. (3-20-97)

201. -- 299. (RESERVED)

300. CATEGORIZED AQUIFERS OF THE STATE.

Aquifers or portions of aquifers in the state are categorized as follows: (3-20-97)

01. Sensitive Resource. (3-20-97)

a. Spokane Valley -- Rathdrum Prairie Aquifer. (3-20-97)

i. In addition to the ground water quality standards in Section 200, the following narrative standard applies: the aquifer shall not be degraded, as it relates to beneficial uses, as a result of point source or nonpoint source activity unless it is demonstrated by the person proposing the activity that such change is justifiable as a result of necessary economic or social development. (3-20-97)

02. General Resource. All aquifers or portions of aquifers where there are activities with the potential to degrade ground water quality of the aquifer, unless otherwise listed in Subsection 300.01 or 300.03. Once an activity with the potential to degrade the ground water quality of an uncategorized aquifer or portion of an aquifer is initiated, the uncategorized aquifer shall automatically become General Resource unless petitioned into the Sensitive Resource or Other Resource category. (3-20-97)

03. Other Resource. (3-20-97)

301. MANAGEMENT OF ACTIVITIES WITH THE POTENTIAL TO DEGRADE AQUIFERS.

01. Sensitive Resource Category Aquifers. (3-20-97)

a. Activities with the potential to degrade Sensitive Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best available methods except when a point of compliance is set pursuant to Section 401. (3-25-16)

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Sensitive Resource. In addition, stricter numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-20-97)

02. General Resource Category Aquifers. (3-20-97)

a. Activities with the potential to degrade General Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. (3-25-16)

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as General Resource. (3-20-97)

03. Other Resource Category Aquifers. (3-20-97)

a. Activities with the potential to degrade Other Resource aquifers shall be managed in a manner which maintains existing ground water quality, except for those identified constituents which may have a less stringent standard, through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. (3-25-16)

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Other Resource. In addition, less strict numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-20-97)

302. -- 349. (RESERVED)

350. PROCEDURES FOR CATEGORIZING OR RECATEGORIZING AN AQUIFER.

The following process shall be used for categorizing or recategorizing an aquifer. (3-20-97)

01. Criteria for Aquifer Categories. The following criteria shall be considered when a petition to categorize or recategorize aquifers or portions of aquifers is submitted to the Board: (3-20-97)

a. For Sensitive Resource aquifers: (3-20-97)

i. The ground water in an aquifer or portion of an aquifer is of a better quality than the ground water quality standards in Section 200 and maintenance of this quality is needed to protect an identified beneficial use(s); (3-20-97)

ii. The ground water in an aquifer or portion of an aquifer is considered highly vulnerable; (3-20-97)

iii. The ground water in an aquifer or portion of an aquifer represents an irreplaceable source for the identified beneficial use(s); (3-20-97)

iv. The ground water quality in an aquifer or portion of an aquifer has been degraded and there is a need for additional protection measures to maintain or improve the water quality or prevent impairment of a beneficial use; (3-20-97)

v. The ground water within an aquifer or portion of an aquifer is shown to be hydrologically interconnected with surface water and additional protection is needed to maintain the quality of either surface or ground water. Hydrologic interconnections can include either natural or induced ground water recharge or discharge areas; or (7-1-98)

vi. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for additional protection. (3-20-97)

b. For General Resource aquifers: (3-20-97)

i. An activity with the potential to degrade ground water quality is initiated over an aquifer or portion of an aquifer which presently has no such activities; (3-20-97)

ii. The ground water in an aquifer or portion of an aquifer is currently being used for drinking water or another beneficial use which requires similar protection; or (3-20-97)

iii. The ground water in an aquifer or portion of an aquifer has a projected future beneficial use of drinking water or another beneficial use which requires similar protection. (3-20-97)

c. For other resource aquifers: (3-20-97)

i. The ground water quality within an aquifer or portion of an aquifer does not meet one or more of the ground water quality standards in Section 200; and allowing the ground water quality to remain at this level does not impair existing or projected future beneficial uses within the aquifer or portion of an aquifer; (3-20-97)

ii. The projected ground water quality within an aquifer or portion of an aquifer will not meet one or more of the ground water quality standards in Section 200 as a result of activities over or within the aquifer or portion of an aquifer; and allowing the proposed degradation will not impair existing or projected future beneficial uses; (3-20-97)

iii. Human caused conditions or sources of contamination have resulted in ground water quality standards in Section 200 being exceeded, and the contamination cannot be remedied for economical or technical reasons, or remediation would cause more environmental damage to correct than to leave in place; or (3-20-97)

iv. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for categorization as an Other Resource. (3-20-97)

02. Petition Process. The Department or any other person may petition the Board to initiate rulemaking to categorize or recategorize an aquifer or portion of an aquifer pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." In addition to the information required in a rulemaking Petition pursuant to IDAPA 58.01.23, the following information shall be submitted in writing by the Petitioner for the identified aquifer or portion of an aquifer: (3-15-02)

a. Current category, if applicable; (3-20-97)

b. Proposed category and an explanation of how one or more of the criteria in Subsection 350.01 are met; (3-20-97)

c. An explanation of why the categorization or recategorization is being proposed; (3-20-97)

- d. Location, description and areal extent; (3-20-97)
- e. General location and description of existing and projected future ground water beneficial uses; (3-20-97)
- f. Documentation of the existing ground water quality; (3-20-97)
- g. Documentation of aquifer characteristics, where available, including, but not limited to: (3-20-97)
- i. Depth to ground water; (3-20-97)
- ii. Thickness of the water bearing section; (3-20-97)
- iii. Direction and rate of ground water flow; (3-20-97)
- iv. Known recharge and discharge areas; and (3-20-97)
- v. Geology of the area; (3-20-97)
- h. Identification of any proposed standards, for specified constituents, which would be stricter or less strict than the ground water quality standards in Section 200, or any standards to be applied in addition to those in Section 200; and a rationale for the proposed standards. (3-20-97)

03. Preliminary Department Review. Prior to submission of a petition to the Board to categorize or recategorize an aquifer, any person may seek a preliminary review of the petition from the Department. The Department shall respond to the petitioner with comments within forty-five (45) days. (3-20-97)

351. -- 399. (RESERVED)

400. GROUND WATER CONTAMINATION.

01. Releases Degrading Ground Water Quality. No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: (3-20-97)

- a. Causes a ground water quality standard to be exceeded; (3-20-97)
- b. Injures a beneficial use of ground water; or (3-20-97)
- c. Is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method. (3-20-97)

02. Measures Taken in Response to Degradation. (3-25-16)

a. Except when a point of compliance is set pursuant to Section 401, when a numerical standard is not exceeded, but degradation of ground water quality is detected and deemed significant by the Department, the Department shall take one (1) or more of the following actions: (3-25-16)

- i. Require a modification of regulated activities to prevent continued degradation; (3-20-97)
- ii. Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; (3-20-97)
- iii. Allow limited degradation of ground water quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: (3-30-07)

- (1) Best management practices, best available methods or best practical methods, as appropriate for the

aquifer category, are being applied; and (3-20-97)

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or (3-20-97)

iv. Allow degradation of ground water quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: (3-20-97)

(1) Best management practices are being applied; and (3-20-97)

(2) The degradation will not adversely impact a beneficial use. (3-20-97)

b. The following criteria shall be considered when determining the significance of degradation: (3-20-97)

i. Site specific hydrogeologic conditions; (3-20-97)

ii. Water quality, including seasonal variations; (3-20-97)

iii. Existing and projected future beneficial uses; (3-20-97)

iv. Related public health issues; and (3-20-97)

v. Whether the degradation involves a primary or secondary constituent in Section 200. (3-20-97)

03. Contamination Exceeding a Ground Water Quality Standard. The discovery of any contamination exceeding a ground water standard that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further contamination or clean up existing contamination, as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code. (3-20-97)

04. Agricultural Chemicals. Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ground water contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory requirements. (3-20-97)

05. Site-Specific Ground Water Quality Levels or Points of Compliance. The Department may allow site-specific ground water quality levels, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, or may allow site-specific points of compliance, based on consideration of effects to human health and the environment, for: (7-1-09)

a. Remediation conducted under the Department's oversight; (3-20-97)

b. Permits issued by the Department; (3-20-97)

c. Situations where the site background level varies from the ground water quality standard; (7-1-09)

d. Dissolved concentrations of secondary constituents listed in Section 200 of this rule. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; or (7-1-09)

e. Other situations authorized by the Department in writing. (3-20-97)

401. MINING.

01. Request for Setting Point(s) of Compliance and Standards Applicable to Mining Activities. At the request of a mine operator, pursuant to this section, the Department shall set a point of compliance, or points of

compliance, at which the mine operator shall protect current and projected future beneficial uses of the ground water and meet the ground water quality standards as described in Section 200 or as allowed under Subsection 400.05. Degradation of ground water is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category as specified in Table 1 of Subsection 150.02. If a request is not made, the mine operator must meet the ground water quality standards as described in Subsection 150.01 in ground water both within and beyond the mining area unless the Department establishes the point(s) of compliance consistent with Subsection 401.03. (3-25-16)

02. Application Process. (7-1-09)

a. If the mine operator requests a point of compliance, or points of compliance, the mine operator shall make written application to the Department. The application shall be accompanied by a fee of two thousand five hundred dollars (\$2,500). The application shall include the following information in sufficient detail to allow the Department to establish point(s) of compliance: (7-1-09)

- i. Name, location, and mailing address of the mining operation; (7-1-09)
- ii. Name, mailing address, and phone number of the mine operator; (7-1-09)
- iii. Land ownership status of the mining operation (federal, state, private or public); (7-1-09)
- iv. The legal structure (corporation, partnership, etc.) and residence of the mine operator; (7-1-09)
- v. The legal description, to the quarter-quarter section, of the location of the proposed mining operation; (7-1-09)
- vi. Evidence the mine operator is authorized by the Secretary of State to conduct business in the state of Idaho; (7-1-09)
- vii. A general description of the operational plans for the mining operation from construction through final reclamation. This description shall include any proposed phases for construction, operations, and reclamation and a map that identifies the location of all mining activities; (7-1-09)
- viii. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the mining area, identifying and showing the location and extent of the following features: (7-1-09)
 - (1) All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches; (7-1-09)
 - (2) All public and private drinking water supply source(s) within one (1) mile of the mining area; (7-1-09)
 - (3) All service roads and public roads; (7-1-09)
 - (4) All buildings and structures within one (1) mile of the mining area; (7-1-09)
 - (5) All special resource waters within one (1) mile of the mining area; and (7-1-09)
 - (6) All Clean Water Act Section 303(d) listed streams, and their listed impairments, within one (1) mile of the mining area; (7-1-09)
- ix. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction; (7-1-09)
- x. Information regarding the relevant factors set forth in Subsection 401.03; and (7-1-09)

- xi. A proposed point of compliance, or points of compliance. (7-1-09)
- b. Within thirty (30) days of receipt of an application, the Department shall issue a written notice to the mine operator indicating: (7-1-09)
 - i. That the application is complete; or (7-1-09)
 - ii. That the Department is rejecting the application as incomplete. In such a case, the Department shall provide a list of deficiencies. Upon a determination that the application is incomplete, the Department shall refund one-half (1/2) of the application fee. (7-1-09)
- c. The Department shall establish the point(s) of compliance within one hundred eighty (180) days after receipt of a complete application unless the Department determines that additional time is necessary due to unusual circumstances. (7-1-09)

03. Setting the Point(s) of Compliance. The point(s) of compliance shall be set as close as possible to the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.a. through 401.03.h., but in no event shall the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance shall be set so that, outside the mining area boundary, there is no injury to current or projected future beneficial uses of ground water and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance shall be based on an analysis and consideration of all relevant factors including, but not limited to: (7-1-09)

- a. The hydrogeological characteristics of the mining area and surrounding land, including any dilution characteristics of the aquifer and any natural attenuation supported by site-specific data; (7-1-09)
- b. The concentration, volume, and physical and chemical characteristics of contaminants resulting from the mining activity, including the toxicity and persistence of the contaminants; (7-1-09)
- c. The quantity, quality, and direction of flow of ground water underlying the mining area; (7-1-09)
- d. The proximity and withdrawal rates of current ground water users; (7-1-09)
- e. A prediction of projected future beneficial uses; (7-1-09)
- f. The availability of alternative drinking water supplies; (7-1-09)
- g. The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water; and (7-1-09)
- h. Public health, safety, and welfare effects. (7-1-09)

04. Ground Water Monitoring and Reporting. The Department shall require ground water monitoring and reporting whenever the Department sets the point(s) of compliance. The Department shall not require ground water monitoring that duplicates ground water monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. (7-1-09)

- a. A ground water monitoring system required under Subsection 401.04 shall be designed to: (7-1-09)
 - i. Represent the quality of background ground water that has not been affected by the mining activity; (7-1-09)and
- ii. Represent the quality of ground water passing the point(s) of compliance in order to determine compliance with ground water quality standards or effectiveness of best management practices. (7-1-09)

b. When practicable, indicator monitoring wells or other devices may be required. Such indicator wells and other devices shall not be used to determine compliance with the ground water quality standards, but instead may be used to evaluate modeling results, to predict the quality of ground water at the point(s) of compliance, or to determine the effectiveness of best management practices. (7-1-09)

c. All monitoring wells shall be constructed (well depth, well screen size, well screen interval, gravel pack, etc.) and developed so that ground water samples represent the quality of ground water that is relevant to current and future beneficial uses. (7-1-09)

05. Coordination with Other State or Federal Agencies/Public Notice. Before setting the point(s) of compliance or requiring ground water monitoring, the Department shall coordinate with and seek recommendations from other state or federal agencies that have regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting or changing the point(s) of compliance. The Department shall issue a public notice after it sets the point(s) of compliance. (7-1-09)

06. Limitations. Section 401 addresses only those contaminants that naturally occur in the mining area ground water or in the surrounding rock or soil and are present in concentrations above the natural background level as a result of mining activities. (7-1-09)

07. Application of Provisions. The provisions set out in Section 401 apply to new mining activities or to an expansion of existing mining activities commencing after July 1, 2009. All consent orders, compliance schedules, and other agreements adopted or issued by the Department prior to July 1, 2009 pertaining to ground water protection at mine sites shall remain in full force and effect. (7-1-09)

08. Change in Point(s) of Compliance/Ground Water Monitoring. (7-1-09)

a. A change in the point(s) of compliance may be requested by the mine operator when there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03. A change requested by the mine operator shall include an identification of the new proposed point(s) of compliance, a description of the cause for the change and any data supporting the change. The mine operator's request shall be handled as an application submitted pursuant to Subsection 401.02.a. and shall be subject to all other provisions of Section 401. (7-1-09)

b. The Department may initiate a change in the point(s) of compliance if there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03, and the Department determines that the change is necessary to ensure there is no injury to current or projected future beneficial uses of ground water and no violation of water quality standards applicable to any interconnected surface waters. The Department shall notify the mine operator in writing of the Department's intent to change the point(s) of compliance. The Department shall make its final decision to change the point(s) of compliance within sixty (60) days of the notice to the mine operator unless the Department and the mine operator agree more time is necessary to make the decision. (7-1-09)

c. The Department may require additional or new ground water monitoring or indicator wells when the Department changes the point(s) of compliance. The Department may also require additional or different ground water monitoring or indicator wells if the Department determines, based upon a change in or new information regarding the mining activity or any of the factors listed in Subsection 401.03, that the monitoring no longer meets the requirements set forth in Subsection 401.04. The mine operator may also request a change in the monitoring. (7-1-09)

402. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.15 – RULES GOVERNING THE CLEANING OF SEPTIC TANKS

DOCKET NO. 58-0115-1901

NOTICE OF STATUS OF RULEMAKING

DESCRIPTIVE SUMMARY: In May 2019, the Idaho Board of Environmental Quality adopted a temporary rule for the reauthorization of previously approved and codified rule chapter IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks. The temporary rule was effective June 30, 2019, and published in the Idaho Administrative Bulletin, Notice of Rulemaking – Adoption of Temporary Rule, July 3, 2019, [Vol. 19-7, pages 543 through 546](#).

When the temporary rule was adopted and then published in the Idaho Administrative Bulletin, it was DEQ's intent to follow up with publication of a proposed rule. However, upon review of its administrative rules, DEQ determined that two rule chapters could be consolidated into a single chapter. Under Docket No. 58-0103-1902, DEQ proposes to combine IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks, with IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules, by moving IDAPA 58.01.15, Sections 003 and 004, into IDAPA 58.01.03 as new Sections 050 and 051.

This rulemaking action is in response to [Executive Order No. 2019-02](#), Red Tape Reduction Act, issued by Governor Little on January 21, 2019.

After consideration of public comments on proposed rule 58-0103-1902, DEQ intends to present the final proposal to the Board in November 2019 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2020 legislative session if adopted by the Board and approved by the Legislature. Temporary rule IDAPA 58.01.15 will expire at that time.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0115-1901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions, contact the undersigned.

Dated this 4th day of September, 2019.

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

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 – RECYCLED WATER RULES

DOCKET NO. 58-0117-1901

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 pursuant Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.17, Recycled Water Rules

A temporary rule was adopted by the Idaho Board of Environmental Quality in May 2019, effective June 30, 2019, and published in the Idaho Administrative Bulletin, July 3, 2019, **Vol. 19-7, pages 547–574**. More information regarding this rule docket is available at www.deq.idaho.gov/58-0117-1901.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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 rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

IDAHO CODE SECTION 39-107D STATEMENT: IDAPA 58.01.17, Recycled Water Rules, ensure that the land application of recycled water does not harm public health or the environment or violate the Department’s Water Quality Standards, IDAPA 58.01.02, or the Ground Water Quality Rule, IDAPA 58.01.11. The federal government does not specifically address recycled water land application. The statutory authority for these rules is contained in Idaho Code §§ 39-115 and 118. Idaho Code § 39-115 provides the Director with the authority to issue pollution source permits in compliance with rules. Idaho Code § 39-118 requires all plans and specifications and record plans “for the construction of new sewage systems, sewage treatment plants or systems” to “be submitted to and approved by the director before construction may begin, and all construction shall be in substantial compliance therewith.” Idaho Code § 39-105(2) requires the Director to “formulate and recommend to the board rules as may be necessary to deal with problems related to water pollution... and licensure and certification requirements pertinent thereto.” Idaho Code § 39-102(3)(a) states: “It is the policy of the state to prevent contamination of ground water from any source to the maximum extent practical.”

The majority of the substantive provisions of these rules was adopted after 2003, thus, if they were based on science or included a standard necessary to protect human health and the environment, they have already been approved as meeting Idaho Code § 39-107D(2) and (3) requirements. The remaining provisions are not specific science-based requirements or standards. Rather, they are (1) procedural requirements that are primarily necessary for the Department to properly process reuse permits, or (2) construction-related requirements to ensure land application

does not harm public health or the environment or violate Water Quality Standards or the Ground Water Quality Rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned. Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 4th day of September, 2019

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208) 373-0418 / Fax: (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED RULE TEXT OF DOCKET NO. 58-0117-1901

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.

**The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 19-7, July 3, 2019, pages 547 through 574.**

**(No changes have been made to the reauthorized/temporary rule
and it is being published as proposed in its entirety)**

**IDAPA 58
TITLE 01
CHAPTER 17**

58.01.17 – RECYCLED WATER RULES

000. LEGAL AUTHORITY.

Pursuant to Title 39, Chapter 1, Idaho Code, the Director of the Department of Environmental Quality is authorized to adopt or formulate and recommend to the Board of Environmental Quality, and the Board of Environmental Quality is authorized to adopt rules, regulations and standards necessary and feasible to protect the environment and the health of citizens of the State including provisions for the issuance of pollution source permits, authorized by Section 39-115, Idaho Code, and review of plans and specifications for wastewater treatment facilities, authorized by Section 39-118, Idaho Code. (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules are to be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, “Recycled Water Rules.” (4-7-11)

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for reuse facilities, also referred to in these rules as “reuse permits.” (4-7-11)

002. WRITTEN INTERPRETATIONS.

Any written statements pertaining to the interpretation of these rules shall be available for review at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (4-6-05)

003. INCORPORATION BY REFERENCE.

American Water Works Association (AWWA) Standards, effective December 2009, are incorporated by reference into these rules. This document is available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, or can be purchased from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (4-7-11)

004. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

005. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality.” (3-15-02)

006. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. (4-11-06)

007. (RESERVED)

008. REFERENCED MATERIALS.

01. Idaho Guidance for Recycled Water. This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules relating to the permitting and operations of reuse facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, and online at <http://www.deq.idaho.gov/guidance-documents>. (4-7-11)

02. Administrative Rules of the Department of Environmental Quality. The following Administrative Rules of the Department of Environmental Quality are referenced in these rules at <http://adminrules.idaho.gov/rules/current/58/index.html>. (4-7-11)

- a. IDAPA 58.01.02, “Water Quality Standards.” (4-7-11)
- b. IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules.” (4-7-11)
- c. IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems.” (4-7-11)
- d. IDAPA 58.01.11, “Ground Water Quality Rule.” (4-7-11)
- e. IDAPA 58.01.16, “Wastewater Rules.” (4-7-11)

03. Treatment Technology Report for Recycled Water. The Alternative Treatment Technology Report for Recycled Water, https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/

dwdocuments/Alternative%20Treatment%20Technology%20Report%20for%20RW%2009_2014.pdf. (4-7-11)

04. Recommended Standards for Wastewater Facilities. Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers at <http://10statesstandards.com/wastewaterstandards.html>. (4-7-11)

05. AWWA Manual M24. AWWA Manual M24, Chapter 4 for Dual Water Systems. This document is available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, or can be purchased from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (4-7-11)

06. Idaho Standards for Public Works Construction. This document is available for a fee through the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. (4-7-11)

009. -- 099. (RESERVED)

100. APPLICABILITY.

01. Applicability to Reuse Facilities. All non-excluded reuse facilities are subject to the requirements of these rules. (4-7-11)

02. Excluded Facilities. (4-7-11)

a. Land application of wastewater from livestock truck washing facilities, feedlots, dairies and mining are excluded from permit requirements under these rules. (4-7-11)

b. The permit requirements set forth in these rules shall not apply to the incidental use of recycled water for landscape irrigation at a municipal wastewater treatment plant if: (4-7-11)

i. There is no other recycled water use that would subject the municipal wastewater treatment plant to these rules; (4-7-11)

ii. The municipal wastewater treatment plant has been issued an NPDES permit and the quality of the effluent meets that required by an NPDES permit; and (4-7-11)

iii. Public access to the area of landscape irrigation is restricted. (4-7-11)

c. The Director may exclude other facilities if covered adequately by other law. (4-7-11)

03. Reuse Policy. It is the policy of the Department to promote, where appropriate, the practice of reuse of both municipal and industrial recycled water through the continued creation and implementation of rules and guidance that give permittees various opportunities for new forms of reuse. (4-7-11)

101. -- 199. (RESERVED)

200. DEFINITIONS.

For the purpose of these rules, the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

01. Applicant. The person applying for a reuse permit. (4-7-11)

02. Applicable Requirements. Any state, local or federal statutes, regulations or ordinances to which the facility is subject. (4-1-88)

03. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in

and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (4-7-11)

04. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of the organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (4-7-11)

05. Board. The Idaho Board of Environmental Quality. (4-7-11)

06. Buffer Distances. A specified distance between an actual point of use of recycled water and a land feature or resource use specified in these rules, such as wells, adjoining property, inhabited dwellings, or other features. (4-7-11)

07. Department. The Idaho Department of Environmental Quality. (4-1-88)

08. Director. The Director of the Department of Environmental Quality or the Director's designee. (4-1-88)

09. Ground Water Recharge. The process of adding recycled water to the zone of saturation. (4-7-11)

10. Industrial Wastewater. All wastewater, treated or untreated, that is not defined as municipal wastewater. (4-7-11)

11. Land Application. A process or activity involving application of recycled water to the land surface. Land application includes, but is not limited to, spray irrigation, ridge and furrow, overland flow, subsurface absorption, and discharge to a rapid infiltration system. (4-7-11)

12. Landscape Impoundment. Any lake, pond, or other water holding feature constructed or managed to store recycled water where swimming, wading, boating, fishing, and other water-based recreational activities are prohibited. A landscape impoundment is created for storage and may incidentally serve a landscaping or aesthetic purpose. (4-7-11)

13. Modal Contact Time. The amount of time elapsed between the time that a tracer, such as salt or dye, is injected into the influent at the entrance to a chamber and the time that the highest concentration of the tracer is observed in the effluent from the chamber. (3-30-07)

14. Municipal Wastewater. Wastewater that contains sewage and associated solids, whether treated or untreated. Municipal wastewater may contain industrial wastewater. Municipal wastewater is also known as domestic wastewater. (4-7-11)

15. Non-Contact Cooling Water. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product, the land application of which does not have the potential to negatively impact ground water. (4-7-11)

16. Non-Potable Mains. The pipelines that collect and/or convey non-potable discharges from or to multiple service connections. Examples would include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and recycled water mains. (4-7-11)

17. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, recycled water system, and other non-potable systems to individual consumers. (4-7-11)

18. Non-Potable Water. Water not suitable for drinking by humans. (4-7-11)

19. **NTU (Nephelometric Turbidity Unit).** A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (3-30-07)
20. **Operation and Maintenance Manual.** A manual that describes in detail the operation, maintenance, and management of a reuse facility. Operation and maintenance manual is also known as plan of operation. (4-7-11)
21. **Peak Day Flow.** The largest volume of flow to be received during a one (1) day period expressed as a volume per unit time. (4-7-11)
22. **Peak Hour Flow.** The largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. (4-7-11)
23. **Permit.** Written authorization by the Director to modify, operate, construct, or discharge to a reuse facility. (4-7-11)
24. **Permittee.** The person to whom the reuse permit is issued. (4-7-11)
25. **Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state, or federal agency, department or instrumentality, special district, or interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (4-7-11)
26. **Plan of Operation.** A manual that describes in detail the operation, maintenance, and management of a reuse facility. Plan of operation is also known as operation and maintenance manual. (4-7-11)
27. **Point of Compliance.** That point in the reuse facility where the recycled water must meet the requirements of the permit. A permit may require more than one (1) point of compliance within the facility depending on the constituents to be monitored. (4-7-11)
28. **Potable Water.** Water suitable for drinking by humans. (4-7-11)
29. **Primary Effluent.** Wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-7-11)
30. **Processed Food Crop.** Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)
31. **Rapid Infiltration System.** Rapid infiltration systems, also known as soil aquifer treatment systems, are highly permeable infiltration basins that are operated using periods of wetting and drying cycles at set frequencies to provide for both anaerobic and aerobic treatment of the wastewater through the vadose zone. (4-7-11)
32. **Raw Food Crop.** Any crop intended for human consumption which is to be used in its original form. (4-1-88)
33. **Recycled Water.** Water that has been treated by a wastewater treatment system and is used in accordance with these rules. (4-7-11)
34. **Restricted Public Access.** Preventing public entry within the area or point of reuse of a facility and the buffer distance around the area by site location or physical structures such as fencing. (4-7-11)
35. **Reuse.** The use of recycled water for, irrigation, ground water recharge, landscape impoundments, toilet flushing in commercial buildings, dust control, and other uses. (4-7-11)
36. **Reuse Facility or Facility.** Any structure or system designed or used for reuse of municipal or industrial wastewater including, but not limited to, industrial and municipal wastewater treatment facilities, pumping

and storage facilities, pipeline and distribution facilities, and the property to which the recycled water is applied. This does not include industrial in-plant processes and reuse of process waters within the plant. (4-7-11)

37. Sewage. The water-carried human wastes from residences, buildings, industrial establishments and other places, together with such ground water infiltration and surface water as may be present. (4-7-11)

38. Sludge. The semi-liquid mass produced and removed by wastewater treatment process. This does not include grit, garbage, and large solids. (4-7-11)

39. Subsurface Distribution System. Any system with a point of discharge beneath the earth's surface. (4-7-11)

40. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (3-30-07)

41. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. (4-7-11)

42. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (4-7-11)

43. Waters and Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-88)

201. -- 299. (RESERVED)

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a reuse facility without a valid permit issued by the Director as provided in these rules. (4-7-11)

02. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department prior to submission of an application to discuss the application procedure and anticipated application requirements. (4-7-11)

03. Application Contents. Except as provided in Subsection 300.04, an application for a reuse permit shall include the following information: (4-7-11)

a. Name, location, and mailing address of the facility; (4-1-88)

b. Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)

c. The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)

d. A list of local, state, and federal permits, licenses and approvals related to the activity which have been applied for and which have been received and the dates of application or approval; (4-1-88)

- e. A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)
 - i. Wastewater inlets, outlets, and storage structures and facilities, including the land application area; (4-7-11)
 - ii. Wells, springs, wetlands, and surface waters; (4-1-88)
 - iii. Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)
 - iv. Service roads; (4-1-88)
 - v. Natural or man-made features necessary for treatment; (4-1-88)
 - vi. Buildings and structures; and (4-1-88)
 - vii. Process chemicals and residue storage facilities. (4-1-88)
- f. A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)
 - i. Wells, springs, wetlands, and surface waters; (4-6-05)
 - ii. Public and private drinking water supply sources and source water assessment areas (public water system protection area information); (4-6-05)
 - iii. Public roads; and (4-1-88)
 - iv. Dwellings and private and public gathering places. (4-1-88)
- g. If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)
- h. The volume of wastewaters to be treated; (4-7-11)
- i. The physical, chemical, and biological characteristics of the recycled water to be used; (4-7-11)
- j. The climatic, hydrogeologic, and soil characteristics of the facility site; (4-7-11)
- k. Description of treatment process and alternatives for disposal of unanticipated excess recycled water that does not meet class specifications; (4-7-11)
- l. Site management plans, including a cropping plan where applicable; (4-7-11)
- m. A statement and supporting documentation demonstrating that the proposed activity shall comply with IDAPA 58.01.11, "Ground Water Quality Rule"; and (4-7-11)
- n. Any other information the Department may require. The Idaho Guidance for Recycled Water is intended to provide assistance to permit applicants in obtaining a reuse permit and may be considered in determining the need for other information. (4-7-11)

04. Permit Application Content Exceptions. Certain permit renewals may not require one (1) or more of the items listed in Subsection 300.03. Application content requirements for permit renewals will be clarified at the pre-application conference. (4-7-11)

05. Reuse Facility Operation and Maintenance Manual or Plan of Operations. A facility's

operation and maintenance manual must contain all system components relating to the reuse facility in order to comply with IDAPA 58.01.16 "Wastewater Rules," Section 425. Manuals and manual amendments are subject to the review and approval provision therein. In addition to the content required by IDAPA 58.01.16.425, manuals for reuse facilities shall include, if applicable: operation and management responsibility, permits and standards, general plant description, operation and control of unit operations, land application site maps, wastewater characterization, cropping plan, hydraulic loading rate, constituent loading rates, compliance activities, seepage rate testing, site management plans, monitoring, site operations and maintenance, solids handling and processing, laboratory testing, general maintenance, records and reports, store room and inventory, personnel, an emergency operating plan, and any other information required by the Department. (4-7-11)

301. -- 399. (RESERVED)

400. APPLICATION PROCESSING PROCEDURE.

01. Submittal Date. In order to allow for adequate processing of permit applications in accordance with these rules, permit applications for new facilities should be submitted at least one hundred eighty (180) days prior to the applicant's expected commencement of reuse activities. Existing facilities applying for permit renewals shall submit a permit application at least one hundred eighty (180) days prior to expiration of the existing permit. (4-7-11)

02. Complete Application. If the application is determined to be complete the Director shall provide written notice to the applicant within thirty (30) days after receipt of the application which shall specify: (4-11-06)

- a. The effective date of application, which shall be the date of the notice; and (4-7-11)
- b. A projected schedule for processing the permit which lists the tentative dates for: (4-1-88)
 - i. Publication of the preliminary permit decision or application denial; and (4-1-88)
 - ii. The date of issuance of a final permit. (4-1-88)

03. Incomplete Application. If the application is determined to be incomplete the Director shall provide written notice to the applicant within thirty (30) days after receipt of the application which specifies deficiencies and specifies additional required information. The Director shall not process an application until it is determined to be complete in accordance with these rules. (4-11-06)

04. Preliminary Decision/Application Denial. Within thirty (30) days of the effective date of the application the Director shall issue a preliminary decision to prepare a draft permit, or issue a decision denying the application. The applicant shall be notified in writing of the Director's preliminary decision or application denial. Notification shall include a staff analysis of the application and a draft permit if appropriate. (4-1-88)

05. Contents of the Staff Analysis. The staff analysis shall briefly state the principal facts and the significant questions considered in preparing the draft permit conditions or the intent to deny, and a summary of the basis for the draft conditions or denial with references to applicable requirements and supporting materials. (4-1-88)

06. Information or Consultation Before Issuance of Draft Permit or Application Denial. After the application is determined to be complete, additional information or consultation between the applicant and the Department may be needed to clarify, modify, or supplement the application. This action may be initiated by the Director or the applicant. (4-11-06)

07. Issuance and Contents of the Draft Permit. (4-11-06)

a. Issuance and Contents of the Draft Permit. The Director shall issue a draft permit to the applicant within sixty (60) days of issuing a preliminary decision to prepare a draft permit. The draft permit shall be in the same form as a final permit and shall specify conditions of operation and management which will be required for the issuance of the permit. Permit conditions shall protect the environment and the public health from the hazard potential of an existing or proposed wastewater treatment system. (4-11-06)

b. Public Comments. The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a period of time and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments.; (4-11-06)

08. Issuance of the Final Permit. The Director shall issue a final permit decision in writing to the applicant within sixty (60) days from the issuance of the draft permit, except the Director may issue the decision at a later date in response to a written request to extend the public comment period. (4-11-06)

09. Effective Date of Final Permit. The final permit shall become effective upon date of issue unless a later effective date is specified in the permit. (4-1-88)

10. Continuation of Expiring Permits. (4-7-11)

a. A timely and sufficient application for permit renewal shall administratively extend the terms and conditions of an expired permit pursuant to Section 67-5254, Idaho Code. An application shall be considered timely and sufficient under these rules so long as the Department has determined the application is complete under Subsection 400.02 and the application's effective date under Subsection 400.02.a. is prior to the expiration of the current permit. (4-7-11)

b. A permittee shall perform the closure requirements in a permit, the closure requirements of these rules, and complete all closure plan activities notwithstanding the expiration of the permit. (4-7-11)

401. -- 499. (RESERVED)

500. STANDARD PERMIT CONDITIONS.
The following conditions shall apply to and be included in all permits. (4-1-88)

01. Compliance Required. The permittee shall comply with all conditions of the permit. (4-1-88)

02. Renewal Responsibilities. If the permittee intends to continue operation of the permitted facility after the expiration of an existing permit, the permittee shall apply for a new permit in accordance with these rules. (4-1-88)

03. Operation of Facilities. The permittee shall at all times properly maintain and operate all structures, systems, and equipment for treatment, control and monitoring, which are installed or used by the permittee to achieve compliance with the permit or these rules. (4-1-88)

04. Provide Information. The permittee shall furnish to the Director within a reasonable time, any information including copies of records, which may be requested by the Director to determine whether cause exists for modifying, revoking, re-issuing, or terminating the permit, or to determine compliance with the permit or these rules. (4-1-88)

05. Entry and Access. The permittee shall allow the Director, consistent with Title 39, Chapter 1, Idaho Code, to: (4-1-88)

a. Enter the permitted facility. (4-1-88)

b. Inspect any records that must be kept under the conditions of the permit. (4-1-88)

c. Inspect any facility, equipment, practice, or operation permitted or required by the permit. (4-1-88)

d. Sample or monitor for the purpose of assuring permit compliance, any substance or any parameter at the facility. (4-1-88)

06. Reporting. The permittee shall report to the Director under the circumstances and in the manner

specified in this section: (4-1-88)

a. In writing at least thirty (30) days before any planned physical alteration or addition to the permitted facility or activity if that alteration or addition would result in any significant change in information that was submitted during the permit application process. When the alteration or addition results in a need for a major modification, such alteration or addition shall not be made prior to Department approval issued in accordance with these rules. (4-7-11)

b. In writing thirty (30) days before any anticipated change which would result in noncompliance with any permit condition or these rules. (4-1-88)

c. Orally within twenty-four (24) hours from the time the permittee became aware of any noncompliance which may endanger the public health or the environment at telephone numbers provided in the permit by the Director. (4-1-88)

d. In writing as soon as possible but within five (5) days of the date the permittee knows or should know of any noncompliance unless extended by the Department. This report shall contain: (4-1-88)

i. A description of the noncompliance and its cause; (4-1-88)

ii. The period of noncompliance including to the extent possible, times and dates and, if the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and (4-7-11)

iii. Steps taken or planned, including timelines, to reduce or eliminate the continuance or reoccurrence of the noncompliance. (4-7-11)

e. In writing as soon as possible after the permittee becomes aware of relevant facts not submitted or incorrect information submitted, in a permit application or any report to the Director. Those facts or the correct information shall be included as a part of this report. (4-1-88)

07. Minimize Impacts. The permittee shall take all necessary actions to eliminate and correct any adverse impact on the public health or the environment resulting from permit noncompliance. (4-1-88)

