

IDAHO ADMINISTRATIVE BULLETIN

January 1, 2020 – Vol. 20-1

Office of the Governor
Division of Financial Management
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IDAHO ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

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

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

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

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

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

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a “Notice of Intent to Promulgate - Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a “Notice of Rulemaking - Proposed Rule” in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) conferring a benefit.

If a rulemaking meets one or more of these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

4. PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule. When a pending rule is published in the Bulletin, the agency is required to include certain information in the “Notice of Rulemaking - Pending Rule.” This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule.

5. FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering schematic. Each state agency has a two-digit identification code number known as the “**IDAPA**” number. (The “IDAPA” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “**TITLE**” number is assigned. There are “**CHAPTER**” numbers assigned within the Title and the rule text is divided among major sections that are further subdivided into subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.200.02.c.ii.

“**IDAPA**” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

1. “**38.**” refers to the Idaho Department of Administration

“**05.**” refers to Title **05**, which is the Department of Administration’s Division of Purchasing

“**01.**” refers to Chapter **01** of Title 05, “Rules of the Division of Purchasing”

“**200.**” refers to Major Section **200**, “Content of the Invitation to Bid”

“**02.**” refers to Subsection 200.02.

“**c.**” refers to Subsection 200.02.c.

“**ii.**” refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. Each rulemaking that is filed with the Coordinator is assigned a “**DOCKET NUMBER.**” The docket number is a series of numbers separated by a hyphen “-”, (**38-0501-1401**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1401”

“**38-**” denotes the agency’s **IDAPA** number; in this case the Department of Administration.

“**0501-**” refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (**TITLE 05**), Rules of the Division of Purchasing (**Chapter 01**).

“**1401**” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as “**1402**”. The docket number in this scenario would be 38-0501-**1402**.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section “200” appears before Section “345” and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 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.***

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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2019-13

TRANSPORTATION OF HEMP

WHEREAS, the Agricultural Improvement Act of 2018 (“2018 Farm Bill”) was signed into law by President Donald J. Trump on December 20, 2018; and

WHEREAS, the Agricultural Act of 2014 (“2014 Farm Bill”) previously authorized certain limited hemp research pilot projects; and

WHEREAS, the 2018 Farm Bill provides that state laws regulating the production of hemp that are more stringent than the 2018 Farm Bill are not preempted (7 U.S.C. § 1639p(a)(3)(A)); and

WHEREAS, Idaho law prohibits the possession of hemp unless it is comprised of only the stalks of the mature Cannabis plant and contains 0.0% tetrahydrocannabinol (THC); and

WHEREAS, the 2018 Farm Bill allows for the United States Department of Agriculture (USDA) to license the production of hemp, as further defined in that law; and

WHEREAS, some western states, including some surrounding the State of Idaho, have instituted a research pilot project under the 2014 Farm Bill or are expected to allow production of hemp pursuant to the 2018 Farm Bill; and

WHEREAS, Section 10114(b) of the 2018 Farm Bill prevents states from prohibiting the transportation or shipment of hemp produced in accordance with Subtitle G of the Agricultural Marketing Act of 1946 (as amended by the insertion of Section 10113 of the 2018 Farm Bill); and

WHEREAS, the USDA recently promulgated interim final rules and regulations necessary to license hemp production under the 2018 Farm Bill; and

WHEREAS, Idaho law as currently written will likely conflict with federal law with respect to interstate transportation of hemp permitted by the 2018 Farm Bill now that the USDA interim final rules and regulations on hemp production have been published; and

WHEREAS, executive action is needed to assure that the laws of the State of Idaho are faithfully executed to protect the health, safety and welfare of the residents of this state from the illicit drug trade; and

WHEREAS, executive action is needed to temporarily resolve the conflict between state and federal law with respect to interstate transportation of hemp until a more permanent solution on interstate transportation and production is enacted by the Legislature; and

WHEREAS, the evolving landscape with respect to hemp necessitates a legal framework that is clear about the expectations of the State of Idaho with respect to the orderly transportation of hemp through our state and that is not overly burdensome on transporters.

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and the laws of the State of Idaho, do hereby order that the State of Idaho permit, on and after October 31, 2019, the interstate transportation of hemp produced in accordance with the 2014 Farm Bill or the 2018 Farm Bill and the rules and regulations promulgated thereunder; and in so doing do also order that:

1. Any transporter of hemp shall have the affirmative duty to stop at the first port of entry encountered in the State of Idaho to declare the presence of any hemp.

2. Any transporter of hemp must present at the port of entry:
 - a. *An affirmation from the driver that their vehicle contains no illicit drugs or variations of hemp not explicitly authorized by the 2014 Farm Bill or the 2018 Farm Bill;*
 - b. *Verification, including a copy of the hemp production license from the producer of the hemp being transported, that the hemp was produced by a grower or producer duly-licensed by a state or Indian Tribe authorized to regulate hemp production under the 2014 Farm Bill or the 2018 Farm Bill;*
 - c. *A laboratory results report which confirms each lot of hemp being transported complies with the 2014 Farm Bill or the 2018 Farm Bill, as provided in 7 C.F.R.*
 - d. *§§990.70(d) and 990.71(d), and which was produced by a DEA-registered laboratory; and*
 - e. *A bill of lading, containing the shipment contents, origination, including lot number, and destination of the hemp, the weight of the load, and the type of vehicle hauling or transporting the hemp.*
3. All receptacles, open or closed, of hemp being transported across Idaho must be labeled with the name and address of the producer, the quantity of the hemp, and the lot number to correspond with the above required documentation.
4. Any transporter of hemp shall consent to inspection of the shipment to ensure that the hemp complies with the 2014 Farm Bill or the 2018 Farm Bill, and shall further consent to randomly-selected, reasonable-sized sampling of hemp for further off-sight testing by the Idaho State Police (ISP).
5. Once the hemp inspection is completed at the port of entry or roadside, transporters will be given an inspection report, confirming all required documents were presented and whether or not any samples of the hemp were taken. The inspection report must be presented upon request during any contact with a peace officer, as defined in Section 19-5101, Idaho Code, in the State of Idaho subsequent to the initial declaration at the port of entry or roadside.
6. Any transporters of hemp shall proceed through the State of Idaho avoiding any unnecessary delay because possession of any quantity of hemp other than for the narrow purpose of transporting across the State of Idaho in interstate commerce remains illegal in this state.
7. Within the State of Idaho, hemp shall only be transported on interstate highways and in the immediate vicinity of an interstate highway. No hemp shall be transported on any other roadway or highway other than an interstate highway or in the immediate vicinity of an interstate highway except in the case of a detour authorized by the Idaho Transportation Department (ITD), as the transporter is directed by any peace officer, or to facilitate transport to or from Indian Country, as defined in Section 18 U.S.C. §1511, to or from the closest interstate highway.
8. The Idaho State Department of Agriculture (ISDA), ISP and ITD shall promulgate such rules as are necessary to assure Idaho's compliance with the provisions of this Executive Order. I find that it is necessary that such rules become effective immediately upon adoption for the protection of the public health, safety, and welfare and in order to comply with the recently enacted USDA interim final rules on hemp. The ISDA, ISP, and ITD may contract with one another or any other department as may be necessary to efficiently carry out this Executive Order.
9. Nothing within this Executive Order or the corresponding rules adopted subsequent to this Executive Order shall authorize or be interpreted to legalize hemp, its byproducts, oils, or any other derivative prohibited by Idaho law. This Executive Order only permits the interstate transportation of hemp consistent with the 2018 Farm Bill and implementing regulations, this Executive Order, and the State of Idaho rules regarding the interstate transportation of hemp.

10. Nothing within this Executive Order or the corresponding rules adopted subsequent to this Executive Order shall authorize or be interpreted to apply to hemp transported in the State of Idaho prior to October 31, 2019.
11. Failure to comply with any of the conditions of this Executive Order and the corresponding rules adopted subsequent to this Executive Order, may subject the transporter to the laws prohibiting marijuana under Chapter 27, Title 37, Idaho Code, and any other applicable civil and criminal penalties authorized by law.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 19th day of November in the year of our Lord two thousand and nineteen and of the Independence of the United States of America the two hundred forty-fourth and of the Statehood of Idaho the one hundred thirtieth.

BRAD LITTLE GOVERNOR

LAWRENCE DENNEY SECRETARY OF STATE

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.01.06 – RULES GOVERNING THE LABELING OF HEMP RECEPTACLES
DOCKET NO. 02-0106-2001 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 26, 2019.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 22-103 and 22-702, Idaho Code, [Executive Order No. 2019-13](#), and the 2018 Farm Bill.

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

These rules govern the requirements for the labeling of hemp receptacles for transportation of hemp through the state of Idaho.

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

The ISDA was directed by executive order to promulgate these rules because executive action is needed to temporarily resolve the conflict between state and federal law with respect to interstate transportation of hemp until a more permanent solution on interstate transportation and production is enacted by the Legislature.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Chanel Tewalt, Chief Operating Officer, (208) 332-8615.

Dated this 26th day of November, 2019.

Chanel Tewalt
Chief Operating Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 7249
Boise, Idaho 83707
Phone (208) 332-8615
Fax (208) 33-2170

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0106-2001
(New Chapter)

02.01.06 – RULES GOVERNING THE LABELING OF HEMP RECEPTACLES

000. LEGAL AUTHORITY.

01. General. The Director of the Idaho State Department of Agriculture has general rulemaking authority on farm products, receptacles, and labels pursuant to Sections 22-103(7) and 22-702, Idaho Code. (11-26-19)T

02. Specific. By Executive Order No. 2019-13, the Director of the Idaho State Department of Agriculture was directed by the Governor to engage in rulemaking concerning hemp transportation through the State of Idaho, in light of the 2018 Farm Bill. (11-26-19)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing the Labeling of Hemp Receptacles.” (11-26-19)T

02. Scope. These rules govern the requirements for the labeling of hemp receptacles for transportation of hemp through the state of Idaho. (11-26-19)T

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. 2014 Farm Bill. The Agricultural Act of 2014. Pub. Law No. 113-79, 128 Stat. 649. (11-26-19)T

02. 2018 Farm Bill. The Agricultural Improvement Act of 2018. Pub. Law No. 115-334, 132 Stat. 4490. (11-26-19)T

03. Bill of Lading. A shipping document containing the shipment contents, origination, including lot number, and destination of the farm product, the weight of the load, and the type of vehicle hauling or transporting the farm product. This form will be available on the Department website, <https://agri.idaho.gov/>. (11-26-19)T

04. Department. The Idaho State Department of Agriculture. (11-26-19)T

05. Driver Affirmation. A form provided by the Department signed by the driver of a vehicle hauling or transporting hemp stating that his or her vehicle contains no illicit drugs or variations of hemp not explicitly authorized by the 2014 Farm Bill or the 2018 Farm Bill. This form will be available on the Department website, <https://agri.idaho.gov/>. (11-26-19)T

06. Entity. As defined in 7 C.F.R. §§990.1. (11-26-19)T

07. Farm Product. As defined in Section 22-701, Idaho Code. (11-26-19)T

08. Hemp. As defined in Section 7 U.S.C. §1639o and as measured in conformance with 7 CFR § 990.25. (11-26-19)T

09. Indian Tribe. As defined in Section 7 U.S.C. §1639o. (11-26-19)T

10. Inspection Report. A report given to transporters upon completion of the hemp inspection at the port of entry or roadside confirming all required documents were presented and whether any samples of the hemp were taken. (11-26-19)T

11. Laboratory Report. A laboratory results report which confirms each lot of hemp complies with

the 2014 Farm Bill or the 2018 Farm Bill, as provided in 7 C.F.R. §§990.70(d) and 990.71(d), and which was produced by a DEA-registered laboratory. (11-26-19)T

12. Lawful-Hemp Verification. A written verification that the hemp being transported was produced by a grower or producer duly-licensed by a state or Indian Tribe authorized to regulate hemp production under the 2014 Farm Bill or the 2018 Farm Bill or an equivalent USDA hemp producer license. The hemp production license for the producer of the hemp being transported, or a copy thereof, must be attached. This form will be available on the Department website, <https://agri.idaho.gov/>. (11-26-19)T

13. Lot. As defined in 7 C.F.R. §990.1. (11-26-19)T

14. Peace Officer. As defined in Section 19-5101, Idaho Code. (11-26-19)T

15. Producer. As defined in 7 C.F.R. §990.1. (11-26-19)T

16. Receptacle. Any container in which farm products are held or stored. (11-26-19)T

17. State. As defined in Section 7 U.S.C. §1639o. (11-26-19)T

18. Transporter. Any person, individual, partnership, corporation, association, grower, farmer, producer or any other entity engaged in hauling, transporting, delivering, otherwise moving hemp in interstate commerce through the state of Idaho. (11-26-19)T

19. Vehicle. As defined in Section 49-123, Idaho Code, when capable of transporting a farm product receptacle. (11-26-19)T

011. ABBREVIATIONS.

01. DEA. The United States Drug Enforcement Administration. (11-26-19)T

02. ISP. The Idaho State Police. (11-26-19)T

03. ITD. The Idaho Transportation Department. (11-26-19)T

04. USDA. The United States Department of Agriculture. (11-26-19)T

012. -- 099. (RESERVED)

100. VERIFICATION OF FARM PRODUCTS.

Any transporter or vehicle carrying one or more receptacles of hemp shall have the affirmative duty to stop at the first port of entry encountered in the state of Idaho to declare the presence of any hemp. No transporter or vehicle carrying receptacles of hemp shall proceed past or travel through an established or temporary port of entry during its hours of operation while transporting hemp without presenting the hemp for inspection. Should the first established or temporary port of entry be closed for operations, the transporter or vehicle must stop at the first available port of entry. (11-26-19)T

101. LABELING.

All receptacles, open or closed, of hemp must be labeled with the name and address of the producer, the quantity of the hemp, and the lot number associated with the hemp. (11-26-19)T

102. DOCUMENTATION REQUIRED.

Receptacles of hemp shall be inspected and documentation will be reviewed for the purpose of showing and preventing deception in the name and address of the producer, the quantity, and nature of the product. All receptacles of hemp must be labeled in accordance with Section 101 of these rules and be accompanied by a written, legible record attesting to the compliance of the farm product to the 2014 Farm Bill or the 2018 Farm Bill by including: (11-26-19)T

- 01. Driver Affirmation;** (11-26-19)T
- 02. Lawful-Hemp Verification;** (11-26-19)T
- 03. Laboratory Report; and** (11-26-19)T
- 04. Bill of Lading.** (11-26-19)T

103. INSPECTION REPORT.

Once the hemp inspection is complete at the port of entry or roadside, hemp transporters will be given an inspection report. (11-26-19)T

104. DELEGATION.

The Department may contract with the ISP and the ITD or other state agency as necessary to efficiently carry out these rules. (11-26-19)T

105. EFFECTIVE DATE.

These rules are effective upon adoption. These rules apply prospectively and nothing within these rules shall authorize or be interpreted to apply to hemp transported in the State of Idaho prior to these rules being adopted. (11-26-19)T

106. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.02 – RULES GOVERNING GRADING AND CONTROLLED ATMOSPHERE STORAGE OF APPLES

DOCKET NO. 02-0202-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-702, 22-802, and 22-803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are two rules administered by the ISDA related to the grading standards and storage of apples in Idaho. 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 IDAPA 02.02.02 (Department of Agriculture Controlled Atmosphere Storage Rules) and 02.02.04 (Idaho Standards for Grades of Apples) as they are consolidated into 02.02.02 –Rules Governing Grading and Controlled Atmosphere Storage of Apples. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November 6th, 2019, Idaho Administrative Bulletin, [Vol. 19-11, pages 32-46](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. Subchapter B-Controlled Atmosphere Storage, in its entirety, regulates an activity not already regulated by the federal government.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Thomas, Bureau Chief, Ag. Inspections at (208) 332-8672.

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249, Boise, Idaho 83707
Phone: (208) 332-8552 / Fax: (208) 334-2170

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 02-0202-1901**

**(Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.)**

**Previously made amendments are shown in red plain text (non-italicized).
Amendments made to the proposed rule are published in this pending rule in red italicized text.**

[Reserves Sections 135 - 149]

135. -- 149. (RESERVED)

[Renumbers Section 135 to 150; 136 to 151; 137 to 152; and 138 to 153]

150. SUMMER APPLES.

Summer apples are defined as all apples such as Early McIntosh, Beacon, Tydeman Red, Lodi, Yellow Transparent, and all other similar varieties ripening before Jonathans; excluding Jonathans, Arkansas Black, Spitzenburg, King David, Winesap, Red Sport varieties, Delicious Stayman, Vanderpool, Black Twig, McIntosh and Rome Beauty. Note: Winter Banana variety may also be packed under Summer Grades. ()

151. SUMMER APPLE GRADES.

01. Idaho Summer Extra Fancy. Apples of one (1) variety that are mature, hand-picked, clean, sound, fairly well formed and free from visible watercore, broken skin and from damage caused by insects, disease, mechanical injury or other causes. Each apple has the amount of color hereinafter specified for apples in this grade. Caution: To be certified on an Export Form Certificate, all apples must meet U.S. No. 1 grade requirements. ()

a. “Fairly well formed” means that the apple has the normal shape one-half (1/2) of the apple may deviate slightly or that the apple may be slightly flattened as by frost injury. ()

b. “Damage” means any defect that materially affects the appearance or the edible or shipping qualities of the apple. ()

c. The following are not considered damage. ()

i. Slight handling bruises or box bruises, such as are incidental to good commercial handling in the preparation of a tight pack. ()

ii. Sunburn or sprayburn when the normal color of the apple is not seriously affected, and there is no blistering or cracking of the skin, and the discolored area blends into the normal coloring of the apple. ()

iii. Dark colored limb rubs not to exceed one-half (1/2) inch in the aggregate area. Limb rubs of a light brown or russet character are governed by the definition covering solid russetting. ()

iv. Smooth russetting at the stem or calyx end provided that such russetting is not visible for more than one-half (1/2) inch when the apple is placed with the russet end down on a flat surface. ()

v. Smooth net-like russetting that does not cover an aggregate area of more than ten percent (10%) of the surface and net-like russetting on the colored portions of the apple that does not materially detract from its appearance are not counted in computing the ten percent (10%) mentioned above. ()

vi. Hail marks, drought spots or other similar depressions or scars where there is no appreciable discoloration, except as later noted, other than russeting, or when any individual indentation does not exceed one-fourth (1/4) inch in diameter or the total area affected does not exceed one-fourth (1/4) inch in diameter. One discolored unbroken area not to exceed one-eighth (1/8) inch in diameter is allowed. ()

vii. Scab spots affecting an aggregate area not to exceed three-eighths (3/8) inch in diameter. ()

viii. Any healed stings affecting an aggregate area not to exceed three-sixteenths (3/16) inch in diameter. ()

ix. Slight aphid sign on thrip marks that do not roughen or pebble the surface of the apple. ()

x. Any defect or defects not listed above that affect the appearance or quality of the apple not more than the defects listed above. ()

02. Quality of Idaho Summer Fancy Apples. Idaho Summer Fancy Apples consist of apples of one (1) variety that are mature, hand-picked, sound, not badly misshapen and free from visible watercore, serious damage caused by insects, disease, mechanical injuries or other causes, and free from soft bruises or broken skin (except that apples may have skin punctures not exceeding one-fourth (1/4) inch diameter). ()

03. Combination Idaho Extra Fancy and Fancy. In Summer Apple Grades, when Extra Fancy and Fancy are packed together, the boxes may be marked "Combination Idaho Summer Extra Fancy and Fancy." The package must contain at least fifty percent (50%) of the Extra Fancy Grade. Tray packs are to be well filled, having not less than thirty-six (36) pounds net weight of apples. ()

152. SCORABLE DEFECTS OF SUMMER APPLES.

01. Punctured Apples. CAUTION: Punctured apples do not meet the requirements of the Export Apple Act and cannot be certified on an export certificate. Each apple will have the amount of color hereinafter specified for apples of this grade. ()

02. Not Badly Misshapen. The apple may be more irregularly misshapen than defined above, but must not be deformed to the extent of materially affecting its utility or general appearance. ()

03. Serious Damage. Any injury or defect or a combination thereof that seriously detracts from the appearance of the apple. The following are not considered serious damage: ()

a. Sunburn or sprayburn that does not seriously detract from the appearance of the apple. ()

b. Limb rubs affecting an aggregate area not to exceed three-fourths (3/4) inch. ()

c. Smooth solid russeting affecting an area of not more than one-half (1/2) the surface in the aggregate, including russeting of the stem basin, or bark-like russeting that does not seriously detract from the appearance of the apple. ()

d. Growth cracks when no crack exceeds one-half (1/2) inch in length. ()

e. Hail marks, drought spots or other similar depressions that do not exceed an aggregate area of ten percent (10%) of the surface. Slight injury means that no individual area may exceed three-fourths (3/4) inch in diameter of discolored area. The discolored area may be a light brown or black or may be a russeted area, and the skin may or may not be broken; if broken, the area must be well healed. ()

f. Scab spots affecting an aggregate area not to exceed three-fourths (3/4) inch. ()

g. Not to exceed two (2) stings, each having an encircling hard ring or slight depression, providing no sting exceeds one-eighth (1/8) inch in diameter, exclusive of any encircling ring. ()

- h. Aphid pebbling or thrip marks not seriously affecting the appearance of the apple. ()
- i. Any defect or defects not listed above that does not affect the appearance of the apple more than the defects listed above. ()

153. COLOR REQUIREMENTS FOR SUMMER APPLES.

For the Idaho Summer Apple Grades, the color percentage listed below refers to color of blush, shades of red, or stripes of red characteristic of the variety. For green and yellow varieties, no color is required in Extra Fancy or Fancy.

Characteristic Table

Extra Fancy	Fancy
33 1/3%	15%

()

154. -- 219. (RESERVED)

[Renumbers Section 200 to 220; 201 to 221]

SUBCHAPTER B – CONTROLLED ATMOSPHERE STORAGE

220. APPLES, CONTROLLED ATMOSPHERE REGISTRATION.

01. Registration. Any person who owns or operates a controlled atmosphere room or storage building for apples in Idaho, and any person who engages in this State in the business of packing or repacking apples so treated in this State or any other state and who intends to, or does, represent such apples as having been exposed to “controlled atmosphere” storage, shall register with the Director on a form prescribed by the Director. ()

02. Registration Period. The registration period for owners or operators of controlled atmosphere rooms or storage buildings in this State commences on September 1 and end on August 31 of each year, and for packers or repackers of apples that have been held in a controlled atmosphere room or storage building in this State or in any other state, the registration period extends for a period not to exceed one (1) year. Owners or operators of such rooms or storage buildings shall register on or before September 1 of each year. ()

03. Interstate Registration. Any person who owns or operates a controlled atmosphere room or storage building located outside of Idaho or who engages at a place outside of this State in the business of packing or repacking apples that have been held in controlled atmosphere storage and who intends to, or does, market in the state of Idaho apples so treated and represented as having been exposed to “controlled atmosphere” storage, shall register with the Director in the same manner as required of any person within the State unless such person has registered with the proper authorities in the state of origin and has been assigned a comparable registration number or CA identification under authority of laws or rules of such state that at least conform to the provisions of these rules. ()

04. Written Agreement. The Director will assign each approved registrant a registration number preceded by the letters CA. The Director shall require from each applicant for registration, an agreement in writing in the form required by the Director that the apples so treated or packed or repacked by said applicant will be or have been kept in a room or storage building with not more than five percent (5%) oxygen for a minimum of not less than forty-five (45) days for Gala and Jonagold varieties and not less than sixty (60) days for other apples, and that the oxygen level in such room or storage building will be or has been reduced to five percent (5%) within twenty (20) days after the date of sealing of the storage room, and including any other pertinent facts as may be required by the Director to assure that the apples in question have been so treated. ()

05. Refusal Upon Violation. The Director may refuse to approve an application for registration and refuse to issue a registration number if the applicant previously has violated any of the provisions of these rules, or

has failed or refused to furnish the information or evidence required by these rules. ()

06. Required Air Components Determinations. Each owner or operator of a controlled atmosphere room or storage building in this state shall make the required air components determinations as to the percentage of carbon dioxide and oxygen and temperature at least once each day and maintains a record in the form as required by the Director of Agriculture, including the name and address of the owner or operator, room number or numbers, room capacity, lot identification, quantity in each lot, date of sealing, date of opening; a daily record of date and time of test, percentage of carbon dioxide, percentage of oxygen and the temperature. ()

07. Written Reports. Each owner or operator of a controlled atmosphere room or storage building in this state will submit to the Idaho Director of Agriculture, within ten (10) days after the date of sealing, a written report pertaining to each room showing the owner's room number, or numbers, date of sealing, and variety and quantity of apples contained therein. ()

08. Maintaining Identity. The identity of all apples represented as having been exposed to "controlled atmosphere" storage will be maintained from the original room or storage building where they were treated through the various channels of trade to the retailer. ()

09. Investigations. Enforcing officers may investigate and examine records and invoices relating to any transactions in order to determine the identity of apples represented as having been exposed to controlled atmosphere storage and in this connection gives consideration to the presence of CA storage registration numbers on invoices submitted in transactions by the owners or operators and a combination of both the CA storage and packer or repacker's CA registration number on invoices submitted in transactions by said packer or repacker. ()

221. APPLES REPRESENTED AS HAVING BEEN EXPOSED TO "CONTROLLED ATMOSPHERE" STORAGE.

01. Registration Number -- Owner/Operator. Each container and consumer package of such apples moved into the channels of trade by the owner or operator of a controlled atmosphere room or storage building located in Idaho or by any other person, will be marked with said owner or operator's assigned registration number. ()

02. Registration Number -- Packer/Repacker. Each container and consumer package of such apples received from an owner or operator of a controlled atmosphere room or storage building located either in Idaho or in another state and that are packed or repacked by another person in this state, will be marked with the said packer or repacker's assigned registration number. ()

03. Controlled Atmosphere (CA) Identification. Each container and consumer package of such apples moved into the channels of trade in Idaho by the owner or operator of a controlled atmosphere room or storage building located outside of Idaho or by any other person or by a packer or repacker of such apples engaged in such business outside of Idaho will be marked with the proper registration number or CA identification. Such registration number or CA identification is the registration number assigned by the Director to such owner or operator of a CA plant or to such packer or repacker as the case may be or a comparable registration number of identification assigned under authority of laws or regulations of another state that at least conform to the provisions of Subsection 200.04 above. ()

04. Labeling Requirements. The registration number or other identification required to be marked on containers is in letters or figures at least one-half (1/2) inch in height, and all such markings are clear and conspicuous and in a place readily visible to the purchaser, and shall meet the rule requirements of Sections 22-801 and 22-802, Idaho Code. ()

05. Inspection and Certification. All apples sold as Controlled Atmosphere apples must be inspected and certified as to grade and condition and be marked with a state lot number in addition to the CA number. ()

06. Conditions and Standards. At the time of shipment, all apples shipped and marked with a CA number will meet the U.S. condition and maturity standards for Export. ()

07. Reinspection. Apples not shipped within a period of two (2) weeks after inspection and certification must be reinspected. ()

08. Failure to Meet Requirements. Failure to meet any one of the requirements noted above will prohibit such apples from being sold as CA storage apples or the containers marked as such. ()

222. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.02.05 – RULES GOVERNING STONE FRUIT GRADES
DOCKET NO. 02-0205-1902 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-702, 22-703, and 22-803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

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. 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 Stone Fruit Grades.” No substantive changes are being made to the three rules cited above as they are being consolidated into 02.02.05, Rules Governing Stone Fruit. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 47-54](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. IDAPA 02.02.05 provides voluntary standards, not regulations, for Idaho stone fruits. Therefore, this Rule is not subject to the requirements of Section 22-101A, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Thomas, Bureau Chief, Ag. Inspections at (208) 332-8672.

Dated this 27th day of November, 2019.

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.07 – RULES GOVERNING BULK PERMITS AND RETAIL SALE OF POTATOES

DOCKET NO. 02-0207-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-901, 22-911, and 22-2006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Combining two potato rules; IDAPA 02.02.07 and 02.02.09. These two rules administered by the ISDA are related to the retail sale, inspection and bulk permitting of potatoes in Idaho. 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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 55-58](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), Idaho Code, for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The consolidated rule, IDAPA 02.02.07- Rules Governing Bulk Permits and Retail Sale of Potato, in its entirety, regulates activity not already regulated by the federal government.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. The first handler or shipper shall apply through the nearest District Inspection Office for a permit to ship bulk potatoes. The permittee shall pay the potato advertising tax, to the Idaho Potato Commission, at combined grower-shipper rates for either fresh or processing potatoes, and inspection fees, if required, within thirty (30) days of shipment. Inspection fees are charged by and paid to the Idaho State Department of Agriculture to cover the cost of the inspection.

This fee, originally imposed by 02.02.07 Rules Governing Bulk Permits Procedure remains in the new rule, 02.0207 Rules Governing Bulk Permits and Retail Sale of Potatoes. This fee has not changed. The fee is authorized pursuant to Section 22-107, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Thomas, Bureau Chief, Ag. Inspections at (208) 332-8672.

Dated this 27th day of November, 2019.

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.03 – RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 25-203, 25-207, 25-207B, 25-212, 25-804, and 25-3704, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 63-83](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. Those specific provisions are as follows:

02.04.03.200	- Not regulated by the federal government.
02.04.03.220	- Not regulated by the federal government.
02.04.03.257	- Broader in scope than federal law or regulations.
02.04.03.300-338	- Broader in scope than federal law or regulations.
02.04.03.400	- More stringent than federal law or regulations.
02.04.03.402	- More stringent than federal law or regulations.
02.04.03.460	- More stringent than federal law or regulations.
02.04.03.504-591	- Broader in scope than federal law or regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. A license applications fee of twenty-five (\$25) dollars is required for any person desiring to practice artificial insemination of domestic animals. A license renewal fee of five (\$5) dollars is required annually thereafter. No changes were made to the fee already included in the Rules Governing Animal Industry. These fees are authorized pursuant to Section 25-807, Idaho Code.

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

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

Dated this 27th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE
FOR DOCKET NO. 02-0403-1901**

(Only those sections or that have changed from the original proposed text are printed in this Bulletin following this notice.)

Previously made amendments are shown in red plain text (non-italicized).

Amendments made to the proposed rule are published in this pending rule in red italicized text.

[Section 104 is reprinted]

104. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and apply only to Subchapter A, Sections 110-460: ()

01. *The USDA Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003.* Can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stds.pdf. ()

02. *National Poultry Improvement Plan and Auxiliary Provisions, February 12, 2008.* Can be viewed online at <http://edocket.access.gpo.gov/2009/E9-7240.htm>. ()

03. *Title 9, Parts 145, 146, 147, and 161, CFR, January 1, 2008.* Can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_00/9cfrv1_00.html. ()

04. *The Compendium of Animal Rabies Prevention and Control, 2008.* Can be viewed online at <http://www.nasphv.org/Documents/NASPHVRabiesCompendium.pdf>. ()

05. *Equine Viral Arteritis Uniform Methods and Rules, April 19, 2004.* Can be viewed online at <http://www.aphis.usda.gov/vs/nahss/equine/eva/eva-umr.pdf>. ()

["Reserved" section missing in proposed rule]

105. -- 109. (RESERVED)

[Section 504 is reprinted]

504. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and apply only to Subchapter B, Sections 510-591: ()

01. *9 C.F.R. § 53.2, January 1, 2002.* Can be viewed online at http://edocket.access.gpo.gov/cfr_2002/janqtr/pdf/9cfr53.2.pdf. ()

["Reserved" section missing in proposed rule]

505. -- 509. (RESERVED)

["Reserved" section renumbered]

592. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

DOCKET NO. 02-0405-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 37-303, 37-402, 37-405, and 37-516, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 84-112](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This rule contains a provision that is more stringent than federal regulations. That specific provision is as follows:

02.04.05.120 - More stringent than federal law or regulations

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. Official laboratories, licensed to test milk or cream components or quality parameters for the purpose of determining the value of the product when sold or purchased by producers or processors must first obtain a license for \$25.00. The laboratory license is valid for three calendar years after issuance. No changes were made to the fee already included in the original Rule Governing Milk and Cream Procurement in the new combined rule, 02.04.05- Rules Governing Grade A Milk and Manufacture Grade Milk. Fees under this rule are authorized pursuant to Sections 37-407 and 37-503, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Dated this 27th day of November, 2019.

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.26 – RULES GOVERNING THE PUBLIC EXCHANGE OF LIVESTOCK

DOCKET NO. 02-0426-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 25-203, 25-305, 25-401, 25-601, 25-1723, and 25-3520, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

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 both 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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 121-136](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This rule contains provisions that are broader in scope than federal law or regulations. Those provisions are as follows:

02.04.26.100-570	- Broader in scope than federal law or regulations
02.04.26.700	- Broader in scope than federal law or regulations
02.04.26.701	- Broader in scope than federal law or regulations
02.04.26.710	- Broader in scope than federal law or regulations
02.04.26.715	- Broader in scope than federal law or regulations

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. A fee of \$100.00 annually is required to obtain or renew a public livestock market charter. No changes were made to the fee already included in the Rules Governing Livestock Marketing now found in the new combined rule, 02.04.26, Rules Governing the Public Exchange of Livestock. These fees are authorized pursuant to Section 25-1724, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Dated this 27th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE
FOR DOCKET NO. 02-0426-1901**

**(Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.)**

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

[Proposed Section 620 removed; “Reserved” sections updated]

611. -- 629. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.30 – RULES GOVERNING ENVIRONMENTAL AND NUTRIENT MANAGEMENT

DOCKET NO. 02-0430-1903 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-6529F, 37-401, 37-405, 22-4903, 25-4012(2), 37-603(1), 25-3802, and 22-110, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

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 of regulated facilities, 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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 137-154](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This Rule, in its entirety, regulates an activity not regulated by the federal government.

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

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

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Ph: (208) 332-8552 / Fax: (208) 334-2170

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

THE FOLLOWING IS THE TEXT OF THE PENDING RULE
FOR DOCKET NO. 02-0430-1903

(Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.)