08. Compliance with “Ground Water Quality Rule.” Permits issued pursuant to these rules shall require compliance with IDAPA 58.01.11, “Ground Water Quality Rule.” (4-7-11)

501. -- 599. (RESERVED)

600. SPECIFIC PERMIT CONDITIONS.

01. Basis for Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

a. Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)

b. Geological and climatic nature of the facility site; (4-1-88)

c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)

d. Legal considerations relative to land use and water rights; (4-1-88)

e. Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)

f. Abilities of the soils and vegetative covers to treat the wastewater without undue hazard to the environment or to the public health; and (4-1-88)

g. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration of Permit. The permit shall be effective for a fixed term of not more than ten (10) years. (4-7-11)

03. Limitations to Operation. Conditions of the permit may specify or limit: (4-1-88)

a. Wastewater composition; (4-1-88)

b. Method, manner, and frequency of wastewater treatment; (4-1-88)

c. Wastewater pretreatment requirements; (4-1-88)

d. Physical, chemical, and biological characteristics of a land treatment facility; and (4-11-06)

e. Any other condition the Director finds necessary to protect public health or environment. (4-1-88)

04. Compliance Schedules. The Director may establish a compliance schedule for existing facilities as part of the permit conditions including: (4-1-88)

a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)

b. Dates by which those steps or actions are to be taken; and (4-1-88)

c. In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)

05. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)

a. The installation, use, and maintenance of monitoring equipment; (4-1-88)

b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)

c. Monitored substances or parameters; (4-1-88)

d. Testing and analytical procedures; and (4-1-88)

e. Reporting requirements including both frequency and form. (4-1-88)

601. MUNICIPAL RECYCLED WATER: CLASSIFICATION, TREATMENT, USE.

01. Class A Recycled Water. In order to be classified as Class A recycled water, municipal wastewater shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. Class A treatment systems shall be reviewed by the Department and approved on a case-by-case basis. The Department may require pilot testing or demonstration prior to approval, or may condition approval upon the successful outcome of such testing or demonstration. (4-7-11)

a. Disinfection Requirements. (4-7-11)

i. Class A recycled water shall be disinfected by either: (4-7-11)

(1) A chlorine disinfection process that provides a concentration/contact time (CT) of four hundred and fifty (450) miligram-minutes per liter (mg-min/L) measured at the end of the contact time based on total chlorine residual and a modal contact time of not less than ninety (90) minutes based on peak day dry weather flow; or (4-7-11)

(2) A disinfection process that, when combined with filtration, has been demonstrated to achieve 5-log inactivation of virus. Acceptance by the State of California as published in their Treatment Technology Report for Recycled Water is one (1) method to constitute such a demonstration. (4-7-11)

ii. The median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. No sample shall exceed twenty-three (23) organisms per one hundred (100) milliliters in any confirmed sample. (4-7-11)

iii. Sampling frequency and point of compliance. (4-7-11)

(1) Class A recycled water shall be sampled and analyzed daily for total coliform when allowed uses specifically require Class A recycled water. The sampling frequency for Class A may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class A recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. It is recommended that the recycled water also be disinfected following storage. (4-7-11)

b. Turbidity Requirements. (4-7-11)

i. Class A recycled water shall meet the following turbidity limits: (4-7-11)

(1) For filtration systems utilizing sand or other granular media or cloth media, the daily arithmetic mean of all measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. (4-7-11)

(2) For filtration systems utilizing membrane filtration, the daily arithmetic mean of all measurements of turbidity shall not exceed zero point two (0.2) NTU, and turbidity shall not exceed zero point five (0.5) NTU at any time. The turbidity standard shall be met prior to disinfection. (4-7-11)

ii. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train after filtration and prior to disinfection. (4-7-11)

c. Nitrogen, pH and BOD5 Requirements. (4-7-11)

i. Total nitrogen at the point of compliance shall not exceed ten (10) mg/L for ground water recharge systems and thirty (30) mg/L for residential irrigation and other non-recharge uses. These limits are based on a monthly arithmetic mean as determined from weekly composite sampling. These limits are a maximum value and may not be applicable if the results of an assessment of ground water quality impacts that may be required and is approved by the Department indicate that lower limits are necessary to protect existing ground water quality beneficial uses. (4-7-11)

ii. The pH as determined by daily grab samples or continuous monitoring shall be between six point zero (6.0) and nine point zero (9.0). (4-7-11)

iii. Five (5) Day Biochemical Oxygen Demand (BOD5) shall not exceed five (5) mg/L for ground water recharge systems, and ten (10) mg/L each for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined from weekly composite sampling. (4-7-11)

02. Class B Recycled Water. In order to be classified as Class B recycled water, municipal wastewater shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. Class B treatment systems shall be reviewed by the Department and approved on a case-by-case basis. The Department may require pilot testing or demonstration prior to approval, or may condition approval upon the successful outcome of such testing or demonstration. (4-7-11)

a. Disinfection Requirements. (4-7-11)

i. Class B recycled water shall be disinfected by either: (4-7-11)

(1) A chlorine disinfection process that provides a residual chlorine at the point of compliance of not less than one (1) mg/L total chlorine residual after a contact time of thirty (30) minutes at peak flow; or (4-7-11)

(2) When an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with a total chlorine residual of one (1) mg/L after a minimum contact time of thirty (30) minutes. (4-7-11)

ii. The median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. No sample shall exceed twenty-three (23) organisms per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. (4-7-11)

iii. Sampling frequency and point of compliance. (4-7-11)

(1) Class B recycled water shall be sampled and analyzed daily for total coliform when allowed uses specifically require Class B recycled water. The sampling frequency for Class B may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class B recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. It is recommended that the recycled water also be disinfected following storage. (4-7-11)

b. Turbidity Requirements. Class B recycled water shall meet the following: (4-7-11)

i. Turbidity Limits. The daily arithmetic mean of all measurements of turbidity shall not exceed five (5) NTU, and turbidity shall not exceed ten (10) NTU at any time. The turbidity standard shall be met prior to disinfection. (4-7-11)

ii. Monitoring. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train after filtration and prior to disinfection. (4-7-11)

03. Class C Recycled Water. In order to be classified as Class C recycled water, municipal wastewater shall be oxidized and adequately disinfected. (4-7-11)

a. Disinfection Requirements. (4-7-11)

i. The median number of total coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, as determined from the bacteriological results of the last five (5) days for which analyses have been completed. No sample shall exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample. (4-7-11)

ii. Sampling frequency and point of compliance. (4-7-11)

(1) Class C recycled water shall be sampled and analyzed weekly for total coliform when allowed uses specifically require Class C recycled water. The sampling frequency for Class C may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class C recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. (4-7-11)

04. Class D Recycled Water. In order to be classified as Class D recycled water, municipal wastewater shall be oxidized and adequately disinfected. (4-7-11)

a. Disinfection Requirements. (4-7-11)

i. The median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last three (3) days for which analyses have been completed. No sample shall exceed two thousand three hundred (2300) organisms per one hundred (100) milliliters in any confirmed sample. (4-7-11)

ii. Sampling frequency and point of compliance. (4-7-11)

(1) Class D recycled water shall be sampled and analyzed monthly for total coliform when allowed uses specifically require Class D recycled water. The sampling frequency for Class D may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class D recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. (4-7-11)

05. Class E Recycled Water. In order to be classified as Class E recycled water, municipal wastewater shall meet at least primary effluent quality. (4-7-11)

a. Class E recycled water has no disinfection requirements or applicable coliform standard. (4-7-11)

b. Sampling frequency for total coliform. In general no sampling and analysis are required for Class E recycled water. In cases where sampling and analysis are required (e.g. buffer distance change reduction) the sampling frequency for total coliform will be established consistent with these rules in order to adequately protect human health and the environment. (4-7-11)

602. MUNICIPAL RECYCLED WATER: CLASSIFICATION AND USES TABLES.

01. Municipal Recycled Water -- Classification Tables. The following tables provide a summary of the treatment requirements of municipal recycled water outlined in Section 601. If there are discrepancies between Sections 601 and 602, the requirements of Section 601 prevail.

TABLE 1 - CLASSIFICATION TABLE					
Classification	Class A	Class B	Class C	Class D	Class E
Oxidized	Yes	Yes	Yes	Yes	No
Clarified	Yes	Yes	No	No	No

TABLE 1 - CLASSIFICATION TABLE						
Classification		Class A	Class B	Class C	Class D	Class E
Filtered		Yes	Yes	No	No	No
Disinfected		Yes	Yes	Yes	Yes	No
Total coliform (organisms/ 100 milliliters)	Median results for last x-days for which analysis have been completed	2.2 7-day median	2.2 7-day median	23 5-day median	230 3-day median	No limit
	Maximum in any sample	23	23	230	2300	No limit
	Monitoring frequency	Daily, or as determined.	Daily or as determined.	Once weekly or as determined.	Once monthly or as determined.	
Disinfection requirements contact time		Contact time of 450 mg-min L with 90 min of modal time Or disinfection to 5-log inactivation of virus	Total chlorine not less than 1mg/L after 30 min contact time at peak flow Or alternate process comparable to this			

(4-7-11)

TABLE 2 - CLASS A AND CLASS B ADDITIONAL REQUIREMENTS			
Classification		Class A	Class B
Turbidity (NTU)	24-hr - mean, Not to exceed	Granular or cloth media - 2 Membrane filter - 0.2	Granular or cloth media - 5
	Maximum, in any sample	Granular or cloth media - 5 Membrane filter - 0.5	Granular or cloth media - 10
	Monitoring frequency	Continuous	Continuous
Maximum Total nitrogen (mg/L)		Ground water recharge - 10 Residential irrigation and other non-recharge uses - 30 or As required based on an analysis of ground water impacts	May be required based on an analysis of ground water impacts

TABLE 2 - CLASS A AND CLASS B ADDITIONAL REQUIREMENTS		
Classification	Class A	Class B
BOD5 (mg/L) Monthly arithmetic mean, from weekly composite samples not to exceed	Ground water recharge - 5 Residential irrigation and other non-recharge uses - 10	
pH Daily grab samples or continuous monitoring	Between 6.0 and 9.0	

(4-7-11)

02. Municipal Recycled Water - Uses. The following table provides a summary of municipal recycled water uses for which a specific classification is required. Other uses not listed here may be considered on a case-by-case basis and approved by the Department.

TABLE 3 - RECYCLED WATER USES					
Recycled Water Uses	Class A	Class B	Class C	Class D	Class E
Uses relating to Irrigation and buffers					
Buffers required	No	Yes	Yes	Yes	Yes
Fodder, fiber crops	Yes	Yes	Yes	Yes	Yes
Commercial timber, firewood	Yes	Yes	Yes	Yes	Yes
Processed food crops or "food crops that must undergo commercial pathogen-destroying processing before being consumed by humans"	Yes	Yes	Yes	Yes	No
Ornamental nursery stock, or Christmas trees	Yes	Yes	Yes	Yes	No
Sod and seed crops not intended for human ingestion	Yes	Yes	Yes	Yes	No
Pasture for animals not producing milk for human consumption	Yes	Yes	Yes	Yes	No
Pasture for animals producing milk for human consumption	Yes	Yes	Yes	No	No
Orchards and vineyards irrigation during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the inedible portion of raw food crops	Yes	Yes	Yes	No	No
Highway medians and roadside vegetation irrigation on sides	Yes	Yes	Yes	No	No
Cemetery irrigation	Yes	Yes	Yes	No	No
Parks, playgrounds, and school yards during periods of non-use	Yes	Yes	No	No	No

TABLE 3 - RECYCLED WATER USES					
Recycled Water Uses	Class A	Class B	Class C	Class D	Class E
Parks, playgrounds, and school yards during periods of use	Yes	No	No	No	No
Golf courses	Yes	Yes	No	No	No
Food crops, including all edible food crops	Yes	Yes	No	No	No
Residential landscape	Yes	No	No	No	No
Uses at Industrial, Commercial, or Construction Sites					
Dust suppression at construction sites and control on roads and streets	Yes	Yes	Yes	No	No
Toilet flushing at industrial and commercial sites, when only trained maintenance personnel have access to plumbing for repairs	Yes	Yes	Yes	No	No
Nonstructural fire fighting	Yes	Yes	Yes	No	No
Cleaning roads, sidewalks and outdoor work areas	Yes	Yes	Yes	No	No
Backfill consolidation around non-potable piping	Yes	Yes	Yes	No	No
Soil compaction	Yes	Yes	Yes	No	No
Commercial campus irrigation	Yes	Yes	No	No	No
Fire suppression	Yes	Yes	No	No	No
Snowmaking for winter parks, resorts	Yes	No	No	No	No
Commercial laundries	Yes	No	No	No	No
Ground Water Recharge					
Ground water recharge through surface spreading, seepage ponds or other unlined surface water features, such as landscape impoundments	Yes	No	No	No	No
Subsurface Distribution					
Subsurface distribution.	Yes	Yes	Yes	Yes	No

(4-7-11)

603. MUNICIPAL RECYCLED WATER: ACCESS, EXPOSURE AND SIGNAGE.

01. Class A Recycled Water. When using Class A recycled water the public and personnel at the area of use must be notified that the water is recycled water and is not safe for drinking or human contact. Signs shall be posted and must state “Caution: Recycled Water - Do Not Drink”, or equivalent signage both in English and Spanish. (4-7-11)

a. Class A distribution system identification and signage. (4-7-11)

i. General. All new buried pipe conveying Class A Recycled Water, including service lines, valves, and other appurtenances, shall be colored purple, and the precise color used, e.g., Pantone 512, 522 or equivalent, shall be consistently used throughout the system. The precise color proposed for use shall be identified in the plans and specifications and reviewed by the Department during plan and specification review to ensure the pipes may be

adequately identifiable and distinguishable. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet “Caution: Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English. (4-7-11)

ii. Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple color field as approved by the Department, having the words, “Caution: Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English. The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe. (4-7-11)

iii. Valve Boxes and Other Surface Identification. All valves shall have locking valve covers that are non-interchangeable with potable water valve covers, and shall have an inscription cast on the top surface stating “Recycled Water.” All above ground pipes and pumps shall be consistently color coded (purple) and marked to differentiate Class A recycled water facilities from potable water facilities. (4-7-11)

b. Class A recycled water pumping facilities identification and signage. (4-7-11)

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple color (Pantone 512, 522 or other equivalent product acceptable to the Department). In addition, all piping shall be identified using an accepted means of labeling reading “Caution: Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English lettering. In a fenced pump station area, signs shall be posted on the fence on all sides. (4-7-11)

ii. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, “Caution: Recycled Water - Do Not Drink” or equivalent signage, in both Spanish and English. (4-7-11)

c. Class A Lagoon Identification and Signage. Where Class A recycled water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512, 522 or other equivalent product acceptable to the Department) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, “Caution: Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English. (4-7-11)

d. Class A Additional Access Requirements. Drinking fountains, picnic tables, food establishments, and other public eating facilities shall be placed out of any spray irrigation area in which Class A recycled water is used, or shall be otherwise protected from contact with the Class A recycled water. Exterior drinking fountains, picnic tables, food establishments, and other public eating facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public eating facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist. (4-7-11)

02. Class B Recycled Water. When using Class B recycled water, the public and personnel at the use area must be notified that the water used is recycled water and is not safe for drinking or human contact. Signs must be posted and the signs must state that recycled water is used and is not safe for drinking or human contact. Signs shall be posted and must state “Caution: Recycled Water - Do Not Drink”, or equivalent signage both in English and Spanish. (4-7-11)

03. Class C Recycled Water. When using Class C recycled water for irrigation, the personnel at the use area must be notified that the water used is recycled water and is not safe for drinking. For the public, signs must be posted around the perimeter of the irrigation site stating that recycled water is used and is not safe for drinking or human contact. Signs shall be posted and must state “Warning: Recycled Water - Do Not Enter”, or equivalent signage both in English and Spanish. (4-7-11)

04. Class D Recycled Water. When using Class D recycled water for irrigation, the personnel at the use area must be notified that the water used is recycled water and is not safe for drinking. For the public, signs must be posted around the perimeter of the irrigation site stating that recycled water is used and is not safe for drinking or

human contact. Signs shall be posted and must state “Warning: Recycled Water - Do Not Enter”, or equivalent signage both in English and Spanish. (4-7-11)

05. Class E Undisinfected Recycled Water. When using Class E undisinfected recycled water for irrigation, public access to the irrigation site shall be prevented using a physical barrier or other measure approved by the Department. Signs shall be posted around the perimeter of the irrigation site stating that recycled water is used and is not safe for drinking or human contact. Signs shall be posted and must state “Warning: Recycled Water - Do Not Enter”, or equivalent signage both in English and Spanish. (4-7-11)

604. REUSE FACILITIES: BUFFER DISTANCES.

01. Buffer Distance Considerations. Buffer distances shall be established for the following purposes: (4-7-11)

a. Protect public health by limiting exposure to recycled water and conditions associated with reuse facilities; (4-7-11)

b. Protect waters of the state, including surface water, ground water and drinking water supplies; and (4-7-11)

c. Help ensure that the use of recycled water is restricted to within the physical boundaries of the reuse facilities. (4-7-11)

02. Determining Buffer Distances. In determining buffer distances for inclusion in a reuse permit the Department will consider the following: (4-7-11)

a. Characterization of the recycled water; (4-7-11)

b. The method of irrigation; (4-7-11)

c. The physical or vegetative barriers; (4-7-11)

d. Microbial risk assessments; (4-7-11)

e. Any applicable best management practices; (4-7-11)

f. Environmental conditions, such as wind speed and direction; and (4-7-11)

g. Any other information relevant to the purposes described in this section. (4-7-11)

605. MUNICIPAL RECYCLED WATER: PRELIMINARY ENGINEERING REPORTS.

Preliminary engineering reports shall comply with these rules and applicable provisions of IDAPA 58.01.16 “Wastewater Rules.” Preliminary engineering reports for new municipal recycled water systems or major upgrades to municipal recycled water systems shall be submitted to the Department for review and approval prior to submittal of plans and specifications. (4-7-11)

606. REUSE FACILITY: PLAN AND SPECIFICATION REVIEW.

All plans and specifications for the construction of new reuse facilities or modification or expansion to same shall be submitted to and approved by the Director in accordance with Chapter 1, Title 39, Idaho Code, and IDAPA 58.01.16, “Wastewater Rules.” (4-7-11)

607. MUNICIPAL RECYCLED WATER: DISTRIBUTION PIPELINES.

01. Compliance with Wastewater Rules Required. The design and construction of municipal recycled water distribution pipelines shall comply with applicable provisions of IDAPA 58.01.16, “Wastewater Rules,” Section 430. The design and construction of municipal recycled water distribution pipelines shall also comply with applicable provisions of IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems.” Any person or

agency that is planning to construct all or part of the distribution system must obtain a plan and specification approval from the Department prior to beginning construction. (4-7-11)

a. Recycled water mains shall be treated as non-potable mains when considering their separation from potable water. Recycled water mains shall be treated as potable water mains when considering their separation from sewers. (4-7-11)

b. For a system that proposes to use an alternative to the distribution pipeline requirements in these rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," or IDAPA 58.01.16, "Wastewater Rules," the design engineer shall submit data to the Department for review and approval demonstrating that the installation of an alternative will protect public health and environment. (4-7-11)

02. Additional Distribution System Requirements for Class A Recycled Water. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to the following. (4-7-11)

a. Where Class A recycled water is to be provided by pressure pipeline, the following standards may be used as guidance: the current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," the "AWWA Manual M24" Chapter 4 for dual water systems, and the current edition of "Idaho Standards for Public Works Construction." (4-7-11)

b. Conversion of Existing Drinking Water or Irrigation Water Lines. Requirements for irrigation systems proposed for conversion from use of non-Class A recycled water to use with Class A recycled water will be considered on a case-by-case basis considering protection of public health and the environment. Existing water lines that are being converted to use with Class A recycled water or a combination of Class A recycled water and irrigation water shall be accurately located, pressure tested and leakage tested prior to conversion in coordination with the Department. AWWA Standard(s) for pressure and leakage testing of drinking water lines shall be utilized on the lines to be converted. The pipeline must be physically disconnected from any potable water lines and brought into compliance with applicable cross connection rules and requirements in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Section 543, and must meet minimum separation requirements set forth in these rules. If the existing lines meet approval of the water supplier and the Department based upon the requirements set forth in these rules, the lines shall be approved for Class A recycled water distribution. If regulatory compliance of the system (accurate location, pressure testing, and verification of no cross connections) cannot be verified with record drawings, testing, televising, or otherwise, the lines shall be uncovered, inspected, and identified or otherwise verified to the Department's satisfaction prior to use. All accessible portions of the system must be retrofitted to meet the requirements of these rules. After conversion of the water or irrigation line to a Class A recycled water line, the lines shall be marked as stated in Subsection 603.01.a.iii. of these rules. (4-7-11)

c. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, a plan for proposed discharge or runoff locations shall be submitted to the Department for review and approval. (4-7-11)

d. Requirements for mixing Class A recycled water with other irrigation waters. Mixing Class A recycled water with other irrigation waters may be conducted in a pipe to pipe manner if both the other irrigation water source and the Class A source are protected by Department approved backflow devices. Class A recycled water may be mixed with other irrigation water in an unlined pond if the Class A recycled water is permitted for ground water recharge. Class A recycled water that is permitted for irrigation only and not ground water recharge may be mixed with other irrigation water only in a lined pond. Water from these mixed ponds may then be used for permitted Class A uses. (4-7-11)

e. Requirements for Class A recycled water distribution system operators. All operators of Class A recycled water distribution systems, including operators of distribution systems that utilize a combination of Class A recycled water and other irrigation waters, operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and those operators that are employed by buyers of the Class A recycled water for subsequent use, including home occupants, shall be required to sign a utility user agreement provided by the utility providing the Class A recycled water that states that the user understands the origin of the effluent and the concept of agronomic rate for applying the Class A recycled water. Contracts for sale of

Class A recycled water for subsequent use shall also include these requirements. Individual homeowners are allowed to operate or maintain Class A recycled water distribution systems. Providers of the Class A recycled water shall undertake a public education program within its service area to teach potential customers the benefits and responsibilities of using Class A recycled water. (4-7-11)

608. MUNICIPAL RECYCLED WATER: PUMPING STATIONS.

01. Pumping Station Requirements. All municipal recycled wastewater pumping stations shall comply with applicable provisions of IDAPA 58.01.16 “Wastewater Rules”, Sections 440. (4-7-11)

02. Additional Pumping Station Requirements for Recycled Water. (4-7-11)

a. Backflow Protection-Seal Water. Any potable water used as seal water for recycled water pump seals shall be protected from backflow with a Department approved backflow prevention device or air gap. (4-7-11)

b. Backflow Protection-Potable and Recycled Water. In no case shall a direct connection be made between the potable and recycled water system. If it is necessary to put potable water into the recycled water distribution system, a Department approved reduced pressure principal device or air gap must be provided to protect the potable water system. (4-7-11)

c. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with recycled water shall not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with recycled water or potable water. (4-7-11)

609. MUNICIPAL RECYCLED WATER: LAGOONS.

01. Requirements for Municipal Recycled Water Lagoons. All new and existing lagoons for municipal recycled water shall comply with applicable provisions of IDAPA 58.01.16 “Wastewater Rules,” Section 493. (4-7-11)

02. Class A Recycled Water Lagoons. Surface water features, such as landscape impoundments used for Class A recycled water, that are not lined or sealed to prevent seepage may be approved provided the ground water quality standards for ground water protection are met. (4-7-11)

610. MUNICIPAL RECYCLED WATER: CLASS A RECYCLED WATER FILTRATION.

01. Class A Filtration Technology Approval. The Department shall approve the following filter technologies for use in compliance with these rules: (4-7-11)

a. Those approved and listed in the State of California Treatment Technology Report for Recycled Water, www.cdph.ca.gov/healthinfo/environmentalhealth/water/pages/waterrecycling.aspx. (4-7-11)

b. The Department may consider for approval filtration technologies other than those listed in the report referenced in Subsection 610.01.a. upon submission of a written request accompanied by all necessary product information. Approval of these filtration technologies shall be in accordance with procedures provided in the State of California Treatment Technology Report for Recycled Water. (4-7-11)

02. Filter to Waste Requirement. The Department may require certain types of Class A recycled water filtration facilities to install and operate a filter to waste system that operates each time a filter starts up. Filter to waste systems shall automatically filter to waste until the effluent meets the required turbidity standard. (4-7-11)

611. MUNICIPAL RECYCLED WATER: RELIABILITY AND REDUNDANCY.

01. Reliability and Redundancy Requirements. The reliability and redundancy for all wastewater systems shall comply with the requirements in IDAPA 58.01.16 “Wastewater Rules.” (4-7-11)

02. Additional Reliability and Redundancy Requirements. Following are additional reliability and redundancy requirements for Class A recycled water: (4-7-11)

a. Class A treatment systems shall have treatment capabilities able to treat peak day flow for the season in which Class A recycled water is being produced. (4-7-11)

b. Class A treatment systems shall also provide for one (1) of the following alternative back-up systems: (4-7-11)

i. Another permitted disposal option; or (4-7-11)

ii. Diversion to adequate lined storage capable of storing Class A recycled water during a malfunction or emergency. (4-7-11)

c. An alternative back-up system must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than five (5) minutes, or if the alternative filtration/disinfection system is not achieving its required 5-log removal/inactivation of virus for more than five (5) minutes. The maximum number of times a facility could exceed on this basis is twice in one (1) week, both of which times are required to be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to require the system to be shut down for inspection and repair. (4-7-11)

d. Class A redundant monitoring equipment and automatic by-pass equipment must be provided. (4-7-11)

e. Standby power sufficient to maintain all treatment and distribution works or to meet the requirements for an alternative back-up system shall be required for the Class A recycled water facilities. (4-7-11)

612. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF MUNICIPAL REUSE FACILITY.

01. Compliance with Wastewater Rules Required. All reuse facilities shall comply with applicable provisions of IDAPA 58.01.16 "Wastewater Rules," Section 409. (4-7-11)

02. Exclusion. New Class A recycled water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, are governed by and must meet the regulatory requirements of Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission." In any conflict arising out of the application of these rules and IDAPA 31.01.01, the provisions and requirements of the Idaho Public Utilities Commission shall prevail. (4-7-11)

613. REUSE FACILITY: RAPID INFILTRATION SYSTEM.

Rapid infiltration systems shall be designed such that the beneficial uses of the waters of the state will not be injured. Prior to construction of a new recycled water system that includes as treatment rapid infiltration systems all plans and specification shall be submitted to and approved by the Director before construction can begin. The Preliminary Engineering Report shall include the parameters for the design of the rapid infiltration systems. (4-7-11)

01. Design and Construction. Following are the design and construction criteria for rapid infiltration systems: (4-7-11)

a. The system shall be designed to allow a relatively high rate of recycled water infiltration into the soil followed by rapid percolation; (4-7-11)

b. The system shall consist of either two (2) or more cells which can be alternately loaded and rested, or one (1) cell preceded by an effluent storage or stabilization pond system. Where only one (1) cell is provided, the storage and stabilization pond(s) shall have sufficient capacity to allow intermittent loading of the rapid infiltration systems; (4-7-11)

c. The rapid infiltration system shall be designed to provide even distribution of the recycled water and prevent erosion; (4-7-11)

d. The system shall be designed to ensure that the subsurface soils have the capacity to transmit the applied recycled water down and away from the basins at an acceptable rate to avoid excessive water mounding beneath the basin that would interfere with infiltration at the basins surface; and (4-7-11)

e. The system shall be designed to ensure proper operation during the winter conditions in cold climate areas. (4-7-11)

02. Discharge Requirements. Following are the discharge requirements for recycled water discharged to a rapid infiltration system: (4-7-11)

a. The discharge to a rapid infiltration system may not exceed the hydraulic, organic, nitrogen, suspended solids or other limitations specified in the permit or plans developed pursuant to a permit requirement. In determining discharge limitations, the Department shall consider past operating performance, the ability of the soils to treat the pollutants in the recycled water, hydrogeologic characteristics of the site such as permeability and infiltration rates, and other relevant information; and (4-7-11)

b. Compliance with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards" shall be ensured. (4-7-11)

614. GROUND WATER RECHARGE: CLASS A RECYCLED WATER.

All ground water recharge systems shall comply with IDAPA 58.01.11, "Ground Water Quality Rule." The minimum requirements for site location and aquifer storage time shall be based on site-specific modeling and any source water assessment zone studies for public drinking water wells in the area. The owners of these systems must control the ownership of this down gradient area to prohibit future wells from being drilled in the impact zone of the ground water recharge system. Authorization from the Idaho Department of Water Resources is required for ground water injection wells. (4-7-11)

615. SUBSURFACE DISTRIBUTION OF RECYCLED WATER.

01. Subsurface Use of Recycled Water. The subsurface distribution and use of recycled water must be designed and located so that compliance with IDAPA 58.01.11, "Ground Water Quality Rule," is maintained and pollutants cannot be reasonably expected to enter waters of the state in concentrations resulting in injury to beneficial uses. In addition, the subsurface distribution and use of recycled water shall comply with these rules, and with applicable IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (4-7-11)

02. Design and Construction. (4-7-11)

a. The system shall be constructed to prevent surface runoff from entering the system. (4-7-11)

b. Precautions shall be taken during construction of the subsurface distribution system to minimize compaction and prevent a reduction in soil infiltration rate. (4-7-11)

c. Erosion control measures shall be taken during construction to prevent erosion of soil into surface water. (4-7-11)

03. Discharge Limitations. (4-7-11)

a. Prior to discharge to a subsurface system, the wastewater shall be treated such that the recycled water is Class A, B, C or D quality. (4-7-11)

b. The discharge to a subsurface distribution system may not exceed the hydraulic, organic, nitrogen, or other limitations specified in a permit or plans developed pursuant to a permit requirement. The Department shall consider past operating performance, the ability of the soils to treat the pollutants in the discharge, hydrogeologic characteristics of the site such as permeability and infiltration rates and other relevant information. (4-7-11)

616. PERMIT FOR USE OF INDUSTRIAL RECYCLED WATER.

Industrial recycled water shall only be used in accordance with a permit issued pursuant to these rules. Permit conditions and limitations shall be developed by the Department on a case-by-case basis taking into account the specific characteristics of the wastewater to be recycled, the treatment necessary to ensure the use of such recycled water is in compliance with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards." Unless otherwise indicated in this section, the permit application, processing and issuance procedures provided in this rule shall apply to industrial reuse permits. (4-7-11)

01. Additional Application Contents. In addition to the requirements in Section 300 of these rules, a permit application for reuse of industrial recycled water shall include: (4-7-11)

- a. The source of the water and the projected rates and volumes; and (4-7-11)
- b. The chemical, biological, and physical characteristics of the industrial recycled water from each source. (4-7-11)

02. Permit Content. The Department shall include the requirements of Section 500, Standard Permit Conditions, in all permits issued for use of industrial recycled water. The Department shall develop additional permit conditions on a case-by-case basis considering the following factors: (4-7-11)

- a. The risk to public health and the environment; (4-7-11)
- b. The degree of public access to the site where the recycled water is used and the degree of human exposure anticipated; (4-7-11)
- c. Any additional measures necessary to prevent nuisance conditions; (4-7-11)
- d. Specific recycled water quality necessary for the intended type of reuse; and (4-7-11)
- e. The means of application of the recycled water. (4-7-11)

617. -- 699. (RESERVED)

700. PERMIT MODIFICATION.

01. Modification of Permits. A permit modification may be initiated by the receipt of a request for modification from the permittee, or may be initiated by the Department if one (1) or more of the following causes for modification exist: (4-7-11)

- a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit. (4-7-11)
- b. New standards or regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. (4-7-11)
- c. Compliance schedules. The Department determines good cause exists for modification of a compliance schedule or terms and conditions of a permit. (4-7-11)
- d. Non-limited pollutants. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which may cause an adverse impact to surface or ground waters. (4-7-11)
- e. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions. (4-7-11)

f. When a treatment technology proposed, installed, and properly operated and maintained by the permittee fails to achieve the requirements of the permit. (4-7-11)

02. Minor Modifications. Minor modifications are those which if granted would not result in any increased hazard to the environment or to the public health. If a permit modification satisfies the criteria for “minor modifications,” the permit may be modified without issuance of a draft permit or public review. Minor modifications are normally limited to: (4-7-11)

- a.** The correction of typographical errors or formatting changes; (4-7-11)
- b.** Transfer of ownership or operational control, or responsible official; (4-7-11)
- c.** A change in monitoring or reporting frequency requirements, or revision of a laboratory method; (4-7-11)
- d.** Change compliance due date in a schedule of compliance, provided the new date does not exceed six (6) months; (4-7-11)
- e.** Change or add a sampling location; (4-7-11)
- f.** Change to a higher level of treatment without a change in end uses; (4-7-11)
- g.** Change in terminology; (4-7-11)
- h.** Removal of an allowed use; (4-7-11)
- i.** Correct minor technical errors, such as citations of law, and citations of construction specifications; (4-7-11)
- j.** Change in a contingency plan resulting in equal or more efficient responsiveness; or (4-7-11)
- k.** Removal of acreage from irrigation without an increase in loadings. (4-7-11)

03. Major Modifications. All modifications not considered minor shall be considered major modifications. The procedure for making major modifications shall be the same as that used for a new permit under these rules. Some examples of the major modifications are: (4-7-11)

- a.** Changes in the treatment system; (4-7-11)
- b.** Adding an allowed use; (4-7-11)
- c.** Changes to a lower (less treated) class of water; (4-7-11)
- d.** Addition of acreage used for irrigation; or (4-7-11)
- e.** Changes to less stringent discharge limitations. (4-7-11)

701. -- 799. (RESERVED)

800. PERMIT TRANSFERABLE.

01. General. A permit may be transferred only upon approval of the Department. No transfer is required for a corporate name change as long as the secretary of state can verify that a change in name alone has occurred. An attempted transfer is not effective for any purpose until approved in writing by the Department. (4-7-11)

02. Request for Transfer. Either the permit holder (permittee) or the person to whom the permit is

proposed to be transferred (transferee) shall submit to the department a request for transfer at least thirty (30) days before the proposed transfer date. The request for transfer shall include: (4-7-11)

- a. Legal name and address of the permittee; (4-7-11)
- b. Legal name and address of the transferee; (4-7-11)
- c. Location and the common name of the facility; (4-7-11)
- d. Date of proposed transfer; (4-7-11)
- e. Sufficient documentation for the Department to determine that the transferee will meet the requirements listed in IDAPA 58.01.16 "Wastewater Rules," Section 409, relating to technical, financial and managerial capacity; (4-7-11)
- f. A signed declaration by the transferee that the transferee has reviewed the permit and understands the terms of the permit; (4-7-11)
- g. A sworn statement that the request is made with the full knowledge and consent of the permittee if the transferee is submitting the request; (4-7-11)
- h. Identification of any judicial decree, compliance agreement, enforcement order, or other outstanding obligating instrument, the terms of which have not been met, along with legal instruments sufficient to address liabilities under such decree, agreement, order, or other obligating instrument; and (4-7-11)
- i. Any other information the director may reasonably require. (4-7-11)

03. Effective Date of Transfer. Responsibility for compliance with the terms and conditions of the permit and liability for any violation associated therewith is assumed by the transferee, effective on the date indicated in the approved transfer. (4-7-11)

04. Compliance with Permit Conditions Pending Transfer Approval. Prior to a transfer approval, the permittee shall continue to be responsible for compliance with the terms and conditions of the permit and be liable for any violation associated therewith, regardless of whether ownership or operational control of the permitted facility has been transferred. (4-7-11)

05. Transferee Liability Prior to Transfer Approval. If a proposed transferee causes or allows operation of the facility under his ownership or control before approval of the permit transfer, such transferee shall be considered to be operating without a permit or authorization required by these rules and may be cited for additional violations as applicable. (4-7-11)

06. Compliance Record of Transferee. The director may consider the prior compliance record of the transferee, if any, in the decision to approve or disapprove a transfer. (4-7-11)

801. TEMPORARY CESSATION OF OPERATIONS AND CLOSURE.

01. Temporary Cessation. A permittee shall implement any applicable conditions specified in the permit for temporary cessation of operations. When the permit does not specify applicable temporary cessation conditions, the permittee shall notify the Director prior to a temporary cessation of operations at the facility greater than sixty (60) days in duration and any cessation not for regular maintenance or repair. Cessation of operations necessary for regular maintenance or repair of a duration of sixty (60) days or less are not required to notify the Department under this section. All notifications required under this section shall include a proposed temporary cessation plan that will ensure the cessation of operations will not pose a threat to human health or the environment. (4-7-11)

02. Closure. A closure plan shall be required when a facility is closed voluntarily and when a permit is revoked or expires. A permittee shall implement any applicable conditions specified in the permit for closure of the

facility. Unless otherwise directed by the terms of the permit or by the Director, the permittee shall submit a closure plan to the Director for approval at least ninety (90) days prior to ceasing operations. The closure plan shall ensure that the closed facility will not pose a threat to human health and the environment. Closure plan approval may be conditioned upon a permittee's agreement to complete such site investigations, monitoring, and any necessary remediation activities that may be required. (4-7-11)