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

[“Reserved” section missing in proposed rule]

205. -- 209. (RESERVED)

[“Reserved” section missing in proposed rule]

231. -- 239. (RESERVED)

[Renumbering of internal citation in Subsection 320.03]

320. ACCEPTED AGRICULTURAL PRACTICES.

Management practices conducted in accordance with applicable laws, rules and best management practices, as referenced in Subsections 320.01 and 320.02, or in the absence of referenced best management practices, management practices conducted in a manner that demonstrates reasonable efforts to minimize odors, are considered accepted agricultural practices for purposes of Subchapter C. ()

01. Applicable Rules. The following are applicable rules for the purpose of Section 320: ()

a. IDAPA 02.04.14, “Rules Governing Dairy Byproduct.” ()

b. IDAPA 02.03.03, “Rules Governing Pesticide and Chemigation Use and Application.” ()

c. IDAPA 02.06.17, “Rules Concerning Disposal of Cull Onion and Potatoes.” ()

d. IDAPA 02.04.17, “Rules Governing Dead Animal Movement and Disposal.” ()

02. Applicable Best Management Practices. The following practices, or other management practices approved by the Director that are conducted in a manner that demonstrates reasonable efforts to minimize odors are considered accepted agricultural practices for purposes of this rule. ()

a. Idaho NRCS Nutrient Management Standard 590, June 1999. ()

b. Best Management Practices listed in the “Idaho Agricultural Pollution Abatement Plan,” August 2001. ()

c. “Control of Manure Odors,” ASAE Standard EP379.2 Sections 5 and 6 in their entirety, November 1997. ()

d. “Composting Facility,” NRCS Conservation Practice Standard 317, March 2001. ()

03. Excess Odors. An agricultural operation using an accepted agricultural practice that generates

odors in excess of levels normally associated with such practice, as determined by the Department on a site specific basis, shall develop and submit an odor management plan to the Director in accordance with Section 360. ()

321. -- 329. (RESERVED)

[Section renumbering]

331. -- 339. (RESERVED)

340. LIQUID WASTE SYSTEMS.

No person shall begin construction of a new or modified liquid waste system prior to approval of such system by the Director. ()

01. Department Review. The Director may order the construction to cease if the construction of a new or modified liquid waste system has commenced prior to the Director's approval. In doing so, the Director will consider a review and assessment of such systems made by Department staff. ()

02. Design Requirements. All new or modified liquid waste systems shall be designed by licensed professional engineers, approved in writing by the Director, and constructed in accordance with standards and specifications approved by the Director for management of odors. ()

a. If construction is commenced prior to the Director's written approval, the Director may order construction activities to be ceased. ()

b. Material deviations from the approved plans and specifications are not allowed without the prior written approval of the director. ()

c. Within thirty (30) days of completion of construction, alteration or modification of any new or modified liquid waste system, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed must be submitted by the operator to the Director. ()

d. If construction does not materially deviate from the plans approved by the Director, a statement to that effect shall be filed by the agricultural operation with the Director. ()

341. STANDARDS AND SPECIFICATIONS FOR LIQUID WASTE SYSTEMS.

All new or modified liquid waste systems shall be designed and constructed in accordance with applicable laws and rules, and for the purpose of managing odors. The Director shall require techniques and management practices as standards and specifications of liquid waste systems for the management of odors. These techniques and management practices may include but are not be limited to the following: ()

01. Wastewater Storage and Containment Facilities: ()

a. Liquid-solid separation. ()

b. Wastewater treatment. ()

c. Use of chemical or biological additives. ()

d. Dilution of wastewater. ()

e. Impermeable or permeable storage covers. ()

f. Biofilters. ()

g. Enhancing dispersion. ()

- h.** Location of wastewater discharge into storage and containment facilities. ()
- 02. Wastewater Collection and Conveyance Systems.** ()
- a.** Wastewater Treatment. ()
- b.** Use of chemical or biological additives. ()
- c.** Dilution of wastewater. ()
- d.** Impermeable or permeable covers of collection areas. ()
- e.** Timing of collection and conveyance system operation. ()
- f.** Frequency and duration of collection and conveyance system operation. ()
- g.** Enhancing dispersion. ()

342. -- 349. (RESERVED)

350. INSPECTIONS.

The Director or Director's designee is authorized to enter and inspect any agricultural operation, and during normal business hours have access to or copy any facility records deemed necessary to ensure compliance with Subchapter C of these rules. ()

351. -- 359. (RESERVED)

360. ODOR MANAGEMENT PLANS.

OMPs shall be designed to work in conjunction with any required NMP and shall be submitted to the Director in writing, and upon approval by the Director, signed by owner or operator of the agricultural operation. ()

01. OMP Development. Within sixty (60) days of receiving a NOV for a first time violation, the owner or operator of the agriculture operation receiving the NOV shall submit to the Director an OMP for approval. ()

02. Interim Measures. The Department will work with the owner or operator of an agriculture operation that has received a NOV for a first time violation to identify interim measures that can be implemented in a timely manner to begin the process of reducing odors while the OMP is being developed. ()

03. Department Approval. The Director will approve, reject, or request additional information within thirty (30) days of receiving an OMP from the owner or operator of an agricultural operation deemed to have committed a first time violation and provide to the owner or operator of the agricultural operation the approval, rejection, or request for additional information in writing. ()

a. If the Director rejects an OMP or requests additional information, the owner or operator of the agricultural operation shall submit to the Director the additional information or a rewritten OMP that address the reasons for the rejection within thirty (30) days of receiving written notification from the Director. ()

b. Within fifteen (15) days of receiving the additional information or a rewritten OMP, the Director will approve or reject the OMP. If the OMP is rejected, the Director may issue a subsequent violation under Section 371 of these rules, and assess the penalty provisions specified in Subchapter C, Section 370 of these rules, and Section 25-3808, Idaho Code. ()

c. The Director may, on a case by case basis, grant extensions to the deadlines contained in this section. ()

04. Implementation. OMPs shall be implemented as approved by the Director. ()

05. Review of OMP. The Department will review OMPs no less than annually for three (3) years after the Director approves the OMP. If the Department determines an approved OMP has not reduced odors to a level associated with accepted agricultural practices after a reasonable period of time, as determined by the Department, the Department will review the OMP with the owner or operator of the agricultural operation and adjust the OMP to meet the goals of the Agriculture Odor Management Act. ()

361. CONTENTS OF AN ODOR MANAGEMENT PLAN.

Contents of an OMP for an agricultural operation may include, but are not limited to the following: ()

01. Owner's Name. Name and telephone number of the owner of the operation. ()

02. Address. Physical address of the operation. ()

03. Location. County in which the operation is located. ()

04. Operation Description. A description of the operation that includes, as applicable: ()

a. Type of operation. ()

b. General description of operation. ()

c. Number and type of any animals including age groups. ()

d. Any plans for expansion. ()

e. Type of housing used related to age groups of animals. ()

f. General description of nearby residential areas, public use areas, and pertinent agricultural operations. ()

g. Type of crop and number of acres grown. ()

05. Scaled Vicinity Map. A map that shall include all residences, public use areas, roads, general topography of the area, and other pertinent agricultural operations within a two (2) mile radius of the facility. ()

06. Manure Management System. A detailed description of the present manure handling systems including timing, frequency, duration, volumes, dimensions, and flow rates where applicable for the following: ()

a. Manure cleaning systems. ()

b. Manure transfer systems. ()

c. Manure separation systems. ()

07. Scaled Site Plan. A site plan showing all buildings, housing facilities, waste/manure storage areas, piping, feed storage areas, and roadways. ()

08. Land Application System. A detailed description of the present management practices and methods used to make land application including: ()

a. Timing, frequency, and duration of practices. ()

b. Proximity of land application sites to residential and public use areas. ()

09. Climatic Data. A description of the typical climatic conditions for a minimum period of two (2) years that exist in the geographical area of the operation or have been recorded on-site for the operation including: ()

- a. Wind Speed and direction(s). ()
- b. Temperature range. ()
- c. Relative humidity range. ()
- d. Precipitation data. ()

10. Facility Odor Sources. A list of all primary odor sources located on the operation with a general ranking of low, moderate, or high with respect to overall odor production along with an explanation of why it is listed as a source and the reasoning for the overall ranking. ()

11. Tiered Implementation. A three-tier process shall be used to reduce odor production from the facility with each tier containing a list of the primary BMPs and BATs that are going to be implemented by the facility. For each tier BMP and BAT listed, the plan shall include, but not be limited to: ()

- a. Process of how the BMP or BAT will be designed or managed. ()
- b. Implementation schedule that defines when the BMP or BAT will be implemented on the facility and justification for why this time frame was chosen. ()
- c. Monitoring program that will be implemented to evaluate the effectiveness of the BMP or BAT, with quantitative or qualitative reduction goals. ()

12. Public Involvement. This section shall describe how the public in the area of the facility will be involved in the implementation or evaluation of the OMP. ()

13. Timeframe for Review of OMP. A designated period of time when each tier of the plan will be evaluated to determine if further implementation is necessary, how each tier will be evaluated, which Department staff will conduct the review, and a period of time in which the agricultural operation will attain full compliance with the plan. ()

362. -- 369. (RESERVED)

370. FIRST TIME VIOLATIONS.

If the Department determines that an agricultural operation is generating odors in excess of levels of odors normally associated with accepted agricultural practices, the agricultural operations shall be deemed to have committed a first time violation of Subchapter C. The Department shall require agricultural operations deemed to have committed a first time violation to cooperate with the Department to develop and submit to the Director for approval an OMP. ()

371. SUBSEQUENT VIOLATIONS.

Agricultural operations have committed a subsequent violation if the operation is determined to have committed a subsequent violation within three (3) years, has failed to comply with a required OMP, or the Department determines that the owner or operator of the agriculture operation has not cooperated with the Department by failing to submit an OMP that meets Department approval requirements. ()

372. EXCEPTIONS.

Events contemplated in Section 25-3805(7), Idaho Code, are not considered violations of this subchapter. Section 25-3805, Idaho Code, is applicable whether or not an agricultural operation is required to have an OMP. ()

373. -- 409. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.01 – RULES GOVERNING THE PRODUCTION AND DISTRIBUTION OF SEED

DOCKET NO. 02-0601-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-108(2), 22-418(4), 22-418(11), 22-2004, and 22-2006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

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 changes are being made to the rules cited above. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 157-181](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This Rule, in its entirety, regulates activity not regulated by the federal government.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. Service testing fees for purity, germination and tetrazolium are established by seed type and seed dealer’s license fees are established according to category. In addition, fees for sampling, seed analysis, inspection and quarantine release tags are established for bluegrass. Fees included in the original rules have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Sections 22-108 and 22-2006, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lloyd Knight, (208) 332-8664.

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Ph: (208) 332-8552 / Fax: (208) 334-2170

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Boise, Idaho 83707

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.02 – RULES GOVERNING REGISTRATIONS AND LICENSES

DOCKET NO. 02-0602-1902 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-604, 22-2204, 22-2303(5), 22-2511, & 25-2710, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

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.” These 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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 182-205](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This rule, in its entirety, regulates activity not regulated by the federal government.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. Nursery or florists are charged a license and an inspection or special service fee according to category. Apiaries are charged a fee for inspection, sampling and other field work according to category. Commercial feed distributed in Idaho is assessed a forty dollar fee per product. Fertilizers distributed in Idaho are assessed a registration fee per product in addition to a fee per ton distributed. Soil and plant amendments distributed in Idaho are assessed a registration fee per product in addition to a fee per ton distributed. Fees included in the original rules have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Sections 22-608, 22-2208, 22-2305, 22-2503, and 25-2704, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Ph: (208) 332-8552 / Fax: (208) 334-2170

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Boise, Idaho 83707

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.04 – RULES GOVERNING PLANT EXPORTS

DOCKET NO. 02-0604-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-107, 22-112, and 22-2303(5), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 206-220](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This rule, in its entirety, regulates activity not regulated by the federal government.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. Idaho nurseries are assessed an application, laboratory or service fee according to category for virus-free certification. Ginseng producers are assessed a registration, certification and inspection fee for export. Phytosanitary inspections are assessed a fee by category. Fees included in the original rules have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Sections 22-107, 22-112, and 22-2305, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Ph: (208) 332-8552 / Fax: (208) 334-2170

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

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE
FOR DOCKET NO. 02-0604-1901

(Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.)

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

[“Reserved” section renumbered]

196. -- 209. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.05 – RULES GOVERNING PLANT DISEASE AND QUARANTINES

DOCKET NO. 02-0605-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-2004 and 22-2006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 221-247](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This Rule, in its entirety, regulates activity not regulated by the federal government.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. Hop producers are assessed a special permit fee and inspection, certificate and general permit fee by category. Mint rootstock growers are assessed a transfer permit and field inspection fee by category. Fees included in the original rules (Rules Governing Diseases of Hops and Rules Governing Mint Rootstock and Clone Production) have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Sections 22-107, 22-112 and 22-2006, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
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**THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE
FOR DOCKET NO. 02-0605-1901**

**(Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.)**

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

[Section renumbering only]

513. -- 519. (RESERVED)

520. AREA UNDER QUARANTINE.

The entire states of Alabama, Arkansas, (except counties of Benton, Clark, Columbia, Garland and White), Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland (except counties of Worcester and Somerset), Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. ()

521. -- 524. (RESERVED)

525. REGULATED ARTICLES.

All trees, cuttings, grafts, scions, or buds of all species and varieties including the flowering forms of peach, nectarine, apricot, almond, plum, and prune, and any trees budded or grafted on peach stock or peach roots, coming from a regulated area. ()

526. -- 529. (RESERVED)

530. RESTRICTIONS GOVERNING SHIPMENTS.

The regulated articles will not be admitted into Idaho from the regulated areas unless the state of origin certifies that they were produced in a county free from infection with the regulated pests, as determined by adequate annual surveys satisfactory to the Director, and from disease-free bud sources, rootstocks, and environs. ()

531. -- 539. (RESERVED)

540. OFFICIAL CERTIFICATE REQUIREMENTS.

The certificates required by Section 530 of these rules, will state the names and addresses of the shipper and consignee, the number and kind of regulated articles in the shipments, and the area where grown. A copy of the certificate accompanies the shipment, and one (1) copy is forwarded at the time of shipment to the Division of Plant Industry, Idaho State Department of Agriculture, Boise, Idaho. ()

541. -- 549. (RESERVED)

550. EXEMPTIONS.

This quarantine does not apply to experiments of the United States Department of Agriculture in the state of Idaho nor to experiments of the College of Agriculture, Department of Pathology of the University of Idaho. ()

551. -- 559. (RESERVED)

560. PENALTY.

Any or all shipments or lots of the regulated articles enumerated in Section 525, of these rules, arriving in Idaho in violation of this chapter shall immediately be sent out of the state or destroyed at the option and expense of the owner or owners, or responsible agents and under the direction of the Director. ()

561. -- 569. (RESERVED)

570. COMMON CARRIER AGENTS MUST HOLD SHIPMENTS.

Any and all lots of shipments of commodities covered by this quarantine must be held and not delivered to consignee or agent until inspected and passed by the Director. ()

571. -- 609. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

DOCKET NO. 02-0609-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-1907, 22-2004, 22-2006, 22-2403, and 22-2412, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 248-276](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This Rule, in its entirety, regulates activity not regulated by the federal government.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. Certification fees for noxious weed free certification are assessed based on the number of acres inspected. Fees included in the original rule (Noxious Weed Free Storage Rules, 02.06.31) have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Section 22-2412, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Ph: (208) 332-8552 / Fax: (208) 334-2170

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

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.10 – RULES GOVERNING THE GROWING OF POTATOES

DOCKET NO. 02-0610-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-505, 22-1907, 22-2004, 22-2006, and 22-2013, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

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. However, these rules were reviewed for repeal and amendment of certain sections consistent with the guidance and direction provided in the Red Tape Reduction Act. Therefore, the consolidated rule was reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November Idaho Administrative Bulletin, [Vol. 19-11, pages 277-290](#).

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. This Rule, in its entirety, regulates activities not regulated by the federal government.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. A sampling fee for laboratory testing for bacterial ring rot is assessed based on market rates for the lab service. Fees included in the original rules have not been changed in the new combined rule. Fees associated with these rules are imposed pursuant to Section 22-505, Idaho Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lloyd Knight, Administrator, at (208) 332-8664.

Dated this 27th day of November, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Ph: (208) 332-8552 / Fax: (208) 334-2170

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

IDAPA 07 – DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule, the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 07-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-5001, 54-5004, and 54-5005, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, pages 136 through 146](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact John Nielsen, HVAC Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Dated this 13th day of November, 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 TEXT OF THE PENDING RULE FOR DOCKET NO. 07-0701-1901

This rulemaking is being republished in its entirety.
Previously made amendments are shown in **red plain text (non-italicized)**.

003. ADMINISTRATIVE APPEALS.

Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” govern administrative appeals and judicial review thereof. ()

004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2018 EDITION; THE INTERNATIONAL FUEL GAS CODE, 2018 EDITION; AND PART V (MECHANICAL) AND PART VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE (1)- AND TWO (2)-FAMILY DWELLINGS, 2018 EDITION.