802. -- 919. (RESERVED)

920. PERMIT REVOCATION.

01. Conditions for Revocation. The Director may revoke a permit if the permittee violates any permit condition or these rules, or the Director becomes aware of any omission or misrepresentation of condition or information relied upon when issuing the permit. (4-7-11)

02. Notice of Revocation. Except in cases of emergency, the Director shall issue a written notice of intent to revoke to the permittee prior to final revocation. Revocation shall become final within thirty-five (35) days of receipt of the notice by the permittee, unless within that time the permittee requests an administrative hearing in writing. The hearing shall be conducted in accordance with IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

03. Emergency Action. If the Director finds the public health, safety or welfare requires emergency action, the Director shall incorporate findings in support of such action in a written notice of emergency revocation issued to the permittee. Emergency revocation shall be effective upon receipt by the permittee. Thereafter, if requested by the permittee in writing, the Director shall provide the permittee a revocation hearing and prior notice thereof. Such hearings shall be conducted in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

04. Revocation and Closure. A permittee shall perform the closure requirements in a permit, the closure requirements of these rules, and complete all closure plan activities notwithstanding the revocation of the permit. (4-7-11)

921. -- 929. (RESERVED)

930. VIOLATIONS.

Any person violating any provision of these rules or any permit or order issued thereunder shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) or one thousand dollars (\$1,000) for each day of a continuing violation, whichever is greater. In addition, pursuant to Title 39, Chapter 1, Idaho Code, any willful or negligent violation may constitute a misdemeanor. (4-1-88)

931. -- 939. (RESERVED)

940. WAIVERS.

Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waivers that such activities for which the waivers are granted will not have a detrimental effect upon existing water quality and beneficial uses are adequately protected. (4-7-11)

941. -- 999. (RESERVED)

Sections Affected Index

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.12 – Bonded Warehouse Rules

Docket No. 02-0212-1901

010. Definitions	21
011. (Reserved)	21
012. Licensing	22
013. -- 049. (Reserved)	22
050. Receipting	22
051. -- 079. (Reserved)	24
080. Forwarding Agricultural Commodities	24
081. -- 099. (Reserved)	24
100. Office Records	24
101. -- 129. (Reserved)	25
130. License Application And Conditions Of Issuance	25
150. Warehouses To Be Kept Clean	25
151. -- 179. (Reserved)	26
180. Warehouseman Responsibilities	26
181. -- 199. (Reserved)	27
200. Insurance Settlement	27
231. -- 299. (Reserved)	27
300. Financial Statements	27
301. -- 329. (Reserved)	28
330. Amending Tariff	28
331. -- 379. (Reserved)	28
380. License -- Duration	28
480. Commodity Indemnity Fund	28
483. Recordkeeping And Payment Schedule	29
501. NPE Contract Claims On The Fund	29

02.03.01 – Rules Governing Pesticide Management Plans for Ground Water Protection

Docket No. 02-0301-1901

000. Legal Authority	32
001. Title And Scope	32
002. Written Interpretations	32
003. Administrative Appeals	32
004. Incorporation By Reference	32
005. Address, Office Hours, Telephone, Fax Numbers, Web Address	33
006. Public Records Act Compliance	33
007. -- 009. (Reserved)	33
010. Definitions	33
011. Abbreviations	34
012. -- 049. (Reserved)	34
050. Chemical Specific PMPs	34
051. -- 099. (Reserved)	35
100. Contents Of A Chemical Specific PMP	35
101. Management Plans Adopted By Rulemaking And Review	35
102. -- 149. (Reserved)	36
150. Ground Water Quality Reference Points	36
151. -- 199. (Reserved)	36
200. Response To A Pesticide Detection	36
201. -- 299. (Reserved)	38

300. Ground Water Monitoring Programs.....	38
301. -- 399. (Reserved).....	38
400. Determining Pesticide Area Boundaries.....	38
401. -- 409. (Reserved).....	39
410. Repealing Specific Pesticide Areas.....	39
411. -- 419. (Reserved).....	40
420. Advisory Committee.....	40
421. Pesticide Use And Record Keeping Requirements.....	41
422. -- 999. (Reserved).....	41
<i>02.03.03 – Idaho Dept. of Agriculture Rules Governing Pesticide & Chemigation Use & Application</i>	
Docket No. 02-0303-1901 (Fee Rule)	
000. Legal Authority.....	44
001. Title And Scope.....	44
002. Written Interpretations.....	44
003. Administrative Appeal.....	44
004. Incorporation By Reference.....	45
005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	45
006. Public Records Act Compliance.....	45
007. -- 009. (Reserved).....	45
010. Definitions.....	45
011. -- 049. (Reserved).....	47
050. Private Applicator Licensing.....	47
051. -- 099. (Reserved).....	48
100. Licensing Professional Applicators And Pesticide Dealers.....	48
101. Registration And Licensing Requirements For Use Of The LPC.....	53
102. -- 149. (Reserved).....	56
150. Records Requirements.....	56
151. -- 199. (Reserved).....	57
200. Fees.....	57
201. -- 249. (Reserved).....	58
250. Financial Responsibility.....	58
251. -- 299. (Reserved).....	59
300. Deviations From Pesticide Labels And Labeling.....	59
301. -- 309. (Reserved).....	59
310. Low-Flying Prohibitions.....	59
311. -- 319. (Reserved).....	59
320. Wind Velocity Restrictions.....	59
321. Change Of License Status.....	60
322. (Reserved).....	60
323. Pesticide-Fertilizer Mix Restrictions.....	60
324. Experimental Permits.....	60
325. -- 399. (Reserved).....	61
400. Restrictions To Protect Pollinators.....	61
401. -- 449. (Reserved).....	61
450. Storage Of Pesticide Containers.....	61
451. -- 499. (Reserved).....	62
500. Non-Domestic Pesticides.....	62
501. -- 549. (Reserved).....	62
550. Phenoxy Herbicide Restrictions.....	62
551. -- 599. (Reserved).....	63
600. Application Near Hazard Areas.....	63
601. -- 799. (Reserved).....	63

800. Pesticide Use On Seed Crop Fields.....	63
801. -- 849. (Reserved).....	64
850. Unusable Pesticides Collection And Disposal.....	64
851. -- 960. (Reserved).....	66
961. General Chemigation Requirements.....	66
962. Irrigation Systems.....	66
963. Chemical Injection Line Shut Down (System Interlock).....	68
964. Injection Line Check Valve.....	69
965. Chemical Injection System.....	70
966. Irrigation Line Check Valve.....	70
967. Gooseneck Pipe Loop, Downhill And Over-A-Hill.....	71
968. Vacuum Relief Valve Or Combination Air And Vacuum Relief Valve.....	71
969. Inspection Port.....	72
970. Automatic Low Pressure Drain.....	72
971. Variances.....	72
972. -- 999. (Reserved).....	72

02.04.15 – Rules Governing Beef Cattle Animal Feeding Operations

Docket No. 02-0415-1901

000. Legal Authority.....	75
001. Title And Scope.....	75
002. Written Interpretations.....	75
003. Administrative Appeal.....	75
004. Incorporation By Reference.....	75
005. Idaho Public Records Act.....	75
006. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	75
010. Definitions.....	75
011. Abbreviations.....	78
012. Prohibited Discharges.....	78
013. Notification Of Discharge.....	78
014. -- 019. (Reserved).....	78
020. Wastewater Storage And Containment Facilities.....	78
021. New Or Modified Beef Cattle Animal Feeding Operations.....	79
022. -- 029. (Reserved).....	79
030. Nutrient Management.....	79
031. Nutrient Management Plan Retention.....	79
032. Nutrient Management Records.....	79
033. -- 039. (Reserved).....	79
040. Designation Of Beef Cattle Animal Feeding Operations.....	79
041. -- 049. (Reserved).....	80
050. Authority To Inspect.....	80
051. Inspections.....	80
052. Administration Of IPDES Program.....	80
053. Compliance With Idaho Pollutant Discharge Elimination System Rules.....	80
054. -- 999. (Reserved).....	81

02.04.17 – Rules Governing Dead Animal Movement and Disposal

Docket No. 02-0417-1901

000. Legal Authority.....	84
001. Title And Scope.....	84
002. Written Interpretations.....	84
003. Administrative Appeal.....	84
004. Incorporation By Reference.....	84

005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	84
006. Public Records Act Compliance.....	84
007. -- 009. (Reserved).....	84
010. Definitions.....	84
011. Exclusions.....	85
012. -- 019. (Reserved).....	85
020. Abandonment Of Dead Animals.....	85
021. -- 029. (Reserved).....	85
030. Disposal Of Dead Animals.....	86
031. -- 039. (Reserved).....	87
040. Movement Of Dead Animals.....	87
041. -- 049. (Reserved).....	87
050. Dead Animal Emergencies.....	87
051. -- 999. (Reserved).....	88
 <i>02.04.20 – Rules Governing Brucellosis</i>	
Docket No. 02-0420-1901	
010. Definitions.....	90
101. Official Vaccination.....	92
121. Test Eligible Cattle And Domestic Bison In An Eradication Area.....	93
200. Idaho Approved Feedlot.....	93
 <i>02.04.21 – Rules Governing the Importation of Animals</i>	
Docket No. 02-0421-1901	
004. Incorporation By Reference.....	95
101. Contents Of Certificates.....	96
102. Extended Validity Equine Certificates.....	97
104. Import Permits.....	97
109. Vesicular Stomatitis.....	98
110. General Duties Of Carrier.....	98
200. Importation Of Cattle Into Idaho.....	99
202. When Permits Are Required For Cattle.....	99
210. Brucellosis Vaccination Requirements.....	100
212. Test Eligible Cattle.....	100
213. -- 219. (Reserved).....	101
220. Grazing Cattle.....	101
240. Tuberculosis Test Requirements.....	101
241. -- 259. (Reserved).....	103
300. Equidae.....	103
301. -- 399. (Reserved).....	104
400. Importation Of Swine.....	104
500. Dogs And Cats.....	105
501. -- 599. (Reserved).....	105
600. Importation Of Domestic Cervidae.....	105
601. Testing Requirements.....	105
702. Poultry Hatching Eggs.....	106
705. Psittacine Birds.....	106
706. -- 709. (Reserved).....	106
 <i>02.04.23 – Rules Governing Commercial Livestock Truck Washing Facilities</i>	
Docket No. 02-0423-1901	
000. Legal Authority.....	109
001. Title And Scope.....	109
002. Written Interpretations.....	109

003. Administrative Appeal.....	109
004. Incorporation By Reference.....	109
005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	109
006. Idaho Public Records Act.....	109
007. -- 009. (Reserved).....	109
010. Definitions.....	109
011. Abbreviations.....	111
012. Applicability.....	111
013. -- 049. (Reserved).....	111
050. Inspections.....	111
051. -- 099. (Reserved).....	111
100. Permit Required.....	111
101. Application For Permit.....	111
102. -- 109. (Reserved).....	112
110. Duration Of Permit.....	112
111. Renewal Of Permit.....	112
112. -- 119. (Reserved).....	112
120. Revocation Of Permit.....	112
121. -- 199. (Reserved).....	112
200. Unauthorized Discharges.....	112
201. -- 209. (Reserved).....	112
210. Notification Of Discharge.....	112
211. Written Notification.....	112
212. -- 299. (Reserved).....	113
300. Wastewater Storage And Containment Facilities.....	113
301. -- 309. (Reserved).....	113
310. Construction Requirements.....	113
311. -- 319. (Reserved).....	113
320. Substances Entering Wastewater Storage And Containment Facilities.....	113
321. -- 329. (Reserved).....	113
330. Nutrient Management.....	113
331. -- 359. (Reserved).....	114
360. New CLTWF.....	114
361. -- 999. (Reserved).....	114
 <i>02.04.32 – Rules Governing Poultry Operations</i>	
Docket No. 02-0432-1901 (Fee Rule)	
000. Legal Authority.....	117
001. Title And Scope.....	117
002. Written Interpretations.....	117
003. Administrative Appeal.....	117
004. Incorporation By Reference.....	117
005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	118
006. Idaho Public Records Act.....	118
007. -- 009. (Reserved).....	118
010. Definitions.....	118
011. Abbreviations.....	118
012. -- 109. (Reserved).....	119
110. Permit Application.....	119
111. -- 129. (Reserved).....	121
130. Permit Conditions.....	121
131. -- 139. (Reserved).....	122
140. Fees And Assessments.....	122

141. -- 149. (Reserved)..... 122
150. Permit Modification..... 122
151. -- 159. (Reserved)..... 122
160. Transfer Of Permits..... 123
161. -- 199. (Reserved)..... 124
200. Waste Storage And Containment Facilities..... 124
201. -- 249. (Reserved)..... 124
250. Nutrient Management..... 124
251. Nutrient Management Plan Retention..... 125
252. Nutrient Management Records..... 125
253. NMP Violations..... 125
254. -- 259. (Reserved)..... 125
260. Ground Water Quality Monitoring..... 125
261. -- 299. (Reserved)..... 125
300. Prohibited Discharges..... 126
301. -- 309. (Reserved)..... 126
310. Notification Of Discharge..... 126
311. -- 499. (Reserved)..... 126
500. Inspections..... 126
501. -- 549. (Reserved)..... 127
550. Violations..... 127
551. -- 999. (Reserved)..... 127

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.01.01 – Rules of the Idaho Electric Board

Docket No. 07-0101-1901 (New Chapter)

000. Legal Authority..... 134
001. Title And Scope..... 134
002. Incorporation By Reference..... 134
003. Definitions..... 134
004. -- 010. (Reserved)..... 134
011. Electrical Permits..... 134
012. Electrical Permitting And Inspection Requirements For Persons Exempt From Licensing..... 135
013. Electrical Permit And Inspection Requirements For Facility Accounts..... 135
014. Temporary Installations Connected Prior To Inspection..... 135
015. -- 049. (Reserved)..... 135
050. Fees For Electrical Permits And Inspections..... 136
051. -- 099. (Reserved)..... 138
100. Licensure History..... 139
101. License And Registration Application..... 139
103. Journeyman Electrician Examination And License..... 139
104. Master Electrician..... 140
105. Electrical Contractor..... 140
106. -- 149. (Reserved)..... 142
150. Qualified Journeyman Electricians..... 143
151. Minimum Experience Requirements..... 143
152. Limited Experience Requirement..... 143
153. Electrical Installations Requiring A Limited Electrical Installer License..... 143
154. Applications For Limited Electrical Installer License..... 146
155. Licensure Period And Fees..... 146
156. Limited Electrical Contractor License..... 146
157. -- 199. (Reserved)..... 146

200. Examinations.....	147
201. -- 249. (Reserved).....	148
250. Adoption And Incorporation By Reference Of The National Electrical Code.....	148
251. -- 299. (Reserved).....	150
300. Continuing Education Requirements.....	150
301. Course Approval Requirements.....	150
302. -- 349. (Reserved).....	152
350. Appeals.....	152
351. -- 399. (Reserved).....	153
400. Certification And Approval Of Electrical Products And Materials.....	153
401. -- 449. (Reserved).....	153
450. Civil Penalties.....	153
451. -- 999. (Reserved).....	154
07.05.01 – Rules of the Public Works Contractors License Board	
Docket No. 07-0501-1901	
201. Fees.....	156
07.07.01 – Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems	
Docket No. 07-0701-1902 (Fee Rule)	
023. HVAC Journeyman Certificates Of Competency And Examination Requirements.....	159
025. HVAC Apprentice Requirements For Registration.....	160
051. HVAC Permit Fee Schedule.....	160
07.11.01 – Rules of the Division of Building Safety	
Docket No. 07-1101-1901 (New Chapter)	
000. Legal Authority.....	164
001. Title And Scope.....	164
002. Written Interpretations.....	164
003. Administrative Appeals.....	164
004. Incorporation By Reference.....	164
005. Office – Mailing Address - Street Address – Office Hours - Web Address.....	164
006. Public Records Act Compliance.....	164
007. Definitions.....	164
008. -- 010. (Reserved).....	165
011. Military, Veteran, And Spouse License Applications.....	165
012. -- 999. (Reserved).....	165
IDAPA 09 – IDAHO DEPARTMENT OF LABOR	
09.01.30 – Unemployment Insurance Benefits Administration Rules	
Docket No. 09-0130-1902	
175. Available For Work.....	167
Docket No. 09-0130-1903	
100. Able To Work.....	171
150. Claimants With Disabilities.....	171
175. Available For Work.....	172
IDAPA 13 – DEPARTMENT OF FISH AND GAME	
13.01.08 – Rules Governing the Taking of Big Game Animals in the State of Idaho	
Docket No. 13-0108-1903	
251. (Reserved).....	179
252. Delay In Eligibility For Buying Limited General Hunt Tag.....	179
253. -- 254. (Reserved).....	179

Docket No. 13-0108-1904	
255. Nonresident Tag Restrictions	181
13.01.09 – Rules Governing the Taking of Game Birds in the State of Idaho	
Docket No. 13-0109-1902	
102. Wild Turkey Tags, Stamps, Permits, And Validations	183
103. Pheasant Tags, Permits, And Validations	184
300. Upland Game Bird Methods Of Take	185
500. Official Shooting Hours	185
13.01.10 – Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife	
Docket No. 13-0110-1901	
100. Permits For Import, Export, Transport, Release, And Sale Of Live Wildlife	187
IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE	
16.01.02 – Emergency Medical Services (EMS) – Rule Definitions	
Docket No. 16-0102-1901	
011. Definitions And Abbreviations C through E	190
16.01.03 – Emergency Medical Services (EMS) – Agency Licensing Requirements	
Docket No. 16-0103-1901	
004. Incorporation By Reference	194
982. -- 989. (Reserved)	194
990. Time Sensitive Emergency Certification	194
991. -- 999. (Reserved)	194
16.01.07 – Emergency Medical Services (EMS) – Personnel Licensing Requirements	
Docket No. 16-0107-1901	
103. Recognition Of EMS Personnel Licensure Interstate Compact (REPLICA)	196
106. Time Frame For Personnel Licensure After Successful Completion Of Education Course	196
107. Licensure Of Members Of The Military, Veterans, And Spouses	196
108. Qualifications For Licensure By Endorsement -- Members Of The Military, Veterans, And Spouses	197
109. (Reserved)	197
131. Reinstatement Of A Lapsed EMS Personnel License	197
16.03.19 – Rules Governing Certified Family Homes	
Docket No. 16-0319-1901	
001. Title, Scope, And Exceptions	202
009. Criminal History And Background Check Requirements	203
113. Denial Of Application For Certificate	203
16.03.22 – Residential Care or Assisted Living Facilities in Idaho	
Docket No. 16-0322-1901	
000. Legal Authority	206
001. Title, Scope, And Responsibilities	206
002. Written Interpretations	207
003. Administrative Appeals, Contested Cases, And Informal Dispute Resolution	207
004. Incorporation By Reference	207
005. Office – Office Hours – Mailing Address – Street Address – Telephone -- internet Website	208
006. Confidentiality Of Records And Public Records Requests	208
009. Criminal History And Background Check Requirements	209
010. Definitions And Abbreviations A Through E	210
011. Definitions And Abbreviations F Through N	213
012. Definitions And Abbreviations O Through Z	215
050. Variances	219

100. Licensing Requirements.....	219
105. Change Of Ownership.....	220
110. Facility License Application.....	220
115. Expiration And Renewal Of License.....	222
116. -- 125. (Reserved).....	222
126. Effect Of Enforcement Action Against A License.....	222
130. Inspection Of Facilities.....	223
131. -- 149. (Reserved).....	225
150. Policies And Procedures.....	225
151. Activity Requirements.....	225
152. Admission Requirements.....	226
154. Staff Training Requirements.....	228
155. Emergency Preparedness Requirements.....	229
156. Hourly Adult Care Requirements.....	230
157. -- 160. (Reserved).....	232
161. Smoking Requirements.....	232
162. -- 214. (Reserved).....	233
215. Requirements For A Facility Administrator.....	233
216. Requirements For Admission Agreements.....	237
217. Requirements For Termination Of Admission Agreement.....	239
218. -- 249. (Reserved).....	240
250. Requirements For Building Construction And Physical Standards.....	241
255. Requirements For Additional Physical Standards.....	245
260. Requirements For Environmental Sanitation.....	245
300. Requirements For Nursing Services.....	247
305. Requirements For The Licensed registered Nursing Assessment.....	247
310. Requirements For Medication.....	248
311. -- 318. (Reserved).....	249
319. Comprehensive Assessment Requirements.....	249
320. Negotiated Service Agreement (NSA) Requirements.....	251
330. Requirements For Facility Records.....	252
335. Requirements For Infection Control.....	256
336. -- 399. (Reserved).....	257
400. Requirements For Fire And Life Safety Standards.....	258
401. Fire And Life Safety Standards For New Buildings Housing Three Through Sixteen Residents.....	258
402. Fire And Life Safety Standards For New Buildings Housing Seventeen Or More Residents And Multi-story Buildings.....	259
403. Fire And Life Safety Standards For Existing Buildings Licensed For Three Through Sixteen Residents.....	259
404. Fire And Life Safety Standards For Existing Buildings Licensed For Seventeen Or More Residents And Multi-story Buildings.....	259
405. Additional Fire And Life Safety Standards For All Buildings And Facilities.....	260
410. Requirements For Emergency Actions And Fire Drills.....	261
411. -- 429. (Reserved).....	262
430. Requirements For Furnishings, Equipment, Supplies, and Basic Services.....	263
450. Requirements For Food And Nutritional Care Services.....	264
451. Menu And Diet Planning.....	264
455. Food Supply.....	265
460. Food Preparation And Service.....	265
461. -- 509. (Reserved).....	266
510. Requirements To Protect Residents From Abuse.....	266
515. Requirements To Protect Residents From Exploitation.....	267

520. Requirements To Protect Residents From Inadequate Care	267
525. Requirements To Protect Residents From Neglect.....	267
550. Requirements For Residents' Rights.....	267
560. Notice Of Residents' Rights.	271
600. Requirements For Staffing Standards.....	272
620. Requirements For Training Of Facility Personnel.	272
625. Orientation Training Requirements.	273
630. Training Requirements For Facilities Admitting Residents With Diagnosis Of Dementia, Mental Illness, Developmental Disability, Or Traumatic Brain Injury.	273
640. Continued Training Requirements.	275
641. Additional Training Related To Changes.	275
645. Assistance With Medications.	275
646. -- 899. (Reserved).....	276
900. Enforcement Actions.	283
901. Summary Suspension.	283
902. -- 909. (Reserved).....	284
910. Enforcement Action Of Consultant.	285
920. Enforcement Action Of Limit On Admissions.	285
925. Enforcement Action Of Civil Monetary Penalties.	286
930. Enforcement Action Of Temporary Management.....	287
935. Enforcement Action Of Provisional License.	289
940. Enforcement Action Of Revocation Of Facility License.....	289
16.05.06 – Criminal History and Background Checks	
Docket No. 16-0506-1901	
100. Individuals Subject To A Criminal History And Background Check.....	292
126. Applicants Receiving A Department Enhanced Clearance.	295
Docket No. 16-0506-1902	
001. Title, Scope And Policy.	297
010. Definitions And Abbreviations.	298
060. Employer Registration.....	299
061. Employer Responsibilities.	299
150. Time Frame For Submitting Application And Fingerprints.....	300
210. Disqualifying Crimes Resulting In An Unconditional Denial.	301
300. Updating Criminal History And Background Checks.....	303
IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY	
19.01.01 – Rules of the Idaho State Board of Dentistry	
Docket No. 19-0101-1901 (Fee Rule)	
001. Title And Scope.....	307
011. Application And License Fees.....	307
012. Examinations For Licensure.....	308
013. Requirements For Licensure.....	308
014. Requirement For BLS.	308
015. Continuing Education Requirements.....	308
031. Infection Control.	309
035. Dental Therapists – Practice.	310
036. Dental Therapists – Prohibited Practice.	310
037. Dental Assistants – Practice.	310
038. – 040. (Reserved)	312
041. Local Anesthesia.	312
042. Nitrous Oxide/Oxygen.	313
056. Unprofessional Conduct.....	313

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.02 – Rules Governing Mined Land Reclamation

Docket No. 20-0302-1902 (Fee Rule)

000. Legal Authority.....	318
001. Title And Scope.....	318
003. Administrative Appeals.....	320
005. Office – Office Hours – Mailing Address – Street Address – Web Address.....	321
010. Definitions.....	321
050. Administration.....	325
051. -- 059. (Reserved).....	326
060. Exploration Operations And Required Reclamation.....	326
061. -- 067. (Reserved).....	327
068. Application fees.....	327
069. Application Procedure And Requirements For Quarries, Decorative Stone, Building Stone, And Aggregate Materials Including Sand, Gravel And Crushed Rock.....	327
070. Application Procedure And Requirements For Other Mining Operations Including Hardrock, Underground And Phosphate Mining.....	329
071. Application Procedure And Requirements For Permanent Closure Of Cyanidation Facilities..	330
072. -- 079. (Reserved).....	333
080. Procedures For Review And Decision Upon An Application For A Reclamation Plan Or Permanent Closure Plan.....	334
081. -- 089. (Reserved).....	336
090. Amending An Approved Reclamation Plan.....	336
091. Amending An Approved Permanent Closure Plan.....	337
092. -- 099. (Reserved).....	337
100. Deviation From An Approved Reclamation Plan.....	338
101. -- 109. (Reserved).....	338
110. Public Hearing.....	338
111. Completion Of Permanent Closure.....	339
120. Financial Assurance Requirements For Mining.....	340
121. Financial Assurance Requirements For Cyanidation Facilities.....	343
122. Form Of Financial Assurance.....	345
123. Forfeiture Of Financial Assurance.....	349
124. -- 129. (Reserved).....	349
130. Transfer Of Approved Plans.....	349
131. -- 139. (Reserved).....	350
140. Best Management Practices And Reclamation For Mining Operation And Permanent Closure Of Cyanidation Facilities.....	350
150. Termination Of A Plan.....	356
151. -- 154. (Reserved).....	356
155. Five (5) year Updates and periodic inspections.....	356
156. -- 159. (Reserved).....	356
160. Enforcement And Failure To Comply.....	356
180. Public And Confidential Information.....	357
181. -- 189. (Reserved).....	357
190. Deposit Of Forfeitures And Damages.....	358
191. -- 199. (Reserved).....	358
200. Compliance Of Existing Reclamation Plans.....	358

20.03.03 – Rules Governing Administration of the Reclamation Fund

Docket No. 20-0303-1901

000. Legal Authority.....	360
001. Title And Scope.....	360

002. Written Interpretations.....	360
003. Administrative Appeals.....	360
004. Incorporation By Reference.....	361
005. Office – Office Hours – Mailing Address And Street Address.....	361
006. Public Records Act Compliance.....	361
007. -- 009. (Reserved).....	362
010. Definitions.....	362
011. -- 015. (Reserved).....	363
016. Required Participants.....	363
017. Ineligible Mines Or Operators.....	364
018. Acreage And Reclamation Cost Limitations.....	364
019. Optional Participation.....	365
020. Federal Agency Non-Acceptance Of Reclamation Fund.....	365
021. -- 025. (Reserved).....	365
026. Payment.....	365
027. -- 030. (Reserved).....	366
031. Enforcement And Failure To Comply.....	366

**20.03.04 – Rules for the Regulation of Beds, Waters, and Airspace
Over Navigable Lakes in the State of Idaho**

Docket No. 20-0304-1901 (Fee Rule)

020. Applications.....	368
021. -- 024. (Reserved).....	370
025. Processing Of Applications For Single-Family And Two-Family Navigational Encroachments Within Line Of Navigability.....	370
060. Installation.....	372
061. -- 064. (Reserved).....	372
065. Assignments.....	372

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – Property Tax Administrative Rules

Docket No. 35-0103-1903

225. Documentation For Newly Organized Or Altered Taxing Districts Or Revenue Allocation Areas (RAAs) Under The Jurisdiction Of Urban Renewal Agencies (Rule 225).....	376
---	-----

Docket No. 35-0103-1906

717. Procedure After Claim Approval (Rule 717).....	381
---	-----

35.01.05 – Idaho Motor Fuels Tax Administrative Rules

Docket No. 35-0105-1901

110. Calculation Of Motor Fuels Tax On Gaseous Special Fuels (Rule 110).....	385
--	-----

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – Rules for the Control of Air Pollution in Idaho

Docket No. 58-0101-1904 (Fee Rule)

000. Legal Authority.....	393
001. Title And Scope.....	393
002. Written Interpretations.....	393
003. Administrative Appeals.....	393
004. (Reserved).....	393
005. Definitions.....	393
006. General Definitions.....	393
007. Definitions For The Purposes Of Sections 200 Through 228 And 400 Through 461.....	409
008. Definitions For The Purposes Of Sections 300 Through 386.....	412

009.	Definitions For The Purposes Of 40 CFR Part 60.....	414
010.	Definitions For The Purposes Of 40 CFR Part 61 And 40 CFR Part 63.....	414
011.	Definitions For The Purposes Of Sections 790 Through 799.....	414
012. --	105. (Reserved).....	414
106.	Abbreviations.....	414
107.	Incorporations By Reference.....	415
108. --	120. (Reserved).....	416
121.	Compliance Requirements By Department.....	417
122.	Information Orders By The Department.....	417
123.	Certification Of Documents.....	418
124.	Truth, Accuracy And Completeness Of Documents.....	418
125.	False Statements.....	418
126.	Tampering.....	418
127.	Format Of Responses.....	418
128.	Confidential Information.....	418
129.	(Reserved).....	418
130.	Startup, Shutdown, Scheduled Maintenance, Safety Measures, Upset And Breakdown.....	418
131.	Excess Emissions.....	419
132.	Correction Of Condition.....	419
133.	Startup, Shutdown And Scheduled Maintenance Requirements.....	419
134.	Upset, Breakdown And Safety Requirements.....	421
135.	Excess Emissions Reports.....	423
136.	Excess Emissions Records.....	423
137. --	139. (Reserved).....	424
140.	Variances.....	424
141.	Petition.....	424
142.	Notice.....	424
143.	Investigation And Recommendation.....	424
144.	Objections To Petition.....	425
145.	Authorization Of Hearing.....	425
146.	Notice Of Hearing.....	425
147.	Decision.....	425
148.	Proof Of Hardship.....	425
149.	Variance From New Rule.....	425
150. --	154. (Reserved).....	425
155.	Circumvention.....	425
156.	Total Compliance.....	426
157.	Test Methods And Procedures.....	426
158. --	159. (Reserved).....	427
160.	Provisions Governing Specific Activities And Conditions.....	428
161.	Toxic Substances.....	428
162.	Modifying Physical Conditions.....	428
163.	Source Density.....	428
164.	Polychlorinated Biphenyls (PCBs).....	428
165. --	174. (Reserved).....	428
175.	Procedures And Requirements For Permits Establishing A Facility Emissions Cap.....	428
176.	Facility Emissions Cap.....	428
177.	Application Procedures.....	429
178.	Standard Contents Of Permits Establishing A Facility Emissions Cap.....	430
179.	Procedures For Issuing Permits Establishing A Facility Emissions Cap.....	430
180.	Revisions To Permits Establishing A Facility Emissions Cap.....	431
181.	Notice And Record-Keeping Of Estimates Of Ambient Concentrations.....	432

182. -- 199. (Reserved).....	432
200. Procedures And Requirements For Permits To Construct.....	432
201. Permit To Construct Required.....	432
202. Application Procedures.....	433
203. Permit Requirements For New And Modified Stationary Sources.....	435
204. Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas.....	435
205. Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas.....	436
206. Optional Offsets For Permits To Construct.....	437
207. Requirements For Emission Reduction Credit.....	437
208. Demonstration Of Net Air Quality Benefit.....	437
209. Procedure For Issuing Permits.....	438
210. Demonstration Of Preconstruction Compliance With Toxic Standards.....	441
211. Conditions For Permits To Construct.....	448
212. Obligation To Comply.....	449
213. Pre-Permit Construction.....	449
214. Demonstration Of Preconstruction Compliance For New And Reconstructed Major Sources Of Hazardous Air Pollutants.....	450
215. Mercury Emission Standard For New Or Modified Sources.....	451
216. -- 219. (Reserved).....	451
220. General Exemption Criteria For Permit To Construct Exemptions.....	451
221. Category I Exemption.....	451
222. Category II Exemption.....	452
223. Exemption Criteria And Reporting Requirements For Toxic Air Pollutant Emissions.....	454
224. Permit To Construct Application Fee.....	454
225. Permit To Construct Processing Fee.....	455
226. Payment Of Fees For Permits To Construct.....	455
227. Receipt And Usage Of Fees.....	455
228. Appeals.....	456
229. -- 299. (Reserved).....	456
300. Procedures And Requirements For Tier I Operating Permits.....	456
301. Requirement To Obtain Tier I Operating Permit.....	456
302. Optional Tier I Operating Permit.....	456
303. -- 310. (Reserved).....	456
311. Standard Permit Applications.....	456
312. Duty To Apply.....	456
313. Timely Application.....	457
314. Required Standard Application Form And Required Information.....	458
315. Duty To Supplement Or Correct Application.....	461
316. Effect Of Inaccurate Information In Applications Or Failure To Submit Relevant Information...	461
317. Insignificant Activities.....	461
318. -- 320. (Reserved).....	468
321. Tier I Operating Permit Content.....	468
322. Standard Contents Of Tier I Operating Permits.....	468
323. -- 324. (Reserved).....	473
325. Additional Contents Of Tier I Operating Permits -- Permit Shield.....	473
326. -- 331. (Reserved).....	474
332. Emergency As An Affirmative Defense Regarding Excess Emissions.....	474
333. -- 334. (Reserved).....	474
335. General Tier I Operating Permits And Authorizations To Operate.....	474
336. Tier I Operating Permits For Tier I Portable Sources.....	475
337. -- 359. (Reserved).....	475

360.	Standard Processing Of Tier I Operating Permit Applications.	475
361.	Completeness Of Applications.	476
362.	Technical Memorandums For Tier I Operating Permits.	476
363.	Preparation Of Draft Permit Or Draft Denial.	476
364.	Public Notices, Comments And Hearings.	476
365.	Preparation Of Proposed Permit Or Proposed Denial.	477
366.	EPA Review Procedures.	477
367.	Action On Application.	478
368.	Expiration Of Preceding Permits.	479
369.	Tier I Operating Permit Renewal.	479
370. -- 379.	(Reserved).....	479
380.	Changes To Tier I Operating Permits.	479
381.	Administrative Permit Amendments.	480
382.	Significant Permit Modification.	481
383.	Minor Permit Modification.....	482
384.	Section 502(b)(10) Changes And Certain Emission Trades.	484
385.	Off-Permit Changes And Notice.	485
386.	Reopening For Cause.	486
387.	Registration And Registration Fees.	487
388.	Applicability.	487
389.	Registration Information.	487
390.	Registration Fee.....	487
391.	Request For Information.	489
392.	Registration Fee Assessment.	489
393.	Payment Of Tier I Registration Fee.....	489
394.	Effect Of Delinquency On Applications.	489
395.	Appeals.	489
396.	Exemptions.	489
397.	Lump Sum Payments Of Registration Fees.	490
398. -- 399.	(Reserved).....	490
400.	Procedures And Requirements For Tier II Operating Permits.....	490
401.	Tier II Operating Permit.	490
402.	Application Procedures.	491
403.	Permit Requirements For Tier II Sources.....	492
404.	Procedure For Issuing Permits.....	492
405.	Conditions For Tier II Operating Permits.....	494
406.	Obligation To Comply.....	495
407.	Tier II Operating Permit Processing Fee.....	495
408.	Payment Of Tier II Operating Permit Processing Fee.....	496
409.	Receipt And Usage Of Fees.	496
410.	Appeals.	496
411. -- 439.	(Reserved).....	496
440.	Requirements For Alternative Emission Limits (Bubbles).....	496
441.	Demonstration Of Ambient Equivalence.	497
442. -- 459.	(Reserved).....	497
460.	Requirements For Emission Reduction Credit.	497
461.	Requirements For Banking Emission Reduction Credits (ERC's).....	497
462. -- 499.	(Reserved).....	498
500.	Registration Procedures And Requirements For Portable Equipment.....	498
501. -- 509.	(Reserved).....	498
510.	Stack Heights And Dispersion Techniques.	498
511.	Applicability.	498

512. Definitions	499
513. Requirements	501
514. Opportunity For Public Hearing	501
515. Approval Of Field Studies And Fluid Models.....	501
516. No Restriction On Actual Stack Height.	501
517. Motor Vehicle Inspection And Maintenance Program	501
518. Requirements For Licensing Authorized Inspection Stations Or Retest Stations.	502
519. Requirements For Licensing Authorized Emissions Technicians.....	503
520. Inspection Frequency.....	503
521. Test Procedure Requirements.	503
522. Test Standards.....	503
523. Test Equipment.....	503
524. Inspection Fee.....	504
525. Public Outreach.....	504
526. Waivers	504
527. Extensions.....	504
528. -- 549. (Reserved).....	504
550. Air Pollution Emergency Rule.	504
551. Episode Criteria.....	504
552. Stages.....	504
553. Effect Of Stages.....	505
554. -- 555. (Reserved).....	505
556. Criteria For Defining Levels Within Stages.	505
557. Public Notification.....	506
558. Information To Be Given.....	506
559. Manner And Frequency Of Notification.....	507
560. Notification To Sources.....	507
561. General Rules.....	507
562. Specific Emergency Episode Abatement Plans For Point Sources.....	508
563. Transportation Conformity.....	509
564. (Reserved)	509
565. Abbreviations.....	509
566. Definitions For The Purpose Of Sections 563 Through 574 And 582.....	510
567. Agencies Affected By Consultation.....	512
568. ICC Member Roles In Consultation.....	513
569. ICC Member Responsibilities In Consultation.....	513
570. General Consultation Process.....	515
571. Consultation Procedures.....	516
572. Final Conformity Determinations By USDOT.....	518
573. Resolving Conflicts.....	519
574. Public Consultation Procedures.....	519
575. Air Quality Standards And Area Classification.....	520
576. General Provisions For Ambient Air Quality Standards.....	520
577. Ambient Air Quality Standards For Fluorides.....	520
578. Designation Of Attainment, Unclassifiable, And Nonattainment Areas.....	520
579. Baselines For Prevention Of Significant Deterioration.....	521
580. Classification Of Prevention Of Significant Deterioration Areas.....	522
581. Prevention Of Significant Deterioration (PSD) Increments.....	523
582. -- 584. (Reserved).....	523
585. Toxic Air Pollutants Non-carcinogenic Increments.....	523
586. Toxic Air Pollutants Carcinogenic Increments.....	541
587. Listing Or Delisting Toxic Air Pollutant Increments.....	544

588. -- 589. (Reserved).....	544
590. New Source Performance Standards.....	544
591. National Emission Standards For Hazardous Air Pollutants.....	544
592. Stage 1 Vapor Collection.....	544
593. Affected Equipment Or Processes.....	544
594. Compliance Dates.....	544
595. Submerged Fill Requirements.....	545
596. Vapor Balance Requirements.....	545
597. Testing And Monitoring Requirements.....	545
598. Registration, Recordkeeping, And Reporting Requirements.....	546
599. Gasoline Cargo Tanks.....	547
600. Rules For Control Of Open Burning.....	548
601. Fire Permits, Hazardous Materials, And Liability.....	548
602. Nonpreemption Of Other Jurisdictions.....	548
603. General Restrictions.....	548
604. -- 605. (Reserved).....	548
606. Categories Of Allowable Burning.....	549
607. Recreational And Warming Fires.....	549
608. Weed Control Fires.....	549
609. Training Fires.....	549
610. Industrial Flares.....	549
611. Residential Solid Waste Disposal Fires.....	549
612. Landfill Disposal Site Fires.....	549
613. Orchard Fires.....	549
614. Prescribed Burning.....	550
615. Dangerous Material Fires.....	550
616. Infectious Waste Burning.....	550
617. Crop Residue Disposal.....	550
618. Permit By Rule.....	550
619. Registration For Permit By Rule.....	551
620. Burn Fee.....	551
621. Burn Determination.....	551
622. General Provisions.....	552
623. Public Notification.....	553
624. Spot Burn, Baled Agricultural Residue Burn, And Propane Flaming Permits.....	554
625. Visible Emissions.....	555
626. General Restrictions On Visible Emissions From Wigwam Burners.....	555
627. -- 649. (Reserved).....	555
650. Rules For Control Of Fugitive Dust.....	556
651. General Rules.....	556
652. Agricultural Activities.....	556
653. -- 664. (Reserved).....	557
665. Regional Haze Rules.....	557
666. Reasonable Progress Goals.....	557
667. Long-Term Strategy For Regional Haze.....	557
668. BART Requirement For Regional Haze.....	559
669. -- 674. (Reserved).....	560
675. Fuel Burning Equipment -- Particulate Matter.....	560
676. Standards For New Sources.....	560
677. Standards For Minor And Existing Sources.....	560
678. Combinations Of Fuels.....	561
679. Averaging Period.....	561

680. Altitude Correction.....	561
681. Test Methods And Procedures.....	561
682. -- 699. (Reserved).....	561
700. Particulate Matter -- Process Weight Limitations.	561
701. Particulate Matter -- New Equipment Process Weight Limitations.	561
702. Particulate Matter -- Existing Equipment Process Weight Limitations.....	562
703. Particulate Matter -- Other Processes.....	563
704. -- 724. (Reserved).....	564
725. Rules For Sulfur Content Of Fuels.....	564
726. -- 749. (Reserved).....	565
750. Rules For Control Of Fluoride Emissions.....	565
751. General Rules.....	565
752. -- 759. (Reserved).....	566
760. Rules For The Control Of Ammonia From Dairy Farms.....	566
761. General Applicability.....	566
762. Permit By Rule.....	566
763. Registration for Permit by Rule.....	567
764. Dairy Farm Best Management Practices.....	567
765. -- 774. (Reserved).....	570
775. Rules For Control Of Odors.....	570
776. General Rules.....	570
777. -- 784. (Reserved).....	570
785. Rules For Control Of Incinerators.....	570
786. Emission Limits.....	570
787. Exceptions.....	571
788. -- 789. (Reserved).....	571
790. Rules For The Control Of Nonmetallic Mineral Processing Plants.....	571
791. General Control Requirements.....	571
792. Emissions Standards For Nonmetallic Mineral Processing Plants Subject To 40 CFR 60, Subpart OOO.....	571
793. Emissions Standards For Nonmetallic Mineral Processing Plants Not Subject To 40 CFR 60, Subpart OOO.....	572
794. Permit Requirements.....	572
795. Permit By Rule Requirements.....	573
796. Applicability.....	573
797. Registration For Permit By Rule.....	573
798. Electrical Generators.....	574
799. Nonmetallic Mineral Processing Plant Fugitive Dust Best Management Practice.....	574
800. Registration Fee For Permit By Rule.....	580
801. Payment Of Fees For Permits By Rule Registration.....	580
802. Receipt And Usage Of Fees.....	580
803. -- 804. (Reserved).....	580
805. Rules For Control Of Hot-Mix Asphalt Plants.....	580
806. Emission Limits.....	580
807. Multiple Stacks.....	580
808. Fugitive Dust Control.....	580
809. -- 814. (Reserved).....	580
815. Rules For Control Of Kraft Pulp Mills.....	580
816. Recovery Furnace TRS Standard.....	581
817. Recovery Furnace TRS Monitoring And Recordkeeping.....	581
818. Kraft Pulp Mill LVHC And HVLC Gas Venting Notification And Reporting.....	581
819. -- 834. (Reserved).....	581

835. Rules For Control Of Rendering Plants.....	581
836. Control Of Cookers.....	581
837. Control Of Expellers.....	581
838. Control Of Plant Air.....	581
839. Exceptions.....	581
840. -- 844. (Reserved).....	581
845. Rules For Control Of Sulfur Oxide Emissions From Sulfuric Acid Plants.....	581
846. Emission Limits.....	581
847. Monitoring And Testing.....	582
848. Compliance Schedule.....	582
849. -- 854. (Reserved).....	582
855. Combined Zinc And Lead Smelters.....	582
856. Combined Zinc And Lead Smelters -- Control Of Fugitive Sulfur Dioxide Emissions.....	582
857. Combined Zinc And Lead Smelters -- Oxides Of Sulfur.....	582
858. Stack Monitoring Requirements.....	584
859. Standards Of Performance For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification On Or After May 30, 1991.....	584
860. Emission Guidelines For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification Before May 30, 1991.....	586
861. -- 999. (Reserved).....	588
58.01.02 – Water Quality Standards	
Docket No. 58-0102-1901	
210. Numeric Criteria For Toxic Substances For Waters Designated For Aquatic Life, Recreation, Or Domestic Water Supply Use.....	591
287. Site-Specific Aquatic Life Criteria For Selenium.....	605
58.01.03 – Individual/Subsurface Sewage Disposal Rules	
Docket No. 58-0103-1902	
000. (Reserved).....	613
001. Legal Authority.....	613
002. Title, Scope, Conflict And Responsibilities.....	613
003. Definitions.....	614
004. General Requirements.....	616
005. Permit And Permit Application.....	617
006. Installer's Registration Permit And Service Provider Certification.....	620
007. Septic Tanks Design And Construction Standards.....	622
008. Standard Subsurface Disposal Facility Design And Construction.....	627
009. Other Components.....	631
010. Variances.....	631
011. Inspections.....	633
012. Violations And Penalties.....	633
013. Large Soil Absorption System Design And Construction.....	633
014. -- 049. (Reserved).....	636
052. -- 995. (Reserved).....	637
996. Administrative Provisions.....	637
997. Confidentiality Of Records.....	637
998. -- 999.....	637
58.01.09 – Rules Regulating Swine Facilities	
Docket No. 58-0109-1901 (Fee Rule)	
000. Legal Authority.....	640
001. Title And Scope.....	640
002. Written Interpretations.....	640

003. Administrative Appeals.....	640
004. -- 009. (Reserved).....	640
010. Definitions.....	640
011. -- 099. (Reserved).....	641
100. Applicability.....	641
101. -- 199. (Reserved).....	642
200. Permit Application.....	642
201. -- 204. (Reserved).....	644
205. Financial Assurance Requirements.....	644
206. -- 209. (Reserved).....	648
210. Existing Facilities.....	648
211. -- 249. (Reserved).....	648
250. Requirements For Water Quality Protection.....	648
251. -- 299. (Reserved).....	649
300. Application Processing Procedure.....	649
301. -- 399. (Reserved).....	650
400. Permit Conditions.....	650
401. -- 449. (Reserved).....	651
450. Specific Permit Conditions.....	651
451. -- 499. (Reserved).....	652
500. Permit Modification.....	652
501. -- 549. (Reserved).....	653
550. Transfer Of Permits.....	653
551. -- 599. (Reserved).....	653
600. Violations.....	653
601. -- 998. (Reserved).....	654
999. Confidentiality Of Records.....	654
58.01.11 – Ground Water Quality Rule	
Docket No. 58-0111-1901 (Fee Rule)	
000. Legal Authority.....	657
001. Title And Scope.....	657
002. Administrative Appeals.....	658
003. Written Interpretations.....	658
004. -- 005. (Reserved).....	658
006. Policies.....	658
007. Definitions.....	658
008. -- 010. (Reserved).....	660
011. Incorporation By Reference.....	660
012. -- 149. (Reserved).....	661
150. Implementation.....	661
151. -- 199. (Reserved).....	662
200. Ground Water Quality Standards.....	662
201. -- 299. (Reserved).....	666
300. Categorized Aquifers Of The State.....	666
301. Management Of Activities With The Potential To Degrade Aquifers.....	667
302. -- 349. (Reserved).....	667
350. Procedures For Categorizing Or Recategorizing An Aquifer.....	667
351. -- 399. (Reserved).....	669
400. Ground Water Contamination.....	669
401. Mining.....	670
402. -- 999. (Reserved).....	673

58.01.17 – Recycled Water Rules

Docket No. 58-0117-1901

000. Legal Authority	676
001. Title And Scope	677
002. Written Interpretations	677
003. Incorporation By Reference	677
004. Administrative Provisions	677
005. Confidentiality Of Records	677
006. Office Hours – Mailing Address And Street Address	677
007. (Reserved)	677
008. Referenced Materials	677
009. -- 099. (Reserved)	678
100. Applicability	678
101. -- 199. (Reserved)	678
200. Definitions	678
201. -- 299. (Reserved)	681
300. Permit Requirements And Application	681
301. -- 399. (Reserved)	683
400. Application Processing Procedure	683
401. -- 499. (Reserved)	684
500. Standard Permit Conditions	684
501. -- 599. (Reserved)	685
600. Specific Permit Conditions	685
601. Municipal Recycled Water: Classification, Treatment, Use	686
602. Municipal Recycled Water: Classification And Uses Tables	689
603. Municipal Recycled Water: Access, Exposure And Signage	692
604. Reuse Facilities: Buffer Distances	694
605. Municipal Recycled Water: Preliminary Engineering Reports	694
606. Reuse Facility: Plan And Specification Review	694
607. Municipal Recycled Water: Distribution Pipelines	694
608. Municipal Recycled Water: Pumping Stations	696
609. Municipal Recycled Water: Lagoons	696
610. Municipal Recycled Water: Class A Recycled Water Filtration	696
611. Municipal Recycled Water: Reliability And Redundancy	696
612. Demonstration Of Technical, Financial, And Managerial Capacity Of Municipal Reuse Facility	697
613. Reuse Facility: Rapid Infiltration System	697
614. Ground Water Recharge: Class A Recycled Water	698
615. Subsurface Distribution Of Recycled Water	698
616. Permit For Use Of Industrial Recycled Water	699
617. -- 699. (Reserved)	699
700. Permit Modification	699
701. -- 799. (Reserved)	700
800. Permit Transferable	700
801. Temporary Cessation Of Operations And Closure	701
802. -- 919. (Reserved)	702
920. Permit Revocation	702
921. -- 929. (Reserved)	702
930. Violations	702
931. -- 939. (Reserved)	702
940. Waivers	702
941. -- 999. (Reserved)	702

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 September 18, 2019, unless otherwise posted.
The proposed rule written comment submission deadline is September 25, 2019, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 – DEPARTMENT OF AGRICULTURE P.O. Box 7249, Boise, ID 83707

02-0212-1901, Bonded Warehouse Rules. Allows for issuance of electronic warehouse receipts for commodities that are stored and establishes procedures for proper usage.

02-0301-1901, Rules Governing Pesticide Management Plans for Ground Water Protection. Reauthorizes the previously codified rule that establishes a process for responding to pesticide detections in ground water.

02-0303-1901, Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application. Reauthorizes the previously codified rule that regulates the use and application of pesticides, licensing of pesticide applicators, registration of pesticides, and responsibilities for chemigation in Idaho.

02-0415-1901, Rules Governing Beef Cattle Animal Feeding Operations. Reauthorizes the previously codified rule that establishes standards for the storage, management and application of manure on Beef Cattle Animal Feeding Operations that manage over 1,000 cattle in Idaho.

02-0417-1901, Rules Governing Dead Animal Movement and Disposal. Reauthorizes the previously codified rule that establish standards for the management and disposal of dead animal bodies, carcasses and body parts to best protect the environment and human health.

02-0420-1901, Rules Governing Brucellosis. Reduces the Brucellosis test eligible age of cattle/bison to 12 months; removes “Idaho origin” as a prerequisite for adult brucellosis vaccination of cattle/bison.

02-0421-1901, Rules Governing the Importation of Animals. Amends Extended Validity Equine Certificate to allow participation in an electronic certificate program and modifies certificate requirements; amends entry permit language to allow for the use of Idaho’s online livestock entry permit database; removes the brucellosis testing requirement for import of domestic cervidae that originate from a state/region that is declared free of brucellosis.

02-0423-1901, Rules Governing Commercial Livestock Truck Washing Facilities. Reauthorizes the previously codified rule that establishes standards for the permitting and management of commercial livestock truck washing facilities in Idaho.

02-0432-1901, Rules Governing Poultry Operations. Reauthorizes the previously codified rule that establish standards for the storage, management and application of nutrients from commercial poultry facilities.

IDAPA 07 – DIVISION OF BUILDING SAFETY**PO Box 83720, Meridian, ID 83642**

***07-0101-1901, Rules of the Idaho Electrical Board.** (PH*) New chapter consolidates previously approved and codified rules of the electrical bureau and aligns rule to SB 1008 (2019) by easing reporting requirements for apprentices; defines continuation training

07-0501-1901, Rules of the Public Works Contractors License Board. (Temp & Prop) Reduces renewal fees for public works contractor licenses. (eff. 7-15-19)T

07-0701-1902, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems. Changes base permit fee calculation; provides a way for an apprentice to renew a registration and stay in the trade without enrolling in or successfully completing school; eliminates and simplifies provisions in compliance with the Red Tape Reduction Act.

07-1101-1901, Rules of the Division of Building Safety. New Chapter provides processes, criteria, or both, to accept military education, training, or service from military members, former military members discharged under honorable conditions, veterans, or their spouses (Military Applicants) toward the requirements for a professional license with the Division of Building Safety; and issue licenses by endorsement to Military Applicants.

IDAPA 09 – IDAHO DEPARTMENT OF LABOR**219 Main St., Boise, ID 83735****09.01.30 - Unemployment Insurance Benefits Administration Rules**

09-0130-1902, Defines the circumstances under which an unemployment insurance claimant can leave the local labor market area to attend training or school; and specifies unemployment insurance claimants cannot leave the country while collecting benefits.

09-0130-1903, Clarifies unemployment insurance benefit eligibility for individuals with disabilities is determined by Idaho law; identifies unemployment insurance claimants as responsible for providing competent evidence they are qualified individuals with disabilities under the ADA; and removes language concerning long-term disability inconsistent with the definition of disability under the ADA.

IDAPA 13 – DEPARTMENT OF FISH AND GAME**PO Box 25, Boise, ID 83707****13.01.08 - Rules Governing the Taking of Big Game Animals in the State of Idaho**

13-0108-1903, Allows Commission to make a controlled hunt applicant wait up to 5 days to buy a general hunt tag for the same species in the same calendar year for specific hunts having limited tag numbers.

13-0108-1904, Limits number of non-resident deer or elk tags available in a specific general hunt unit or zone to no less than 10% of the average hunter participation estimated for that zone or unit during the preceding 5-year period.

13-0109-1902, Rules Governing the Taking of Game Birds in the State of Idaho. Allows Hunting Passport holders ages 8 through 17 to hunt turkey in general season turkey hunts, youth-only general hunts, turkey landowner permission hunts, and depredation hunts with the appropriate tag; replaces references related to requirements for the Department's stocked pheasant program; replaces specific references to the "WMA Upland Game Bird Permit" and "Wildlife Management Areas" with more generic references to support potential expansion of the Department's pheasant stocking program.

13-0110-1901, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife. Because of the threat of chronic wasting disease, the Department will not issue any permit for import into Idaho of any live cervid into Idaho not regulated as a domestic cervid by the Idaho Department of Agriculture, including mule deer, white-tailed deer, moose, and wild-origin elk.

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

16-0102-1901, Emergency Medical Services (EMS) – Rule Definitions. Amends definition of "EMS" to align with statutory changes.

16-0103-1901, Emergency Medical Services (EMS) – Agency Licensing Requirements. Updates incorporation by reference section to include the "Time Sensitive Emergency Standards Manual" and allows Board to designate an EMS agency as TSE certified.

16-0107-1901, Emergency Medical Services (EMS) – Personnel Licensing Requirements. Updates reciprocity of EMS personnel license from a REPLICA member state; adjusts timeframe from 12 to 24 months for candidate to complete standardized exam given by vendor NREMT; conforms to statute for licensure by endorsement for military, veterans, and spouses; clarifies reinstatement issues for lapsed EMS license.

16-0319-1901, Rules Governing Certified Family Homes. Requires those needing criminal history and background check clearances to obtain a new clearance from the Department every 5 years.

16-0322-1901, Residential Care or Assisted Living Facilities in Idaho. Updates references and definitions; clarifies, eliminates and reduces existing requirements; increases requirements that directly impact resident health and safety; allows for accreditation by a Department-approved accreditation entity in lieu of regular re-licensure inspections.

16.05.06 - Criminal History and Background Checks

16-0506-1901, Conforms to statute authorizing the department's Criminal History Unit to complete background checks on Citizen Review Panel Members whose qualifications are then determined by Public Health Districts.

16-0506-1902, Clarifies who is subject to background check, recordkeeping requirements, when an incomplete application is no longer viable for processing, and when a new background check or state-only check is required for a re-hired employee; adds Section 18-909, Idaho Code, as a disqualifying offense; removes references to the federal Nation Crime Information Center and the federal Sex Offender Registry.

IDAPA 19 – IDAHO BOARD OF DENTISTRY

PO Box 83720, Boise, ID 83720-0021

***19-0101-1901, Rules of the Idaho State Board of Dentistry.** (Temp & Prop) (*PH) Fee rule establishes criteria for licensure and regulation of the practice of dental therapy. (eff. 7-27-19)T

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

PO Box 83720, Boise, ID 83720-0050

***20-0303-1901, Rules Governing Administration of the Reclamation Fund.** (*PH) Updates definitions and terminology to conform to statute; removes mandatory participation requirements for single operators under 40 acres and allows for alternative financial assurance; provides more flexibility in Reclamation Fund participation by removing certain restrictions; removes non-substantive provisions.

***20-0304-1901, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho.** (*PH) Would increase fees for applications for encroachment permits for single-family docks, two-family docks, water-intake lines, and assignments; specifies that Department will provide notice of application to adjacent property owners for all noncommercial navigational encroachments.

IDAPA 35 – IDAHO STATE TAX COMMISSION

PO Box 36, Boise, ID 83722-0410

35.01.03 - Property Tax Administrative Rules

35-0103-1903, Reduces number of days Commission has to notify taxing districts of errors in the boundary maps submitted for review to 28 days.

35-0103-1906, Permits certification of late reimbursement to counties for all circuit breaker benefits.

35-0105-1901, Idaho Motor Fuels Tax Administrative Rules. Adds a conversion factor for hydrogen, a gaseous special fuel. This will enable taxpayers to report and pay on Hydrogen.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

1410 N. Hilton St., Boise, ID 83706

58-0101-1904, Rules for Control of Air Pollution in Idaho. Reauthorization and re-promulgation of previously approved and adopted fee rules.

58-0102-1901, Water Quality Standards. Revises selenium criteria for aquatic life.

58-0103-1902, Individual/Subsurface Sewage Disposal Rules. Reauthorization and re-promulgation of previously approved and adopted rules, to include the consolidation of IDAPA 58.01.15, Rules Governing the Cleaning of Septic

Tanks.

58-0109-1901, Rules Regulating Swine Facilities. Reauthorization and re-promulgation of previously approved and adopted fee rules.

58-0111-1901, Ground Water Quality Rules. Reauthorization and re-promulgation of previously approved and adopted fee rules.

58-0117-1901, Recycled Water Rules. Reauthorization and re-promulgation of previously approved and adopted rules.

NOTICE OF ADOPTION OF TEMPORARY RULE ONLY

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20-0302-1902, Rules Governing Mined Land Reclamation. (Fee rule) (eff. 7-16-19)T

NOTICES OF SCHEDULED PUBLIC HEARINGS AND MEETINGS

(Please see the Administrative Bulletin for dates and times of hearings and other participant information)

IDAPA 01 – IDAHO ACCOUNTANCY BOARD

01-0101-1900F – Idaho Accountancy Rules (Public Hearing - Omnibus rulemaking for reauthorization of fee rule)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02-0100-1901OM – Rules of the Department of Agriculture (Negotiated Rulemaking) Please refer to the 19-9 Bulletin for a complete list of all affected IDAPA chapters being consolidated and reorganized by ISDA under this negotiated rulemaking.

IDAPA 07 – DIVISION OF BUILDING SAFETY

07-0000-1900, Rules of the Division of Building Safety (Public Hearing - Omnibus rulemaking for reauthorization of various board rules)

07-0000-1900F, Rules of the Division of Building Safety (Public Hearing - Omnibus rulemaking for reauthorization of various board fee rules)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13-0000-1900, Department of Fish and Game Rules (Public Hearing - Omnibus rulemaking for reauthorization of various commission rules)

13-0000-1900F, Department of Fish and Game Rules (Public Hearing - Omnibus rulemaking for reauthorization of various commission fee rules)

IDAPA 15 – IDAHO COMMISSION ON AGING - OFFICE OF THE GOVERNOR

15-0000-1900, Rules of the Idaho Commission on Aging (Public Hearing - Omnibus rulemaking for reauthorization of commission rules)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16-0208-1901, Vital Statistics Rules (Public Hearing)

IDAPA 23 – IDAHO BOARD OF NURSING

23-0101-1900F, Rules of the Idaho Board of Nursing (Public Hearing - Omnibus rulemaking for reauthorization of fee rules)

IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD

25-0101-1900F, Rules of Idaho Outfitters and Guides Licensing Board (Public Hearing - Omnibus rulemaking for reauthorization of fee rules)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58-0102-1901, Water Quality Standards (DEQ Board Meeting)

Please refer to the Idaho Administrative Bulletin [September 4, 2019, Volume 19-9](#), for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and contact information.

Issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov/

Office of the Administrative Rules Coordinator, Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: 208-854-3900; Email: rulescoordinator@dfm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Office of the Administrative Rules Coordinator
Division of Financial Management
Office of the Governor*

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
Division of Financial Management*

April 11, 2019 – September 4, 2019

*(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)*

(This Abridged Index includes all active rulemakings.)

IDAPA 01 – IDAHO BOARD OF ACCOUNTANCY

01-0101-1900F *Idaho Accountancy Rules* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

01-0101-1900F *Idaho Accountancy Rules* - Notice of Omnibus Fee Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

Omnibus Negotiated Rulemaking – Consolidation & Reorganization of Chapters Under the Direction of ISDA Chapters 02.02.02 through 02.06.41

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02-0000-1900 *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 02**, Chapters 04-06, 10; **Title 04**, Chapters 05-06, 22, 24; **Title 05**, Chapter 01 - Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0000-1900A *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (for rules requiring 22-101A statement) - Reauthorizes **Title 01**, Chapter 03; **Title 02**, Chapters 02, 09; **Title 04**, Chapters 04, 08, 13, 18, 20-21, 25, 27-29; **Title 06**, Chapters 07-11, 13, 15, 17, 20, 22, 24, 26, 32, 38, 39 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0000-1900F *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 01**, Chapters 02, 04, 05; **Title 06**, Chapter 33 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0000-1900FA *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Rules requiring 22-101A statement)-Reauthorizes **Title 02**, Chapters 07, 11-15; **Title 04**, Chapters 03, 09, 19, 26; **Title 06**, Chapters 01-06, 12, 14, 18, 27, 30-31, 34, 40-41 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0616-1900 *Rules Governing Honey Standards* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 06**, Chapter 16 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0701-1900F *Rules of the Idaho Hop Growers Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 07**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0801-1900F *Rules of the Idaho Sheep and Goat Health Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 08**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02.01.04, Rules Governing the Idaho Preferred[®] Promotion Program

02-0104-1801* Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-6 (*Rulemaking terminated by agency)

02-0104-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

02-0104-1901 Proposed Rulemaking, Bulletin Vol. 19-8

02.02.05, Prune Standards

02-0205-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

02.02.12, Bonded Warehouse Rules

02-0212-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02-0212-1902 Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 7-1-19)T

02-0212-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02.02.14, Rules for Weights and Measures

02-0214-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

02-0214-1901 2nd Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

02.03.01, Rules Governing Pesticide Management Plans for Ground Water Protection

- 02-0301-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
- 02-0301-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02.03.03, Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application

- 02-0303-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
- 02-0303-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

02.04.14, Rules Governing Dairy Byproduct

- 02-0414-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.15, Rules Governing Beef Cattle Animal Feeding Operations

- 02-0415-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
- 02-0415-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02.04.16, Rules Governing Agriculture Odor Management

- 02-0416-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.17, Rules Governing Dead Animal Movement and Disposal

- 02-0417-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
- 02-0417-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02.04.18, Rules Governing CAFO Site Advisory Team

- 02-0418-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.04.20, Rules Governing Brucellosis

- 02-0420-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
- 02-0420-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02.04.21, Rules Governing the Importation of Animals

- 02-0421-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
- 02-0421-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities

- 02-0423-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
- 02-0423-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02.04.30, Rules Governing Nutrient Management

- 02-0430-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
- 02-0430-1902 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.31, Rules Governing the Stockpiling of Agricultural Waste

- 02-0431-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.32, Rules Governing Poultry Operations

- 02-0432-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
- 02-0432-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

02.06.02, Rules Pertaining to the Idaho Commercial Feed Law

- 02-0602-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.06.12, Rules Pertaining to the Idaho Fertilizer Law

- 02-0612-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.06.20, Rules Governing Grape Planting Stock

02-0620-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8

02.06.31, Noxious Weed Free Forage and Straw Certification Rules

02-0631-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001

02-0641-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

STATE ATHLETIC COMMISSION

(Moved and Re-designated) - Rules of the State Athletic Commissions (This chapter has been re-designated from *IDAPA 03.01.01* to *IDAPA 24.02.01* under the Bureau of Occupational Licenses - See IDAPA 24 in this Index.)

IDAPA 04 -- OFFICE OF THE ATTORNEY GENERAL

04-0000-1900 *Rules of the Attorney General* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 02, Chapter 01; Titles 11, 12, 20 - Bulletin Vol. 19-6SE (eff. 6-30-19)T

04-0000-1900F *Rules of the Attorney General* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 02, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 05 -- DEPARTMENT OF JUVENILE CORRECTIONS

05-0000-1900 *Rules of the Department of Juvenile Corrections* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 02-04; Title 02, Chapters 01-03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

05.01.04, Uniform Standards for Juvenile Probation Services

05-0104-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8

IDAPA 06 -- STATE BOARD OF CORRECTION

06-0000-1900 *Rules of the State Board of Correction* - Omnibus Notice of Proclamation of Rulemaking - Reauthorizes Title 01, Chapters 01-02; Title 02, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07-0000-1900* *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 01, 04-08, 10; Title 02, Chapters 04-06; Title 03, Chapters 09, 13; Title 04, Chapter 01; Title 06, Chapter 01; Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

*(*Rulemaking combines Title 08, Chapters 02-17 into 07.08.01*

07-0000-1900 Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

07-0000-1900F *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 02-03, 11; Title 02, Chapters 02- 03, 07; Title 03, Chapters 01, 03, 11-12; Title 04, Chapter 02; Title 05, Chapter 01; Title 07, Chapter 01; Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

07-0000-1900F Notice of Omnibus Fee Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

07.01.01, Rules of the Idaho Electrical Board

07-0101-1901* Proposed Rulemaking (New Chapter - Rule Consolidation), Bulletin Vol. 19-9

*(*This rulemaking consolidates all rules previously promulgated under Title 01, Chapters 01-11)*

07.01.03, Rules of Electrical Licensing and Registration – General

- 07-0103-1901*** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
(*Rulemaking has been included in the newly consolidated rule chapter under Docket 07-0101-1901)

07.02.02, Rules Governing Plumbing Permits

- 07-0202-1901*** Proposed Fee Rulemaking, Bulletin Vol. 19-7
(*This rulemaking consolidates provisions from IDAPA 07.02.03, 07.02.04, and 07.02.07 into this chapter)

07.02.03, Rules Governing Permit Fee Schedule

- 07-0203-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0203-1902 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

07.02.04, Rules Governing Plumbing Safety Inspections

- 07-0204-1901*** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7 (*See above entry)

07.02.05, Rules Governing Plumbing Safety Licensing

- 07-0205-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0205-1901 Proposed Rulemaking, Bulletin Vol. 19-7

07.02.07, Rules Governing Civil Penalties

- 07-0207-1901*** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7 (*See 07.02.02 entry above)

07.03.01, Rules of Building Safety

- 07-0301-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

07.03.12, Rules Governing Manufactured or Mobile Home Installations

- 07-0312-1901*** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7 (*Rulemaking has been terminated)

07.05.01, Rules of the Public Works Contractors License Board

- 07-0501-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0501-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-9 (eff. 7-15-19)T

07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

- 07-0701-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0701-1901 Proposed Rulemaking, Bulletin Vol. 19-7
07-0701-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
07-0701-1902 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

07.08.01, Idaho Minimum Safety Standards and Practices for Logging -- General Provisions

- 07-0801-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

07.11.01, Rules of the Division of Building Safety

- 07-0711-1901** Proposed Rulemaking (New Chapter), Bulletin Vol. 19-9

**IDAPO 08 – IDAHO STATE BOARD OF EDUCATION
AND STATE DEPARTMENT OF EDUCATION**

- 08-0000-1900** Rules of the State Board of Education and the Department of Education - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 02, 10, 11, 13; Title 02, Chapters 01-05; Title 03, Chapter 01; Title 04, Chapter 01; Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

08-0000-1900F *Rules of the State Board of Education and the Department of Education* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapter 11, Sections 200 and 300 only; Title 02, Chapter 02, Sections 066 and 075 only; Title 02, Chapter 03, Section 128 only -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

08-0000-1900 *Rules of the State Board of Education and the Department of Education* - Notice of Public Hearing, Bulletin Vol. 19-8

08.01.13, Rules Governing the Idaho Opportunity Scholarship Program

08-0113-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08.02.01, Rules Governing Administration

08-0201-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08-0201-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08.02.02, Rules Governing Uniformity

08-0202-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-3

08-0202-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-3

08-0202-1903 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08-0202-1902 Proposed Rulemaking, Bulletin Vol. 19-8

08.02.03, Rules Governing Thoroughness

08-0203-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08-0203-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08-0203-1903 Temporary and Proposed Rulemaking, Bulletin Vol. 19-8 (eff. 7-1-19)T

08.02.04, Rules Governing Public Charter Schools

08-0204-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09-0000-1900 *Rules of the Idaho Department of Labor* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 01, 08, 30, 35, 60; Title 02, Chapter 01; Title 05, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

09.01.30, Unemployment Insurance Benefits Administration Rules

09-0130-1901 Notice of Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 3-6-19)T

09-0130-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

09-0130-1903 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

09-0130-1902* 2nd Filing - Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

09-0130-1903* 2nd Filing - Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

09-0130-1902 Proposed Rulemaking, Bulletin Vol. 19-9

09-0130-1903 Proposed Rulemaking, Bulletin Vol. 19-9

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

10-0000-1900F *Rules of the Board of Professional Engineers and Professional Land Surveyors* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapters 01-04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

10-0000-1900F *Rules of the Board of Professional Engineers and Professional Land Surveyors* - Notice of Public Hearing, Bulletin Vol. 19-8

10.01.01, Rules of Procedure

10-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

10.01.04, Rules of Continuing Professional Development

10-0104-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

10.01.05, Rules for Military or Veterans Licensure

10-0105-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-6

IDAPA 11 – IDAHO STATE POLICE

11-0000-1900 *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 03**, Chapter 01; **Title 06**, Chapter 01; **Title 07**, Chapters 01-03; **Title 10**, Chapter 03; **Title 13**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0000-1900F *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 05, Chapter 01; **Title 10**, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0200-1900F *Rules of the Idaho State Brand Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 02**, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900 *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 04**, Chapters 04, 06, 08-10, 13-14 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900F *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 04**, Chapters 02, 03, 05, 07, 11, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-1001-1900F *Idaho Public Safety and Public Information Systems* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, - Reauthorizes **Title 10**, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-1101-1900F* *Rules of the Peace Officer Standards and Training Council* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, - Reauthorizes **Title 11**, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

**(Reauthorization combines previous chapters 11.02, 11.03, 11.04, 11.05, and 11.06 into Title 11, Chapter 01)*

Idaho State Brand Board

11-0200-1900F *Rules of the Idaho State Brand Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 02, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11.02.01, Rules of the Idaho State Brand Board

11-0201-1901 Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 7-1-19)T

11-0201-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

Idaho State Police Forensic Services

11-0000-1900 *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 03, Chapter 01**; Title 06, Chapter 01; Title 07, Chapters 01-03; Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11.03.01, Rules Governing Alcohol Testing

11-0301-1801 Adoption of Temporary Rule, Bulletin Vol. 18-1 (eff. 12-14-17)T

11-0301-1801 OARC Omnibus Notice of Legislative Action - Extension of Temporary Rule by SCR150, Bulletin Vol. 18-5 (eff. 10-2-17)T

11-0301-1801 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR113, Bulletin Vol. 19-5 (eff. 12-14-19)T

Idaho State Racing Commission

11-0400-1900 *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 04, Chapters 04, 06, 08-10, 13-14 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900F *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 04, Chapters 02, 03, 05, 07, 11, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11.04.03, Rules Governing Licensing and Fees

11-0403-1801 Adoption of Temporary Rule, Bulletin Vol. 18-11 (eff. 9-17-18)T

11-0403-1801 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 9-17-18)T

11.04.11, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses

11-0411-1801* *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 18-3 (*Rulemaking terminated by agency)*

11-0411-1802 Adoption of Temporary Rule, Bulletin Vol. 18-11 (eff. 9-17-18)T

11-0411-1802 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 9-17-18)T

11.06.01, Rules Governing Civil Asset Forfeiture Reporting

11-0601-1901 Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 2-7-19)T

Public Safety and Security Information Bureau

11-0000-1900 *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 03, Chapter 01; Title 06, Chapter 01; Title 07, Chapters 01-03; **Title 10, Chapter 03**; Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-1001-1900F *Idaho Public Safety and Public Information Systems* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, - Reauthorizes **Title 10, Chapter 01**, Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0000-1900F *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 05, Chapter 01; **Title 10, Chapter 02** -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11.10.02, Rules Governing State Criminal History Records and Crime Information

11-1002-1901 Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 2-5-19)T

Peace Officer Standards and Training (POST) Council

11-1101-1900F *Rules of the Peace Officer Standards and Training Council* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, - Reauthorizes Title 11, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

**(Reauthorization combines previous chapters 11.02, 11.03, 11.04, 11.05, and 11.06 into Chapter 11.01)*

11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

11-1101-1901 Adoption of Temporary Rule, Bulletin Vol. 19-4 (eff. 3-14-19)T

IDAPA 12 – DEPARTMENT OF FINANCE

12-0000-1900 *Rules of the Department of Finance* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 04, 09, 10, 11 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

12-0000-1900F *Rules of the Department of Finance* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 06, 08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

12.01.09, Rules Pursuant to the Idaho Credit Code

12-0109-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

12.01.10, Rules Pursuant to the Idaho Residential Mortgage Practices Act

12-0110-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

12.01.11, Rules Pursuant to the Idaho Collection Agency Act

12-0111-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0000-1900 *Rules of the Idaho Fish and Game Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-04, 06-12, 14-19 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

13-0000-1900 Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

13-0000-1900F *Rules of the Idaho Fish and Game Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 02, Sections 100 and 102 only; Title 01, Chapter 04, Section 600 only; Title 01, Chapter 08, Subsection 260.06 only; Title 01, Chapter 10, Subsection 400.09 only; Title 01, Chapter 19, Section 112 only; Title 01, Chapter 20, Subsection 102.04 only -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

13-0000-1900F Notice of Omnibus Fee Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

13.01.08, Rules Governing the Taking of Big Game Animals in the State of Idaho

13-0108-1902AP Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-6

13-0108-1903 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13-0108-1904 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13-0108-1903 Proposed Rulemaking, Bulletin Vol. 19-9

13-0108-1904 Proposed Rulemaking, Bulletin Vol. 19-9

13.01.09, Rules Governing the Taking of Game Birds in the State of Idaho

13-0109-1901P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-6

13-0109-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13-0109-1902 Proposed Rulemaking, Bulletin Vol. 19-9

13.01.10, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife

13-0110-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13-0110-1901 Proposed Rulemaking, Bulletin Vol. 19-9

13.01.11, Rules Governing Fish

13-0111-1901P Notice of Proclamation, Bulletin Vol. 19-1

13-0111-1902P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-4

13-0111-1903P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-8

13.01.14, Rules Governing Falconry

13-0114-1901P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-4

13.01.17, Rules Governing the Use of Bait and Trapping for Taking Big Game Animals

13-0117-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

Moved and Re-designated) - *Rules of the Board of Registration of Professional Geologists* (This chapter has been re-designated from *IDAPA 14.01.01* to *IDAPA 24.04.01* under the Bureau of Occupational Licenses - See *IDAPA 24* in this Index.)