The 2018 editions of the International Residential Code for One (1)- and Two (2)-Family Dwellings, International Mechanical Code, and International Fuel Gas Code are available at the Division’s offices located at 1090 E. Watertower St., Suite, 150 Meridian, Idaho 83642; 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. ()

01. International Mechanical Code. The 2018 Edition, including appendix “A,” (herein IMC) is adopted and incorporated by reference with the following amendments: ()

a. Where differences occur between the IMC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)

d. Section 109. Delete. (7-1-10)

e. Section 202 Definitions. Delete the definitions provided in the code for the terms identified herein this paragraph and replace with the following: (3-29-17)

i. Light-Duty Cooking Appliance. Light-duty cooking appliances include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer, countertop conveyerized baking/finishing, deck, pastry, and electric and gas conveyor pizza ovens), electric and gas steam jacketed kettles, electric and gas pasta cookers, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters. (3-29-17)

ii. Medium-Duty Cooking Appliance. Medium-duty cooking appliances include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure fryers), electric and gas tilting skillets (braising pans) and electric and gas rotisseries. (3-29-17)

f. Section 401.1 Scope. Add the following: Exception: The principles specified in ASHREA 62-2010 may be used as an alternative to this chapter to demonstrate compliance with required ventilation air for occupants. (4-7-11)

g. Section 504.8.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. ()

h. Table 603.4 Duct Construction Minimum Sheet Metal Thickness for Single Dwelling Units. Add the following exception to the Table: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

02. International Fuel Gas Code. The 2018 Edition, including appendixes “A, B, C, and D,” (herein

IFGC) is adopted and incorporated by reference with the following amendments:

()

- a.** Where differences occur between the IFGC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules apply. (4-11-06)
- b.** All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)
- c.** All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)
- d.** Section 109. Delete. (7-1-10)
- e.** Section 406.4. Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-11-06)
- f.** Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure is required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-11-06)
- g.** Section 406.4.2. The test duration may not be less than twenty (20) minutes. (4-11-06)
- h.** Add a new section 503.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. (4-4-13)
- i.** Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system is not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems. (4-11-06)

03. Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One (1)- and Two (2)-Family Dwellings. The 2018 Edition, including appendixes “A, B, C, and D,” (herein IRC) is adopted and incorporated by reference with the following amendments: ()

- a.** Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code, and IDAPA 07, Title 07, Chapter 01, the provisions in Idaho Code and IDAPA rules apply. (4-7-11)
- b.** All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)
- c.** All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-7-11)
- d.** Add the following as section M1201.3 and section G2402.4 (201.4): Alternative materials, design and methods of construction equipment. The provisions of this part of the code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction must be approved where the authority having jurisdiction finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of this part of the code in lieu of specific requirements of this code will also be permitted as an alternate. (4-4-13)

e. Add the following as section M1201.3.1 and section G2402.4.1 (201.4.1): Tests. Whenever there is insufficient evidence of compliance with the provisions of this part of the code, or evidence that a material or method does not conform to the requirements of this part of the code, or in order to substantiate claims for alternative materials or methods, the authority having jurisdiction has the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods are as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the authority having jurisdiction approves the testing procedures. Tests must be performed by an approved agency. Reports of such tests must be retained by the authority having jurisdiction for the period required for retention of public records. (4-4-13)

f. Add the following as section M1203.1: Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm must be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. (4-4-13)

g. Add the following as section M1203.2: Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms must be provided in accordance with Subsection 004.03.f. of these rules. ()

h. Add the following as section M1203.3: Alarm requirements. Single station carbon monoxide alarms must be listed as complying with UL 2034 and must be installed in accordance with this code and the manufacturer's installation instructions. (4-4-13)

i. Section M1502.4.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

j. Delete Section M1502.4.2 Duct Installation and replace with the following: Exhaust ducts must be supported at four (4) foot (1,219 mm) intervals and secured in place. The insert end of the duct must extend into the adjoining duct or fitting in the direction of airflow. Ducts must not be joined with screws or similar fasteners that protrude into the inside of the duct. (3-20-14)

k. Table M1601.1.1 (2) Gauges of Metal Ducts and Plenums Used for Heating or Cooling. Add the following exception: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

l. Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-7-11)

m. Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (one hundred forty (140) kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (seventy (70) kPa gauge), not less than sixty (60) psig (four hundred twenty (420) kPa gauge) test pressure is required. For systems over ten (10) psig (seventy (70) kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-7-11)

n. Section G2417.4.2 (406.4.2). The test duration may not be less than twenty (20) minutes. (4-7-11)

o. Add a new section G2427.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

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

The principal place of business of the Division's HVAC Program is located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Division of Building Safety, HVAC Program, 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The office telephone number is (208) 334-6180 and the facsimile number is (208) 855-0768. ()

006. FILING OF DOCUMENTS.

All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case, must be filed with the Administrator of the Division. Communications and documents must be filed by mail, hand-delivery, or by facsimile transmission. One (1) original must be filed with the Administrator, and one (1) copy must be submitted to the opposing parties. Whenever documents are filed by facsimile transmission, originals must be deposited in the mail the same day or hand-delivered the following business day to the Administrator and opposing parties. (3-16-04)

007. PUBLIC RECORDS ACT COMPLIANCE.

These rules were promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. These rules and all records of the Board are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

008. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of name occurs for a certified contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the Board must be notified immediately, in writing, of the change. Documentation confirming the change of name must be provided to the Board on request. ()

02. Change of Address. Whenever a change of mailing address occurs for a certificated contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the Board must be notified immediately, in writing, of the change. ()

03. Address for Notification Purposes. The most recent mailing address on record with the Board will be utilized for purposes of all written communication with certified contractors, journeymen, specialty journeymen, specialty contractors, registered apprentices, and specialty apprentices, including, but not limited to, notification of renewal and notices related to inspections. ()

009. MEETINGS.

Board meetings are subject to the provisions of the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. ()

010. DEFINITIONS.

01. Additional Definitions. Terms defined in Section 54-5003, Idaho Code, will have the same meaning when utilized in these rules. (3-16-04)

02. Administrator. The Administrator of the Idaho Division of Building Safety. (3-16-04)

03. Board. The Idaho Heating, Ventilation, and Air Conditioning (HVAC) Board. (3-16-04)

04. Division. The Idaho Division of Building Safety. (3-16-04)

05. Recognized Jurisdiction. A jurisdiction with an HVAC program that is recognized by the Board as being substantially equivalent to Idaho's HVAC program. ()

011. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION -- REVIVAL.

01. Issuance. Certificates of competency will be issued in such a manner as to create a renewal date that coincides with the birth month of the individual to whom the certificate is issued and allows for renewals every three (3) years. (4-6-05)

a. Certificates of competency are issued for a period of no less than one (1) year and no more than (3) three years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1), but whose birthday will not occur until March of year two (2) will be issued a certificate of competency renewable on

the anniversary of the applicant's birth month. (4-6-05)

b. The fee for issuance of certificates of competency will be prorated based on the number of months for which the certificate is issued. (4-6-05)

02. Renewal. Certificates of competency will be renewed in such a manner as to create a staggered system of certificate renewals using the birth month of the individual to whom the certificate is issued as the expiration date. (4-6-05)

a. Certificates of competency are renewed for a period of no less than one (1) year and no more than three (3) years. (4-6-05)

b. The fee for renewal of certificates of competency will be prorated based on the number of months for which the certificate is issued. (4-6-05)

03. Expiration-Revival. (4-6-05)

a. Certificates that are not timely renewed will expire on the last day of the month in which the renewal is due. (4-6-05)

b. Revived certificates will be issued in such a manner as to create a renewal date that coincides with the birth month of the applicant so as to create a staggered system of renewal. (4-6-05)

012. -- 019. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

021. HVAC CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.

01. Bond. Applicants must provide a compliance bond in the amount of two thousand dollars (\$2,000). Any such bond is required to be effective for the duration of the contractor licensing period. (3-29-12)

02. Qualification. Applicants must provide proof, satisfactory to the Board, of having legally acted as an HVAC journeyman for a period of not less than twenty-four (24) months. (3-16-04)

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

04. Out-of-State Contractor Applications. ()

a. An out-of-state applicant for a contractor certificate of competency shall first obtain an Idaho journeyman certificate of competency in accordance with Section 023 of these rules. The applicant shall pay all applicable application and examination fees to the Division and successfully complete the contractor examination administered by the Division. The applicant shall file the compliance bond required by Section 54-5007, Idaho Code, with the Division upon successful completion of the examination. Applications that are incomplete in any detail will be returned as unacceptable or denied. ()

b. An applicant for a contractor certificate of competency who has previously been licensed as an HVAC journeyman in a Recognized Jurisdiction shall provide to the Division satisfactory proof of two (2) years of work experience as an HVAC journeyman in such jurisdiction. ()

c. An applicant for a contractor certificate of competency who has never been previously licensed as a journeyman in a Recognized Jurisdiction shall provide proof of four (4) years of experience performing HVAC work of a nature equivalent to that which an HVAC journeyman in Idaho must demonstrate to qualify for a contractor certificate of competency. Proof of such work experience may be provided by the submission of three (3) sworn

affidavits from individuals attesting that the applicant has had at least four (4) years' experience performing such work. ()

(BREAK IN CONTINUITY OF SECTIONS)

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY: REQUIREMENTS.

01. Experience. Demonstrate, to the satisfaction of the Board, a minimum of four (4) years' experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman. Notwithstanding the requirement that an HVAC apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified HVAC journeyman, any HVAC apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year HVAC training course may receive credit for up to one (1) year of on-the-job work experience. (4-11-19)

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

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

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

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

a. An out-of-state applicant for a journeyman certificate of competency shall pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ()

b. 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 applicant for a journeyman certificate of competency who has previously been licensed as a journeyman in a Recognized Jurisdiction must provide satisfactory proof of licensure in such jurisdiction. ()

c. An applicant for a journeyman certificate of competency who has never been previously licensed as a journeyman in a Recognized Jurisdiction must provide one (1) of the following: ()

i. Proof of four (4) years, defined as eight thousand (8,000) hours, of HVAC work experience of a nature equivalent to that which an HVAC apprentice must perform in Idaho and four (4) years of training equivalent to that which an HVAC apprentice must complete in Idaho. ()

ii. Proof of 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 HVAC apprentice must perform in Idaho. ()

(BREAK IN CONTINUITY OF SECTIONS)

050. HVAC PERMITS.

- 01. Serial Number.** Each permit must bear a serial number. (3-16-04)
- 02. HVAC Contractors and HVAC Specialty Contractors.** The Division will furnish permits to certified HVAC contractors and HVAC specialty contractors upon request. The serial numbers of such permits must be registered in the name of the HVAC contractor or HVAC specialty contractor to whom they are issued. ()
- 03. Home Owners.** Home owners or a contract purchaser of residential property, making HVAC installations on their own residences, coming under the provisions of Section 54-5002, Idaho Code, must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)
- 04. HVAC Contractors and HVAC Specialty Contractors.** HVAC contractors and HVAC specialty contractors must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)
- 05. Transferring a Permit.** A HVAC 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 as well as 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 HVAC work is to be performed and for which the permit was issued for such owners' designated legal agent, in cases where the property owner has terminated their legal relationship with the HVAC contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit will be assessed by the Division. (3-24-17)
- 06. Refunds of Permits.** The Administrator may authorize a refund for any permit fee paid on the following bases: (3-24-17)
- a.** The Administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installations or HVAC 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 (3-24-17)
- b.** The Administrator will not 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. (3-24-17)

(BREAK IN CONTINUITY OF SECTIONS)

060. REQUIRED INSPECTIONS.

- 01. Request for Division Inspection.** ()
- a.** Inspection. Each permit holder must notify the Division at least one (1) day prior to the desired inspection, Sundays and holidays excluded, that the project is ready for inspection. (3-16-04)
- b.** Reinspection. If a reinspection is required after the final inspection, due to a failure to meet requirements of Title 54, Chapter 50, Idaho Code, and/or these rules, the permit holder will be charged a fee not to exceed the actual cost of each reinspection. (3-16-04)
- 02. Inspection Tags.** Inspectors certify to the permit holder that an inspection has been done by securely attaching the inspection tag in a prominent location. (5-8-09)
- a.** Final Inspection Tags. An inspection tag indicating that a final inspection has been performed is attached when the HVAC installation as specified on the permit is complete and conforms to the requirements of the code and rules. (5-8-09)

b. Inspection Tags for Unacceptable HVAC Installations. “Notice of Correction” inspection tags are attached to indicate that the HVAC installation is not acceptable and that corrections are required. (3-29-12)

c. Work-in-Progress Tag. An inspection tag indicating that a work-in-progress inspection has been performed is attached following inspection of ground work, rough-in work, or any portion of the installation that is to be covered or otherwise concealed before completion of the entire HVAC installation as specified on the permit. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

070. CIVIL PENALTIES.

Except for the acts described in Subsections 070.01 and 07.08 of these rules, the acts described in this section 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. Heating, Ventilation, and Air Conditioning Contractor or Specialty Contractor. Except as provided by Section 54-5001, Idaho Code, any person who acts, or purports to act, as an HVAC contractor or specialty contractor as defined by Section 54-5003(3) and 54-5003(6), Idaho Code, without a valid Idaho state HVAC contractor or specialty contractor certification is subject to a civil penalty of not more than five hundred dollars (\$500) 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. ()

02. Knowingly Employing. Knowingly employing a person who does not hold a valid Idaho HVAC certification or apprentice registration, as required by Section 54-5008, Idaho Code, to perform HVAC installations. ()

03. Certification or Registration. Except as provided by Section 54-5001, Idaho Code, performing HVAC work as an HVAC journeyman as defined by Section 54-5003(4), Idaho Code; specialty journeyman as defined by Section 54-5003(7), Idaho Code; apprentice as defined by Section 54-5003(2), Idaho Code; or specialty apprentice as defined by Section 54-5003(5), Idaho Code, without a valid certification or registration. ()

04. Supervision. Working as an HVAC apprentice or specialty apprentice without the required journeyman supervision or employing an apprentice without providing the required journeyman supervision. ()

05. Performance Outside Scope of Specialty License. Performance of any HVAC installation, alteration, or maintenance by an HVAC specialty contractor or specialty journeyman outside the scope of the specialty certification. ()

06. Fees and Permits. Failing to pay applicable fees or properly post an HVAC permit for, or to request an inspection of, any installation, alteration, improvement, or extension of any piping, venting, ductwork, appliances and appurtenances in connection with any HVAC system or subsystems of such. ()

07. Corrections. Failure to make corrections in the time allotted in the notice on any HVAC installation as set forth in Section 54-5019, Idaho Code. ()

08. Gross Violation. In the case of continued, repeated, or gross violation of Title 54, Chapter 50, Idaho Code, or these rules, a certification revocation will be initiated for certificated individuals under this chapter and non-certificated individuals is subject to prosecution by the appropriate jurisdiction under Idaho law. ()

IDAPA 07 – DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

Upon legislative approval of this pending rule, the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 07-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-5001, 54-5004, and 54-5005, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 158 through 162](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-5005, Idaho Code.

This pending rulemaking will 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 pending rulemaking will 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 amendments will reduce permit fees. Although the amendments will raise permit fees in some instances, the fee for each permit will not exceed the cost of processing the permit and inspecting 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact John Nielsen, HVAC Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Dated this 13th day of November, 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 TEXT OF THE PENDING RULE FOR
DOCKET NO. 07-0701-1902**

**This rulemaking is being republished in its entirety.
Previously made amendments are shown in red plain text (non-italicized).**

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY AND EXAMINATION REQUIREMENTS.

01. Certificate of Competency Requirements. 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 as a registered apprentice making installations on the job under the supervision of a qualified journeyman. Notwithstanding the requirement that an apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified journeyman, any apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year training course may receive credit for up to one (1) year of on-the-job work experience. ()

02. Examination Requirement. To take the journeyman examination, an applicant must submit to the Division sufficient evidence demonstrating the applicant has successfully completed a Board-approved training course. ()

03. 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 work experience of a nature at least equivalent to that which an apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which an 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 work experience of a nature at least equivalent to that which an 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

025. HVAC APPRENTICE REQUIREMENTS FOR REGISTRATION.

01. Registration. To become an apprentice, a person shall comply with Section 54-5012, Idaho Code, and be a minimum of eighteen (18) years of age or sixteen (16) years of age if registered by the Bureau of Apprenticeship and Training 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. ()

02. Supervision. Each apprentice must work under the supervision of a certified journeyman. ()

(BREAK IN CONTINUITY OF SECTIONS)

051. HVAC PERMIT FEE SCHEDULE.

Permit fees are to cover the cost of inspections as provided by Section 54-5017, Idaho Code. Any person, partnership, company, firm, association, or corporation making an installation must pay to the Division a permit fee as provided in the following schedule: ()

01. Residential. Includes all buildings with HVAC systems being installed on each property. The following permit fees apply to all residential installations:

Type	Fee
Base permit	\$100
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	Plus \$30 per first fixture or appliance Plus \$15 per additional fixture or appliance
Exhaust duct or ventilation duct, including dryer vents, range hood vents, cook stove vents, bath fan vents, and similar exhaust ducts or ventilation ducts	Plus \$15 per first duct Plus \$5 per additional duct
Fuel gas piping system	Plus \$5 per appliance outlet
Hydronic systems	Plus \$5 per zone

()

02. Miscellaneous. The following permit fees apply for the types of permits listed:

Type	Fee
Requested inspection	\$65 per hour or portion thereof plus costs of out-of-state travel
Mobile or manufactured home	\$65 per inspection
Modular building	
Plan check or technical service	\$65 per hour or portion thereof

()

03. Other Installations Including Industrial and Commercial. The permit fees listed in this Subsection apply to installations not specifically mentioned elsewhere in this schedule. The HVAC system cost is the cost to the owner of labor charges and other costs incurred to complete the installation of 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
Up to \$10,000	\$60 plus 2% of HVAC system cost
\$10,000 to \$100,000	\$260 plus 1% of HVAC system cost exceeding \$10,000
Over \$100,000	\$1,160 plus 5% of HVAC system cost exceeding \$100,000

- ()
- 04. Additional Fees.** A fee of sixty-five dollars (\$65) per hour or portion thereof applies to trips to inspect: ()
- is not;
- a.** When the permit holder has given notice to the Division that the work is ready for inspection and it ()
 - b.** If the permit holder has not accurately identified the work location; ()
 - c.** If the inspector cannot gain access to make the inspection; ()
 - d.** Corrections required by the inspector as a result of the permit holder improperly responding to a corrective notice; or ()
 - e.** When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)
- 05. No Permit.** Failure to purchase a permit before commencing work may result in the assessment of a double fee. ()

IDAPA 08 – STATE BOARD OF EDUCATION

DOCKET NO. 08-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-101, 33-105, 33-107, 33-115, 33-116, 33-118, 33-118A, 33-119, 33-120, 33-125B, 33-130, 33-133, 33-134, 33-136, 33-203, 33-307, 33-310, 33-320, 33-523, 33-804A, 33-1002, 33-1002C, 33-1002F, 33-1004, 33-1006, 33-1007A, 33-1201, 33-1201A, 33-1202, 33-1204, 33-1205, 33-1210, 33-1212, 33-1212A, 33-1280, 33-1304, 33-1602, 33-1612, 33-1613, 33-1614, 33-1616, 33-1631, 33-2002, 33-2003, 33-2009, 33-2402, 33-2403, 33-4303, 33-4402, 33-4403, 33-4601A, 33-4605, 33-5203, 33-5205, 33-5207, 33-5208, 33-5210, 33-5504, 33-5505, 33-5507, and 22-1504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 08, rules of the Idaho State Board of Education:

IDAPA 08, State Board of Education

- 08.01.02, *Rules Governing the Postsecondary Credit Scholarship Program*
- 08.01.10, *Idaho College work Study Program*
- 08.01.11, *Registration of Postsecondary Education Institutions and Proprietary Schools*
- 08.01.13, *Rules Governing the Opportunity Scholarship Program*
- 08.02.01, *Rules Governing Administration*, adds required Sections 000-006
- 08.02.02, *Rules Governing Uniformity*
- 08.02.03, *Rules Governing Thoroughness*
- 08.02.04, *Rules Governing Public Charter Schools*
- 08.02.05, *Rules Governing Pay for Success Contracting*
- 08.03.01, *Rules of the Public Charter School Commission*
- 08.04.01, *Rules of the Idaho Digital Learning Academy*
- 08.05.01, *Rules Governing Seed and Plant Certification*

The text of the pending rule for 08.02.03, Section 110, has been amended in accordance with Section 67-5227, Idaho Code. No other changes to the pending rules have been made. The complete text of the proposed rules were published in the June 19, 2019 Idaho Administrative Bulletin, [Vol. 19-6SE, pages 1026-1171](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 29th day of November, 2019.