IDAPA 15 – OFFICE OF THE GOVERNOR

Executive Orders of the Governor

Executive Order No. **2019-01** Licensing Freedom Act of 2019, Bulletin Vol. 19-2

Executive Order No. **2019-02** Red Tape Reduction Act, Bulletin Vol. 19-2

Executive Order No. [2019-03](#) Regional Government Efficiency Working Group, Bulletin Vol. 19-6

Idaho Commission On Aging

[15-0100-1900](#) *Rules of the Idaho Commission on Aging* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-03, 20, 30 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

[15-0100-1900](#) Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

Idaho Commission for the Blind and Visually Impaired

[15-0200-1900](#) *Rules of the Idaho Commission for the Blind and Visually Impaired* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 02-04, 30 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Idaho Forest Products Commission

[15-0300-1900F](#) *Rules of the Idaho Forest Products Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Division of Human Resources and Personnel Commission

[15-0400-1900](#) *Rules of the Division of Human Resources and Personnel Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Idaho Military Division

[15-0600-1900](#) *Rules of the Idaho Military Division* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 06, Chapters 01-02, 04-06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

[15-0600-1900F](#) *Rules of the Idaho Military Division* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 06, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Idaho State Liquor Division

[15-1000-1900F](#) *Rules of the Idaho State Liquor Division* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

[16-0000-1900](#) *Rules of the Department of Health and Welfare* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-06, 12; Title 02, Chapters 02, 06, 10-12, 15, 19, 23-24; Title 03, Chapters 01-02, 04-11, 13-14, 17, 20-21, 23-25; Title 04, Chapters 10, 13-14, 16-17; Title 05, Chapters 01, 03-04, 07; Title 06, Chapters 05, 12-13; Title 07, Chapters 17, 19, 25, 33, 37, 39 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

[16-0000-1900](#) *Rules of the Department of Health and Welfare* - Notice of Public Hearing, Bulletin 19-8

[16-0000-1900F](#) *Rules of the Department of Health and Welfare* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 07; Title 02, Chapters 01, 08, 13-14, 25-27; Title 03, Chapters 03, 18, 19, 22; Title 04, Chapters 07, 08; Title 05, Chapter 06; Title 06, Chapters 01-02; Title 07, Chapters 01, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

[16-0000-1900F](#) *Rules of the Department of Health and Welfare* - Notice of Public Hearing, Bulletin 19-8

16.01.02, Emergency Medical Services (EMS) - Rule Definitions

[16-0102-1901](#) Proposed Rulemaking, Bulletin Vol. 19-9

16.01.03, Emergency Medical Services (EMS) – Agency Licensing Requirements

[16-0103-1901](#) Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

16-0103-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.01.07, Emergency Medical Services (EMS) – Personnel Licensing Requirements

16-0107-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

16-0107-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.02.01, Rules of the Idaho Time Sensitive Emergency System Council

16-0201-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

16.02.04, Syringe and Needle Exchange Program

16-0204-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-6

16.02.08, Vital Statistics Rules

16-0208-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T

16-0208-1901 Notice of Public Hearing, Bulletin 19-9

16.03.09, Medicaid Basic Plan Benefits

16-0309-1803 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-7

16-0309-1803 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T

16.03.10, Medicaid Enhanced Plan Benefits

16-0310-1704 4th Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

16-0310-1806 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-7

16-0310-1806 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T

16.03.18, Medicaid Cost-Sharing

16-0318-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

16.03.19, Rules Governing Certified Family Homes

16-0319-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

16-0319-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.03.22, Residential Care or Assisted Living Facilities in Idaho

16-0322-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

16-0322-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.05.04, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding

16-0504-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

16.05.06, Criminal History and Background Checks

16-0506-1901 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 1-1-19)T

16-0506-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

16-0506-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16-0506-1902 Proposed Rulemaking, Bulletin Vol. 19-9

IDAPA 17 – INDUSTRIAL COMMISSION

17-0000-1900 **Rules of the Idaho Industrial Commission** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 10, Chapter 01; Title 11, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

17-0000-1900F **Rules of the Idaho Industrial Commission** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 18 – DEPARTMENT OF INSURANCE

18-0000-1900* *Rules of the Idaho Department of Insurance* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes and Re-designates Title 01, Chapter 01; Title 02, Chapters 01-03; Title 03, Chapters 01-05; Title 04, Chapters 01-15; Title 05, Chapters 01-03; Title 06, Chapters 01-06; Title 07, Chapters 01-12; Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

18-0000-1900F* *Rules of the Idaho Department of Insurance* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes and Re-designates Title 01, Chapter 02; Title 08, Chapter 02 --- Bulletin Vol. 19-6SE (eff. 6-30-19)T

*These chapters indexed under IDAPA 18 are re-designated with new Title and Chapter numbers as follows:

New Designation [Old Designation]: **18.01.01** [18.01.48]; **18.01.02** [18.01.44]; **18.02.01** [18.01.19]; **18.02.02** [18.01.20]; **18.02.03** [18.01.34]; **18.03.01** [18.01.09]; **18.03.02** [18.01.13]; **18.03.03** [18.01.16]; **18.03.04** [18.01.41]; **18.03.05** [18.01.61]; **18.04.01** [18.01.05]; **18.04.02** [18.01.06]; **18.04.03** [18.01.24]; **18.04.04** [18.01.26]; **18.04.05** [18.01.27]; **18.04.06** [18.01.28]; **18.04.07** [18.01.29]; **18.04.08** [18.01.30]; **18.04.09** [18.01.31]; **18.04.10** [18.01.54]; **18.04.11** [18.01.60]; **18.4.12** [18.01.69]; **18.04.13** [18.01.70]; **18.04.14** [18.01.72]; **18.04.15** [18.01.77]; **18.05.01** [18.01.01]; **18.05.02** [18.01.25]; **18.05.03** [18.01.56]; **18.06.01** [18.01.04]; **18.06.02** [18.01.10]; **18.06.03** [18.01.52]; **18.06.04** [18.01.53]; **18.06.05** [18.01.64]; **18.06.06** [18.01.65]; **18.07.01** [18.01.23]; **18.07.02** [18.01.46]; **18.07.03** [18.01.47]; **18.07.04** [18.01.62]; **18.07.05** [18.01.66]; **18.07.06** [18.01.67]; **18.07.07** [18.01.68]; **18.07.08** [18.01.75]; **18.07.09** [18.01.76]; **18.07.10** [18.01.77]; **18.07.11** [18.01.78]; **18.07.12** [18.01.81]; **18.08.01** [18.01.50]; **18.08.02** [18.01.49]

18.04.08, [18.01.30] Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule

18-0408-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8

18.04.16, Rules Governing Short-Term Health Insurance Coverage

18-0416-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-7

18-0416-1902 Adoption of Temporary Rule (New Chapter), Bulletin Vol. 19-8 (eff. 7-1-19)T

18.06.06, [18.01.65] Rules for the Surplus Lines Brokers

18-0606-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8

IDAPA 19 – BOARD OF DENTISTRY

19-0101-1900F *Rules of the Idaho State Board of Dentistry* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

19-0101-1900F *Rules of the Idaho State Board of Dentistry* - Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-8

19.01.01, Rules of the Idaho State Board of Dentistry

19-0101-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

19-0101-1901 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9 (eff. 7-27-19)T

IDAPA 20 – DEPARTMENT OF LANDS

20-0000-1900 *Rules of the Idaho Department of Lands* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01; Title 02, Chapter 01; Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

20-0000-1900 *Rules of the Idaho Department of Lands* - Notice of Public Hearing (Omnibus Rulemaking), Bulletin Vol. 19-8

20-0000-1900F *Rules of the Idaho Department of Lands* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 02, Chapter 14; Title 03, Chapters 01-05, 08, 09, 13-17; Title 04, Chapter 02; Title 06, Chapter 01; Title 07, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

20-0000-1900F *Rules of the Idaho Department of Lands* - Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-8

20.03.02, Rules Governing Mined Land Reclamation

20-0302-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

20-0302-1902 Adoption of Temporary Rule (Fee Rule), Bulletin Vol. 19-9 (eff. 7-16-19)T

(*Temporary Rulemaking changes chapter name to: "Rules Governing Mined Land Reclamation"
from: "Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities")

20.03.03, Rules Governing Administration of the Reclamation Fund

- 20-0303-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 20-0303-1901** Proposed Rulemaking, Bulletin Vol. 19-9

20.03.04, Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

- 20-0304-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 20-0304-1901** Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

IDAPA 21 -- DIVISION OF VETERANS SERVICES

21-0000-1900 *Rules of the Division of Veterans Services* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

21-0000-1900F *Rules of the Division of Veterans Services* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 01, 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 22 – BOARD OF MEDICINE

22-0000-1900 *Rules of the Idaho Board of Medicine* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 05 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

22-0000-1900 Notice of Public Hearing (Omnibus Rulemaking), Bulletin Vol. 19-8

22-0000-1900F *Rules of the Idaho Board of Medicine* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 01, 03, 10, 11, 13 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

22-0000-1900F Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-8

22.01.07, Rules for the Licensure of Naturopathic Medical Doctors

22-0107-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-8

IDAPA 23 – BOARD OF NURSING

23-0101-1900F *Rules of the Idaho Board of Nursing* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

23-0000-1900F Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-9

23.01.01, Rules of the Idaho Board of Nursing

23-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24-0101-1900F *Rules of the Board of Architectural Examiners* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

24-0201-1900F* *Rules of the State Athletic Commissions* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes re-designated Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

*(Re-designated from IDAPA 03.01.01 to 24.02.01)

24-0301-1900F *Rules of the State Board of Chiropractic Physicians* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 24-0401-1900F*** *Rules of Procedure of the Board of Registration for Professional Geologists* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes re-designated Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Re-designated from IDAPA 14.01.01 to 24.04.01)*
- 24-0501-1900F** *Rules of the Board of Drinking Water and Wastewater Professionals* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0601-1900F** *Rules for the Licensure of Occupational Therapists & Occupational Therapy Assistants* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 06, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0701-1900F** *Rules of the Idaho State Board of Landscape Architects* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 07, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0801-1900F** *Rules of the State Board of Morticians* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0901-1900F** *Rules of the Board of Examiners of Nursing Home Administrators* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 09, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1001-1900F** *Rules of the Board of Examiners of Nursing Home Administrators* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1101-1900F** *Rules of the State Board of Podiatry* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 11, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1201-1900F** *Rules of the Idaho State Board of Psychological Examiners* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 12, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1301-1900F** *Rules Governing the Physical Therapy Licensure Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1401-1900F** *Rules of the State Board of Social Work Examiners* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 14, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1501-1900F** *Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists*-Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 15, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1601-1900F** *Rules of the State Board of Dentistry* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 16, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1701-1900F** *Rules of the State Board of Acupuncture* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 17, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1801-1900F** *Rules of the Real Estate Appraiser Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 18, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1901-1900F** *Rules of the Board of Examiners of Residential Care Facility Administrators* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 19, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2001-1900F** *Rules of the Bureau of Occupational Licenses* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 20, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2101-1900F** *Rules of the Idaho State Contractors Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 21, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2201-1900F** *Rules of the Idaho State Liquefied Petroleum Gas Safety Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 22, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 24-2301-1900F** *Rules of the Speech, Hearing and Communication Services Licensure Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 23, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2401-1900F** *Rules of the Genetic Counselors Licensing Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 24, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2501-1900F** *Rules of the Idaho Driving Businesses Licensure Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 25, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2601-1900F** *Rules of the Idaho Board of Midwifery* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 26, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2701-1900F** *Rules of the Idaho State Board of Massage Therapy* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 27, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2801-1900F** *Rules of the Barber and Cosmetology Services Licensing Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 28, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2901-1900F*** *Rules of Procedure of the Idaho Certified Shorthand Reporters Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes re-designated Title 29, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Re-designated from IDAPA 49.01.01 to 24.29.01)*

IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD

- 25-0101-1900F** *Rules of the Outfitters and Guides Licensing Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 25-0101-1900F** *Rules of the Outfitters and Guides Licensing Board* - Notice of Public Hearing for Omnibus Fee Rule, Bulletin Vol. 19-9

25.01.01, Rules of the Outfitters and Guides Licensing Board

- 25-0101-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 25-0101-1902** Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 4-26-19)T, (5-22-19)T

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

- 26-0000-1900** *Rules of the Department of Parks and Recreation* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 03, 21-22, 24, 30-31, 34, 37 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 26-0000-1900F** *Rules of the Department of Parks and Recreation* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 10, 20, 33, 36 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities

- 26-0120-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

26.01.36, Rules Governing the Winter Recreational Parking Permit Program

- 26-0136-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 27 – BOARD OF PHARMACY

- 27-0101-1900F** *Rules of the Idaho Board of Pharmacy* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 (This rulemaking consolidates contents from Chapters 27.01.02, 27.01.03, 27.01.04, and 27.01.05 into Title 01, Chapter 01) -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 27-0000-1900F** *Rules of the Idaho Board of Pharmacy* - Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin 19-8

27.01.01, General Provisions

27-0101-1901* *1st Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6*

27-0101-1901* *2nd Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7 (*Rulemaking Terminated)*

IDAPA 28 – DEPARTMENT OF COMMERCE

28-0000-1900 *Rules of the Idaho Department of Commerce - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 03-05, 07; Titles 03, Chapter 01; Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

IDAPA 29 – IDAHO POTATO COMMISSION

29-0000-1900 *Rules of the Idaho Potato Commission - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES

30-0101-1900 *Rules of the Idaho Commission for Libraries Governing the Use of Commission Services - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

IDAPA 31 – PUBLIC UTILITIES COMMISSION

31-0000-1900 *Rules of the Idaho Public Utilities Commission - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01; Title 11, Chapter 01; Title 12, Chapter 01; Title 21, Chapter 01; Title 26, Chapter 01; Title 31, Chapter 01; Title 36, Chapter 01; Title 41, Chapter 01; Title 46, Chapters 01-02; Title 51, Chapter 01; Title 61, Chapter 01; Title 71, Chapters 01, 03; Title 81, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

31-0000-1900 *Rules of the Idaho Public Utilities Commission - Notice of Public Hearing (Omnibus Rulemaking), Bulletin 19-8*

IDAPA 32 - ENDOWMENT FUND INVESTMENT BOARD

32-0101-1900F *Rules of the Credit Enhancement Program for School Districts - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

IDAPA 33 -- REAL ESTATE COMMISSION

33-0101-1900F *Rules of the Idaho Real Estate Commission - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

IDAPA 34 – SECRETARY OF STATE

34-0000-1900 *Rules of the Idaho Secretary of State - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapter 02; Title 03, Chapter 01; Title 04, Chapter 02; Title 05, Chapter 05; Title 06, Chapter 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

34-0000-1900F *Rules of the Idaho Secretary of State - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 04, Chapter 01; Title 05, Chapter 01-03, 06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T*

IDAPA 35 – STATE TAX COMMISSION

35-0000-1900 *Rules of the Idaho State Tax Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-03, 05-10, 12, 14; Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

35.01.01, Income Tax Administrative Rules

- 35-0101-1901** Adoption of Temporary Rule, Bulletin Vol. 19-2 (eff. 1-4-19)T
- 35-0101-1901** OARC Omnibus Notice of Legislative Action - Extension of Temporary Rule - SCR 113, Bulletin Vol. 19-5 (eff. 1-4-19)T
- 35-0101-1902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0101-1903** Proposed Rulemaking, Bulletin Vol. 19-7
- 35-0101-1902** Proposed Rulemaking, Bulletin Vol. 19-8
- 35-0101-1904** Proposed Rulemaking, Bulletin Vol. 19-8

35.01.02, Idaho Sales and Use Tax Administrative Rules

- 35-0102-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1903** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1904** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1905** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1906** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1907** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
- 35-0102-1901** Proposed Rulemaking, Bulletin Vol. 19-8
- 35-0102-1902** Proposed Rulemaking, Bulletin Vol. 19-8
- 35-0102-1903** Proposed Rulemaking, Bulletin Vol. 19-8
- 35-0102-1904** Proposed Rulemaking, Bulletin Vol. 19-8

35.01.03, Property Tax Administrative Rules

- 35-0103-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1903** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1904** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1905** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1906** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1907** Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 1-1-19)T
- 35-0103-1908** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
- 35-0103-1901** Proposed Rulemaking, Bulletin Vol. 19-8
- 35-0103-1909** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 35-0103-1910** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 35-0103-1911** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 35-0103-1912** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 35-0103-1913** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 35-0103-1914** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 35-0103-1915** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 35-0103-1903** Proposed Rulemaking, Bulletin Vol. 19-9
- 35-0103-1906** Proposed Rulemaking, Bulletin Vol. 19-9

35.01.05, Motor Fuels Tax Administrative Rules

- 35-0105-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0105-1902** Proposed Rulemaking, Bulletin Vol. 19-8
- 35-0105-1901** Proposed Rulemaking, Bulletin Vol. 19-9

35.01.06, Hotel/Motel Room and Campground Sales Tax Administrative Rules

- 35-0106-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

35.01.09, Idaho County Option Kitchen and Table Wine Tax Administrative Rules

- 35-0109-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

35.01.12, Idaho Beer Tax Administrative Rules

35-0112-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

35.01.15, Idaho Beer and Wine Tax Administrative Rules

35-0115-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-7

IDAPA 36 -- IDAHO BOARD OF TAX APPEALS

36-0101-1900F *Idaho Board of Tax Appeals Rules* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 37 – DEPARTMENT OF WATER RESOURCES

37-0000-1900 *Rules of the Idaho Department of Water Resources* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 01, 04; Title 03, Chapters 11, 12 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

37-0000-1900 *Rules of the Idaho Department of Water Resources* - Notice of Public Hearing, Bulletin 19-8

37-0000-1900F *Rules of the Idaho Department of Water Resources* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01; Title 02, Chapter 03; Title 03, Chapters 01-10 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

37-0000-1900F *Rules of the Idaho Department of Water Resources* - Notice of Public Hearing (Fee Rules), Bulletin 19-8

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION

38-0000-1900 *Rules of the Idaho Department of Administration* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 04, Chapters 06-09; Title 05, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

38-0000-1900F *Rules of the Idaho Department of Administration* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 04, Chapter 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39-0000-1900 *Rules of the Idaho Transportation Department of Administration* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 01-03, 05, 09, 11-12, 24, 27, 42-43, 45-46, 61, 70-73, 75-76, 80; Title 03, Chapters 01-02, 04-08, 40-44, 47-50, 60-65, 80-81; Title 04, Chapters 01-08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

39-0000-1900F *Rules of the Idaho Transportation Department* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 02, Chapter 04, 07, 22, 26, 41, 60; Title 03, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Omnibus Negotiated Rulemaking – Rules Regulating Vehicles Titles

Chapters 39.02.05, 39.02.07, 39.02.11, 39.02.12, 39.02.24

39-0200-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

Omnibus Negotiated Rulemaking – Rules Regulating Commercial Motor Vehicle Permits and Registration

Chapters 39.02.22, 39.03.01, 39.03.05, 39.03.06

39-0300-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

Omnibus Negotiated Rulemaking – Traffic Signs and Right-Of-Way Rules

Chapters 39.03.41, 39.03.60, 39.03.61, 39.03.62, 39-03.63, 39.03.64

39-0300-1902 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.02.42, Temporary Vehicle Registration When Proof of Ownership Is Insufficient

39-0242-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.02.75, Rules Governing Names on Driver's Licenses and Identification Cards

39-0275-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.02.76, Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process

39-0276-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.03.06, Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations

39-0306-1901 Adoption of Temporary Rules, Bulletin Vol. 19-7 (eff. 7-1-19)T

39.03.49, Rules Governing Ignition Interlock Breath Alcohol Devices

39-0349-1901 Proposed Rulemaking, Bulletin Vol. 19-7

IDAPA 40 – IDAHO COMMISSION ON THE ARTS

40-0101-1900 *Rules of the Idaho Commission on the Arts* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

40-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

IDAPA 41 -- PUBLIC HEALTH DISTRICTS

41-0101-1900 *Rules of the Idaho Public Health Districts (Panhandle Health District #1)*- Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 42 -- IDAHO WHEAT COMMISSION

42-0101-1900F *Rules of the Idaho Wheat Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 43 -- IDAHO OILSEED COMMISSION

43-0101-1900F *Rules Governing the Idaho Oilseed Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 45 -- HUMAN RIGHTS COMMISSION

45-0101-1900 *Rules of the Idaho Human Rights Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 46 -- BOARD OF VETERINARY MEDICAL EXAMINERS

46-0101-1900F *Rules of the Idaho Board of Veterinary Medicine* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

46.01.01, Rules of the State of Idaho Board of Veterinary Medicine

- 46-0101-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
46-0101-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 48 -- GRAPE GROWERS AND WINE PRODUCERS COMMISSION

- 48-0101-1900F** *Rules of the Idaho Grape Growers and Wine Producers Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

CERTIFIED SHORTHAND REPORTERS BOARD

(Moved and Re-designated) - Rules of Procedure of the Idaho Board of Certified Shorthand Reporters (This chapter has been re-designated from *IDAPA 49.01.01* to *IDAPA 24.29.01* under the Bureau of Occupational Licenses - See IDAPA 24 in this Index.)

IDAPA 50 -- COMMISSION FOR PARDONS AND PAROLE

- 50-0101-1900** *Rules of the Commission of Pardons and Parole* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 51 -- IDAHO BEEF COUNCIL

- 51-0101-1900F** *Rules of the Idaho Beef Council* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 52 -- IDAHO STATE LOTTERY COMMISSION

- 52-0000-1900F** *Rules of the Idaho State Lottery Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 02-03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 53 -- IDAHO BARLEY COMMISSION

- 53-0101-1900F** *Rules of the Idaho Barley Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 54 -- OFFICE OF THE STATE TREASURER

- 54-0000-1900** *Rules of the Idaho State Treasurer* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapter 01; Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 55 -- DIVISION OF CAREER TECHNICAL EDUCATION

- 55-0000-1900** *Rules of the Idaho Division of Career Technical Education* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 03-04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

55.01.03, Rules of Career Technical Schools

- 55-0103-1901** Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 56 -- IDAHO RANGELAND RESOURCES COMMISSION

56-0101-1900F *Rules of the Idaho Rangeland and Resources Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01-- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 57 -- SEXUAL OFFENDER MANAGEMENT BOARD

57-0101-1900F *Rules of the Sexual Offender Management Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01-- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58-0000-1900 *Rules of the Department of Environmental Quality* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 02, 04, 10, 16, 21-24 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

58-0000-1900F *Rules of the Department of Environmental Quality* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 05-08, 12-14, 18, 20, 25 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

TMDLs:

- 58-0000-1901** Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2018 (HUC 16020309), Bulletin Vol. 19-1
- 58-0000-1902** Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2019 (HUC 16020309), Bulletin Vol. 19-6
- 58-0000-1903** Big Lost River Subbasin Temperature Total Maximum Daily Load (TMDL): 2019 Addendum and Five-Year Review (HUC 17040218), Bulletin Vol. 19-7
- 58-0000-1904** Palisade Subbasin 2019 Total Maximum Daily Load (TMDL) And Five-Year Review (HUC 17040104), Bulletin Vol. 19-8
- 58-0000-1905** Hatwai Creek Subbasin Assessment and Total Maximum Daily Loads (TMDL) – 2019 Temperature TMDL (HUC 17060306), Bulletin Vol. 19-9

58.01.01, Rules for the Control of Air Pollution in Idaho

- 58-0101-1901** Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 19-3
- 58-0101-1902** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
- 58-0101-1903** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
- 58-0101-1904** Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
- 58-0101-1903** Proposed Rulemaking, Bulletin Vol. 19-8
- 58-0101-1905** Proposed Rulemaking, Bulletin Vol. 19-8
- 58-0101-1904** Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

58.01.02, Water Quality Standards

- 58-0102-1901** Notice of Meeting of the Idaho Board of Environmental Quality, Bulletin Vol. 19-9
- 58-0102-1901** Proposed Rulemaking, Bulletin Vol. 19-9

58.01.03, Individual/Subsurface Sewage Disposal Rules

- 58-0103-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 58-0103-1902** Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
- 58-0103-1902** Proposed Rulemaking, Bulletin Vol. 19-9

58.01.04, Rules for Administration of Wastewater Treatment Facility Grants

- 58-0104-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

58.01.05, Rules and Standards for Hazardous Waste

- 58-0105-1901** Proposed Rulemaking, Bulletin Vol. 19-8

58.01.06, Solid Waste Management Rules

- 58-0106-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

58.01.09, Rules Regulating Swine Facilities

- 58-0109-1901 Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
- 58-0109-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

58.01.11, Ground Water Quality Rule

- 58-0111-1901 Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
- 58-0111-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

58.01.12, Rules for Administration of Water Pollution Control Loans

- 58-0112-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

58.01.13, Rules for Ore Processing by Cyanidation

- 58-0113-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

58.01.15, Rules Governing the Cleaning of Septic Tanks

- 58-0115-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
- 58-0115-1901 Notice of Status of Rulemaking, Bulletin Vol. 19-9

58.01.17, Recycled Water Rules

- 58-0117-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
- 58-0117-1901 Proposed Rulemaking, Bulletin Vol. 19-9

58.01.20, Rules for Administration of Drinking Water Loan Program

- 58-0120-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

58.01.22, Rules for Administration of Planning Grants for Drinking Water Facilities

- 58-0122-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

- 59-0000-1900 *Rules of the Idaho Public Retirement System of Idaho* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-06, 08; Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

- 60-0000-1900 *Rules of the Idaho State Soil and Water Conservation* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 60-0000-1900F *Rules of the Idaho State Soil and Water Conservation* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

60.05.01, Resource Conservation and Rangeland Development Program

- 60-0501-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

- 61-0000-1900 *Rules of the Idaho State Public Defense Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-04, 06-08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

61.01.08, Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems - Rule Definitions

- 61-0108-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
- 61-0108-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

Subject Index

- A**
- Abandonment Of Dead Animals 85
 - Abbreviations 34, 111, 414
 - AAC 414
 - AACC. Acceptable Ambient Concentration for a Carcinogen 414
 - APAP, Agricultural Pollution Abatement Plan 34
 - BMP, Best Management Practice 34
 - CAS. Chemical Abstract Service 414
 - CL. Derived from ACGIH ceiling Limit UF = 10 414
 - CLTWF, Commercial Livestock Truck Washing Facility 111
 - DCPA, Dimethyl Tetrachloroterephthalate 34
 - DEQ, Department of Environmental Quality 34
 - EL. Emissions Screening Level 414
 - EPA, Environmental Protection Agency 34
 - FEMA, Federal Emergency Management Agency 111
 - GIH. American Conference of Government Industrial Hygienists 414
 - HAL, Health Advisory Level 34
 - ID. Idaho Division of Environmental Quality 415
 - ISDA, Idaho State Department of Agriculture 111
 - LA. From LA Dept. of Environmental Quality 415
 - MA. From MA Dept. of Environmental Protection, Div. of Air Quality Control 415
 - MCL, Maximum Contaminant Level 34
 - MI. From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual av. time, no uf 415
 - NMP, Nutrient Management Plan 111
 - NPDES, National Pollutant Discharge Elimination System 111
 - NRCS, Natural Resources Conservation Service 34, 111
 - NY. From New York Dept. of Conservation, Div. of Air Quality 415
 - OEL. Reference Occupational Exposure Level 415
 - PL. From Phil. Dept. of Air Management Services 415
 - PL1. From Phil. Dept. of Air Management Services 415
 - PL3. From Phil. Dept. of Air Management Services 415
 - PMP, Pesticide Management Plan 34
 - QAPP, Quality Assurance Project Plan 34
 - QMP, Quality Management Plan 34
 - RfD, Reference Dose 34
 - SCC, Soil Conservation Commission 34
 - TWA. Time Weighted Average 415
 - UF. Uncertainty Factor 415
 - URF. Unit Risk Factor 415
 - USDA, United States Department of Agriculture 34, 111
 - WA. From Washington Dept. of Ecology, Air Programs 415
 - Abbreviations, IDAPA 02.04.15 78
 - AFO 78
 - CAFO 78
 - IPDES 78
 - NMP 78
 - NRCS 78
 - Abbreviations, IDAPA 02.04.32, Rules Governing Poultry Operations 118
 - AFO 118
 - ASABE 118
 - CAFO 118
 - DEQ 118
 - FEMA 118
 - IPDES 118
 - NMP 118
 - NMS 118
 - NRCS 118
 - USGS 118
 - Abbreviations, Used In IDAPA 58.01.01, Sections 563 through 574 509
 - CAA 509
 - CFR 509
 - CO 509
 - EPA 509
 - FHWA 509
 - FTA 509
 - HPMS 509
 - ICC 509
 - IDEQ 509
 - ITD 509
 - LHTAC 509
 - LRTP 509
 - MPO 509
 - NAAQS 509
 - NEPA 509
 - O3 509
 - PM 509
 - PMx 509
 - STIP 509
 - TCM 509
 - TIP 509
 - USDOT 510
 - VMT 510
 - Able To Work 171
 - Able to Perform Some Type of Work 171
 - Able to Work Part-Time 171
 - Disability Compensation 171
 - Illness Provision 171
 - Illness Provision as Applied to Transitional or Reopened Claim 171
 - Mental Illness 171
 - Withdrawing From Labor Market Because of Illness 171
 - Accessibility for Persons with Mobility & Sensory Requirements For Building Construction & Physical Standards
 - Impairments 242
 - Acreage And Reclamation Cost Limitations 364
 - Limitations for Participation 365
 - Maximum Affected Lands & Reclamation Costs 365
 - Maximum Allowable Disturbance & Reclamation Cost Liability 365
 - Multiple Plans/Permits/Sites 365
 - Action On Application 478
 - Copy to EPA 479
 - Deadline for Tier I Operating Permits for Phase II Sources 479
 - Deadline for Tier I Operating Permits with Early Reductions 479
 - Deadlines for Final Actions After Initial Period 479
 - Deadlines for Final Actions During Initial Period 478
 - Issuance Conditions 478
 - Original to Permittee 479
 - Activity Requirements 225
 - Activity Opportunity Requirements 225
 - Activity Policy & Opportunities 225
 - Community Resources 226
 - Additional Contents Of Tier I Operating Permits - Permit Shield 473
 - General Permit Shield 473
 - Limitation on Permit Shield 474
 - Additional Fire & Life Safety Standards For All Buildings & Facilities 260
 - Additional Fire And Life Safety Standards For All Buildings And Facilities
 - Electrical Installations & Equipment 260
 - Fuel-Fired Heating 260
 - Medical Gases 260
 - Natural or Man-Made Hazards 261
 - Prohibited Applications 260
 - Telephone 261
 - Additional Policies Required
 - Notification of Changes to Resident Health or Mental Status 228
 - Provided Care & Services by Staff 228
 - Response of Staff to Emergencies 228
 - Additional Training Related To Changes 275
 - Address, Office Hours, Telephone, Fax Numbers, Web Address 33, 45, 75, 84, 109, 118

- Administration 325
- Administration Of IPDES Program 80
- Administrative Appeal 44, 75, 84, 109, 117
- Administrative Appeals 32, 164, 320, 360, 393, 640, 658
- Administrative Appeals, Contested Cases, & Informal Dispute Resolution 207
- Administrative Permit
 - Amendments 480
 - Administrative Permit Amendment Application Procedures 480
 - Criteria 480
 - Implementation Procedures 481
 - Permit Shield 481
- Administrative Provisions 677
- Admission Requirements 226
- Admissions Policies 226
- Policies of Acceptable Admissions 226
- Resident Admission, Discharge, & Transfer 226
- Adoption & Incorporation By Reference Of The National Electrical Code 148
- Availability 150
- Documents 148
- Advisory Committee 40
- Evaluate Effectiveness 41
- Recommendations 41
- Research 41
- Review Existing Information 40
- Affected Equipment Or Processes 544
- Applicability 544
- Existing Sources 544
- New Sources 544
- Reconstructed Sources 544
- Affected Lands 362
- Agencies Affected By
 - Consultation 512
 - Agencies Entitled to Participate 512
 - Delegation 513
 - General Actions Requiring Consultation 513
 - ICC Members 512
 - Interagency Consultation Committee 512
 - More Than One Pollutant 512
 - Open to the Public 512
- Agricultural Activities 556
- Agricultural Activity 556
- Generally Recognized Agricultural Practices 557
- Air Pollution Emergency Rule 504
- Air Quality Standards & Area Classification 520
- Altitude Correction, Fuel Burning Equipment -- Particulate Matter 561
- Ambient Air Quality Standards For
 - Fluorides 520
 - Annual Standard 520
 - Bimonthly Standard 520
 - Monthly Standard 520
- Amending An Approved Permanent Closure Plan 337
- Adjustment 337
- Cause for Permanent Closure Plan Amendment 337
- Modification At Request Of Director 337
- Modifications at an Operator's Request 337
- Amending An Approved Reclamation Plan 336
- Cause for Reclamation Plan Amendment 336
- Minor Amendments 337
- Review of Amendment 336
- Amending Tariff 28
- Americans With Disabilities Act (ADA) 171
- Appeals 152, 456
- Appeals Board 152
- Appeals Hearing Fee 152
- Conditions Disqualifying Board Member 152
- Filing Date 152
- Function of Appeals Board 152
- Limitations of Appeal 152
- Motions for Reconsideration 153
- Notice of Appeal 152
- Preliminary Order 152
- Rules of Evidence 152
- Applicability 111, 498, 641, 678
- Applicability 487
- Applicability to Reuse Facilities 678
- Common Control 642
- Deferred Sources 487
- Excluded Facilities 678
- Existing Swine Facilities 642
- Permit Required 641
- Regulated Facilities 642
- Reuse Policy 678
- Applicability, Nonmetallic Mineral Processing Plants 573
- Permit by Rule 573
- Permit Option 573
- Applicants Receiving A Department Enhanced Clearance 295
- Adoptive Parent Applicants 295
- Children's Agency Facility Staff 295
- Children's Residential Care Facilities 295
- Children's Therapeutic Outdoor Programs 295
- Idaho Child Care Program (ICCP) 295
- Licensed Day Care 295
- Licensed Foster Care 295
- Mental Health Services 295
- Substance Use Disorders Services 295
- Application & License Fees 307
- Application fees 327
- Application For Permit 111
- Land Application System 112
- Name, Telephone Number, & Address 111
- Nutrient Management Plan 112
- Physical Address 111
- Scaled Site Plan 112
- Scaled Vicinity Map With Site Location 111
- Application Near Hazard Areas 63
- Application Procedure & Requirements For Other Mining Operations Including Hardrock, Underground & Phosphate Mining 329
- Application Package 329
- Map Requirements 329
- Operating Plan Requirements 330
- Reclamation Plan Approval Required 329
- Reclamation Plan Requirements 329
- Application Procedure & Requirements For Permanent Closure Of Cyanidation Facilities 330
- Application Fee 333
- Application Package for Permanent Closure 332
- Permanent Closure Cost Estimate Verification Fee 333
- Permanent Closure Plan Approval Required 330
- Permanent Closure Plan Requirements 330
- Preapplication Conference 332
- Processing & Review Fee 333
- Application Procedure & Requirements For Quarries, Decorative Stone, Building Stone, & Aggregate Materials Including Sand, Gravel & Crushed Rock 327
- Application Package 327
- Approval Required 327
- Map Requirements 328
- No Operator Shall Conduct Mining Operations 327
- Reclamation Plan Requirements 328
- Application Procedures 429, 433
- Additional Information 434
- Estimates of Ambient Concentrations 429, 434
- Estimates of Emissions 429
- Monitoring & Recordkeeping 429
- Required Information 433
- Application Procedures, Tier II Operating Permit 491
- Additional Information 492
- Additional Specific Information 491
- Estimates of Ambient Concentrations 491
- Required Information 491
- Application Processing Procedure 649, 683
- Additional Information 650
- Application Completeness 649
- Complete Application 683
- Contents of the Staff Analysis 683
- Continuation of Expiring Permits 684

- Draft Permit 649
- Effective Date of Final Permit 684
- Final Permit 650
- Incomplete Application 683
- Information or Consultation Before Issuance of Draft Permit or Application Denial 683
- Issuance & Contents of the Draft Permit 683
- Issuance of the Final Permit 684
- Notice of Environmental Suitability of Facility Location 649
- Permit Denial 649
- Preliminary Decision/Application Denial 683
- Public Comments 249
- Submittal Date 683
- Applications 368
 - Encroachment Applications 368
 - Other Permits 368
 - Repairs, Reinstallation of Structures 368
 - Signature Requirement 368
- Applications For Limited Electrical Installer License 146
- Apprentice Electrician
 - Direct Supervision & Training 142
- Apprentice Electrician
 - Registration 139
 - Registration Requirements 139
 - Renewal Requirements 139
- Approval Of Field Studies & Fluid Models 501
- Assignments 372
 - Approval Required for Assignment 372
 - Assignment Fee 372
 - Assignment of Encroachment Permit 372
 - Assignment With New Permit 372
- Assistance With Medications 275
- Delegation 276
 - Training Requirements 275
- ASTM Grade 1, Distillate Fuel Oil 565
- Authority To Inspect 80
 - Access to Records 80
 - Entry 80
 - Sample or Monitor 80
- Authorization Of Hearing 425
 - Early Hearing 425
 - No Hearing 425
 - No Objection 425
- Automatic Low Pressure Drain 72
- Available For Work 167, 172
 - Availability Requirements 167, 172
 - Child Care 167, 172
 - Compelling Personal Circumstances 167, 172
 - Conscientious Objection 167, 172
 - Contract Obligation 167, 172
 - Distance to Work 167, 173
 - Domestic Circumstances 167, 173
 - Equipment 168, 173
 - Evidence 168, 173
 - Experience or Training 168, 173
 - Full-Time/Part-Time Work 168, 173
 - Incarceration/Work Release 168, 173
 - Jury Duty/Subpoenas 168, 173
 - Licensing or Government Restrictions 168, 173
 - Moving to Remote Area 168, 173
 - Public Official 168, 173
 - Public Service 168, 173
 - Restricting Work to Within the Home 168, 173
 - School Attendance or a Training Course 168, 173
 - Temporary Absence From Local Labor Market to Seek Work 168, 173
 - Time 169, 174
 - Transportation Difficulties 169, 174
 - Unreasonable Restrictions on Working Conditions 169, 174
 - Vacation 169, 174
 - Wages 169, 174
 - Waiver of Two-Year Training Limitation 169, 174
- Averaging Period, Sections 675
 - Through 680 561
 - One Cycle 561
 - One Hour 561
- B**
- BART Requirement For Regional Haze 559
 - Alternative to Infeasible Emission Standards 559
 - BART Alternative 560
 - BART Determination 559
 - BART Installation & Operation Due Date 559
 - BART-Eligible Sources 559
 - Maintenance of BART Equipment 559
 - Reasonable Progress Goal Requirements for BART-Eligible Sources 560
- Baselines For Prevention Of Significant Deterioration 521
 - Baseline Area 521
 - Baseline Concentration 521
 - Baseline Date(s) 521
- Beneficial Use 678
- Best Available Retrofit Technology (BART) 396
- Best Management Practices & Reclamation For Mining Operation & Permanent Closure Of Cyanidation Facilities 350
- Best Management Practices & Reclamation For Surface Mining Operation & Permanent Closure Of Cyanidation Facilities
 - Backfilling & Grading 352
 - Clearing & Grubbing 351
- Disposal of Waste in Areas Other Than Mine Excavation 352
- Nonpoint Source Control 350
- Overburden/Topsoil 351
- Permanent Cessation & Time Limits for Planting 353
- Petroleum-Based Products & Chemicals 356
- Revegetation Activities 354
- Roads 351
- Sediment Control 350
- Settling Ponds 353
- Tailings Impoundments 353
- Biochemical Oxygen Demand (BOD) 679
- Brucellosis Vaccination Requirements 100
 - Approved Feedlot 100
 - Calves 100
 - Cattle Consigned to Slaughter 100
 - Cattle Consigned to Specifically Approved Livestock Markets 100
 - Show Cattle 100
 - Vaccination on Arrival 100
- Burn Determination 551
 - Burn Approval Criteria 551
 - Notification of Approval 552
- Burn Fee 551
 - Burn Fee 551
 - Effect of Delinquent Fee Payment 551
- Burning, Agriculture Fields 550
- C**
- Calculation Of Motor Fuels Tax On Gaseous Special Fuels 385
 - Computing Gaseous Special Fuel Tax Equivalents 385
- Categories Of Allowable Burning 549
- Categorized Aquifers Of The State 666
 - General Resource 667
 - Other Resource 667
 - Sensitive Resource 666
- Category I Exemption 451
 - Below Regulatory Concern 451
 - Mercury 452
 - Radionuclides 452
 - Toxic Air Pollutants 452
- Category II Exemption 452
 - Exempt Source 452
 - Other Exempt Sources 453
- Certification & Approval Of Electrical Products & Materials 153
 - Availability of NFPA Standards 153
 - Field Evaluation 153
 - Testing Laboratory 153
- Certification Of Documents 418
- Certification, Department Examinations 50
- Change Of License Status 60
 - Change Notification 60
 - Transferable 60
- Change Of Ownership 220
 - Application for Change of

- Ownership 220
- Change of Ownership for a Facility In Litigation 220
- Non-Transfer of Facility License 220
- Changes To Tier I Operating Permits 479
 - Acid Rain 480
 - Applicability 479
 - Changes Requiring Notice 479
 - Changes Requiring Permit Revisions 479
 - Reopening 480
- Chemical Injection Line Shut Down (System Interlock) 68
 - Electrical Interlock 68
 - Human Interlock 69
 - Hydraulic Interlock 69
 - Mechanical Interlock 69
 - Other Approved Option 69
- Chemical Injection System 70
 - Metering Pump 70
 - Venturi System 70
- Chemical Specific PMPs 34
 - Creating PMPs 34
 - PMP Compliance 35
- Circumvention 425
- Civil Penalties 153
 - Corrections 154
 - Electrical Contractor 153
 - Employees 154
 - Failure to Disclose 154
 - Fees & Permits 154
 - Gross Violation 154
 - Journeyman to Apprentice Ratio 154
 - License or Registration 154
 - Performance Outside Scope of License 154
 - Supervision 154
- Claimants With Disabilities
 - Additional Eligibility Requirements 172
 - Availability Requirement 171
 - Burden of Proof 172
- Classification Of Prevention Of Significant Deterioration Areas 522
 - Procedures for Redesignation of Prevention of Significant Deterioration (PSD) Areas 522
 - Restrictions On Area Classification 522
- Cleaning Of Septic Tanks – General Requirements 636
 - Disposal Methods 636
 - Equipment to Be Cleanable 636
 - Equipment to Be Watertight 636
- Cleaning Of Septic Tanks – Permit Requirements 636
 - Permit Application Contents 636
 - Permit Fee 637
 - Permit Suspension or Revocation 637
 - Vehicle Number to Be Displayed 637
- Coaxial System 407
- Combinations Of Fuels, Fuel Burning Equipment -- Particulate Matters 561
- Combined Zinc & Lead Smelters 582
- Combined Zinc & Lead Smelters -- Control Of Fugitive Sulfur Dioxide Emissions 582
 - Condition of Ducts, Flues, & Stacks 582
 - Other Techniques 582
 - Prevention of Leakage in Equipment & Systems 582
- Combined Zinc & Lead Smelters -- Oxides Of Sulfur 582
 - Appeal 584
 - Compliance Schedule 583
 - Effective Date 582
 - Exception 582
 - Extension of Compliance Date 583
 - Final Emission Limitation 582
 - Interim Emission Limitations 582
- Commodity Indemnity Fund 28
 - Exemptions to Assessments 28
 - Rate of Assessment 28
- Completeness Of Applications 476
 - Criteria for Completeness 476
 - Effects of Completeness Determination 476
 - Timelines for Determinations of Completeness 476
- Completion Of Permanent Closure 339
 - Implementation of a Permanent Closure Plan 339
 - Submittal of a Permanent Closure Report 339
- Compliance Dates 544
 - Existing Sources 545
 - New or Reconstructed Sources 545
- Compliance Of Existing Reclamation Plans 358
 - Applicability 358
 - Approval 358
 - Submittal 358
- Compliance Requirements By Department 417
 - Episode Plans 417
 - Monitoring 417
 - Records 417
 - Report 417
 - Schedule 417
- Compliance Schedule, Sulfuric Acid Plants 582
- Compliance With Idaho Pollutant Discharge Elimination System Rules 80
- Comprehensive Assessment Requirements 249
 - Assessment Results 250
 - Community Support Systems 250
 - Level of Personal Assistance Required 250
 - Maladaptive Behaviors 250
- Nursing Assessment 250
- Outside Services 250
- Resident Demographics 249
- Conditions For Permits To Construct 448
 - Cancellation 448
 - Notification to The Department 448
 - Performance Test 448
 - Reasonable Conditions 448
- Conditions For Tier II Operating Permits 494
 - Performance Tests 494
 - Permit Term 494
 - Reasonable Conditions 494
 - Single Tier II Operating Permit 495
- Confidential Information 418
- Confidentiality Of Records 654
- Confidentiality Of Records 677
- Confidentiality Of Records & Public Records Requests 208
 - Confidential Records 208
 - Disclosure of Resident Identity 209
 - Public Availability of Survey Documents 209
 - Public Records Act 208
- Conflict Resolution at the Governor's Level, Resolving Conflicts 519
- Construction Requirements, CLTWF 113
- Consultation Procedures, Among ICC Members 516
 - Notification Process 518
 - Specific Air Quality Related Activities 518
 - Specific Major Activities 516
 - Specific Routine Activities 517
- Contents Of A Chemical Specific PMP 35
 - Elements That May be Included in a PMP 35
 - Required Elements of a PMP 35
- Contents Of Certificates 96
- Contents of Certificates
 - Description of Animals 96
 - Final Destination of Shipment 96
 - Health Status 96
 - Mailing Certificate to Idaho 96
 - Name & Address 96
 - Origin of Shipment 96
 - Period of Certificate Validity 97
 - Purpose of Shipment 96
 - Signature 96
- Continuing Education Requirements 308
 - Documentation 309
 - Nature of Education 309
 - Number of Credits 308
 - Prorated Credits 309
 - Volunteer Practice 309
- Continuing Education Requirements, Electricians 150
- Continuing Training Requirements 275
- Control Of Cookers, Rendering

Plants 581
Control Of Expellers, Rendering
 Plant 581
Control Of Plant Air, Rendering
 Plant 581
Correction Of Condition 419
Course Approval Requirements 150
 Appeals 151
 Board & Negotiated Rulemaking
 Meetings 152
 Code-Related Programs 151
 Code-Update Programs 151
 General Course Requirements 150
 Industry-Related Programs 151
 Instructor Approval Procedures 151
 Program Approval Procedures 151
 Revocation of Approval 151
 Schedule of Approved Classes 152
Criminal History & Background Check
 Requirements 203, 209
 Additional Criminal Convictions,
 Pending Investigations, or
 Charges 203
 Availability to Work 209
 Criminal History & Background
 Check 209
 Department Criminal History and
 Background Check
 Clearance 203
 Employer Discretion 210
 Minor Child Turns Eighteen 203
 New Adults in the Home After
 Certification Is Granted 203
 New Criminal History & Background
 Check 210
 Renewal of Clearance 203
 Scope of a Criminal History &
 Background Check 209
 Submission of Fingerprints 210
 Substitute Caregiver 203
 Use of Previous Criminal History &
 Background Check 210
 When Certification Can Be
 Granted 203
Criteria For Defining Levels Within
 Stages 505
 Stage 1 - Forecast & Caution 505
 Stage 2 -- Alert 505
 Stage 3 -- Warning 506
 Stage 4 -- Emergency 506
Crop Residue Disposal 550

D

Dairy Farm Best Management
 Practices 567
 BMPs 567
 Table - Ammonia Control Practices
 for Idaho Dairies 567
Dangerous Material Fires 550
Dead Animal Emergencies 87
 Administrator to Determine Disposal
 Methods 88
 Situations Requiring Extraordinary
 Disposal Measures 87

Definitions 164, 321, 362, 393
 Actual Allowable Cost 362
 Actual Allowable Disturbance 362
 Approximate Previous Contour 321
 Best Management Practices 321
 Board 362
 Chapter 321
 Department 321, 362
 Discharge 321
 Disturbed Acres 362
 Division 164
 Dredge Mining Act 362
 Financial Assurance 362
 Groundwater 322
 Land Application 322
 Licensing Program 164
 Material Change 322
 Material Modification or Material
 Expansion 322
 Material Stabilization 323
 Military Applicant 165
 Mine 362
 Mined Land Reclamation Act 362
 Mineral Lease 362
 Mineral Leasing Act 363
 Mineral Lessee 363
 Motorized Earth-Moving
 Equipment 323
 Motorized Exploration 363
 Neutralization 323
 Operator 363
 Permanent Closure 323
 Permit 324, 363
 Pilot Facility 324
 Pollutant 324
 Process Waters 324
 Real Property 324
 Reclamation 324
 Reclamation Fund 363
 Reclamation Fund Act 363
 Revegetation 324
 Small Cyanidation Processing
 Facility 325
 Surface Mining Reclamation
 Plan 363
 Surface Waters 325
 Treatment 325
 Water Balance 325
 Water Management Plan 325
 Waters of the State 325
 Weak Acid Dissociable
 Cyanide 325
Definitions & Abbreviations 298
 Agency 298
 Application 298
 Clearance 298
 Conviction 298
 Criminal History & Background
 Check 298
 Criminal History Unit 298
 Denial 298
 Department 298
 Direct Patient Access Employee 299
 Disqualifying Crime 299

Employer 299
Enhanced Clearance 299
Exemption Review 299
Federal Bureau of Investigation
 (FBI) 299
Good Cause 299
Idaho State Police Bureau of Criminal
 Identification 299
Relevant Record 299
Definitions & Abbreviations A Through
 E 210
 Abuse 210
 Accident 210
 Activities 210
 Activities of Daily Living 211
 Administrator 211
 Administrator's Designee 211
 Adult 211
 Advance Directive 211
 Advocate 211
 Ambulatory Person 211
 Assessment 211
 Authentication 211
 Authorized Provider 211
 Behavior Plan 211
 Call System 211
 Chemical Restraint 211
 Cognitive Impairment 211
 Complaint 212
 Complaint Investigation 212
 Core Issue 212
 Criminal Offense 212
 Deficiency 212
 Dementia 212
 Department 212
 Developmental Disability 212
 Direct Resident Access 212
 Director 213
 Electronic Signature 213
 Elopement 213
 Exit Conference 213
 Exploitation 213
Definitions & Abbreviations C through
 E 190
 Call Volume 190
 Candidate 190
 Certificate of Eligibility 190
 Certification 190
 Certified EMS Instructor 190
 CoAEMSP 190
 Cognitive Exam 190
 Compensated Volunteer 190
 Conflict of Interest 190
 Consolidated Emergency
 Communications System 190
 Core Content 190
 Course 190
 Course Physician 190
 Credentialed EMS Personnel 191
 Credentialing 191
 Critical Care 191
 Critical Care Agency 191
 Department 191
 Director 191

- Division 191
 Emergency 191
 Emergency Medical Care 191
 Emergency Medical Responder (EMR) 191
 Emergency Medical Services (EMS) 191
 Emergency Medical Services Advisory Committee (EMSAC) 192
 Emergency Medical Technician (EMT) 192
 Emergency Scene 192
 EMS Agency 192
 EMS Bureau 192
 EMS Education Program 192
 EMS Education Program Director 192
 EMS Education Program Objectives 192
 EMS Medical Director 192
 EMS Physician Commission (EMSPC) 192
 EMS Response 192
 Definitions & Abbreviations F Through N 213
 Follow-Up Survey 213
 Governmental Unit 213
 Hourly Adult Care 213
 Immediate Danger 213
 Inadequate Care 213
 Incident 213
 Independent Mobility 214
 Legal Guardian or Conservator 214
 License 214
 Licensing Agency 214
 Maladaptive Behavior 214
 Medication 214
 Medication Administration 214
 Medication Assistance 214
 Mental Disorders 215
 Mental Illness 215
 Neglect 215
 Negotiated Service Agreement 215
 Non-Ambulatory 215
 Nursing Assessment 215
 Definitions & Abbreviations O Through Z 215
 Outside Services 215
 Owner 215
 Personal Assistance 215
 Personnel 216
 Physical Restraint 216
 Portable Heating Device 216
 Pressure Ulcer 216
 PRN 216
 Provisional License 216
 Publicly Funded Program 216
 Punishment 216
 Relative 216
 Repeat Deficiency 216
 Reportable Incident 216
 Resident 217
 Residential Assisted Living Facility 217
 Room & Board 217
 Scope 217
 Self-Administration of Medication 217
 Story 217
 Substantial Compliance 217
 Substantial Evening Meal 217
 Supervision 217
 Survey 218
 Surveyor 218
 Therapeutic Diet 218
 Toxic Chemical 218
 Traumatic Brain Injury (TBI) 218
 Unlicensed Assistive Personnel (UAP) 218
 Variance 218
 Definitions For The Purpose Of Sections 563 Through 574 & 582 510
 Applicable Implementation Plan 510
 Consult or Consultation 510
 Distribute 510
 Distribution List 510
 Exempt Projects 510
 Lead Agency 510
 Lead Air Quality Agency 510
 Local Highway Jurisdiction 510
 Local Highway Technical Assistance Council (LHTAC) 510
 Maximum Priority 510
 Metropolitan Planning Organization (MPO) 511
 Public Notice 511
 Recipient of Funds Designated Under Title 23 U.S.C. or the Federal Transit Laws 511
 Regionally Significant Project 511
 Transit Agency 512
 Transportation Agency 511
 Definitions For The Purposes Of 40 CFR Part 60 414
 Definitions For The Purposes Of 40 CFR Part 61 & 40 CFR Part 63 414
 Definitions For The Purposes Of Sections 300 Through 386 412
 Affected States 412
 Allowance 412
 Applicable Requirement 412
 Designated Representative 412
 Draft Permit 412
 Emergency 412
 Final Permit 413
 General Permit 413
 Insignificant Activity 413
 Major Facility 413
 Definitions For The Purposes Of Sections 790 Through 799
 Best Management Practice 414
 Control Strategy Trigger 414
 Nonmetallic Mineral Processing Plant 414
 NSPS Regulated Facility or Plant 414
 Permit by Rule 414
 Progressive Control Strategy 414
 Site of Operations 414
 Definitions, IDAPA 02.02.12 21
 Cash Sale 21
 Commodity Indemnity Fund (CIF) 21
 Credit-Sale Contract 21
 Dealer 21
 Deposit for Service 21
 NPE, No Price Established 21
 Open Storage 21
 Warehouse 21
 Definitions, IDAPA 02.03.01 33
 Aquifer 33
 Beneficial Uses 33
 Best Management Practice 33
 Constituent 33
 Contaminant 33
 Contamination 33
 Ground Water 33
 Health Advisory Level 33
 Maximum Contaminant Level 33
 Pesticide Management Standard 33
 Pesticide Use 33
 Projected Future Beneficial Uses 33
 Reference Dose 33
 Reference Point 34
 Susceptibility 34
 Vulnerability 34
 Definitions, IDAPA 02.03.03 45
 Air Gap 45
 Basin Irrigation 45
 Border Irrigation 45
 Certification 45
 Check Valve 45
 Chemigator 45
 Cross-Connection 45
 Demonstration & Research 45
 Domestic Water Supply System 45
 Drip Irrigation 45
 Flood Irrigation 46
 Flow Rate 46
 Furrow Irrigation 46
 Hazard Area 46
 High Volatile Esters 46
 Injection Pump 46
 Inspection Port 46
 Low Volatile Esters 46
 Mixer-Loader 46
 Pressure Switch 46
 Recertification 46
 Reduced Pressure Principle Backflow Prevention Assembly (RP) 46
 Seminar 46
 Sprinkler Irrigation 46
 System Interlock 46
 Vacuum Relief Valve 46
 Venturi Injection System 46
 Waters of the State 47
 Working Pressure 47
 Definitions, IDAPA 02.04.15 75
 Animal 76

- Animal Feeding Operation 76
 Compost 76
 Concentrated Animal Feeding Operation 76
 Discharge 76
 Idaho Pollutant Discharge Elimination System (IPDES) 76
 Land Application 76
 Large Concentrated Animal Feeding Operation 76
 Medium Concentrated Animal Feeding Operation 76
 Operate 77
 Operator 77
 Runoff 77
 Slaughter & Feeder Cattle 77
 Small Concentrated Animal Feeding Operation 77
 Definitions, IDAPA 02.04.17 84
 Abandon 84
 Air Curtain Incineration 84
 Burial 84
 Burning 84
 Composting 84
 Dead Animal Emergencies 85
 Dead Animals 85
 Decomposition 85
 Digestion 85
 Disposal 85
 Domesticated Livestock 85
 Harvested 85
 Incineration 85
 Pets 85
 Rendering 85
 Sanitary Landfill 85
 Definitions, IDAPA 02.04.20 90
 Accredited Veterinarian 90
 Approved Brucella Vaccine 90
 Approved Feedlot 90
 Brucellosis 90
 Brucellosis Emergency 90
 Brucellosis Herd Management Plan 90
 Cattle 91
 Commuter Herd 91
 Designated Surveillance Area 91
 Domestic Bison 91
 Domestic Cervidae 91
 Exposed 91
 Federal Animal Health Official 91
 Infected Animals or Herds 91
 Negative 91
 Official Identification 91
 Official Vaccinate 91
 Operator 91
 Parturient 91
 Postparturient 91
 Premises 91
 Quarantine 91
 Reactor 91
 Re-Identification of Official Vaccinates 92
 Restrain 92
 Restricted Movement Permit 92
 State Animal Health Official 92
 State/Federal Animal Health Laboratory 92
 Suspect 92
 Swine 92
 Test Eligible 92
 Wild Bison 92
 Wild Elk 92
 Definitions, IDAPA 02.04.23 109
 Commercial Livestock Truck Washing Facilities 109
 Compost 110
 Discharge 110
 Land Application 110
 Livestock 110
 Livestock Truck Washing Facilities 110
 Modified 110
 Non-Compliance 110
 Non-Land Application Season 110
 Nutrient Management Plan 110
 Operate 110
 Operator 110
 Process Wastewater 110
 Runoff 110
 Unauthorized Discharge 110
 Wastewater Storage & Containment Facility 110
 Waters of the State 111
 Definitions, IDAPA 02.04.32, Rules Governing Poultry Operations 118
 Discharge 118
 Idaho Pollutant Discharge Elimination System (IPDES) 118
 Runoff 118
 Definitions, IDAPA 07.01.01 134
 Associated Buildings 134
 Person 134
 Recognized License 134
 Registration Card 134
 Definitions, IDAPA 07.03.03 Board 134
 Division 134
 Definitions, IDAPA 58.01.03 614
 Abandoned System 614
 Alternative System 614
 Authorized or Approved 614
 Blackwaste 614
 Blackwater 614
 Board 614
 Building Sewer 614
 Central System 614
 Construct 614
 Director 614
 Existing System 614
 Expand 614
 Failing System 614
 Ground Water 615
 High Groundwater Level - Normal Seasonal 615
 High Water Mark 615
 Individual System 615
 Install 615
 Installer 615
 Large Soil Absorption System 615
 Limiting Layer 615
 Mottling 615
 New System 615
 Nondischarging System 615
 Permit 615
 Pollutants 615
 Public System 615
 Repair 616
 Scarp 616
 Service Provider 616
 Sewage 616
 Soil Texture 616
 Standard System 616
 Subsurface System 616
 Surface Water - Intermittent, Permanent, Temporary 616
 System 616
 Wastewater 616
 Water Table 616
 Waters of the State 616
 Definitions, IDAPA 58.01.09 640
 Animal Unit 640
 Animal Waste 640
 Animal Waste Management System 640
 Certified Planner 640
 Department 640
 Director 640
 Existing Facility 640
 Expanding Facility 641
 Facility or Swine Facility 641
 Land Application 641
 Nutrient Management Plan 641
 Nutrient Management Standard 641
 One-Time Animal Unit Capacity 641
 Operate 641
 Permit 641
 Permittee 641
 Person 641
 Process Wastewater 641
 Unauthorized Discharge 641
 Waters of the State 641
 Definitions, IDAPA 58.01.11 658
 Agricultural Chemical 658
 Aquifer 658
 Beneficial Uses 658
 Best Available Method 659
 Best Management Practice 659
 Best Practical Method 659
 Board 659
 Cleanup 659
 Constituent 659
 Contaminant 659
 Contamination 659
 Crop Root Zone 659
 Degradation 659
 Department 659
 Extraction 659
 Ground Water 659
 Ground Water Quality Standard 659
 Highly Vulnerable Ground Water 659

- Irreplaceable Source 659
- Mine Operator 659
- Mining Activity 660
- Mining Area 660
- Natural Background Level 660
- Person 660
- Point of Compliance 660
- Practical Quantitation Level 660
- Projected Future Beneficial Uses 660
- Recharge Area 660
- Reclamation 660
- Remediation 660
- Site Background Level 660
- Definitions, IDAPA 58.01.17 678
- Applicable Requirements 678
- Applicant 678
- Board 679
- Buffer Distances 679
- Department 679
- Director 679
- Industrial Wastewater 679
- Land Application 679
- Modal Contact Time 679
- Municipal Wastewater 679
- Non-Contact Cooling Water 679
- NTU, Nephelometric Turbidity Unit 680
- Permit 680
- Permittee 680
- Person 680
- Point of Compliance 680
- Primary Effluent 680
- Processed Food Crop 680
- Rapid Infiltration System 680
- Raw Food Crop 680
- Restricted Public Access 680
- Reuse 680
- Sewage 681
- Sludge 681
- Turbidity 681
- Wastewater 681
- Waters & Waters of the State 681
- Definitions, Sections 200 Through 225 & 400 Through 461
- Agricultural Activities & Services 409
- Baseline Actual Emissions 409
- Begin Actual Construction 410
- Emissions Increase 410
- Innovative Control Technology 410
- Net Emissions Increase 410
- Pilot Plant 411
- Reasonable Further Progress (RFP) 411
- Sensitive Receptor 411
- Short Term Source 411
- Toxic Air Pollutant Reasonably Available Control Technology (T-RACT) 411
- Definitions, Sections 500 Through 516 499
- Dispersion Technique 499
- Excessive Concentration 499
- Nearby Structures or Terrain Features 500
- Stack in Existence 501
- Demonstration Of Ambient Equivalence 497
- Other Trades 497
- VOC Trades 497
- Demonstration of Competence 48
- Demonstration Of Net Air Quality Benefit 437
- Mobile Sources 437
- Other Regulated Air Pollutants 437
- VOCs 437
- Demonstration Of Preconstruction Compliance For New & Reconstructed Major Sources Of Hazardous Air Pollutants 450
- Compliance with Federal MACT 450
- Definitions 450
- Development of MACT by the Director After EPA Deadline 450
- Permitting Authority 450
- Requirement to Obtain Preconstruction MACT Determination from the Director 450
- Demonstration Of Preconstruction Compliance With Toxic Standards 441
- Controlled Ambient Concentration 443
- Controlled Emissions 443
- Environmental Remediation Source 446
- Identification of Toxic Air Pollutants 441
- Interpollutant Determination 447
- Interpollutant Trading Ambient Concentration 446
- Interpollutant Trading Determination Processing 447
- Interpretation & Implementation of Other Sections 448
- Net Ambient Concentration 444
- Net Emissions 444
- NSPS & NESHAP Sources 448
- Permit Compliance Demonstration 448
- Preconstruction Compliance Demonstration 443
- Quantification of Ambient Concentrations 442
- Quantification of Emission Rates 441
- Short Term Source Factor 446
- Toxic Air Pollutant Offset Ambient Concentration 444
- T-RACT Ambient Concentration for Carcinogens 445
- T-RACT Determination 445
- T-RACT Determination Processing 445
- Uncontrolled Ambient Concentration 443
- Uncontrolled Emissions 443
- Demonstration Of Technical, Financial, & Managerial Capacity Of Municipal Reuse Facility 697
- Compliance with Wastewater Rules Required 697
- Exclusion 697
- Denial Of Application For Certificate 203
- Additional Causes For Denial 203
- Notice of Denial 204
- Dental Assistants – Practice 310
- Curriculum Approval 312
- Direct Supervision 310
- Expanded Functions Qualifications 312
- Other Credentials 312
- Prohibited Duties 311
- Dental Therapists – Practice 310
- Dental Therapists – Prohibited Practice 310
- All Extractions with Exception 310
- Cutting Procedures 310
- Periodontal Therapy 310
- Sedation 310
- Department Examination Procedures 52
- Deposit Of Forfeitures & Damages 357
- Cyanidation Facility Closure Fund 358
- Mine Reclamation Fund 358
- Designation Of Attainment, Unclassifiable, & Nonattainment Areas 520
- Annual Review 520
- Area Designation 520
- Boundaries 520
- Redesignations 520
- Designation Of Beef Cattle Animal Feeding Operations 79
- Designation of Animal Feeding Operations 79
- Redesignation of a Beef Cattle Animal Feeding Operation 80
- Determining Pesticide Area Boundaries 38
- Determining Boundaries 39
- Pesticide Area Boundary Factors 38
- Deviation From An Approved Reclamation Plan 338
- Notification 338
- Unforeseen Events 338
- Deviations From Pesticide Labels & Labeling 59
- Disposal 352
- Disposal Of Dead Animals 86
- Allowance for Variances by the Administrator 87
- Burial 86
- Burning 87
- Composting 86
- Dead Animals on Federally Managed

- Land 86
 - Decomposition 87
 - Digestion 86
 - Disposal in an Approved Sanitary Landfill 86
 - Disposal Methods Determined by the Administrator 86
 - Incineration 86
 - Rendering 86
 - Disqualifying Crimes Resulting In An Unconditional Denial 301
 - Disqualifying Crimes 301
 - Disqualifying Five-Year Crimes 302
 - Underlying Facts & Circumstances 303
 - Dock Reconfiguration 368
 - Documentation For Newly Organized Or Altered Taxing Districts Or Revenue Allocation Areas (RAAs) Under The Jurisdiction Of Urban Renewal Agencies 376
 - Approval of Property Tax Levy or Revenue Allocation 378
 - Deadline for Completion 378
 - Definitions 376
 - Digital Map Information 378
 - Documentation to Be Filed for Disincorporated Cities or Dissolved Taxing Districts, or RAAs 377
 - Documentation to Be Filed for Newly Created or Altered Cities, Taxing Districts, or RAAs 377
 - Furnished By The State Tax Commission 379
 - Notification 378
 - One Uniform System 379
 - Tax Code Areas 379
 - Dogs & Cats 105
 - Cats 105
 - Dogs 105
 - Permits Required 105
 - Dual Point System 407
 - Duration Of Permit 112
 - Duty To Supplement Or Correct Application 461
 - Additional Information After Completeness 461
 - Failure to Submit 461
 - Necessary Additional Information 461
- E**
- Effect Of Delinquency On Applications 489
 - Effect Of Enforcement Action Against A License 222
 - Effect Of Inaccurate Information In Applications Or Failure To Submit Relevant Information 461
 - Effect Of Stages 505
 - Electrical Contractor 140
 - Electrical Contracting Work Defined 141
 - Failure to Correct Defects in Electrical Installations 142
 - Overcharging of Fees 142
 - Previous Revocation 141
 - Qualification & Duties for Supervising Journeyman or Master 142
 - Qualifications for Electrical Contractor 140
 - Required Signatures on Application 141
 - Reviving an Expired License 142
 - Electrical Generators 574
 - Fuel Type 574
 - Generator Opacity Limit 574
 - Generator Operating Requirements 574
 - Monitoring & Recordkeeping Requirements 574
 - Electrical Installations Requiring A Limited Electrical Installer License 143
 - Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical 143
 - Irrigation Sprinkler Electrical 144
 - Limited Energy Electrical 144
 - Manufacturing or Assembling Equipment 143
 - Outside Wireman 145
 - Refrigeration, Heating, & Air-Conditioning Electrical Installer 145
 - Sign Electrical 143
 - Solar Photovoltaic 145
 - Well Driller & Water Pump Installer 144
 - Electrical Permit & Inspection Requirements For Facility Accounts 135
 - Electrical Permits 134
 - Completion of Electrical Installation 135
 - Power Supply Company 135
 - Purchase of Electrical Permit 135
 - Electrical Permitting & Inspection Requirements for Persons Exempt from Licensing 135
 - Electrical Permit 135
 - Notice to Power Supplier 135
 - Emergency As An Affirmative Defense Regarding Excess Emissions 474
 - Applicability 474
 - Burden of Proof 474
 - Demonstration of Emergency 474
 - General 474
 - Emergency Preparedness Policies Written Procedures 229
 - Emergency Preparedness Requirements 229
 - Emergency Generators 229
 - Relocation Agreements 229
 - Emission Guidelines For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification Before May 30, 1991 586
 - Applicability 586
 - Compliance Schedules & Increments of Progress For Municipal Solid Waste Landfills That Have Nonmethane Organic Compound Emission Rates Less Than 50 Mg/yr 588
 - Compliance Schedules and Increments of Progress 588
 - Definitions, Section 860 586
 - General Requirements 587
 - Permitting Requirements 587
 - Reporting Requirements 587
 - Emission Limits, Hot-Mix Asphalt 580
 - Emission Limits, Incinerators 570
 - Averaging Period 570
 - General Restrictions 570
 - Test Methods & Procedures 571
 - Emission Limits, Sulfuric Acid Plant 581
 - Averaging Period 581
 - General Restrictions 581
 - Emissions Standards For Nonmetallic Mineral Processing Plants Not Subject To 40 CFR 60, Subpart OOO 572
 - Emissions Standards for Fugitive Emissions 572
 - Processing Plants Not Regulated by NSPS 572
 - Emissions Standards For Nonmetallic Mineral Processing Plants Subject To 40 CFR 60, Subpart OOO 571
 - Applicability & Designation of Affected Facilities 571
 - Facilities Not Applicable to 40 CFR 60.670(a)(2), (b), and (c) 571
 - Standards of Performance for Nonmetallic Mineral Processing Plants 572
 - Employer Registration 299
 - Change in Name or Ownership 299
 - Initial Registration 299
 - Employer Responsibilities 299
 - Employment Determination 300
 - Ensure Time Frames Are Met 300
 - Maintain Printed Copy of Application 300
 - Screen Applicants 300
 - Enforcement & Failure To Comply 356, 366
 - Appeal of Final Order 357
 - Civil Penalty 357
 - Financial Assurance Forfeiture 357
 - Forfeiture 366
 - Injunctive Procedures 357
 - Penalties 366
 - Enforcement Action Of Civil Monetary Penalties 286
 - Assessment Amount for Civil Monetary Penalty 286