Tracie Bent, Chief Planning and Policy Officer
Office of the State Board of Education
Phone: (208) 332-1582 /Fax: (208) 334-2632

650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037

**IDAPA 08
TITLE 01
CHAPTER 02**

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.02 – RULES GOVERNING THE POSTSECONDARY CREDIT SCHOLARSHIP PROGRAM

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, 33-4601A, and 33-4605, Idaho Code the State Board of Education (Board) is authorized to promulgate rules implementing the provisions of Title 33, Chapter 46, Idaho Code. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.01.02, “Rules Governing the Postsecondary Credit Scholarship Program.” (3-29-17)

02. Scope. These rules constitute the requirements for the Postsecondary Credit Scholarship Program. (3-29-17)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the Office of the State Board of Education. (3-29-17)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the rules of the Board or in the Board Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. (3-29-17)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (3-29-17)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (3-29-17)

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (3-29-17)

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (3-29-17)

04. Telephone Number. The telephone number of the Board is (208) 334-2270. (3-29-17)

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (3-29-17)

06. Web Address. The electronic address of the Board of Education is <https://boardofed.idaho.gov>. (3-29-17)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-29-17)

007. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this section the following definitions apply: (3-29-17)

01. Academic Merit Based Scholarship. A scholarship in which a minimum academic standard must

be met to be eligible for the scholarship. (3-29-17)

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

03. Business Scholarship. A competitive scholarship awarded from a business entity registered with the Idaho Secretary of State or other state or federal entity that registers businesses and whose purpose is not postsecondary education nor is the entity affiliated with a postsecondary educational institution; or an association representing businesses as described herein. (3-29-17)

04. Executive Director. Executive Director for the Idaho State Board of Education. (3-29-17)

05. Grade Point Average (GPA). Average secondary grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. (3-29-17)

06. Industry Scholarship. A competitive scholarship in which the recipient must enter into a program of study for a specific occupational area. (3-29-17)

011. -- 100. (RESERVED)

101. APPLICATION PROCESS.

01. Initial Applications. An eligible student must complete and submit the scholarship program application to the Board electronically on or before the date specified in the application, but not later than June 1 for guaranteed consideration of an award during the proceeding fall academic term. An applicant without electronic capabilities may submit an application on the form established by the Executive Director through the United States Postal Service. Applications received, or postmarked after March 1 of each year must be received at least 60 days prior to the start of the term for which the applicant has enrolled for consideration during the next academic term. (3-29-17)

02. Communication with State Officials. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the Executive Director or designee. (3-29-17)

102. -- 299. (RESERVED)

300. SCHOLARSHIP AWARDS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. In the event more eligible applications are received than funds are available, those applications received by June 1 of each year will be awarded based on their GPA ranking. Applications received after June 1 of each year will only be considered after all initial applications have been processed and awardees have accepted or rejected their awards, and will be based on their GPA ranking. (3-29-17)

02. Monetary Value of the Opportunity Scholarship. The monetary value of the award will be based on the maximum amount the applicant is eligible to receive based on the number of postsecondary credits accepted by the institution they attend and the amount of the matching scholarship for each year they are eligible. The award amount shall not be more than the matching merit based business or industry scholarship received by the applicant within the limits of the maximum eligible amount. (3-29-17)

03. Payment. Payment of scholarship award will be made in the name of the recipient and will be sent to the designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient student's account within a reasonable time following receipt of the payment. (3-29-17)

04. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship is valid for up to four (4) educational years from

the date the recipient graduated from high school. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (3-29-17)

05. Eligibility. If a student receives a scholarship payment and it is later determined that the student did not meet all of the scholarship program eligibility requirements, then the student is considered in overpayment status, and the remaining program funds must be returned to the Office of the State Board of Education. (3-29-17)

302. CONTINUING ELIGIBILITY.

To remain eligible for the scholarship, the recipient must comply with all of the provisions of the scholarship program and these rules, in addition to the following requirements. (3-29-17)

01. Interruption of Continuous Enrollment. A student may request an interruption of continuous enrollment for eligible students due to military service in the United States armed forces, medical circumstances, or extenuating circumstances approved by the Executive Director. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason and who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time student in an academic or career-technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll and within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. At no time may the extension extend beyond the expiration period of the scholarship. At no time may the scholarship award eligibility be extended beyond four (4) years from the date the student graduated from high school. (3-29-17)

303. -- 999. (RESERVED)

**IDAPA 08
TITLE 01
CHAPTER 10**

08.01.10 – IDAHO COLLEGE WORK STUDY PROGRAM

000. LEGAL AUTHORITY.

The following rules are made under authority of Sections 33-105, 33-107, and 33-4402, Idaho Code, to implement the provisions of Chapter 44, Title 33, Idaho Code. (4-4-13)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 08.01.10, “Idaho College Work Study Program.” (4-4-13)

02. Scope. This rule establishes the administrative procedures necessary to implement a student financial and educational aid program as called for by Chapter 44, Title 33, Idaho Code. (4-4-13)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of this rule. (4-4-13)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the Rules of the State Board of Education or in the State Board of Education Governing Policies and Procedures, all administrative hearings and appeals allowed by law are governed according to the provisions of the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (4-4-13)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference. (4-4-13)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. (4-4-13)

02. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-4-13)

03. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-4-13)

04. Telephone. The telephone number of the Board is (208) 334-2270. (4-4-13)

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (4-4-13)

06. Web Address. The electronic address of the Board of Education is <https://boardofed.idaho.gov>. (4-4-13)

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to the provisions of the Public Records Act, Title 74, Chapter 1, Idaho Code. (4-4-13)

007. -- 099. (RESERVED)

100. PURPOSE OF THE IDAHO COLLEGE WORK STUDY PROGRAM.

The purpose of this program is to establish the administrative procedures necessary to implement a student financial and educational aid program as called for by Chapter 44, Title 33, Idaho Code. (7-1-93)

101. INSTITUTIONAL PARTICIPATION.

Eligible postsecondary institutions are defined by statute. In order to participate in the program during a specific fiscal year, eligible institutions shall: (7-1-93)

01. Annual Application. Submit to the Office of the State Board of Education an annual application on or before the November 1 preceding the beginning of the fiscal year. (7-1-93)

02. Enrollment Form. Submit to the Office of the State Board of Education a properly completed and accurate Student Enrollment Form (PSR-1) for the fall semester prior to the previous fiscal year. The required PSR-1 shall be submitted each February as directed by the Office of the State Board of Education. (4-4-13)

03. Educational Need. Eligible postsecondary institutions participating in the educational need, work experience portion of the work study program shall submit to the Office of the State Board of Education, on or before August 1 preceding the beginning of the academic year, requirements for determining educational need, in accordance with Section 33-4405, Idaho Code, and Section 8 of this chapter. (7-1-93)

102. ALLOCATION OF FUNDS.

Funds appropriated to the Office of the State Board of Education for the Idaho College Work Study Program shall be allocated to participating institutions based on enrollment data submitted by each institution on the Student Enrollment Form (PSR-1) for the fall semester prior to the previous fiscal year of participation. The allocation shall be based on the appropriation for that fiscal year multiplied by an enrollment factor. The enrollment factor shall be calculated by dividing the headcount of resident degree-seeking students at the participating institutions by the total headcount of resident degree-seeking students for all participating institutions. (4-4-13)

103. (RESERVED)

104. AUDIT.

Participating institutions shall agree in advance to submit to regular, periodic audits by the legislative auditor and the internal auditor of the Office of the State Board of Education to ensure compliance with the statutes, rules, and policies governing the Idaho College Work Study Program, including provision of accurate enrollment information. (7-1-93)

105. DISTRIBUTION OF FUNDS.

Funds allocated to participating institutions for a specific fiscal year by the Office of the State Board of Education shall be distributed to the institution during the fall term for the academic year. (4-4-13)

106. CARRYOVER FUNDS.

Participating institutions may carry over up to ten percent (10%) of the work study program funds received in one fiscal year to the next fiscal year, provided however, that any carryover funds shall be used exclusively in the work study program. Any unexpended funds in excess of the ten percent (10%) provided herein shall be returned to and redistributed by the Office of the State Board of Education. (4-4-13)

107. EDUCATIONAL NEED; WORK EXPERIENCE.

01. Purpose. The purpose of the educational need portion of the work study program is to enable students, without regard to financial need, to gain valuable work and career work experience related to their field of study. (7-1-93)

02. Determination of Educational Need. Requirements for determining educational need shall be formulated by each participating institution, subject to review by the State Board of Education. In reviewing such requirements, the State Board of Education will consider the following minimum guidelines: (7-1-93)

a. The requirement that the work experience be related to the student's "field of study" shall mean the student's declared major or minor or, if a vocational student, a specific vocational program for which the student is seeking a degree, certificate, or license. "Field of study" may also include a specific course or academic or vocational project which complements the student's major, minor, or vocational program, provided the student obtains a written statement from an advisor or the professor or instructor of the specific course or project that the work experience proposed is related to, and will complement the major, minor, or vocational programs which the student is pursuing. (7-1-93)

b. The financial resources of the student, including but not limited to individual or family income, may not be considered in determining eligibility. (7-1-93)

c. In addition to the above, participating institutions which are controlled by sectarian organizations are subject to the following constitutional and statutory restrictions: (7-1-93)

i. No student may participate whose course of study is sectarian in nature or who is pursuing an educational program leading to a baccalaureate or other degree in theology or divinity. (7-1-93)

ii. Students at such participating institutions may participate only in the off-campus work experience portion of the program. (7-1-93)

iii. Off-campus employment may not be located at, or be performed on behalf of, a church, sectarian or religious organization, religious denomination, sect, or society, whether incorporated or unincorporated. (7-1-93)

108. -- 999. (RESERVED)

**IDAPA 08
TITLE 01
CHAPTER 11**

**08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS**

000. LEGAL AUTHORITY.

The following rules are made under authority of Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code. (4-9-09)

001. TITLE AND SCOPE.

01. Title. This rule are titled IDAPA 08.01.11, “Registration of Postsecondary Educational Institutions and Proprietary Schools.” (4-9-09)

02. Scope. This rule sets forth the registration requirements for postsecondary educational institutions that are required to register with the Idaho State Board of Education (“Board”) under Section 33-2402, Idaho Code, and for proprietary schools required to register with the Board under Section 33-2403, Idaho Code. In addition, this rule describes the standards and criteria for Board recognition of accreditation organizations, for registration purposes. (4-9-09)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of this rule. (4-9-09)

003. ADMINISTRATIVE APPEALS.

The Administrative Procedures Act, Chapter 52, Title 67, Idaho Code, applies to any denial of registration of any postsecondary educational institution or proprietary school. Hearings and appeals are governed according to the provisions of IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (4-9-09)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference. (4-9-09)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. (4-9-09)

02. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-9-09)

03. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-9-09)

04. Telephone. The telephone number of the Board is (208) 334-2270. (4-9-09)

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (4-9-09)

06. Web Address. The electronic address of the Board of Education is <https://boardofed.idaho.gov>. (4-9-09)

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to the provisions of the Public Records Act, Title 74, Chapter 1, Idaho Code. (4-9-09)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accredited. Defined in Section 33-2401(1), Idaho Code, and means that a postsecondary

educational institution has been recognized or approved as meeting the standards established by an accrediting organization recognized by the Board. (4-9-09)

02. Agent. Defined in Section 33-2401(2), Idaho Code, and means any individual within the state of Idaho who solicits students for or on behalf of a proprietary school. (4-9-09)

03. Agent’s Certificate of Identification. Defined in Section 33-2401(3), Idaho Code, and means a nontransferable written document issued to an agent by the proprietary school that the agent represents. (3-29-10)

04. Course. Defined in Section 33-2401(5), Idaho Code, and means instruction imparted in a series of lessons or class meetings to meet an educational objective. (4-9-09)

05. Course or Courses of Study. Defined in Section 33-2401(6), Idaho Code, and means either a single course or a set of related courses for which a student enrolls, either for academic credit or otherwise. A course of study is sometimes also referred to in this rule as a program. (4-9-09)

06. Degree. Defined in Section 33-2401(7), Idaho Code, and means any written or any academic title that contains, in any language, the word “associate,” “bachelor,” “baccalaureate,” “masters,” “doctor,” or any abbreviation thereof, and that indicates or represents, or is intended to indicate or represent, that the person named thereon, in the case of any writing, or the person it is awarded thereto, in the case of any academic title, is learned in or has satisfactorily completed a prescribed course of study in a particular field or that the person has demonstrated proficiency in any field of endeavor as a result of formal preparation or training. (3-29-10)

07. Executive Director. Defined in Section 33-102A, shall mean the Executive Officer of the Office of the State Board of Education, or his designee. (3-29-12)

08. Nonprofit. Means an entity that is recognized under the Internal Revenue Code and applicable regulations as being tax exempt, or an entity such as a nonprofit or not-for-profit organization that possesses the following characteristics that distinguish it from a business enterprise: (a) contribution of significant amounts of resources from resource providers who do not expect commensurate or proportionate pecuniary return, (b) operating purposes other than to provide goods or services at a profit, and (c) absence of ownership interests like those of business enterprises. (4-9-09)

09. Postsecondary Educational Institution. Sometimes referred to in this rule simply as an institution, is defined in Section 33-2401(8), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within, or which operates or purports to operate, from a location within, the state of Idaho, and which provides a course or courses of study that lead to a degree, or which provides, offers or sells degrees. (4-9-09)

10. Proprietary School. Sometimes referred to in this rule simply as a school, is defined in Section 33-2401(9), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within, or which operates or purports to operate, from a location within the state of Idaho and which conducts, provides, offers or sells a course or courses of study, but which does not provide, offer or sell degrees. (4-9-09)

011. -- 099. (RESERVED)

100. RECOGNITION OF ACCREDITATION ORGANIZATIONS.

For purposes of registration of postsecondary educational institutions, the Board recognizes the regional and national accreditation organizations that are recognized by and in good standing with the United States Department of Education, and which accredit entire colleges or universities, and which do not accredit only courses or courses of study (such as specialized accreditation organizations). Further, the Board may recognize other accreditation organizations on a case-by-case basis. A request for recognition of other accreditation organizations for purposes of registration should be made to the Board’s Chief Academic Officer, who will review and evaluate the request with the input and advice of the Board’s Committee on Academic Affairs and Programs (CAAP). The Board will make a final decision based on such evaluation and review. (4-4-13)

101. -- 200. (RESERVED)

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

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

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

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

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

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

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

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

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

05. Disapproval and Appeal. If a postsecondary educational institution’s request for initial registration, or renewal of registration, is disapproved by the Board, then the institution may appeal such decision by submitting written request. The request must be in writing and made to the Board office within thirty (30) days of the date the institution is notified of the disapproval. (3-28-18)

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

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

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

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

ii. Providing false, misleading, deceptive, or incomplete information to the Board; (4-9-09)

iii. Presenting to prospective or current students information about the institution which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; (3-29-12)

- iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by the Board Office has been received; or (3-29-12)
- v. Loss of accreditation status. (3-29-12)
- c. If any information contained in the application submitted by the institution becomes incorrect or incomplete, then the registered institution shall notify the Board office of such change within thirty (30) days. An institution that ceases operation during the course of a registration year shall immediately inform the Board Office of this event. (3-29-12)

202. -- 300. (RESERVED)

301. APPROVAL STANDARDS FOR REGISTRATION OF PROPRIETARY SCHOOLS.

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

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

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

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

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

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

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

f. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, anticipated job opportunities, and other relevant information to assist students in making an informed decision to enroll. Schools offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. The school must provide to each prospective student, newly-enrolled student, and returning student complete and clearly presented information indicating the school's current completion and job placement rate. (4-4-11)