- Civil Monetary Penalties 286
 - Failure to Pay 287
 - Notice of Civil Monetary Penalties & Appeal Rights 287
 - Payment of Penalties 287
 - Enforcement Action Of
 - Consultant 285
 - Enforcement Action Of Limit On
 - Admissions 285
 - Notification of Limit on Admissions 286
 - Reasons for Limit on Admissions 285
 - Enforcement Action Of Provisional License 289
 - Enforcement Action Of Revocation Of Facility License 289
 - Reasons for Revocation or Denial of a Facility License 289
 - Revocation of Facility's License 289
 - Enforcement Action Of Temporary Management 287
 - Need for Temporary Management 287
 - Notice of Temporary Management 287
 - Powers & Duties of the Temporary Manager 288
 - Responsibility for Payment of the Temporary Manager 288
 - Termination of Temporary Management 288
 - Who May Serve as a Temporary Manager 287
 - Enforcement Actions 283
 - EPA Review Procedures 477
 - Opportunity for EPA Objection 477
 - Public Petitions to EPA 478
 - Response to EPA Objections 478
 - Submittal of Proposal to EPA 477
 - Episode Criteria 504
 - Equidae 103
 - Approved Equine Feedlot 103
 - EIA Test Requirements 103
 - Reciprocal Agreements 104
 - Working Horses Included on Grazing Permits 103
 - Examinations 147
 - Failed Examinations 147
 - Frequency of Conducting of Examinations 147
 - Professional Testing Services 147
 - Required Scores 147
 - Examinations For Licensure 308
 - Clinical Examination 308
 - Written Examination 308
 - Exceptions, Emission Limits, Incinerators 571
 - Exceptions, Odor Control Equipment In Rendering Plants 581
 - Excess Emissions 419
 - Applicability 419
 - Effect of Determination 419
 - Enforcement Action Criteria 419
 - Excess Emissions Records 423
 - Availability of Excess Emissions Records 423
 - Contents of Excess Emissions Records 423
 - Maintenance of Excess Emissions Records 423
 - Protections Under Section 128 424
 - Excess Emissions Reports 423
 - Contents of Excess Emissions Reports 423
 - Deadline for Excess Emissions Reports 423
 - Exclusions 85
 - Free-Ranging Wildlife 85
 - House Pets 85
 - Pets Buried in a Licensed Pet Cemetery 85
 - Slaughter Establishments 85
 - Exemption Criteria & Reporting Requirements For Toxic Air Pollutant Emissions 454
 - Annual Report for Toxic Air Pollutant Exemption 454
 - Below Regulatory Concern (BRC) Exemption 454
 - Level I Exemption 454
 - Level II Exemption 454
 - Exemptions 489
 - Paying Fees 490
 - Registering & Paying Fees 489
 - Registration Fees 489
 - Existing Facilities 648
 - Expanding Facility 648
 - Plan Requirement 648
 - Registration Requirement 648
 - Experimental Permits 60
 - Active Ingredient 60
 - Acute Toxicity 60
 - Applicant 60
 - Experimental Use 61
 - Name 60
 - Proposed Labeling 60
 - Quantity Limit 61
 - Quantity Statement 60
 - Shipment 60
 - Statement of Scope 60
 - Temporary Tolerance 60
 - Expiration & Renewal Of License 222
 - Application for License Renewal 222
 - Existing License 222
 - Expiration Of Preceding Permits 479
 - Exploration Operations & Required Reclamation 326
 - Additional Reclamation 327
 - Confidentiality 326
 - Contents of Notification 326
 - Diligence 326
 - Exploration Reclamation (Less Than Two Acres) 326
 - Exploration Reclamation (More Than Two Acres) 326
 - Notification 326
 - When Exploration is Mining 326
 - Extended Validity Equine Certificates 97
 - Cancellation 97
 - Contents 97
 - Period of Validity 97
 - Travel Itinerary 97
 - Valid for One Animal 97
 - Extensions 504
- F**
- Facility Emissions Cap 428
 - Applicability 428
 - Definitions 429
 - Optional Facility Emissions Cap 428
 - Facility License Application 220
 - Building Evaluation Fee 221
 - Failure to Complete Application Process 222
 - Identification of the Licensed Administrator 221
 - License Application 220
 - Written Request for Building Evaluation 221
 - Federal Agency Non-Acceptance Of Reclamation Fund 365
 - Fees 57, 156
 - Application Filed With Fees 157
 - Construction Manager Licensing Fees 156
 - Examination Fee per Examination Category 58
 - Payment of Fees 157
 - Pesticide Dealer's License 58
 - Pesticide Registration 58
 - Private Applicator's License 58
 - Professional Applicator's License 58
 - Public Works Contractor Licensing Fees 156
 - Fees & Assessments 122
 - Annual Fees or Assessments 122
 - Payment of Annual Fees or Assessments 122
 - Fees For Electrical Permits And Inspections 136
 - Additional Fees & Reinspection Fees 137
 - Domestic Water Pump Permit 136
 - Electric Signs & Outline Lighting Permit 137
 - Electrically-Driven Irrigation Machine Permit 137
 - Expiration of Permits 138
 - Fees for Temporary Amusement/ Industry Electrical Inspections 138
 - Mobile/Manufactured Home Permit 136
 - New Residential 136
 - No Permit 138
 - Other Installation (Including

- Industrial & Commercial)
 - Permit 136
 - Plan Check Fee 138
 - Pumps (Water/Domestic Water/Irrigation, Sewage) Each Motor Permit 137
 - Refunds of Permits 138
 - Requested Inspection Permit 137
 - Residential Electric Space Heating & Air Conditioning 136
 - Temporary Construction Service (Temporary Power) Permit 136
 - Transferring a Permit 138
 - Field Burning 550
 - Final Conformity Determinations By USDOT 518
 - Final Conformity Determination Process 518
 - New or Revised Information 518
 - Financial Assurance
 - Requirements 644
 - Adjustment of Financial Assurance Amounts 647
 - Continuous Coverage 647
 - Financial Assurance Mechanisms 644
 - Owner Liability 648
 - Release from Financial Assurance Requirements 647
 - Written Estimate of Costs 644
 - Financial Assurance Requirements For Cyanidation Facilities 343
 - Financial Assurance 344
 - Financial Assurance for Permanent Closure Plans Affecting Five (5) or Less Disturbed Acres 343
 - Financial Assurance for Permanent Closure Plans Affecting More Than Five (5) Disturbed Acres 343
 - Financial Assurance Release During Permanent Closure 344
 - Financial Assurance Review 344
 - Indirect Costs for Permanent Closure Cost Calculations 343
 - Liabilities for Permanent Closure Costs Not Covered by Financial Assurance 345
 - Other Government Agency Financial Assurance 344
 - Salvage Value Not Allowed 344
 - Submittal of Financial Assurance Before Operating a Cyanidation Facility 343
 - Financial Assurance Requirements For Mining 340
 - Annual Financial Assurance Review 341
 - Cooperative Agreements 342
 - Financial Assurance for Operation With More Than Five (5) Disturbed Acres 340
 - Financial Assurance for Operations With Five (5) or Less Disturbed Acres 340
 - Financial Assurance Reduction 341
 - Financial Assurance Release Following Reclamation 341
 - Financial Assurance to the Federal Government 341
 - Indirect Costs for Reclamation Cost Calculations 340
 - Liabilities for Reclamation Costs Not Covered by Financial Assurance 342
 - Mining Operation Conducted by Public or Government 341
 - Salvage Value Not Allowed 341
 - Submittal of Financial Assurance Before Mining 340
 - Financial Requirements 227
 - Safeguarding of Funds 227
 - Statement 227
 - Financial Responsibility 58
 - Cancellation or Reduction 59
 - Coverage Waived 59
 - Minimum Coverage Required 58
 - Proof of Financial Ability 58
 - Target Property not Required to be Covered 59
 - Financial Statements 27
 - Statement Compliance 27
 - Statement Content 28
 - Fire And Life Safety Standards For Existing Buildings Licensed For Seventeen Or More Residents And Multi-Story Buildings 259
 - Fire And Life Safety Standards For Existing Buildings Licensed For Three Through Sixteen Residents 259
 - Fire And Life Safety Standards For New Buildings Housing Seventeen Or More Residents And Multi-Story Buildings 259
 - Fire And Life Safety Standards For New Buildings Housing Three Through Sixteen Residents 258
 - Fire Permits, Hazardous Materials & Liability 548
 - Five (5) year Updates and periodic inspections 356
 - Five (5) Year Updates 356
 - Frequency of Inspection 356
 - Right of Inspection 356
 - Food Preparation & Service 265
 - Disposable Items 266
 - Food Preparation 265
 - Food Preparation Area 266
 - Frequency of Meals 265
 - Food Supply 265
 - Form Of Performance Financial Assurance 345
 - Blanket Financial Assurance 349
 - Collateral Bond 345
 - Corporate Guarantees 347
 - Corporate Surety Bond 345
 - Letters of Credit 346
 - Real Property 346
 - Reclamation Fund 349
 - Trusts 347
 - Format Of Responses 418
 - Forwarding Agricultural Commodities 24
 - Fuel Burning Equipment -- Particulate Matter 560
 - Fugitive Dust Control 580
 - Fugitive Emission Controls 580
 - Plant Property Dust Controls 580
- G**
- Gasoline Cargo Tanks 547
 - Compliance 547
 - Prohibitions 547
 - Recordkeeping & Reporting 547
 - General Applicability, Control Of Ammonia From Dairy Farms 566
 - General Chemigation Requirements 66
 - Chemigating Over Waters of the State 66
 - Chemigation Equipment Standards 66
 - Pesticides Labeled for Chemigation 66
 - Posting Requirements, Category I 66
 - General Consultation Process 515
 - Final Document Distribution 516
 - Lead Agency in Consultation 515
 - Public Comment Period to Satisfy Thirty Day Document Distribution Requirement 516
 - Separate Times or in Combination 516
 - Use of Checklist for Distribution of Material 516
 - Use of Other Meetings for Consultation 516
 - General Control Requirements, Nonmetallic Mineral Processing Plants 571
 - Control of Fugitive Dust 571
 - Prohibition 571
 - General Definitions, IDAPA 58.01.01 393
 - Accountable 393
 - Act 393
 - Actual Emissions 393
 - Adverse Impact on Visibility 394
 - Air Pollutant/Air Contaminant 394
 - Air Pollution 394
 - Air Quality 394
 - Air Quality Criterion 394
 - Allowable Emissions 394
 - Ambient Air 394
 - Ambient Air Quality Violation 394
 - Atmospheric Stagnation Advisory 394
 - Attainment Area 395
 - BART-Eligible Source 395
 - Baseline, Area, Concentration, & Date 396

- Board 396
- Breakdown 396
- BTU 396
- Clean Air Act 396
- Collection Efficiency 396
- Commence Construction or Modification 396
- Complete 396
- Construction 396
- Control Equipment 396
- Controlled Emission 396
- Criteria Air Pollutant 396
- Deciview 396
- Department 397
- Designated Facility 397
- Director 398
- Effective Dose Equivalent 398
- Emission 398
- Emission Standard 398
- Emissions Unit 398
- Environmental Remediation Source 398
- EPA 398
- Excess Emissions 398
- Existing Stationary Source or Facility 398
- Facility 398
- Federal Class I Area 398
- Federal Land Manager 398
- Federally Enforceable 398
- Fire Hazard 399
- Fuel-Burning Equipment 399
- Fugitive Dust 399
- Fugitive Emissions 399
- Garbage 399
- Gasoline 399
- Gasoline Cargo Tank 399
- Gasoline Dispensing Facility (GDF) 399
- Grain Elevator 399
- Grain Storage Elevator 399
- Grain Terminal Elevator 399
- Hazardous Air Pollutant (HAP) 399
- Hazardous Waste 399
- Hot-Mix Asphalt Plant 400
- Incinerator 400
- Indian Governing Body 400
- Integral Vista 400
- Kraft Pulping 400
- Least Impaired Days 400
- Lowest Achievable Emission Rate (LAER) 400
- Mandatory Federal Class I Area 400
- Member of the Public 400
- Mercury 400
- Mercury Best Available Control Technology (MBACT) 400
- Modification, Stationary Source or Facility 400
- Monitoring 401
- Most Impaired Days 401
- Multiple Chamber Incinerator 401
- Natural Conditions 401
- New Stationary Source or Facility 401
- Nonattainment Area 402
- Noncondensibles 402
- Odor 402
- Opacity 402
- Open Burning 402
- Operating Permit 402
- Particulate Matter 402
- Particulate Matter Emissions 402
- Permit to Construct 402
- Person 402
- PM10 402
- PM10 Emissions 402
- PM2.5 402
- PM2.5 Emissions 402
- Portable Equipment 403
- Potential to Emit/Potential Emissions 402
- PPM (Parts Per Million) 403
- Prescribed Fire Management Burning 403
- Primary Ambient Air Quality Standard 403
- Process or Process Equipment 403
- Process Weight 403
- Process Weight Rate 403
- Quantifiable 403
- Radionuclide 403
- Regional Haze 404
- Regulated Air Pollutant 404
- Replicable 404
- Responsible Official 404
- Safety Measure 405
- Salvage Operation 405
- Scheduled Maintenance 405
- Secondary Ambient Air Quality Standard 405
- Secondary Emissions 405
- Shutdown 405
- Significant 405
- Significant Contribution 406
- Small Fire 407
- Smoke 407
- Smoke Management Plan 407
- Smoke Management Program 407
- Source 407
- Source Operation 407
- Special Fuels 407
- Stack 407
- Stage 1 Vapor Collection 407
- Standard Conditions 407
- Startup 407
- Stationary Source 407
- Tier I Source 408
- Total Suspended Particulates 408
- Toxic Air Pollutant 408
- Toxic Air Pollutant Carcinogenic Increments 408
- Toxic Air Pollutant Non-Carcinogenic Increments 408
- Toxic Substance 408
- Trade Waste 408
- TRS (Total Reduced Sulfur) 408
- Unclassifiable Area 408
- Uncontrolled Emission 408
- Upset 408
- Visibility Impairment 408
- Visibility in Any Mandatory Class I Federal Area 408
- Wigwam Burner 409
- Wood Stove Curtailment Advisory 409
- General Duties Of Carrier 98
- Disinfection of Conveyances 98
- Duties of Carrier Regarding Health Certificates of Permits 98
- Sanitary Condition of Cars, Trucks & Airplanes 98
- General Exemption Criteria For Permit To Construct Exemptions 451
- General Exemption Criteria 451
- Record Retention 451
- General Provisions 552
- Advisory Committee 553
- Annual Report 553
- Burn Provisions 552
- Burning Prohibitions 552
- General Provisions For Ambient Air Quality Standards 520
- Applicability 520
- Control of Unregulated Contaminants 520
- Methods 520
- Revisions 520
- Standard Conditions 520
- General Requirements 616
- Alternative System 617
- Compliance With Intent Required 617
- Duties of the Technical Guidance Committee 617
- Failing System 617
- Increased Flows 617
- Intent of Rules 616
- Subsurface System Replacement Area 617
- System Limitations 617
- Technical Guidance Committee 617
- Technical Guidance Manual for Individual & Subsurface Alternative Sewage Disposal 617
- General Resource Category Aquifers, Management of Activities With the Potential to Degrade Aquifers 667
- General Restrictions On Visible Emissions From Wigwam Burners 555
- General Restrictions, Open Burning 548
- Air Pollution Episodes 548
- Categories & Materials 548
- Emergency Authority 548
- General Rules, Emergency Episode Stage 507
- Stage 1 - Air Pollution Forecast & Caution 507
- Stage 2 -- Alert 507
- Stage 3 -- Warning 507

- Stage 4 -- Emergency 507
 General Rules, Odorous Gases, Liquids & Solids 570
 General Restrictions 570
 Restrictions on Rendering Plants 570
 General Rules, Particulate Matter 556
 Application of Dust Suppressants 556
 Covering of Trucks 556
 Paving 556
 Removal of Materials 556
 Use of Control Equipment 556
 Use of Water or Chemicals 556
 General Rules, Sections 750 & 751 565
 Emission Limitations -- Phosphate Fertilizer Plants 565
 Exemptions 566
 Monitoring, Testing, & Reporting Requirements 565
 Source Specific Permits 565
 General Tier I Operating Permits & Authorizations To Operate 474
 Applications for Authorizations to Operate 475
 Contents of General Tier I Operating Permits 474
 Issuance of General Tier I Operating Permits 474
 Phase II Sources 475
 Procedures for Issuing Authorizations to Operate 475
 Review of Authorizations to Operate 475
 Good Engineering Practice (GEP) Stack Height 500
 Gooseneck Pipe Loop, Downhill & Over-A-Hill 71
 Location 71
 Location of Chemical Injection Port 71
 Pipe Loop 71
 Position 71
 Use Restriction 71
 Grazing Cattle 101
 Grazing Permits 101
 Herd Ownership 101
 Tests 101
 Ground Water Contamination 669
 Agricultural Chemicals 670
 Contamination Exceeding a Ground Water Quality Standard 670
 Measures Taken in Response to Degradation 669
 Releases Degrading Ground Water Quality 669
 Site-Specific Ground Water Quality Levels or Points of Compliance 670
 Ground Water Monitoring Programs 38
 Conduct Monitoring Programs 38
 Evaluation 38
 Monitoring Programs 38
 Ground Water Quality Monitoring 125
 Ground Water Quality Reference Points 36
 HAL & RfD Guide 36
 Reference Points 36
 Ground Water Quality Standards 662
 Narrative Ground Water Quality Standards 666
 Natural Background Level 666
 Numerical Ground Water Quality Standards 662
 Primary Constituent Standards 662
 Secondary Constituent Standards 665
 Ground Water Recharge 679
 Class A Recycled Water 698
- H**
- Hourly Adult Care Requirements 230
 Accommodations 230
 Assistance with Medications 230
 Cost of Hourly Adult Care 230
 Documentation 230
 Hours for Care 230
 Individuals Accepted 230
 Services Offered 230
 Staffing 230
 HVAC Apprentice Requirements For Registration 160
 Registration 160
 Supervision 160
 HVAC Journeyman Certificates Of Competency And Examination Requirements 159
 Certificate of Competency Requirements 159
 Examination Requirement 159
 Out of State Journeyman Applications 159
 HVAC Permit Fee Schedule 160
 Additional Fees 162
 Miscellaneous 161
 No Permit 162
 Other Installations Including Industrial & Commercial 161
 Residential 160
- I**
- ICC Member Responsibilities In Consultation 513
 Designated Lead Air Quality Agency Responsibilities 513
 Designated MPO Responsibilities 514
 EPA Responsibilities 515
 FHWA & FTA Responsibilities 514
 Non-MPO Area Responsibilities 514
 Responsibility to Disclose Potentially Regionally Significant Projects 515
 ICC Member Roles In Consultation 513
 Areas with an MPO 513
 Areas Without an MPO 513
 Designated Lead Air Quality Agency 513
 Idaho Approved Feedlot 93
 Idaho Public Records Act 75, 109, 118
 Implementation 661
 Aquifer Categorization 661
 Level of Protection & Application of Standards to Aquifer Categories 661
 Ground Water Quality Standards 661
 Ground Water-Surface Water Interconnection 662
 Interagency Coordination 662
 Import Permits 97
 Contents of a Permit Request 97
 Period of Validity 98
 Telephone Requests 97
 Timeframe for Requesting a Permit 98
 Importation Of Cattle Into Idaho 99
 Approved Slaughter Establishments 99
 Feedlots Approved by the Administrator 99
 Post Entry Inspection 99
 Specifically Approved Livestock Market 99
 Importation Of Domestic Cervidae 105
 Certificate of Veterinary Inspection 105
 Deworming Requirement 105
 Meet Testing Requirements 105
 National CWD Herd Certification Program Participation 105
 P. tenuis Statement 105
 Importation Of Swine 104
 Animals Inspected 104
 Garbage 104
 Slaughter Swine Exceptions 105
 Vaccination 104
 Incorporation By Reference 32, 45, 75, 84, 95, 117, 134, 164, 194, 207, 361, 660, 677
 Incorporation by Reference, IDAPA 02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities 109
 Incorporations By Reference 415
 Availability of Referenced Material 415
 Documents Incorporated by Reference 416
 General 415
 Individuals Subject To A Criminal History & Background Check 292
 Industrial Flares 549
 Ineligible Mines Or Operators 364
 Disturbed Acres Limit 364
 Geothermal 364

- Hardrock Mines 364
 - Off Lease Exploration 364
 - Oil & Gas Conservation 364
 - Oil & Gas Leasing 364
 - Operators Providing Acceptable Financial Assurance 364
 - Other Forfeitures 364
 - Phosphate Mines 364
 - Potential Heavy Metal Releases 364
 - Reclamation Cost Limit 364
 - Reclamation Fund Forfeitures 364
 - Violators 364
 - Infection Control 309
 - Clinical Contact Surfaces 309
 - Disposal 310
 - Gloves 309
 - Instrument Sterilization 309
 - Masks and Eyewear 309
 - Non-Critical Surfaces 309
 - Sterilizing Devices Testing 309
 - Infectious Waste Burning 550
 - Information Orders By The
 - Department 417
 - Persons 417
 - Purpose 417
 - Requirements 417
 - Information To Be Given, Emergency
 - Episode Stages 506
 - Information to Be Given 506
 - Injection Line Check Valve 69
 - A Substitute System 70
 - Injection Line Check Valve 69
 - Insignificant Activities 461
 - Applicability Criteria 461
 - Inspection Fee 504
 - Inspection Frequency 503
 - Inspection of Facilities 223
 - Correction of Non-Core Issues 224
 - Follow-Up Surveys 224
 - Inspection or Survey Services 223
 - Plan of Correction for Core Issues 224
 - Surveys of Facilities 223
 - Unannounced Inspections 223
 - Inspection Port 72
 - Inspection Port 72
 - Inspections 80, 111, 126, 633
 - Advance Notice by Permittee 633
 - Duty to Uncover 633
 - Frequency 126
 - Inspect Facilities 111
 - Inspect Records 111
 - Inspection Methods 126
 - One or More Inspections Required 633
 - Substantiating Receipts & Delivery Slips 633
 - Installation 372
 - Compliance With Permit 372
 - Installation Only After Permit Issued 372
 - Removal of Construction Waste 372
 - Sunset Clause 372
 - Installer's Registration Permit &
 - Service Provider Certification 620
 - Application Fee 622
 - Bond Required 621
 - Contents of Application 621
 - Examination 620
 - Exemption 622
 - Grounds for Revocation 622
 - Permit & Certification Required 620
 - Permits & Certifications Required Annually 620
 - Service Provider Responsibilities 621
 - Transfer from Non-Profit Operation & Maintenance Entity to Certified Service Provider 622
 - Insurance Settlement, Commodities 27
 - Investigation & Recommendation 424
 - Costs 424
 - Disputed Facts 424
 - Efforts 424
 - Other Facts 424
 - Recommendations 425
 - Irrigation Line Check Valve 70
 - Construction 70
 - Labeling of the Check Valve or Valve Assembly 71
 - Location 71
 - Model Certification 71
 - Irrigation Systems 66
 - Domestic Water Supply System Cross-Connected for Chemigation 67
 - Flood, Basin, Furrow, or Border Irrigation 67
 - Sprinkler or Drip Irrigation 66
- J**
- Journeyman Electrician Examination And License 139
 - Examination Requirements 139
 - License Requirements 140
 - Unacceptable Work Experience 140
- K**
- Kraft Pulp Mill LVHC & HVLC Gas Venting Notification & Reporting 581
- L**
- Landfill Disposal Site Fires 549
 - Landscape Impoundment 679
 - Large Soil Absorption System Design & Construction 633
 - Installation Permit Plans 633
 - Large Septic Tanks 635
 - Module Size 633
 - Monitoring & Reporting 635
 - Operation & Maintenance 635
 - Site Investigation 633
 - Standard Large Soil Absorption System Design Specifications 633
 - Legal Authority 32, 44, 75, 84, 109, 117, 134, 164, 206, 318, 360, 393, 613, 640, 657, 676
 - License -- Duration, Bonded Warehouse Rules 28
 - License And Registration
 - Application 139
 - Application Fee 139
 - Application Form 139
 - Examination 139
 - Examination & Licensure Approval 139
 - License 139
 - License or Registration Period 139
 - License Application & Conditions Of Issuance 25
 - License Application 25
 - Modification 25
 - Licensed Professional Applicator 53
 - Licensing 22
 - Bins Labeled 22
 - Insurance Calculations 22
 - Loss of License 22
 - Posting of License 22
 - Return of Suspended or Terminated License 22
 - Sign to be Posted 22
 - Suspension Due to Neglect 22
 - Licensing Periods & Recertification, Pesticide 52
 - Licensing Professional Applicators & Pesticide Dealers 48
 - Licensing Requirements 219
 - Administrator 220
 - Change in Corporate Shares 220
 - Current License 219
 - Display of Facility License 220
 - Distinctive Business Name 219
 - Issuance of License 219
 - Licensee Responsibility 220
 - Licensure History 139
 - Licensure Of Members Of The Military, Veterans, And Spouses 196
 - Licensure in Non-REPLICA Member State 196
 - Licensure in REPLICA Member State 196
 - Licensure Period & Fees 146
 - Licensure Surveys
 - Access & Authority to Entire Facility 223
 - Access to Staff Living Quarters 223
 - Interview Authority 223
 - Written Report of Deficiencies 224
 - Limited Electrical Contractor
 - License 146
 - Modification to Qualifications 146
 - Qualifications for Limited Electrical Contractor 146
 - Limited Experience Requirement 143
 - Limited Electrical Installer 143
 - Limited Electrical Installer Trainee 143
 - Listing Or Delisting Toxic Air Pollutant Increments 544
 - Local Anesthesia 312

- Long-Term Strategy For Regional Haze 557
 Enforceable Emission Limitations 558
 Interstate Consultation 558
 Requirements for Long-Term Strategy 558
 Submittal of Long-Term Strategy 557
 Low-Flying Prohibitions 59
 Low-Flying Prohibitions Restriction 59
 Lump Sum Payments Of Registration Fees 490
 Agreement 490
 Minimum Amount 490
 Payment Waiver 490
- M**
- Management Of Activities With The Potential To Degrade Aquifers 667
 Other Resource Category Aquifers 667
 Sensitive Resource Category Aquifers 667
 Management Plans Adopted By Rulemaking & Review 35
 Adoption Through Rulemaking 35
 PMP Review 35
 Manner & Frequency Of Notification 507
 Master Electrician 140
 Menu & Diet Planning 264
 Facilities Licensed for Seventeen Beds or More 265
 Facilities Licensed for Sixteen Beds or Less 265
 Menu 264
 Snacks 265
 Therapeutic Diets 265
 Mercury Emission Standard For New Or Modified Sources 451
 Applicability 451
 Exemptions 451
 Military, Veteran, And Spouse License Applications 165
 Licensure by Endorsement 165
 Qualifications for Licensure 165
 Records Verification & Affidavits 165
 Mine Panel 362
 Minimum Criteria 353
 Minimum Experience Requirements 143
 Mining 670
 Application of Provisions 673
 Application Process 671
 Change in Point(s) of Compliance/ Ground Water Monitoring 673
 Coordination with Other State or Federal Agencies/Public Notice 673
 Ground Water Monitoring & Reporting 672
 Limitations 673
 Request for Setting Point(s) of Compliance & Standards Applicable to Mining Activities 670
 Setting the Point(s) of Compliance 672
 Minor Permit Modification 482
 Criteria 482
 EPA & Affected State Notification Procedures 483
 Implementation Procedures 484
 Minor Permit Modification Application Procedures 482
 Permit Shield 484
 Modifying Physical Conditions 428
 Monitoring & Testing, Sulfuric Acid Plants 582
 Motor Vehicle Inspection & Maintenance Program 501
 Applicability 501
 Exemptions 502
 Governing Authority 502
 Options 501
 Purpose 501
 Movement Of Dead Animals 87
 Dead Animals Concealed from View 87
 Direct to Destination 87
 Disinfection 87
 Transport of Dead Animals 87
 Vehicles Used for Transporting Dead Animals 87
 Multiple Stacks, Hot-Mix Asphalt Plants 580
 Municipal Recycled Water Access, Exposure & Signage 692
 Class A Recycled Water 692
 Class B Recycled Water 693
 Class C Recycled Water 693
 Class D Recycled Water 693
 Class E Undisinfected Recycled Water 694
 Class A Recycled Water Filtration 696
 Class A Filtration Technology Approval 696
 Filter to Waste Requirement 696
 Classification & Uses Tables 689
 Municipal Recycled Water -- Classification Tables 689
 Municipal Recycled Water - Uses 691
 Classification, Treatment, Use 686
 Class A Recycled Water 686
 Class B Recycled Water 688
 Class C Recycled Water 688
 Class D Recycled Water 689
 Class E Recycled Water 689
 Distribution Pipelines 694
 Additional Distribution System Requirements for Class A Recycled Water 695
 Compliance with Wastewater Rules Required 694
 Lagoons 696
 Class A Recycled Water Lagoons 696
 Requirements for Municipal Recycled Water Lagoons 696
 Preliminary Engineering Reports 694
 Pumping Stations 696
 Additional Pumping Station Requirements for Recycled Water 696
 Pumping Station Requirements 696
 Reliability & Redundancy 696
 Additional Reliability & Redundancy Requirements 697
 Reliability & Redundancy Requirements 696
- N**
- National Emission Standards For Hazardous Air Pollutants 544
 Negotiated Service Agreement 251, 252
 New CLTWF 114
 New Or Modified Beef Cattle Animal Feeding Operations 79
 New Source Performance Standards, Stationary Source 544
 Nitrous Oxide/Oxygen 313
 Patient Safety 313
 Personnel 313
 Required Facilities & Equipment 313
 NMP Violations 125
 No Restriction On Actual Stack Height 501
 Non-Domestic Pesticides 62
 Ester Restriction 62
 Home & Garden Restrictions 62
 Nonmetallic Mineral Processing Plant Fugitive Dust Best Management Practice 574
 Generally Applicable Requirements 575
 Requirements for Crushers & Grinding Mills 578
 Requirements for Paved Public Roadways 575
 Requirements for Stockpiles 579
 Requirements for Transfer Points, Screening Operations, & Stacks & Vents 576
 Requirements for Unpaved Haul Roads 576
 Non-Potable Mains 679
 Non-Potable Services 679
 Non-Potable Water 679
 Nonpreemption Of Other Jurisdictions 548
 Nonresident Tag Restrictions 181
 Nonresident Tag Limitations 181
 Notice 424

- Notice & Record-Keeping Of Estimates Of Ambient Concentrations 432
 Estimates of Ambient Concentrations 432
 Notice 432
 Recordkeeping 432
 Notice Of Hearing 425
 Notice Of Residents' Rights 271
 Inform Residents Orally & in Writing 271
 Posting of Resident Rights 271
 Written Description of Rights 271
 Written Statements 271
 Notification Of Discharge 112, 126
 Notification Of Discharge, Beef Cattle Animal Feeding Operations 78
 Notification To Sources 507
 Notification Within Twenty-Four Hours of Discharge 78
 NPE Contract Claims On The Fund 29
 NPE Clause 29
 NPE Contract Renewal Period 29
 PE Contract List 29
 Numeric Criteria For Toxic Substances For Waters Designated For Aquatic Life, Recreation, Or Domestic Water Supply Use 591
 Applicability 602
 Criteria for Toxic Substances 591
 Development of Toxic Substance Criteria 605
 Factors for Calculating Hardness Dependent Metals Criteria 601
 National Pollutant Discharge Elimination System Permitting 604
 Nutrient Management 79, 113, 124
 Designated Poultry CAFOs 125
 Duty of Operator 113
 Implementation of a Nutrient Management Plan 79
 Implementation of NMP 113
 Land Application 113
 New Beef Cattle Animal Feeding Operations 79
 NMP Approval 125
 NMP Updates or Amendments 125
 Odor 113
 Nutrient Management Plan Retention 79, 125
 Nutrient Management Records 79, 125
 Land Application 79
 Manure Transferred to Another Person 79
 Records Retention 79, 125
 Required Nutrient Management Records 125
- O**
- Obligation To Comply 449
 Relaxation of Standards or Restrictions 449
 Responsibility to Comply With All Requirements 449
- Obligation To Comply, Tier II Operating Permit 495
 Office – Mailing Address - Street Address – Office Hours - Web Address 164
 Office – Office Hours – Mailing Address – Street Address – Internet Website 208
 Office – Office Hours – Mailing Address – Street Address – Web Address 321
 Office – Office Hours – Mailing Address & Street Address 361
 Office Hours – Mailing Address & Street Address 677
 Office Records 24
 Daily Position Record 24
 Electronic Records 25
 Insurance Documentation 24
 Receipts & Tickets 24
 Receipts & Tickets Issued by Warehouseman 24
 Receipts & Tickets Returned & Cancelled 24
 Scale Weight Tickets 24
 Storage Ledger 24
 Official Shooting Hours 185
 Migratory Game Birds & Wild Turkey 185
 Upland Game Birds & American Crow 185
 Official Vaccination 92
 Adult Vaccination 92
 Adult Vaccinations Required 93
 Approval for Adult Vaccination 93
 Calfood Vaccination 92
 Off-Permit Changes & Notice 485
 Criteria 485
 Notice Procedure 485
 Permit Shield Applicability 486
 On-Duty Staff Up & Awake During Residents' Sleeping Hours for Facilities Licensed for Sixteen Requirements For Staffing Standards Beds or More 272
 Operation & Maintenance Manual 680
 Opportunity For Public Hearing 501
 Optional Offsets For Permits To Construct 437
 Optional Participation 365
 Optional Tier I Operating Permit 456
 Orchard Fires 549
 Heating Device Emissions 549
 Heating Device Opacity 549
 Open-Pot Heaters 549
 Orchard Clippings 550
 Orientation Training Requirements 273
 Content for Training 273
 Number of Hours of Training 273
 Timeline for Completion of Training 273
 Other Components 631
 Design Approval Required 631
- Effect of Design Approval 631
 Notice of Design Disapproval 631
 Plan & Specification Submittal 631
- P**
- Particulate Matter -- Existing Equipment Process Weight Limitations 562
 Emission Standards -- Table 562
 General Restrictions 562
 Particulate Matter -- New Equipment Process Weight Limitations 561
 Emission Standards -- Table 562
 Exemption 562
 General Restrictions 561
 Particulate Matter -- Other Processes 563
 Emission Standards -- Table 563
 Other Processes 563
 Particulate Matter -- Process Weight Limitations 561
 Averaging Period 561
 Minimum Allowable Emission 561
 Particulate Matter Emission Limitations 561
 Test Methods & Procedures 561
 Payment 365
 Acreage Calculation 365
 Annual Payments Non-Refundable 365
 Assignment 366
 Board Approved Payment Schedule 365
 Non-Payment Constitutes Lack of Bonding 366
 Supplemental Payments 365
 Payment Of Fees For Permits By Rule Registration 580
 Payment Of Fees For Permits To Construct 455
 Delinquency 455
 Fee Submittal 455
 Payment Of Tier I Registration Fee 489
 Fee Payment Date 489
 Fee Payments Mailing Address 489
 Payment Of Tier II Operating Permit Processing Fee 496
 Delinquency 496
 Fee Submittal 496
 Peak Day Flow 680
 Peak Hour Flow 680
 Permit & Permit Application 617
 Abandonment May Be Required 620
 Application & Permit Valid for One Year 619
 As-Built Plans & Specifications 620
 Basis for Permit Application Denial 619
 Contents of Application 618
 Cottage Site Facility Certification 619
 Exceptions to Permit

- Requirement 618
- Existing Installation Permits 620
- Immediate Effect of the Permit 619
- Issuance of Permit 619
- Notice of Denial 619
- Operation, Maintenance & Monitoring 620
- Permit Application 618
- Permit Fee 620
- Permit Renewal 619
- Permit Required 617
- Permit Application 119, 642
 - Application Fee 644
 - Closure Plan 644
 - Construction Plan 643
 - Construction Plans 119
 - Contents of Application 119, 642
 - Nutrient Management Plan 120, 644
 - Other Information 644
 - Permit Application 642
 - Preapplication Conference 642
 - Relevant Information 642
 - Site Characterization 643
- Permit By Rule 550
 - Forms 550
 - General Requirements 550
- Permit By Rule Requirements, Permit Requirements, Nonmetallic Mineral Processing Plant Not Subject to CFR 60, Subpart 000 573
- Permit By Rule, Dairy Farms 566
 - Exemption 567
 - General Requirement 567
 - Optional Permit by Rule 567
- Permit Conditions 121, 650
 - Begin Construction 651
 - Compliance Required 121, 650
 - Construction & Operation of Facility 650
 - Construction Commencement 122
 - Construction, Operation, & Maintenance of the Facility 121
 - Entry & Access 121, 651
 - Financial Capability 650
 - Information to be Provided 121
 - Permit Renewal 122, 651
 - Provide Information 650
 - Reporting 121, 651
 - Specific Permit Conditions 122
- Permit For Use Of Industrial Recycled Water 699
 - Additional Application
 - Contents 699
 - Permit Content 699
- Permit Modification 122, 652, 699
 - Major Modifications 122, 653, 700
 - Minor Modifications 122, 652, 700
 - Modification of Permits 699
- Permit Required 111
- Permit Requirements 572
 - Permit by Rule 572
 - Permit By Rule Eligibility 572
 - Permit to Construct 572
 - Tier I Operating Permits 572
 - Tier II Operating Permits 573
- Permit Requirements & Application 681
 - Application Contents 681
 - Permit Application Content
 - Exceptions 682
 - Permit Required 681
 - Pre-Application Conference 681
 - Reuse Facility Operation & Maintenance Manual or Plan of Operations 682
- Permit Requirements For New & Modified Stationary Sources 435
 - Emission Standards 435
 - NAAQS 435
 - Toxic Air Pollutants 435
- Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas 436
 - Effect on Visibility 436
 - Exception to Incorporation by Reference of 40 CFR 52.21 437
 - Incorporated Federal Program Requirements 436
 - Nonmajor Requirements 437
- Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas 435
 - Additional Requirements 435
 - Compliance Status 436
 - Effect On Visibility 436
 - LAER 435
 - Required offsets 435
 - Incorporated Federal Program Requirements 435
 - Nonmajor Requirements 436
- Permit Requirements For Tier II Sources 492
 - Emission Standards 492
 - NAAQS 492
- Permit Revocation 702
 - Conditions for Revocation 702
 - Emergency Action 702
 - Notice of Revocation 702
 - Revocation & Closure 702
- Permit To Construct Application
 - Fee 454
 - Exemption Applicability
 - Determinations 454
 - Name or Ownership Change 455
 - Typographical Errors 454
 - Permit To Construct Processing Fee 455
- Permit To Construct Required 432
- Permit Transferable 700
 - Compliance Record of Transferee 701
 - Compliance with Permit Conditions
 - Pending Transfer Approval 701
 - Effective Date of Transfer 701
 - General 700
 - Request for Transfer 700
 - Transferee Liability Prior to Transfer Approval 701
- Permits For Import, Export, Transport, Release, & Sale Of Live Wildlife 187
 - Exemptions for Import, Export, Transport, Possession or Sale 187
 - Exemptions for Unprotected and Predatory Wildlife 187
 - Restriction on Permit Issuance 187
- Pesticide Use & Record Keeping Requirements 41
- Pesticide Use On Seed Crop Fields 63
 - Exemption 64
 - Nonfood & Nonfeed Site Conditions 63
- Pesticide-Fertilizer Mix Restrictions 60
- Petition 424
 - Requested Relief 424
 - Statement of Facts 424
 - Statement of Reasons 424
- Pheasant Tags, Permits, & Validations 184
 - Upland Game Bird Permit 184
 - Youth Pheasant Season 185
- Phenoxy Herbicide Restrictions 62
 - Airflow & Temperature Inversion Indicators 63
 - Hazard Area 63
 - High Volatile Ester Restrictions 62
 - Low Volatile Ester Restrictions 63
 - Other Spraying Equipment 63
- Plan of Operation 680
- Policies 658
 - Categorization of Ground Water 658
 - Existing & Projected Future Beneficial Uses 658
 - Ground Water Quality Protection 658
 - Ground Water Quality Standards 658
 - Mining 658
 - Prevention of Ground Water Contamination 658
- Policies & Procedures 225
- Polychlorinated Biphenyls (PCBS) 428
 - Prohibition on Burning 428
 - Prohibition on Sales 428
- Potable Water 680
- Poultry Hatching Eggs 106
 - Negative Birds 106
 - NPIP Flock 106
- Preparation Of Draft Permit Or Draft Denial 476
- Preparation Of Proposed Permit Or Proposed Denial 477
 - Availability 477
 - Notice to Affected States 477
 - Timeline 477
- Pre-Permit Construction 449
 - Permit to Construct Procedures for Pre-Permit Construction 450