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

a. The requirements for each course or courses of study must be defined clearly including applicable completion requirements or other requirements such as practicums and clinicals. Courses or courses of study must follow applicable trade or occupational board training curriculum standards or be designed using effective learning strategies for students, identifying and organizing all instructional materials and specialized facilities, identifying instructional assessment methods, and evaluating the effectiveness of the course offerings. Applicants must include

an attestation that courses or courses of study applicable to occupations, which are otherwise regulated, licensed, or registered with another state agency or state board, meet the regulating state agency or state board standards for licensure or certification at the time of application. The office of the state board of education does not review course or program curriculum. (3-28-18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 04. Standard IV - Faculty/Instructor Qualifications and Compensation.** (3-29-12)
- a.** Instructor qualifications (training and experience) must be recorded and available to students. (3-29-12)
 - b.** There must be a sufficient number of full-time instructors to maintain the continuity and stability of courses. (4-9-09)
 - c.** The ratio of instructors to students in each course must be sufficient to assure effective instruction. (4-9-09)
 - d.** Commissions may not be used for any portion of the faculty compensation. (4-9-09)
 - e.** Procedures for evaluating instructors must be established. Provisions for student evaluation are recommended. (4-9-09)
- 05. Standard V - Resources, Finance, Facilities, and Instructional Resources.** (4-9-09)
- a.** Adequate financial resources must be provided to accomplish instructional objectives and to effectively support the instructional program, including classroom and training facilities, instructional materials, supplies and equipment, instructors, staff, library, and the physical and instructional technology infrastructure. (3-29-12)
 - b.** The school must have sufficient instructional resource materials so that, together with tuition and fees, it is able to complete its educational obligations to currently enrolled students. If the school is unable to fulfill its obligations to students, the school must make arrangements for a comparable teach-out opportunity with another proprietary school or refund one hundred (100) percent of prepaid tuition. (3-29-12)
 - c.** School financial/business records and reports must be kept separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a school shall be kept in accordance recognized financial accounting methods. (3-29-12)
 - d.** The school must have adequate instructional resource materials available to students, either on site or through electronic means. These materials must be housed in a designated area and be available for students and instructors with sufficient regularity and at appropriate hours to support achievement of course objectives or to promote effective teaching. (4-9-09)
 - e.** If the school relies on other schools or entities to provide library resources or instructional resources, the school must demonstrate how these arrangements effectively meet the needs of students and faculty. These arrangements must be documented through written agreements. Student and faculty use must be documented and frequently evaluated to ensure quality services are being provided. (4-9-09)
- 302. THE BOARD MAY NOTIFY THE PROPRIETARY SCHOOL OF ADDITIONAL INFORMATION REQUIRED.**
- If the Board is unable to determine the nature and activities of a school on the basis of the information provided by the school under this rule, then the Board may notify the school of additional information that it will be required to provide in connection with the application for registration. (3-29-10)
- 01. Verification of Information.** The Board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. The applicant school shall be responsible for any costs the Board incurs including travel, associated with this review. (3-29-12)
 - 02. Criteria for Approval or Denial of Registration.** To be approved for registration, the school must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule, including all of the standards described in Section 301 of this rule. A school must remain in compliance for the registration year. (3-29-10)

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

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

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

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

c. If a school wishes to offer additional courses or courses of study during the course of a registration year that were not included in its application to the Board prior to issuance of the certificate of registration, then the school must submit a letter to the Board Office along with appropriate approval documentation by the applicable professional or trade board, council, or commission. This letter will be added to the school’s registration file. (4-7-11)

05. Disapproval and Appeal. If a proprietary school’s request for initial registration or a renewal of registration is disapproved by the Board, then the school may appeal such decision in accordance with Chapter 52, Title 67, Idaho Code. The request must be in writing and made to the Board within thirty (30) days of the date the school is notified of the disapproval. (3-29-10)

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

a. The Board may refuse to renew, or may revoke or suspend approval of a school’s registration by giving written notice and the reasons therefore to the school. The school may request a hearing under IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-29-10)

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

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

ii. Providing false, misleading, deceptive, or incomplete information to the Board. (3-29-10)

iii. Presenting to prospective or current students information about the school which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; or (4-9-09)

iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by the Board has been received. (3-29-10)

c. If any information contained in the application submitted by the school becomes incorrect or incomplete, then the registered school shall notify the Board of such change within thirty (30) days. A school that ceases operation during the course of a registration year shall immediately provide written notice to the Board of this event. (4-7-11)

07. Agent’s Certificate of Identification. Each proprietary school shall ensure that its agents have a valid certificate of identification, and that all of its agents are in compliance with Section 33-2404, Idaho Code. The school shall complete a criminal history check that includes, at a minimum, the State Bureau of Identification, and statewide sex offender registry for each agent having unsupervised contact with minors in the minor’s home or at secondary schools, prior to making application for the agent’s certificate of identification. The criminal history check shall be valid for five (5) years and be kept on file by the school. When an employee returns to any proprietary school after a break in service of six (6) months or more a new criminal history check must be obtained. When an employee changes employment between proprietary schools, a new criminal history check must be obtained by the new employer. (4-7-11)

a. The Board shall revoke any agent’s certificate of identification issued or authorized under this Section and shall deny the application for issuance of a new certificate of identification of a person who pleads guilty to, or is found guilty of, notwithstanding the form of the judgment or withheld judgment, any of the following felony offenses against a child: (3-29-10)

i. The aggravated assault of a child, Section 18-905, Idaho Code, or the assault with intent to commit a serious felony against a child, Section 18-909, Idaho Code. (3-29-10)

ii. The aggravated battery of a child, Section 18-907, Idaho Code, or the battery with intent to commit a serious felony against a child, Section 18-911, Idaho Code. (3-29-10)

iii. The injury or death of a child, Section 18-1501, Idaho Code. (3-29-10)

iv. The sexual abuse of a child under sixteen (16) years of age, Section 18-1506, Idaho Code. (3-29-10)

v. The ritualized abuse of a child under eighteen (18) years of age, Section 18-1506A, Idaho Code. (3-29-10)

vi. The sexual exploitation of a child, Section 18-1507, Idaho Code. (3-29-10)

vii. Possession of photographic representations of sexual conduct involving a child, Section 18-1507A, Idaho Code. (3-29-10)

viii. Lewd conduct with a child under the age of sixteen (16) years, Section 18-1508, Idaho Code. (3-29-10)

ix. The sexual battery of a minor child sixteen (16) or seventeen (17) years of age, Section 18-1508A, Idaho Code. (3-29-10)

x. The sale or barter of a child for adoption or other purposes, Section 18-1511, Idaho Code. (3-29-10)

xi. The murder of a child, Section 18-4003, Idaho Code, or the voluntary manslaughter of a child, Section 18-4006 1., Idaho Code. (3-29-10)

xii. The kidnapping of a child, Section 18-4502, Idaho Code. (3-29-10)

xiii. The importation or exportation of a juvenile for immoral purposes, Section 18-5601, Idaho Code. (3-29-10)

xiv. The abduction of a person under eighteen (18) years of age for prostitution, Section 18-5610, Idaho Code. (3-29-10)

xv. The rape of a child, Section 18-6101 or 18-6108, Idaho Code. (3-29-10)

b. The general classes of felonies listed in Section 302 shall include equivalent laws of federal or other state jurisdictions. For the purpose of Subsection 302.07, “child” means a minor or juvenile as defined by the applicable state or federal law. (3-29-10)

08. Surety Bond. Each proprietary school shall comply with the provisions in Section 33-2406, Idaho Code, relating to a surety bond. (4-9-09)

a. The amount of the surety bond shall be not less than the total tuition and fees to be collected by the school from its students, currently engaged in instructional activities, that covers the period from the beginning through completion of the course of instruction the student has contracted and paid for. This amount shall be based

upon the projected tuition and fee revenue for the coming registration year, subject to modification in the event a school experiences significant changes in tuition and fee revenue during the current year. The Executive Director shall determine the appropriate format and method by which this bond value is to be calculated and reported.

(3-29-12)

b. Schools must keep a valid bond in force, via periodic renewal as needed, throughout the entire registration year with no lapse in coverage. Schools shall ensure that all bonds include “extended coverage” clauses to remain in effect for one hundred twenty (120) days after the date of a school’s closure.

(3-29-12)

c. No party to the surety bond may cancel without one hundred twenty (120) day prior notice to all parties, including the Office of the State Board of Education.

(3-29-12)

d. The Board shall be the beneficiary of the bond and shall oversee the distribution of funds to students who file claims. Schools shall provide proof of the required bond and submit said documentation with their registration applications.

(3-29-10)

303. -- 399. (RESERVED)

400. ENFORCEMENT.

The Board, acting by and through its Executive Director may initiate on its own initiative any investigation relating to a violation of the state laws or rules relating to the requirement that an institution or school register with the Board pursuant to Title 33, Chapter 24, Idaho Code.

(3-29-12)

401. -- 499. (RESERVED)

500. COMPLAINTS.

A complaint concerning an institution or school operating in the State of Idaho (maintaining an Idaho presence) that pertains to a matter described herein shall be reviewed and acted upon as appropriate in accordance with the specific procedures described below:

(3-29-12)

01. Violations of State Consumer Protection Laws. A complaint alleging a violation of Idaho consumer protection laws shall be instituted, reviewed, and acted upon in accordance with IDAPA 04.02.01, “Idaho Rules of Consumer Protection, Office of the Attorney General.”

(3-29-12)

02. Violations of State Laws or Rules Related to the Registration of Postsecondary Educational Institutions and Proprietary Schools. A complaint alleging violations of state laws or rules related to the requirement that an institution or school register with the Board shall be submitted in writing to the Board’s Executive Director for investigation and appropriate enforcement action, including the remedies specified in Section 33-2408, Idaho Code.

(3-29-12)

03. Complaints Related to Quality of Education, or Other Matters.

(3-29-12)

a. A complaint relating to the quality of education provided by an institution or school or accreditation matters, or any other matter related to the operations or practices of an institution or school other than a state consumer protection matter, shall be submitted on a form provided by the Board to the Executive Director for review and appropriate action.

(3-29-12)

b. If after initial review the Executive Director determines that the complaint relates to the quality of education or accreditation matters, the Executive Director may refer the matter to the accreditation organization of the institution or school at issue for review and recommendation. If a matter referred to an accreditation organization results in resolution of the complaint to the satisfaction of the complainant, then the matter shall be considered resolved and there shall be no further action on the matter. If the matter is not successfully resolved, then the Executive Director will review the recommendation of the accreditation organization and follow the procedures for investigations of complaints described in Subsection 500.03.c. of these rules.

(3-29-12)

c. If the complaint pertains to any other matter related to the operations or practices of an institution or school, other than a state consumer protection matter, then the Executive Director will review the complaint to

determine whether such complaint falls within the regulatory authority of the Board. If it does not, then Board office will notify the complainant in writing of such determination, and may offer referral of such matter to an appropriate agency or entity. If after initial review the Executive Director determines that the complaint falls within the regulatory authority of the Board, then Board staff will notify both the complainant and the respondent institution or school of the complaint resolution process to be utilized and applicable timelines. The review and investigation of a complaint shall occur as expeditiously as possible. The parties may be asked to respond in writing to the complaint, to submit to interviews, and to provide additional records, documents, statements, or other collateral information as necessary. Any request by the investigator for additional information related to such complaint must be provided promptly. The Board's investigator will review the materials submitted by all parties and at the conclusion of the investigation prepare a summary of the allegations, the investigator's findings, and a recommendation for disposition to the Executive Director. If the Executive Director determines that the facts indicate a probable violation of law or rule over which the Board has regulatory authority, then the Executive Director shall issue a written decision on the disposition of such complaint. Within thirty (30) days after a decision is issued a party aggrieved by such decision may file with the Executive Director a request for a hearing. The provisions of the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, shall apply to such hearing and to judicial review of such decision. (3-29-12)

d. If the Board office receives a complaint relating to an institution or school that is exempt from registration under Idaho law or these rules, and such institution or school has not elected to voluntarily register, then such institution or school shall be responsible for reimbursing the Board office for the actual costs incurred to process and act on such complaint. (3-29-12)

501. -- 999. (RESERVED)

**IDAPA 08
TITLE 01
CHAPTER 13**

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, and 33-4303, Idaho Code, the State Board of Education (Board) shall promulgate rules implementing the provisions of Title 33, Chapter 56, Idaho Code. (3-28-18)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.01.13, “Rules Governing the Opportunity Scholarship Program.” (4-2-08)

02. Scope. These rules constitute the requirements for the Opportunity Scholarship Program. (4-2-08)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the Board. (4-2-08)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the rules of the Board or in the Board Governing Policies and Procedures, all administrative appeals allowed by law will be conducted as provided herein. (4-2-08)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (4-2-08)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (4-2-08)

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-2-08)

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-2-08)

04. Telephone Number. The telephone number of the Board is (208) 334-2270. (4-2-08)

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (4-2-08)

06. Web Address. The electronic address of the State Board of Education is <https://boardofed.idaho.gov>. (4-2-08)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-2-08)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Grade Point Average (GPA). Means the average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. (3-20-14)

011. -- 100. (RESERVED)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (3-28-18)

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

02. Academic Eligibility. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (3-28-18)

a. A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of three point zero (3.0) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or (3-28-18)

b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or (3-28-18)

c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of three point zero (3.0) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. (3-28-18)

03. Financial Eligibility. Applicants for the opportunity scholarship are selected as recipients, in part, based on of demonstrated financial need. The tool used to determine financial need is the Free Application for Federal Student Aid (FAFSA), used by the United States Department of Education. The financial need of an applicant for an opportunity scholarship will be based upon the verified expected family contribution, as identified by the FAFSA Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the March 1 application deadline. (3-28-18)

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

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

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

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

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

iii. Upon review of the student's academic transcript(s), the student cannot complete their degree/certificate in the major they have identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. (3-28-18)

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Initial Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than March 1. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than March 1. All applicants must complete and submit the FAFSA on or prior to March 1. (3-28-18)

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

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the executive director or designee. (3-28-18)

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (3-28-18)

a. Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. (3-28-18)

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules. (3-28-18)

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

a. The Board will establish annually the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the opportunity scholarship program. (3-28-18)

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

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

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

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

c. The amount of an opportunity scholarship award to an individual student shall not exceed the educational cost established by the Board annually, and shall not exceed the actual cost of tuition and fees at an Idaho public postsecondary educational institution, or if the student attends or will attend an Idaho private postsecondary

educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. (3-28-18)

301. OPPORTUNITY SCHOLARSHIP AWARD.

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

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship may cover up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (3-28-18)

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. (4-2-08)

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules: (3-28-18)

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

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

03. Satisfactory Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of three point zero (3.0) on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award, and must be maintaining satisfactory academic progress, consistent within federal financial aid regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. (3-28-18)

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

05. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed

forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. (3-28-18)

303. -- 399. (RESERVED)

400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Statements of Continuing Eligibility. An eligible Idaho postsecondary educational institution participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of each academic year. Such statements must include verification that the scholarship recipient is still enrolled, attending full time, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. (3-9-16)

02. Other Requirements. An eligible Idaho postsecondary educational institution must: (4-2-08)

a. Be eligible to participate in Federal Title IV financial aid programs, and must supply documentation to the Board verifying this eligibility, and prompt notification regarding any changes in this status; (4-2-08)

b. Have the necessary administrative computing capability to administer the Opportunity Scholarship Program on its campus, and electronically report student data records to the Board; (4-2-08)

c. Provide data on student enrollment and federal, state, and private financial aid for students to the Board, and (4-2-08)

d. Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho law and these rules related to the program. (4-2-08)

401. -- 500. (RESERVED)

501. APPEALS.

An opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may file a written appeal of the decision within thirty (30) days following notice of the decision, and the written statement must include the basis for the appeal. Decisions based on specific requirements established in Idaho Code or these rules may not be appealed. The appeal must be submitted to the executive director of the Board. The office of the board shall acknowledge receipt of the appeal within seven (7) days. The executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. (3-28-18)

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

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

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

502. -- 999. (RESERVED)

**IDAPA 08
TITLE 02
CHAPTER 01**

08.02.01 – RULES GOVERNING ADMINISTRATION

000. LEGAL AUTHORITY.

All rules in IDAPA 08.02.01, “Rules Governing Administration,” are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-101, 33-105, 33-107, 33-116, 33-117, 33-308, 33-320, 33-310B, 33-512, 33-513, 33-905, 33-1279, 33-1403, 33-1405, 33-2004 and Chapter 10, Title 33, Idaho Code. Specific statutory references for particular rules are also noted as additional authority where appropriate. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be known as IDAPA 08.02.01, “Rules Governing Administration.” ()

02. Scope. Uniform and thorough standards and governance by the State Board of Education for the establishment and maintenance of a general, uniform and thorough system of public education. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rules of this chapter are available at the Office of the State Board of Education located at 650 W. State St., Room 307, Boise, Idaho 83702. ()

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the Rules of the State Board of Education or in the State Board of Education Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted pursuant to the Idaho Administrative Procedure Act and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” except to the extent a specific grievance, hearing, or appeal procedure is set forth in these rules and with the exception of the notice of proposed rulemaking provisions of IDAPA 04.11.01.800 et seq. Pursuant to Section 33-105(3), Idaho Code, the Board shall be deemed to be in full compliance with the notice requirements of Section 67-5221, Idaho Code, if it follows the procedures set forth in Section 33-105(3), Idaho Code. ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. ()

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. ()

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. ()

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. ()

04. Telephone Number. The telephone number of the Board is (208) 334-2270. ()

05. Facsimile. The facsimile number of the Board is (208) 334-2632. ()

06. Electronic Address. The electronic address of the Board of Education is at www.boardofed.idaho.gov. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule has been promulgated in accordance with the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and is a public record. ()

007. WAIVERS.

The State Board of Education may grant a waiver of any rule not required by state or federal law to any school district upon written request. The Board will not grant waivers of any rule required by state or federal law. State and federal law includes case law (including consent decrees), statutes, constitutions, and federal regulations. (4-1-97)

008. -- 049. (RESERVED)

050. ALTERING SCHOOL DISTRICT BOUNDARIES.

The State Board of Education sets forth the following rules to govern the application and hearing procedures for alteration of school boundaries pursuant to Section 33-308, Idaho Code. A written application from the person or persons requesting alteration of school district boundaries, including the reasons for making the request, will be submitted to the State Board of Education. The application shall also contain that information as required by Section 33-308, Idaho Code: (7-1-99)

01. Written Statement of Support. A written statement supporting or opposing the proposed alteration will be prepared by each board of trustees no later than ten (10) days following its first regular meeting held following receipt of the written application prepared by the person or persons requesting the alteration. Such request and supporting materials shall be forwarded to the Superintendent of Public Instruction. (7-1-99)

02. Review of Request. The Superintendent of Public Instruction shall appoint a hearing officer in accordance with State Board of Education Governing Policies and Procedures to review the proposed alteration of boundaries. (7-1-99)

03. Criteria for Review of Request. The hearing officer shall review the proposed alteration of boundaries taking into account the following criteria: (7-1-99)

a. Will the alteration as proposed leave a school district with a bonded debt in excess of the limit proscribed by law; (7-1-99)

b. Is the proposed alteration in the best interests of the children residing in the area described in the petition. In determining the best interests of the children the hearing officer shall consider all relevant factors which may include: (7-1-99)

i. The safety and distance of the children from the applicable schools; (7-1-99)

ii. The views of the interested parties as these views pertain to the interests of the children residing in the petition area; (7-1-99)

iii. The adjustment of the children to their home and neighborhood environment; and (7-1-99)

iv. The suitability of the school(s) and school district which is gaining students in terms of capacity and community support. (7-1-99)

04. Market Value. The market value, for tax purposes, of the two (2) districts prior to the requested transfer and of the area proposed to be transferred will be provided. (7-1-99)

05. Decision by State Board Education. The recommendation from the hearing on the matter shall be forwarded to the State Board of Education for decision in accordance with the Board's Governing Policies and Procedures. (7-1-99)

06. Additional Information. The applicant may submit any additional information which is deemed to be appropriate in assisting the State Board of Education to make the decision. (4-1-97)

051. -- 149. (RESERVED)

150. DEVIATION FROM STANDARD EMPLOYMENT CONTRACT FORM.

The State Superintendent of Public Instruction has approved a standard employment contract form. Any deviation

from this contract form must be approved by the State Superintendent of Public Instruction and reviewed for reapproval once every three (3) years. (Section 33-513, Idaho Code) (4-1-97)

151. -- 199. (RESERVED)

200. EMERGENCY CLOSURE - TEACHER STRIKE OR WITHHOLDING OF SERVICE.

The State Board of Education does not recognize a teacher strike or the withholding of service as sufficient cause to declare an emergency closure. The primary concern of the State Board of Education is for the instructional program available to students. (Section 33-1003(A), Idaho Code) (4-1-97)

201. -- 249. (RESERVED)

250. PUPIL ACCOUNTING AND REQUIRED INSTRUCTIONAL TIME.

(Section 33-512, Idaho Code) (4-1-97)

01. Required Instructional Time. Excluding transportation to and from school, lunch periods, passing times, and recess, schools must schedule at least the following instructional times: kindergarten, four hundred fifty (450) hours per year; grades one through three (1-3), eight hundred ten (810) hours per year; grades four through eight (4-8), nine hundred (900) hours per year; and grades nine through twelve (9-12), nine hundred ninety (990) hours per year. (4-1-97)

02. Required Attendance. All pupils will complete four (4) years of satisfactory attendance in grades nine through twelve (9-12) to graduate from an accredited high school, except those who are approved for early graduation. (4-1-97)

03. Day in Session When Counting Pupils in Attendance. (4-1-97)

a. A school day for grades one through twelve (1-12) may be counted as a "day in session" when the school is open and students are under the guidance and direction of teachers in the teaching process for not less than four (4) hours of instruction per day. Lunch periods, breaks, passing time and recess will not be included in the four (4) hours. For kindergarten, each session will be at least two and one-half (2 1/2) hours per day. (4-1-97)

b. Half-day Session. A half-day in session occurs when the students in grades one through twelve (1-12) are under the guidance and direction of teachers in the teaching process for a minimum of two and one-half (2 1/2) hours of instruction or the teachers are involved in staff development activities for not less than two and one-half (2 1/2) hours. (4-1-97)

c. Teacher In-service Activities. For grades one through twelve (1-12), not more than twenty-two (22) hours may be utilized for teacher in-service activities, based on the district approved calendar. In the event a school district chooses to utilize full days instead of half-days, the attendance reported for these full days will be the average of the attendance for the other days of that same week. (4-1-97)

04. Day of Attendance - Kindergarten. A day of attendance for a kindergarten pupil is one in which a pupil is physically present for a period of two and one-half (2 1/2) hours under the direction and guidance of a teacher while school is in session or under homebound instruction. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in half-day increments. Attendance reports for any day in the school year will reflect only those students physically present. Particularly, enrollment figures are not to be used for the beginning nor closing weeks of school. (Section 33-1001(5), Idaho Code.) (4-1-97)

05. Day of Attendance (ADA) - Grades One Through Twelve (1-12). A day of attendance is one in which a pupil is physically present for the full day under the guidance and direction of a teacher or other authorized school district personnel while school is in session or is a homebound student under the instruction of a teacher employed by the district in which the pupil resides, with the exception as stated in "day in session" above. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in full or half-days. Attendance reports for any day in the school year will reflect only those students physically present or under homebound instruction. (Section

33-1001(4), Idaho Code)

(4-1-97)

06. Average Daily Attendance. In a given school year, the average daily attendance for a given school is the aggregate days attendance divided by the number of days school was actually in session. (Section 33-1001(2), Idaho Code) (4-1-97)

251. -- 299. (RESERVED)

300. FUNDS WITHHELD - LATE SUBMISSION OF RECORDS.

All professional staff records and noncertified employee records from each school district will be sent to the State Department of Education by October 15 of each year. If a district is delinquent with the forms, apportionment payment to that district will be withheld until such time as the district has met its obligation. (Section 33-1004D, Idaho Code) (4-1-97)

301. -- 349. (RESERVED)

350. EARLY GRADUATION.

Any high school student who completes the number of credits and exiting standards required by both the state and the school district prior to completing eight (8) semesters of high school work may petition the local superintendent and board of trustees to graduate early. When calculating the aggregate average daily attendance for the educational support program, students graduating from high school prior to the end of the school year will have their ADA for the first semester (second trimester) counted as if they were in attendance during the second semester (third trimester) of the school year. (4-1-97)

351. -- 399. (RESERVED)

400. SPECIAL EDUCATION FUNDING FOR DISTRICTS WITH APPROVED PROGRAMS.

01. Reimbursement for Exceptional Child Support Units. State reimbursement provided by exceptional child support units is based on the following formula: (4-1-97)

a. Preschool students will generate funding based upon the weekly hours and minutes they are enrolled in special education. (4-1-97)

b. From the fall elementary enrollment of kindergarten through grade six (K-6), subtract elementary residential facility students and multiply the result by six one-hundredths (.06). Add the elementary residential facility students to the product. (Section 33-1002(4), Idaho Code.) (4-11-15)

c. From the fall regular secondary enrollment of grades seven through twelve (7-12), subtract secondary residential facility students and multiply the result by fifty-five one-thousandths (.055). Add the secondary residential facility students to the product. (Section 33-1002(4), Idaho Code.) (4-11-15)

d. Add the juvenile detention facility students to the total. (4-1-97)

e. Use the exceptional child divisor to determine the number of exceptional child units. Secondary programs with a smaller divisor may use the smaller divisor for their secondary computation. (4-1-97)

f. Elementary and secondary exceptional child support units will be calculated using one hundred percent (100%) Average Daily Attendance (ADA); the ADA will be subtracted from their respective regular elementary and secondary administrative unit for computing the support unit. (4-1-97)

02. Contracting for Educational and Related Services. (Section 33-2004, Idaho Code) (4-1-97)

a. A school district which contracts for special education services with another agency may claim reimbursement up to a maximum amount of state funding, as annually determined by the State Department of Education, less the district's certified annual tuition rate. When any agency contracts for the education of exceptional children, all such children will be enrolled in the district of their residence and the agency will certify to the home

school district the daily record of attendance of such student. (4-1-97)

b. For special education contracts between local school districts, the district receiving service will pay the district providing service the amount of the providing district's local annual tuition rate as certified under the provision of Idaho Code. The school district providing service will include students served within such contract within the total number of special education students used to calculate exceptional education support units. Charges for additional costs may be negotiated between the districts. (4-1-97)

c. The State Department of Education will determine if public and private schools and facilities meet state standards for an approved special education program. Any agency aggrieved by the Department of Education's final decision may appeal that decision to the State Board of Education. (4-1-97)

401. -- 449. (RESERVED)

450. REIMBURSEMENT TO DISTRICTS FOR SUBSTITUTE TEACHER COSTS.

The Professional Standards Commission (PSC) is authorized to reimburse the employing district for a classroom teacher member of the PSC for the costs incurred in the employment of a substitute teacher for a member while the member is engaged in PSC business. Such reimbursement may be made for each instance in which a substitute is employed as a replacement for a member beyond six (6) days during a given school year. Reimbursement may be made upon request by the employing district submitted in a manner determined by the PSC. Reimbursement will be based upon the prevailing rate for substitutes in that district. (Section 33-1279, Idaho Code) (4-1-97)

451. -- 499. (RESERVED)

500. SCHOOL DISTRICT BUILDING ACCOUNT (NON-LOTTERY MONEY).

The board of trustees of any school district may apply to the State Board of Education to receive a payment or payments from the School District Building Account as authorized under Section 33-905(3a), Idaho Code. (4-1-97)

01. Application for Payment. The application for payments from the School District Building Account will include: (4-1-97)

a. A statement of need; (4-1-97)

b. A statement of the condition and use of all of the district's existing facilities including the dates of construction and any significant remodeling or additions; (4-1-97)

c. A history of the district's classroom student/teacher ratios, how these ratios have been affected by a lack of classroom space, and how these ratios would be improved by the project being requested. This statement should include building by building ratios as well as the overall district student/teacher ratio; (4-1-97)

d. A statement of the district's existing tax levies for school plant facilities and bond interest redemption, along with how these levies relate to the district's levy capacity; (4-1-97)

e. A statement of the district's market value for assessment purposes as such valuation existed on December 31 of the previous year, as well as other factors, if any, that affect the district's ability to finance school construction; (4-1-97)

f. A statement of past efforts to levy for the project for which funding is being requested; (4-1-97)

g. A description of any unique or special circumstances that should be considered in the evaluation of the application; (4-1-97)

02. Application Deadline. The deadline for submitting applications will be January 30th of each year. (4-1-97)

03. Eligibility. The State Board of Education will be responsible for determining which school districts receive payments from the School District Building Account. The State Board will: (4-1-97)

a. Review all applications submitted by the established deadline, taking into consideration the criteria of need, wealth, and effort established in Section 33-905, Idaho Code; (4-1-97)

b. Require resubmission of an application only when there have been substantial changes in the district which could alter the status of original determination; (4-1-97)

c. Determine a priority of school districts eligible to receive monies from the School District Building Account. Such priority will be based on a point system. Once established, the priority will be annually reviewed. Unless significant new information has been submitted which impacts the original determination, the priority will not be altered; (4-1-97)

d. Determine a priority within forty-five (45) days of the application submission deadline; and (4-1-97)

e. Award to each successful grantee twenty-five percent (25%) of the costs of the approved project. (4-1-97)

04. Point System for Determining Priority. The point system for determining the priority of eligible districts is based on the following rating and weighted values: (4-1-97)

a. Need: zero through ten (0-10) points, three and one half (3.5) weighted value for each point awarded; (4-1-97)

b. Effort: zero through ten (0-10) points, two (2.0) weighted value for each point awarded; (4-1-97)

c. Ability: zero through ten (0-10) points, two (2.0) weighted value for each point awarded; (4-1-97)

d. Past efforts (levies attempted but failed): zero through ten (0-10) points, five tenths (.5) weighted value for each point awarded; (4-1-97)

e. Student/teacher ratio improvement: zero through ten (0-10) points, one (1.0) weighted value for each point awarded; and (4-1-97)

f. Unique/special circumstances zero through ten (0-10) points: one (1.0) weighted value for each point awarded. (4-1-97)

05. Documentation of Revenue Sources. The school district will, within twelve (12) months of receipt of the approved state portion, submit documentation to the State Board of Education of the approved revenue source or sources that will be used to raise the district's portion. Failure to meet this requirement will result in return of the state grant along with any interest accrued on these monies. (4-1-97)

501. -- 549. (RESERVED)

550. OUT-OF-STATE TUITION.

01. Annual Agreement. An annual agreement for out-of-state tuition, signed by a local board of trustees and approved by the State Board of Education, may allow students who are residents of an Idaho school district that borders on an adjacent state to attend school in the adjacent state for educational services in kindergarten through grade twelve (K-12). (Section 33-1403, Idaho Code) (4-1-97)

02. State Support Program Allowance. An Idaho school district will be eligible to receive from the state educational support program an amount equal to the cost of the out-of-state tuition contract less the amount of local district contribution times the percentage the average daily attendance (ADA) of tuition students is to the total ADA in the school district. (Section 33-1405, Idaho Code) (4-1-97)

551. -- 599. (RESERVED)

600. REIMBURSEMENT TO DISTRICTS FOR A FEASIBILITY STUDY OF HIGH SCHOOL OR SCHOOL DISTRICT CONSOLIDATION.

(Section 33-310B, Idaho Code) (4-1-97)

01. Application Procedure. Applications for reimbursement will be submitted to the State Superintendent of Public Instruction in narrative form with the following supporting documents: (4-1-97)

- a. A copy of the feasibility study; (4-1-97)
- b. A copy of the consolidation plan, when appropriate; (4-1-97)
- c. A summary of school board deliberations or joint sessions that were held by the participating school boards; (4-1-97)
- d. A summary of all public hearings held, if any; and (4-1-97)
- e. An itemized listing of reimbursable costs. (4-1-97)

02. Reimbursable and Non-Reimbursable Costs. Allowable costs for a feasibility study may include contracts for technical services, and the costs of public hearings, telephone bills, supplies, materials, publications, and travel. The costs of the following items will not qualify for reimbursement: (4-1-97)

- a. A salary of any person regularly employed part-time or full-time by the school district; (4-1-97)
- b. Rental of district-owned facilities; (4-1-97)
- c. Costs incurred more than three (3) years prior to the application. (4-1-97)

03. Maximum Reimbursement Allowed. The total costs reimbursed will not exceed ten thousand dollars (\$10,000) for each feasibility study. A school district may receive reimbursement for more than one (1) feasibility study, but the aggregate total reimbursement for all studies will not exceed ten thousand dollars (\$10,000) during any consecutive three (3) year period. (4-1-97)

04. Notification of Approval. Upon verifying applicant school district's fiscal encumbrance for a feasibility study, the State Department of Education will notify the district and include the reimbursement payment in the district's apportionment payment for the year in which the expenses were incurred. (Section 33-310B, Idaho Code) (4-1-97)

601. -- 649. (RESERVED)

650. GENERAL EDUCATION DEVELOPMENT TESTS/IDAHO HIGH SCHOOL EQUIVALENCY CERTIFICATE.

The primary objective of the State Board of Education is to have all students complete their formal education and graduate from high school. However, students who drop out of school and believe it is in their best interest to take the (General Education Development) GED. test may do so under the following conditions and, upon successful completion of all GED requirements, may apply for an Idaho High School Equivalency Certificate (HSEC). (4-1-97)

01. General Education Development Tests. General Education Development (GED) tests are given by approved testing centers for a statewide fee set by the Idaho Division of Career Technical Education. Candidates must make the minimum score for passing the GED test as established by the GED Testing service. (3-20-14)

- 02. Age Criteria.** The applicant must satisfy one (1) of the following age criteria: (4-1-97)
 - a. The applicant must be at least eighteen (18) years of age; (4-1-97)
 - b. The applicant may be sixteen (16) or seventeen (17) years of age and be one (1) year or more

behind in credits earned, expelled, recommended by the school, pregnant, or a parent. In such cases, the applicant is eligible if the applicant's school verifies in writing that the student meets one of the above criteria and this verification is on file at the testing center prior to any testing. The school may give its verification only after the applicant and his or her parent or guardian submit in writing a request for the applicant to take the GED tests and the applicant and the applicant's parent or guardian have met with school officials to review and discuss the request. (In cases where the applicant is not living with a parent or guardian, the parent or guardian's verification is not necessary.); (4-1-97)

c. The applicant may be sixteen (16) or seventeen (17) years of age and be entering college, the military, or an employment training program, enrolled in an Adult Basic Education Program, enrolled in the Job Corps, or incarcerated. In such cases, the applicant is eligible if the institution involved applies in writing for the applicant to take the GED tests and this application is on file at the testing center prior to any testing. (3-20-14)

03. Proof of Identity. Test takers must present proof of identification that shows legal name, date of birth, signature, address and photograph. Valid drivers' licenses, passports, military, and other forms of government-issued identification are acceptable. Two (2) forms of identification may be provided to meet these criteria. (3-20-14)