- Pre-Permit Construction
 - Eligibility 449
 - Prescribed Burning 550
 - Burning Permits or Prescribed Fire Plans 550
 - Rights-of-Way Fires 550
 - Smoke Management Programs for Prescribed Burning 550
 - Prevention Of Significant Deterioration (PSD) Increments 523
 - Exceedances 523
 - Exclusions 523
 - Incorporated Federal Program
 - Requirements - Class I, II and III Areas 523
 - Private Applicator Licensing 47
 - Applying for a Private Applicator's License 47
 - License Categories 47
 - License Recertification 47
 - Procedure After Claim Approval 381
 - Certification of Completed Property Tax Reduction Roll by County Auditor 383
 - Certification of Electronic Property Tax Reduction Roll by County Assessor 381
 - Final Property Tax Reduction Roll 381
 - Final Supplemental Occupancy Tax Reduction Roll 383
 - Formatting Requirements 381
 - Occupancy Tax Reduction Claims 383
 - Preliminary Property Tax Reduction Roll 381
 - Preliminary Supplemental Occupancy Tax Reduction Roll 383
 - Procedure For Issuing Permits 438
 - Additional Procedures for Specified Sources 438
 - Establishing a Good Engineering Stack Height 439
 - General Procedures 438
 - Permit to Construct Procedures for Tier I Sources 439
 - Revisions of Permits to Construct 439
 - Transfer of Permits to Construct 441
 - Procedure For Issuing Permits, Tier II Operating Permit 492
 - Availability of Fluid Models & Field Studies 493
 - General Procedures 492
 - Permit Revision or Renewal 493
 - Specific Procedures 493
 - Transfer of Tier II Permit 494
 - Procedures & Requirements For Permits Establishing A Facility Emissions Cap 428
 - Procedures & Requirements For Permits To Construct 432
 - Procedures & Requirements For Tier I Operating Permits 456
 - Procedures & Requirements For Tier II Operating Permits 490
 - Procedures For Categorizing Or Recategorizing An Aquifer 667
 - Criteria for Aquifer Categories 667
 - Petition Process 668
 - Preliminary Department Review 669
 - Procedures For Issuing Permits Establishing A Facility Emissions Cap
 - FEC Termination 431
 - General Procedures 430
 - Renewal 430
 - Reopening the FEC 431
 - Procedures For Review & Decision Upon An Application For A Reclamation Plan Or Permanent Closure Plan 334
 - Agency Notification & Comments 334
 - Decision on Cyanidation Facility Permanent Closure Plans 335
 - Decision on Reclamation Plans 334
 - Monitoring Data 335
 - Return of Application 334
 - Procedures For Review & Decision Upon An Application To Perform Surface Mining, Reclamation, & Ore Processing Using Cyanide
 - Appeal of Final Order 336
 - Denial of an Application 336
 - Permanent Closure Plan Approval 335
 - Public Hearing 336
 - Referral to Board 336
 - Processing Of Applications For Single-Family & Two-Family Navigational Encroachments Within Line Of Navigability 370
 - Decision Following a Hearing 371
 - Disposition Without Hearing 371
 - Hearings 371
 - Judicial Review 371
 - Notification of Adjacent Littoral Owners 371
 - Single-Family & Two-Family Navigational Encroachments 370
 - Unusual Circumstances 371
 - Written Objections 371
 - Prohibited Discharges 78, 126
 - Proof Of Hardship 425
 - Provisions Governing Specific Activities & Conditions 428
 - Psittacine Birds 106
 - Public & Confidential Information 357
 - BMPs 357
 - Information Subject to Disclosure 357
 - Use by Board 357
 - Public Consultation Procedures, Proactive Public Involvement In
 - Transportation Plans & TIPs 519
 - Public Hearing 338
 - Call for a Hearing 338
 - Consideration of Hearing Record 339
 - Consolidation 338
 - Hearing Officer 339
 - Location 338
 - Notice of Hearing 338
 - Publication of Notice 338
 - Public Notices, Comments & Hearings 476
 - Content of the Notice 476
 - Generally 476
 - Giving Notice 476
 - Public Comment Package 476
 - Public Comment Procedures 477
 - Public Notification 553
 - Designation of Burn Days 553
 - E-Mail Update Service 554
 - Posting on Website 553
 - Public Notification, Air Quality 506
 - Public Outreach 504
 - Public Records Act Compliance 33, 45, 84, 164, 361
- Q**
- Qualifications For Licensure By Endorsement -- Members Of The Military, Veterans, And Spouses 197
 - Authorization for Release of Information 197
 - Criminal History & Background Check 197
 - Declaration of Previous Applications & Licensures 197
 - Graduation Required 197
 - License from Another Jurisdiction 197
 - Licensing Examination 197
 - Military, Veteran, or Spouse 197
 - Provide Current Affiliation with EMS Agency 197
 - Submit Required Licensure Fee 197
 - Valid Identification 197
 - Qualified Journeyman Electricians 143
- R**
- Reasonable Progress Goals 557
 - Justification for Reasonable Progress Goals 557
 - Process for Setting Reasonable Progress Goals 557
 - Receipt & Usage Of Fees 455, 580
 - Receipt & Usage Of Fees, Tier II Operating Permit Processing Fee 496
 - Receipting
 - Agreements 23
 - Change in Provider 23
 - Electronic Warehouse Receipts 23
 - Every Warehouseman 22
 - Form of Nonnegotiable Warehouse

- Receipts 22
 - Lost Negotiable Warehouse Receipt 23
- Recognition Of EMS Personnel
 - Licensure Interstate Compact (REPLICA) 196
 - Licensed EMS Personnel from a REPLICA Member State 196
- Recognition Of EMS Personnel
 - Licensure Interstate Compact Agreement (REPLICA) Out-of-State Primary Affiliation 196
- Recordkeeping & Payment Schedule 29
 - Notice 29
 - Payment Due Dates 29
 - Permanent Record 29
- Records Requirements 56
 - Applicator Records 56
 - Pesticide Dealer Records 57
 - Record Contents 56, 57
- Recovery Furnace TRS Monitoring & Recordkeeping 581
- Recovery Furnace TRS Standard 581
- Recreational & Warming Fires 549
- Recycled Water 680
- Redredging 369
- Referenced Materials 677
 - Administrative Rules of the Department of Environmental Quality 677
 - AWWA Manual M24 678
 - Idaho Guidance for Recycled Water 677
 - Idaho Standards for Public Works Construction 678
 - Recommended Standards for Wastewater Facilities 678
 - Treatment Technology Report for Recycled Water 677
- Regional Haze Rules 557
- Registration & Licensing Requirements
 - For Use Of The LPC 53
 - Registration 53
 - Use of the LPC (Compound 1080) 54
- Registration & Registration Fees 487
 - Registration Fee 489
 - Fee-for-Service 488
 - Radionuclide Registration Fee 489
 - Tier I Annual Fee 488
- Registration Fee For Permit By Rule 580
- Registration For Permit By Rule 551
 - Applicant Information 551
 - Date of Burning 551
 - Location of Property 551
 - Plot Plan 551
 - Preventive Measures 551
 - Type, Acreage & Fuel Characteristics of Crop Residue Proposed to be Burned 551
- Registration For Permit By Rule,
 - Nonmetallic Mineral Processing Plant 573
 - Registration Information 573
 - Registration Process 573
 - Registration for Permit by Rule, Sections 760 Through 764 567
 - Exemption from Registration Fee 567
 - Inspection 567
 - Registration Due Date 567
 - Registration Information 567
 - Registration Process 567
 - Registration Information 487
 - Facility Emission Units 487
 - Facility Information 487
 - Owner/Operator Information 487
 - Pollutant Registration 487
 - Radionuclide Registration 487
- Registration Procedures & Requirements For Portable Equipment 498
 - Compliance With Rules & Regulations 498
 - Registration Requirements 498
- Registration, Recordkeeping, & Reporting Requirements 546
 - Recordkeeping Requirements 546
 - Registration 546
 - Reporting Requirements 547
- Reinstatement Of A Lapsed EMS Personnel License 197
 - Authorization for Release of Information 198
 - Competency Certification 198
 - Criminal History & Background Check for Reinstatement of Lapsed License 198
 - Declaration of Previous Applications & Licensures 197
 - Documentation of Continuing Education for Lapsed License Reinstatement 198
 - Expiration Date of a Reinstated License 199
 - Provide Current Affiliation with EMS Agency 198
 - Submit Required Licensure Fee for Reinstatement 199
 - Valid Identification for Reinstatement of Lapsed License 198
- Renewal Of Permit 112
- Reopening For Cause 486
 - Criteria 486
 - Procedures for Reopenings 486
- Repealing Specific Pesticide Areas 39
 - Repealing an Area of Pesticide Concern 39
 - Repealing an Area of Pesticide Restriction 40
 - Repealing an Area of Pesticide Use Prohibition 40
- Required Participants 363
- Required Standard Application Form & Required Information 458
 - Additional Information 461
 - Alternative Operating Scenarios 459
 - Applicable Requirements 459
 - Compliance Certifications 459
 - Compliance Plans 460
 - Emissions 458
 - General Information for the Facility 458
 - General Requirements 458
 - Other Requirements 459
 - Proposed Determinations of Nonapplicability 459
 - Specific Information for Each Emissions Unit 458
 - Trading Scenarios 460
- Requirement For BLS 308
- Requirement To Obtain Tier I Operating Permit 456
 - Exceptions 456
 - Prohibition 456
- Requirements 501
- Requirements For A Facility Administrator 233
 - Ability to Reach Administrator or Designee 234
 - Administrator Notification 233
 - Administrator Responsibility 233
 - Administrator's Designee 234
 - Availability of Administrator 233
 - Corrective Action 234
 - Identify & Monitor Patterns 234
 - Investigation within Thirty Days 234
 - Lapse of Administrator 233
 - Minimum Age of Personnel 234
 - Notification of Adult Protection & Law Enforcement 233
 - Notification of Licensing Agency within One Business Day 234
 - Notification to Licensing Agency 234
 - Procedures for Investigations 233
 - Representation of Residents 233
 - Resident Protection 234
 - Responsibility for Acceptable Admissions 233
 - Sexual Offender 233
 - Written Response to Complaint within Thirty Days 234
- Requirements For Additional Physical Standards 245
 - Fire District 245
 - Medical Accessibility 245
 - Roads 245
- Requirements For Admission Agreements 237
 - Advance Directive 239
 - Billing Practices, Notices, & Procedures for Payments & Refunds 238
 - Contested Charges 239
 - Emergency Transfers 238
 - Initial Resident Assessment & Care

- Plan 237
- Medication Responsibilities 238
- Notification of Liability Insurance Coverage 238
- Notification of Payee Requirements 239
- Resident Belongings Responsibility 238
- Resident Permission to Transfer Information 239
- Resident Personal Fund Responsibilities 238
- Resident Responsibilities 239
- Restrictions on Choice of Care or Service Providers 239
- Smoking Policy 239
- Staffing 238
- Transition to Publicly-Funded Program 239
- Written Agreement 237
- Requirements For Admission Agreements For Private-Pay Residents
- Services, Supports, & Rates 237
- Requirements For Alternative Emission Limits (Bubbles) 496
 - Actual Emissions 496
 - Actual HAP/TAP Emissions 496
 - Applicable Requirement Prohibition 496
 - Compliance Schedule Extension 497
 - Emission Reductions 496
 - EPA Approval 497
 - Fugitive Dust Trades 496
 - Trade Requirements 496
- Requirements For Banking Emission Reduction Credits (ERC's) 497
- Requirements For Banking Emission Reduction Credits (ERC's) Adjustment by Department 498
- Application to Bank an ERC 497
- Banking Period 498
- Certificate of Ownership 498
- Proportional Discounts 498
- Public Registry 498
- Transfer of Ownership 498
- Requirements For Building Construction & Physical Standards 241
 - Approval 242
 - Call System 244
 - Construction Changes 241
 - Dietary Standards 244
 - Dining, Recreation, Shower, Bathing & Living Space 243
 - HVAC, Heating, Ventilation, & Air-Conditioning 243
 - Lighting 243
 - Plans & Specifications 241
 - Plumbing 243
 - Resident Sleeping Rooms 243
 - Secure Environment 244
 - Toilet & Bathrooms 242
 - Ventilation 243
 - Walls & Floor Surfaces 242
- Requirements For Emergency Actions And Fire Drills 261
 - Emergency Action Plan 262
 - Fire Drills 261
 - Fire Watch 262
 - Report of Fire 262
- Requirements For Emission Reduction Credit 437, 497
 - Allowable Emissions 497
 - Emission Rate Calculation 497
 - Imposed Reductions 497
 - Mobile Sources 497
 - Permit Issuance 497
 - Timing of Emission Reduction 497
- Requirements For Environmental Sanitation 245
 - Garbage & Refuse Disposal 245
 - Housekeeping Services & Maintenance Services 246
 - Insect & Rodent Control 246
 - Linen & Laundry Facilities & Services 246
 - Sewage Disposal 245
 - Toxic Chemicals 246
 - Water Supply 245
- Requirements For Facility Records 252
 - Additional Resident Records 254
 - Admission Records 253
 - As Worked Schedules 256
 - Behavior Documentation 254
 - Dietary Records 255
 - Discharge Records 254
 - Electronic Records 252
 - Fire & Life Safety Records 256
 - Hourly Adult Care Documentation 255
 - Paper Records 252
 - Personnel Records 255
 - Record Confidentiality 252
 - Records for Water Supply 255
 - Resident Admission & Discharge Register 255
 - Residential Care Records 253
- Requirements For Fire And Life Safety Standards 258
- Requirements For Food & Nutritional Care Services 264
- Requirements For Furnishings, Equipment, Supplies, & Basic Services 263
 - Basic Services 263
 - Basic Supplies 264
 - Common Shared Furnishings 263
 - Personal Supplies 264
 - Resident Bed 263
 - Resident Sleeping Room Furnishings 263
 - Resident Supplies & Furnishings 264
 - Resident Telephone Privacy 263
- Requirements For Infection Control 256
 - Reporting of Individual with an Infectious Disease 257
 - Staff with an Infectious Disease 256
 - Standard Precautions 256
- Requirements For Licensing Authorized Emissions Technicians 503
 - Applications for License 503
 - Requirements for Issuance of an Emissions Technician License 503
 - Revocation of Emissions Technician License 503
- Requirements For Licensing Authorized Inspection Stations Or Retest Stations 502
 - Applications for License 502
 - Approval Procedure 503
 - General 502
 - Requirements for Licensed Inspection Stations 502
 - Requirements for Licensed Retest Stations 503
 - Revocation of Inspection Station or Retest Station License 503
- Requirements For Licensure 308
- Requirements For Medication 248
 - Controlled Substances 249
 - Discontinued & Expired Prescriptions 249
 - Medication Distribution System 248
 - Psychotropic or Behavior Modifying Medication 249
- Requirements For Nursing Services 247
 - Licensed Nurse 247
 - Licensed Professional Nurse (RN) 247
- Requirements For Residents' Rights 267
- Requirements For Residents' Rights Access & Visitation Rights 269
 - Access by Advocates & Representatives 270
 - Access by Protection & Advocacy System 271
 - Access by the Long Term Care Ombudsman 271
 - Advanced Directives 271
 - Citizenship Rights 271
 - Confidentiality 269
 - Control & Receipt of Health-Related Services 269
 - Employment 269
 - Examination of Survey Results 270
 - Fee Changes 271
 - Freedom from Abuse, Neglect, & Restraints 269
 - Freedom of Religion 269
 - Grievances 270
 - Humane Care & Environment 268
 - Management of Personal Funds 269
 - Participation in Other Activities 270
 - Participation in Resident & Family

- Groups 270
 - Personal Funds 268
 - Personal Possessions 268
 - Privacy 268
 - Resident Records 267
 - Transfer or Discharge 271
 - Requirements For Staffing Standards 272
 - Detached Buildings or Units 272
 - Personal Management 272
 - Sufficient Personnel 272
 - Requirements For Termination Of Admission Agreement 239
 - Conditions For Termination of the Admission Agreement 239
 - Facility Responsibility During Resident Discharge 240
 - Receipt of Appeal 240
 - Resident's Appeal of Involuntary Discharge 240
 - Written Notice of Discharge 240
 - Requirements For The Licensed Professional Nurse Responsibility Requirements
 - Resident Health Status 247
 - Requirements For The Licensed Professional Nursing Assessment 247
 - Current Medication Orders & Treatment Orders 247
 - Progress of Previous Recommendations 247
 - Recommendations 247
 - Resident & Facility Staff Education 248
 - Resident Medications & Therapies 247
 - Self-Administered Medication 248
 - Requirements For Training Of Facility Personnel 272
 - Requirements For Water Quality Protection 648
 - Animal Waste Management System Design Criteria 648
 - Discharges 648
 - Spill Contingency Plan 649
 - Stockpile Areas 649
 - Water Quality Monitoring 648
 - Requirements To Protect Residents From Abuse 266
 - Requirements To Protect Residents From Exploitation 267
 - Requirements To Protect Residents From Inadequate Care 267
 - Requirements To Protect Residents From Neglect 267
 - Research 41
 - Residential Solid Waste Disposal Fires 549
 - Fires Allowed 549
 - Fires Exempt 549
 - Resolving Conflicts 519
 - Conflict Resolution at the Level of IDEQ & ITD Headquarters 519
 - Conflict Resolution at the Level of IDEQ Regions & ITD Districts 519
 - Process for Conflict Resolution at the Governors Level 519
 - Response To A Pesticide Detection 36
 - Level Four Response 38
 - Level One Response 36
 - Level Three Response 37
 - Level Two Response 37
 - Mixing & Loading Prohibited 38
 - Prohibition Areas 38
 - Restrictions To Protect Pollinators 61
 - Bee Restrictions 61
 - Green Pea Exception 61
 - Other Exceptions 61
 - Reuse Facilities
 - Buffer Distances
 - Buffer Distance
 - Considerations 694
 - Determining Buffer Distances 694
 - Reuse Facilities - Buffer Distances 694
 - Reuse Facility
 - Plan & Specification Review 694
 - Rapid Infiltration System 697
 - Design & Construction 697
 - Discharge Requirements 698
 - Reuse Facility or Facility 680
 - Revisions To Permits Establishing A Facility Emissions Cap 431
 - Criteria 431
 - Permit Revision Application Procedures 431
 - Permit Revisions 431
 - Revocation Of Permit 112
 - Rules For Control Of Fluoride Emissions 565
 - Rules For Control Of Fugitive Dust 556
 - Rules For Control Of Hot-Mix Asphalt Plants 580
 - Rules For Control Of Incinerators 570
 - Rules For Control Of Kraft Pulp Mills 580
 - Rules For Control Of Odors 570
 - Rules For Control Of Open Burning 548
 - Rules For Control Of Rendering Plants 581
 - Rules For Control Of Sulfur Oxide Emissions From Sulfuric Acid Plants 581
 - Rules For Sulfur Content Of Fuels 564
 - Alternative 565
 - ASTM 564
 - ASTM Grade 2 565
 - Coal 565
 - Definitions 564
 - Distillate Fuel Oil 564
 - Residual Fuel Oil 564
 - Residual Fuel Oils 564
 - Rules For The Control Of Ammonia From Dairy Farms 566
 - Rules For The Control Of Nonmetallic Mineral Processing Plants 571
- S**
- Section 502(B)(10) Changes & Certain Emission Trades 484
 - Criteria 484
 - Notice Procedures 484
 - Permit Shield 485
 - Septic Tanks Design & Construction Standards 622
 - Concrete Septic Tanks 622
 - Construction Requirements 622
 - Effluent Pipe Separation Distances 627
 - Horizontal Dimension Limit 623
 - Inlet & Outlet Piping 627
 - Inlets 625
 - Inspection Ports 626
 - Installation of Manufactured Tanks 627
 - Liquid Depth 623
 - Manhole Extension 627
 - Manholes 626
 - Manufactured Tank Markings 623
 - Materials 622
 - Minimum Separation Distances
 - Between Septic Tanks and Features of Concern 626
 - Minimum Tank Capacities 623
 - Multiple Tank or Compartment Capacity 626
 - Outlets 625
 - Scum Storage 626
 - Sectional Tanks 627
 - Septic Tank Abandonment 627
 - Split Flows 626
 - Total Volume 625
 - Significant Permit Modification 481
 - Criteria 481
 - Implementation Procedures 482
 - Permit Shield 482
 - Significant Permit Modification Application Procedures 481
 - Significant Permit Modification Application Procedures 481
 - Site-specific Aquatic Criteria For Selenium
 - Subsection of Salt Subbasin — Crow Creek 608
 - Site-specific Aquatic Life Criteria For Selenium 605
 - Portions of Idaho 608
 - Subsection of Bear Lake Subbasin 606
 - Subsection of Blackfoot Subbasin 606
 - Subsection of Salt Subbasin — Sage Creek 607
 - Smoking Requirements
 - Designated Smoking Areas 232
 - Smoking Requirements 232
 - Combustible Supplies & Flammable Items 232

- Smoking in Bed 232
- Unsupervised Smoking 232
- Source Density 428
- Specific Emergency Episode Abatement
 - Plans For Point Sources 508
- Specific Permit Conditions 651, 685
 - Basis for Specific Permit Conditions 651, 685
 - Compliance Schedules 652, 686
 - Duration of Permit 686
 - Limitations to Operation 652, 686
 - Monitoring Requirements 652, 686
- Spot Burn, Baled Agricultural Residue Burn, & Propane Flaming Permits 554
 - Applicability 554
 - General Provisions 554
 - Propane Flaming Permit 554
 - Recordkeeping 554
 - Spot & Baled Agricultural Residue Burn Permit 554
- Stack Heights & Dispersion Techniques 498
- Stack Monitoring Requirements 584
 - Measurement Systems 584
 - Record-Keeping and Reporting Requirements 584
- Staff Training Requirements 228
 - Behavior Management for Residents 229
 - Facility Operations, Inspections, Maintenance, and Testing 229
 - Hazardous Materials 229
 - Intervention Procedures to Ensure Safety of Residents and Staff 229
 - Mechanical Equipment 229
 - Response of Staff to Accidents, Incidents, or Allegations of Abuse, Neglect, or Exploitation of Residents 228
- Stage 1 Vapor Collection 544
- Stages, Atmospheric Stagnation/ Degraded Air Quality 504
 - Stage 1 - Air Pollution Forecast & Caution 504
 - Stage 2 - Alert 504
 - Stage 3 - Warning 504
 - Stage 4 - Emergency 505
- Standard Contents Of Permits
 - Establishing A Facility Emissions Cap 430
 - Duration 430
 - Emission Limitations & Standards 430
 - Monitoring 430
 - Recordkeeping 430
 - Reporting 430
- Standard Contents Of Tier I Operating Permits 468
 - Alternative Operating Scenarios 469
 - Authority for & Form of Terms & Conditions 468
 - Compliance Schedule & Progress Reports 470
 - Emission Limitations & Standards 468
 - General Requirements 472
 - Monitoring 469
 - Other Specific Requirements 472
 - Periodic Compliance Certifications 471
 - Permit Conditions Regarding Acid Rain Allowances 471
 - Permit Duration 472
 - Recordkeeping 469
 - Reporting 470
 - Terms or Conditions for Applicable Requirements 468
 - Testing 470
 - Trading Scenarios 469
- Standard Permit Applications 456
- Standard Permit Conditions 684
 - Compliance Required 684
 - Compliance with Ground Water Quality Rule 685
 - Entry & Access 684
 - Minimize Impacts 685
 - Operation of Facilities 684
 - Provide Information 684
 - Renewal Responsibilities 684
 - Reporting 684
- Standard Processing Of Tier I Operating Permit Applications 475
- Standard Subsurface Disposal Facility
 - Design & Construction 627
 - Aggregate 630
 - Excavation 630
 - Failing Subsurface Disposal System 631
 - Impermeable Surface Barrier 630
 - Seepage Pit 631
 - Site Suitability 627
 - Soil Barrier 630
 - Standard Absorption Bed 630
 - Standard Drainfield 627
 - Standard Subsurface Disposal Facility Specifications 629
 - Subsurface Disposal Facility Sizing 629
 - Wastewater Distribution 630
- Standards For Minor & Existing Sources, Fuel Burning Equipment -- Particulate Matter 560
- Standards For New Sources, Fuel Burning Equipment -- Particulate Matter 560
- Standards Of Performance For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification On Or After May 30, 1991 584
 - Applicability 584
 - Definitions, Section 859 585
 - General Requirements 585
 - Permitting Requirements, Owners/ Operators of Landfills 585
 - Reporting Requirements 586
 - Startup, Shutdown & Scheduled Maintenance Requirements 419
 - Amendments to Procedures 421
 - Excess Emissions Procedures 420
 - Filing of Excess Emissions Procedures 421
 - General Provisions 419
 - Startup, Shutdown, Scheduled Maintenance, Safety Measures, Upset & Breakdown 418
 - Statement 424
 - Storage Of Pesticide Containers 61
 - Disposal 62
 - Exceptions 62
 - Protecting Humans & Environment 61
 - Storage by Professional Applicators or Pesticide Dealers 61
 - Submerged Fill Requirements 545
 - Installed After November 9, 2006 545
 - Installed On or Before November 9, 2006 545
 - Substances Entering Wastewater Storage & Containment Facilities 113
 - Subsurface Distribution Of Recycled Water 698
 - Design & Construction 698
 - Discharge Limitations 698
 - Subsurface Use of Recycled Water 698
 - Subsurface Distribution System 681
 - Summary Suspension 283

T

 - Tampering 418
 - Technical Memorandums For Tier I Operating Permits 476
 - Memorandum for Draft Permit 476
 - Release of Memorandum 476
 - Revised Memorandum for Proposed Permit 476
 - Temporary Cessation Of Operations & Closure 701
 - Closure 701
 - Temporary Cessation 701
 - Temporary Installations Connected Prior To Inspection 135
 - Termination Of A Plan 356
 - Terminate a Permanent Closure Plan 356
 - Terminate Upon Request of the Operator 356
 - Test Eligible Cattle 100
 - All Test Eligible Cattle Entering Idaho 100
 - Unvaccinated or Vaccinated With Brucella Abortus Strain RB 51 Vaccine 100
 - Test Eligible Cattle & Domestic Bison In An Eradication Area 93
 - Unvaccinated or Vaccinated with Brucella Abortus Strain RB 51 Vaccine 93

- Test Methods & Procedures 426
 General Requirements 426
 Observation of Tests by Department Staff 427
 Reporting Requirements 427
 Test Requirements 426
 Test Results Review Criteria 427
 Test Methods & Procedures, Fuel Burning Equipment -- Particulate Matter 561
 Test Procedure Requirements 503
 Test Standards 503
 Testing & Monitoring Requirements 545
 Alternative Testing 546
 Testing 545
 Testing Requirements 105
 Brucellosis 106
 Exceptions 106
 Red Deer Genetic Factor 106
 Tuberculosis 106
 Tier I Operating Permit Content 468
 Tier I Operating Permit Renewal 479
 Expiration & Renewal Application Shield 479
 Renewal Procedures 479
 Tier I Operating Permits For Tier I Portable Sources 475
 Contents of Tier I Operating Permits for Portable Tier I Sources 475
 Issuance of Tier I Operating Permits for Portable Tier I Sources 475
 Phase II Sources 475
 Tier II Operating Permit 490
 Multiple Tier II Operating Permits 491
 Optional Tier II Operating Permits 490
 Required Tier II Operating Permits 490
 Tier II Operating Permits Establishing a Facility Emissions Cap 491
 Tier II Operating Permits Required by the Department 491
 Tier II Operating Permit Processing Fee 495
 Tier II Operating Permit Processing Fee 495
 Tier II Operating Permit Processing Fee Not Required 495
 Time Frame For Personnel Licensure After Successful Completion Of Education Course 196
 Complete Standardized Examination 196
 Standardized Examination Not Completed 196
 Time Frame For Submitting Application & Fingerprints 300
 Availability to Provide Services 300
 Incomplete Application 301
 No Extension of Time Frame 301
 Unavailability to Provide Services 301
 Time Sensitive Emergency Certification 194
 Timely Application 457
 Changes to Tier I Operating Permits 458
 Earlier Dates During Initial Period 457
 Original Tier I Operating Permits 457
 Renewals of Tier I Operating Permits 457
 Title & Scope 32, 44, 75, 84, 109, 117, 307, 318, 360, 393, 640, 657, 677
 Applicability 319
 Title And Scope 134, 164
 Title, Scope & Policy 297
 Title, Scope, & Exceptions 202
 Title, Scope, & Responsibilities 206
 Title, Scope, Conflict & Responsibilities 613
 Conflict of Rules, Standards, & Ordinances 613
 Responsibilities 613
 Scope 613
 Title 613
 Total Compliance 426
 Toxic Air Pollutants Carcinogenic Increments 541
 Toxic Air Pollutants Non-Carcinogenic Increments 523
 Training Fires 549
 Training Requirements For Facilities Admitting Residents With Diagnosis Of Dementia, Mental Illness, Developmental Disability, Or Traumatic Brain Injury (TBI) 273
 Dementia 274
 Developmental Disability 274
 Mental Illness 274
 Traumatic Brain Injury 275
 Transfer Of Approved Plans 349
 Permanent Closure Plans 349
 Reclamation Plans 349
 Transfer Of Permits 123, 653
 Permit Obligations 653
 Transfer Application 123, 653
 Transfer Application Review 123
 Transfer Approval 653
 Transfer Denial 653
 Transportation Conformity 509
 Truth, Accuracy & Completeness Of Documents 418
 Tuberculosis Test Requirements 101
 Rodeo Stock 102
 Tuberculosis Accredited Free Herd 101
 Tuberculosis Accredited Free State or Zone 101
 Tuberculosis Accredited Preparatory State or Zone 102
 Tuberculosis Modified Accredited Advanced State or Zone 101
 Tuberculosis Modified Accredited State or Zone 102
 Tuberculosis Non-Accredited State or Zone 102
- U**
- Unauthorized Discharges 112
 Unprofessional Conduct 313
 Abandonment of Patients 314
 Advertising 316
 Altering Records 314
 Compliance with Dental Hygienist Professional Standards 315
 Compliance with Dentist Professional Standards 315
 Consent 315
 Delegating Duties 315
 Discipline in Other States 314
 Disclosure 315
 Dividing Fees 314
 Exploiting Patients 315
 Failure to Cooperate with Authorities 315
 Failure to Provide Records to a Patient or Patient's Legal Guardian 315
 Fraud 314
 Harassment 314
 Legal Compliance 315
 Mental or Physical Condition 314
 Misrepresentation 315
 Office Conditions 314
 Patient Management 315
 Prescription Drugs 314
 Scope of Practice 315
 Sexual Misconduct 315
 Supervision 315
 Unauthorized Treatment 315
 Unlawful Practice 314
 Unlicensed Practice 314
 Use of Intoxicants 314
 Unusable Pesticides Collection & Disposal 64
 Updating Criminal History & Background Checks 303
 Department Discretion 304
 Employer Discretion 304
 New Criminal History & Background Check 304
 Use of Criminal History Check Within Three Years of Completion 304
 Upland Game Bird Methods Of Take 185
 Upland Game Birds 185
 Wild Turkey 185
 Upset, Breakdown & Safety Requirements 421
 Amendments to Procedures 423
 Discretionary Reduction or Cessation Provisions 422
 Excess Emissions Minimization & Notification 421
 Excess Emissions Procedures 422
 Filing of Excess Emissions

- Procedures 423
- Routine Maintenance & Repairs 421
- V**
- Vacuum Relief Valve Or Combination
 - Air & Vacuum Relief Valve 71
 - Location 71
 - Orifice Size 71
- Vapor Balance Requirements 545
 - Inspection 545
 - Loading 545
 - Maintenance 545
 - Repair 545
- Variances 72, 219, 631
 - Continuing Temporary Variance 219
 - Decision to Grant a Variance 219
 - Investigation & Decision 632
 - Limitations on Decision 632
 - Objections to Petition 632
 - Petition for Variance 632
 - Public Notice 632
 - Revocation of Variance 219
 - Technical Allowance 631
 - Temporary Variance 219
 - Written Request 219
- Venturi 46
- Vesicular Stomatitis 98
 - Certificate of Inspection 98
 - Permit for Entry 98
- Violations 127, 653, 702
 - Discharge 127
 - Discharges 653
 - Failure to Comply 127, 653
 - Falsification of Statements & Records 127, 653
 - Penalties 653
 - Permit Revocation 653
- Violations & Penalties 633
 - Failure to Comply 633
 - System Operation 633
 - Violation a Misdemeanor 633
- Visible Emissions 555
 - Applicability 555
 - Exception 555
 - Exemptions 555
 - Standards for Exempted Sources 555
 - Test Methods & Procedures 555
- W**
- Waivers 504, 702
 - Financial Hardship 504
 - Public Service Vehicles Operating Less than 1,000 Miles Per Year 504
- Warehouseman Responsibilities 26
 - Rights & Duties of Warehouse Licensees -- Unlawful Practices 26
 - Warehouse Receipts -- Quality 26
- Warehouses To Be Kept Clean 25
- Waste Storage & Containment Facilities 124
 - Additional Ground Water Protection Requirements 124
 - All Substances Entering Wastewater Storage & Containment Facilities 124
 - Waste & Wastewater System Maintenance 124
 - Waste Storage 124
 - Wastewater Storage & Containment Facilities 124
- Wastewater Flows From Various Establishments in Gallons Per Day, Septic Tanks Design & Construction Standards 623
- Wastewater Storage & Containment Facilities 78, 113
 - All Substances Entering Wastewater Storage & Containment Facilities 79
 - Process Wastewater 113
 - Rainfall 113
 - Wastewater Storage & Containment Facilities 78
 - Winter Precipitation 113
- Water Pollution 681
- Weed Control Fires 549
- When Permits Are Required For
 - Cattle 99
 - Beef Bulls 99
 - Canadian Cattle & Canadian Domestic Bison 99
 - Dairy 99
 - Domestic Bison 99
 - Female Beef Cattle 99
 - Other 100
 - Restricted Areas 99
- Wild Turkey Tags, Stamps, Permits, & Validations 183
 - Controlled Hunts 183
 - Landowner Permission Tags 184
 - Tag Designation 184
 - Tag Validation 184
 - Tags 183
 - Youth General Hunts 183
- Wind Velocity Restrictions 59
 - Approval for Use of Other Application 59
 - Chemigation Wind Speed Precautions 60
 - Exceptions 59
 - Restrictions 59
- Written Interpretations 32, 44, 75, 84, 109, 117, 164, 207, 360, 393, 640, 658, 677
- Written Notification 112
 - Dates & Time 113
 - Description of the Discharge 112
 - Flow Rate 112
 - Steps Taken 113
- Written Notification Within Five Days, Notification of Discharge 78