04. Idaho High School Equivalency Certificate. The State Department of Education will issue an Idaho High School Equivalency Certificate (HSEC) to eligible applicants. The normal fee for issuing a certificate is ten dollars (\$10); however, this fee will be waived for military service personnel and veterans. To be eligible to receive an HSEC, an applicant must submit the following documents to the Division of Career Technical Education: (3-25-16)

a. An official report of GED test results showing successful completion of all requirements applicable to the version of the GED test taken by the applicant. Test scores are accepted as official only when reported directly by the State's approved vendor for transcripts and records management, the Transcript Service of the Defense Activity for Non-Traditional Education Support (DANTES), or, in special cases, the GED Testing Service. (3-25-16)

b. Individuals who took the exam prior to January 1, 2014, must also furnish documentation that they met the American Government requirement of the State of Idaho. This requirement may be met by resident study in high school or college, correspondence study from an accredited university, DANTES, or by successfully passing the American Government test furnished by the testing center. (3-25-16)

c. A completed form DD295 on all service personnel. This form is not required of veterans and non-veteran adults. (4-1-97)

d. A copy of a discharge if the applicant is a veteran of military service. (4-1-97)

e. Applicants should submit their request using the form furnished by the Division of Career Technical Education, along with the ten dollar (\$10) processing fee and appropriate documentation of above requirements. After the applicant completes this form and pays the ten dollar (\$10) processing fee, the applicant will be awarded an Idaho High School Equivalency Certificate (HSEC). (3-25-16)

651. -- 699. (RESERVED)

700. VETERANS EDUCATION.

The Governor of the state of Idaho has designated the State Department of Education as the approval agency in the State of Idaho for the purpose of approving courses for the enrollment of veterans and other eligible persons. (Sections 33-105; 33-107, Idaho Code) (4-1-97)

01. Responsibilities of State Approval Agency. The State Approval Agency carries the following responsibilities: (4-1-97)

a. Establishing criteria additional to requirements set forth in federal law for approving education or training programs. (4-1-97)

b. Approving education or training programs following the criteria set forth in federal law or

established by the state approval agency. (4-1-97)

c. Regularly visiting and supervising those educational institutions and training establishments offering approved courses or programs. (4-1-97)

d. Disapproving any approved course or program that fails to meet requirements set forth in federal law or criteria established by the approval agency and notifying the affected institution or establishment and the Veterans Administration of this disapproval. (4-1-97)

e. Providing applicable approval information to educational institutions or training establishments and the Department of Veterans' Affairs. (4-1-97)

02. Regulations Incorporated by Reference. The Federal regulations of the U.S. Department of Veterans' Affairs as referred to by these regulations are incorporated herein and will have the same force and effect as if fully set forth. Copies of referred federal regulations may be obtained from the United States Veterans Administration, the State Department of Education, or the Idaho State Law Library. (4-1-97)

03. Definition. For the purposes of these rules, the following words and phrases will have these meanings: (4-1-97)

a. Approval: An institution or establishment desiring to offer a course or courses for which veterans may use veterans' educational benefits has met standards and requirements designed to ensure that such institution or establishment is qualified to provide satisfactory instruction in the course or courses to be offered. (4-1-97)

b. Accredited Course: A course which meets one (1) of the following requirements: the course has been accredited and approved by a nationally recognized agency or association; credit for such a course is approved by the State Department of Education for credit toward a high school diploma; the course is conducted under 20 U.S.C. 11-28 (Vocational Education); and the course is accepted by the State Department of Education for credit for a teacher's certificate or a teacher's degree. (4-1-97)

c. Nonaccredited courses: Courses that are not approved as accredited courses and that are offered by a public or private, profit or nonprofit, educational institution. These include nonaccredited courses offered by extension centers or vocational or adult education departments in institutions of higher education. (4-1-97)

d. Nationally recognized accrediting agency or association: One that appears on the list published by the Commissioner of Education as required by 38 U.S.C. 1775 (a). (4-1-97)

e. Correspondence courses: Courses that must require no less than six (6) hours of preparation per week over any twenty-six (26) week period and must require six (6) or more months to complete. No more than twenty percent (20%) of the students pursuing such a course should be able to complete the course in less than six (6) months for the normal length to be certified as six (6) months or more. The determination of this factor will be based upon the records of the school for the immediately preceding years. (4-1-97)

f. Apprentice courses: Any training on-the-job course established as an apprentice course by a training establishment as defined in VA Regulations 14200(c) and approved as an apprentice course by the state approval agency. (4-1-97)

g. Other training on-the-job courses: Any training on-the-job that does not qualify as an apprentice course as defined in these regulations, but that otherwise meets the requirements of subparagraph C of VA Regulation 14262 as incorporated by reference herein. (4-1-97)

04. Eligibility for Receipt of Veterans' Educational Benefits. Any veteran enrolled in educational institutions or training establishments is eligible for educational benefits as provided by 38 U.S.C. Section 1771 et.seq. To qualify for eligibility, the veteran must be in training in a course or courses approved for veteran's education by the state approval agency. (4-1-97)

05. Attainment of Approval Status. Attaining approval status requires that an institution or

establishment desiring to offer courses for which veterans or other eligible persons may receive veterans' educational benefits meet standards designed to ensure that such an institution or establishment is qualified to provide satisfactory instruction in the course or courses to be offered. Approval of courses may be obtained upon compliance with the following requirements and standards: (4-1-97)

a. Veterans will not be eligible for educational benefits for enrollment in any course offered by an educational institution when such a course has been in operation for less than two (2) years immediately prior to the date of enrollment as defined by VA regulation 14251(B). However, this requirement does not apply to the following courses: courses pursued in a public or tax supported educational institution; any course offered by an educational institution that has been in operation for more than two (2) years, if the course is similar in nature to a course previously offered by the institution; any course that has been offered by an institution for a period of more than two (2) years, notwithstanding the fact that the institution has moved to another location in the same general locality or where the school has made a complete move with substantially the same faculty, curricula, and students without a change in ownership; any course offered by a nonprofit school of college level and recognized for credit toward a standard college degree; and any course for the educationally disadvantaged offered by a proprietary nonprofit educational institution at the principal or branch location when the institution offering the course has been in operation for more than two (2) years. (4-1-97)

b. Institutions or establishments desiring to enroll veterans or eligible persons in courses to which veterans' benefits may be applied must make written application for approval of such courses to the state approval agency. Because approval is granted on a course-by-course basis, the institution or establishment must include in the application all courses for which it seeks approval. Applications for approval of accredited courses must be in conformance with requirements set forth in VA Regulation 14253. Applications for approval of nonaccredited courses must be in conformance with and contain information required by VA Regulation 14254. Applications for approval of correspondence courses must conform with requirements set forth in VA Regulation 14256, in addition to the requirements of VA Regulations 14253 or 14254 as applicable. Applications for approval of apprentice courses must conform with and contain information required by VA Regulation 14261(B). Applications for approval of other training on-the-job courses must conform with and contain information required by VA Regulation 14262(B). Application for approval of flight training courses must conform with requirements set forth in VA Regulation 14263 and in particular VA Regulation 14263(F). (4-1-97)

c. When an institution or establishment applies for approval, it thereby consents to visits by a representative of the state approval agency. The purpose of such visits is to determine whether the applicant and the course or courses for which approval is sought comply with established approval criteria. (4-1-97)

d. Upon receipt of an application for approval conforming with the above referenced regulations, the state approval agency may, upon adequate investigation, approve the application when the course or courses to which the application pertains and the institution or establishment offering them are found to have met the following criteria: for accredited courses, criteria set forth in VA Regulation 14253(D) (E) or (F) as applicable; for nonaccredited courses, criteria set forth in VA Regulation 14254(C); for correspondence courses, criteria set forth in VA Regulation 14256, in addition to criteria set forth in VA Regulations 14253 or 14254 as applicable; for apprentice courses, criteria set forth in VA Regulation 14261(C); for other training on-the-job courses, criteria set forth in VA Regulation 14262(C); and for flight training courses, criteria set forth in VA Regulation 14263. Veterans who are basically eligible to receive educational assistance allowances under the provisions of Title 38, U.S.C. may receive educational assistance for flight training, if the individual also meets eligibility standards set forth in VA Regulation 14263(A). In addition, the state approving agency requires that students complete a minimum of thirty (30) hours of instruction per quarter to maintain such eligibility. (4-1-97)

06. Notice of Approval. Upon determining that an institution or establishment has complied with all the requirements for approval, the state approval agency will notify the institution or establishment by a letter setting forth the courses that have been approved and will furnish the VA with an official copy of the letter, attachments and any subsequent amendments. (4-1-97)

07. Length of Time of Approval. Approval of a course is for an indefinite period of time. However, the state approval agency may require that requests for continued approval be submitted on an annual basis with appropriate supporting documentation. Furthermore, any revision or change made in a course will require resubmission of the course for approval by the state approval agency. (4-1-97)

08. Suspension or Withdrawal of Approval. Continuing approval of a course or courses is contingent upon maintaining prescribed standards and conformance with requirements referred to above. (4-1-97)

a. In the event that the evidence of record establishes that the course fails to meet such requirements for approval, approval of the course for new enrollments may be suspended by the state approval agency for a period not to exceed sixty (60) days to allow the institution or establishment to meet the requirements for approval. (4-1-97)

b. The length of the suspension will not be for an indeterminate period but will be of a reasonable duration as determined by the state approval agency to be necessary for the institution or establishment to meet the requirements in light of the nature of the deficiencies. (4-1-97)

c. Prior to the effective date of the suspension, the state approval agency will give notice of the intended action to the affected institution or establishment which will include facts or circumstances on which the intended suspension is based and any available supporting documentation. The state approval agency will also afford to such institution or establishment, prior to the effective date of the suspension, a reasonable opportunity to show compliance with all lawful requirements for the retention of approval either by providing written support or through oral presentations to the appropriate agency officials. (4-1-97)

d. For those cases where a discrepancy has not been corrected at the time of the expiration date of a suspension period or in lieu of suspension for those cases where a discrepancy is so major as to substantially deprive the student of the protection afforded by the approval process or is of such a nature that it cannot be corrected within a period of sixty (60) days, the state approval agency will withdraw approval of the affected course or courses. (4-1-97)

e. Prior to the effective date of the withdrawal of approval, notice of the agency's intended action will be provided to the affected institution or establishment, which will include a statement of the institution's right to a hearing, a statement of the authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of statutes or rules involved, and a short and plain statement of the grounds upon which the intended action to withdraw approval is based. (4-1-97)

f. An opportunity will be afforded the affected institution or establishment to respond to the agency's intended action and to present evidence and argument on all issues involved. A three (3) member hearing panel will be appointed by the executive officer of the state approval agency to review such appeal and submit recommended findings of fact and conclusions of law to the executive officer who will thereafter render a final decision in the matter. (4-1-97)

g. Any final decision adverse to an institution or establishment will be in writing or stated in the record. The decision will include findings of fact and conclusions of law, separately stated. (4-1-97)

h. The affected institution or establishment will be notified either personally or by mail of any decision; a copy of this document will be delivered or mailed forthwith to the institution or establishment and to its attorney of record upon request. (4-1-97)

701. -- 749. (RESERVED)

750. IDAHO STATE PENITENTIARY.

The vocational and academic programs at the Idaho State Penitentiary will be approved on an annual basis as special programs for the purpose of training inmates. (4-1-97)

751. -- 799. (RESERVED)

800. PRIVATE CORRESPONDENCE AND TRADE SCHOOLS.

Private correspondence and trade schools teaching any course, plan, or programs of instruction, whether conducted in person, by mail, or any other method, will register with the State Department of Education on forms approved by the Board, which are on file in the State Department of Education. (Chapter 24, Title 33, Idaho Code) (4-1-97)

01. Cancellation Policy. A student applicant may cancel his or her enrollment within seventy-two (72) hours after midnight of the day on which the enrollment agreement is signed and receive a full refund of all monies paid to the school or its representative. The student will receive a minimum of seven (7) days in which to cancel the enrollment agreement and the seller may retain not more than fifty dollars (\$50). Accreditation allows an agent to keep one hundred dollars (\$100). (4-1-97)

02. Cancellation of Enrollment. For a student requesting cancellation of enrollment after starting the course, the charge made will be based on lessons completed or time spent and will be computed on the following prorated basis: fifty percent (50%) retention during the first quarter; seventy-five percent (75%) retention during the second quarter; and one hundred percent (100%) retention during the third and fourth quarter. (A quarter means time reasonably expected for completion of one-fourth (1/4) of the course.) (4-1-97)

03. Emergency Consideration. In case of illness or accident, death in the family, or other circumstances beyond the control of the student, the student will be entitled to consideration, and the school will make a settlement that is reasonable and fair to both. (4-1-97)

801. CONTINUOUS IMPROVEMENT PLANNING AND TRAINING.

In accordance with Section 33-320, Idaho Code, every local education agency (LEA) shall develop and maintain a strategic plan that includes a continuous improvement process focused on improving student performance of the LEA. (3-25-16)

01. Definitions. (4-11-15)

a. Administrator. As used in this section administrator means the superintendent of the school district or administrator of a charter school. (4-11-15)

b. Board. Board means the Idaho State Board of Education. (4-11-15)

c. Executive Director. Executive Director means the Executive Director of the Idaho State Board of Education. (4-11-15)

d. Local Education Agency Board. As used in this section local education agency or LEA Board means the board of trustees of a school district or board of directors of a charter school. (4-11-15)

e. Local Education Agency. As used in this section local education agency (LEA) means public school district or charter school.. (4-11-15)

f. Continuous Improvement Plan. As used in this section, a continuous improvement plan focuses on annual measurable outcomes and the analysis of data to assess and prioritize needs and measure outcomes. (3-25-16)

02. Reimbursement Eligibility. LEA's may request reimbursement for training conducted pursuant to Section 33-320, Idaho Code. To be eligible for reimbursement the training and trainer must meet the following criteria: (4-11-15)

a. Training. The training must cover one (1) or more the follow subjects: (4-11-15)

i. Continuous improvement planning training. Continuous improvement planning training must include, but is not limited to, training on continuous process improvement, use and analysis of data, and methods for setting measurable targets based on student outcomes; (3-25-16)

ii. School finance; (4-11-15)

iii. Administrator evaluations, including, but not limited to, specifics on the Idaho state evaluation requirements and framework; (4-11-15)

iv. Ethics; or (4-11-15)

- v. Governance. (4-11-15)
- b.** Documentation of Training. Training records shall be kept by the LEA showing: (4-11-15)
 - i. The length of the training in hours; (4-11-15)
 - ii. The subject(s) covered by the training; (4-11-15)
 - iii. The participants included in the training or validation of attendance of specific participants as applicable; and (4-11-15)
 - iv. The curriculum, agenda, or other documentation detailing the content of the training. (4-11-15)
- c.** Training Format. A majority of the LEA board and the administrator must collaborate on the continuous improvement plan and engage students, parents, educators and the community, as applicable to the training subject and format. The training facilitator must be physically present or have the ability to interact directly with all training participants. Sufficient time must be provided during the sessions to give the participants an opportunity to discuss issues specific to the LEA. (3-25-16)
- d.** Trainer Qualifications. The trainer must meet the following qualifications: (4-11-15)
 - i. May not be a current employee of the LEA; (4-11-15)
 - ii. Must have two (2) years of documented training experience in the area of training being provided for the LEA; and (4-11-15)
 - iii. Must provide at least three (3) recommendations from individuals who participated in past training sessions conducted by the trainer. These recommendations must be included with the application to determine the trainer's qualifications. (4-11-15)
- e.** Qualified Trainers. Trainer qualifications will be determined by the Office of the State Board of Education. The State Board of Education will maintain a list of qualified trainers and the subject areas in which they are qualified. (4-11-15)
 - i. An individual or company may submit an application for consideration to be placed on the list of qualified trainers or the LEA may submit the application on behalf of the individual or company. (4-11-15)
 - ii. Applications must be submitted to the Executive Director in a format established by the Executive Director. (4-11-15)
 - iii. Trainer qualifications must be determined prior to the LEA's request for reimbursement of training costs. (4-11-15)
- 03. Audit.** If requested, LEA's must provide training documentation or other information to verify eligibility prior to reimbursement. (4-11-15)
- 04. Statewide Continuous Improvement Measures.** Multiple measures must be used to fully determine student readiness and improvement. At a minimum each continuous improvement plan shall include the following statewide student readiness and improvement metrics. The benchmark for each metric shall be set by the LEA. (3-22-17)
 - a.** The college and career readiness metric shall be the number and percentage of students meeting the college ready benchmark in mathematics and English Language Arts on a state recognized college entrance exam. Improvement shall be measured by year over year growth in the percentage of students meeting the college readiness benchmark. This measure may be broken out by students pursuing a career technical track and non-career technical track students. Career technical track student's readiness will be measured based on students receiving an industry recognized certification or passage of a Division of Career Technical Education recognized workplace readiness

assessment. (3-22-17)

b. The high school readiness metric shall be the number and percentage of students meeting proficient or advanced on the grade eight (8) Idaho standards achievement test in mathematics and English language usage. Improvement shall be measured by year over year growth in the percentage of students scoring proficient or advanced. (3-22-17)

c. The grade seven (7) readiness metric shall be the number and percentage of students meeting proficient or advanced on the grade six (6) Idaho standards achievement test in mathematics and English language usage. Improvement shall be measured by year over year growth in the percentage of students scoring proficient or advanced. (3-22-17)

d. The grade four (4) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade three (3) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)

e. The grade three (3) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade two (2) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)

f. The grade two (2) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade one (1) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)

g. The grade one (1) reading readiness metric shall be the number and percentage of students reading at grade level on the spring kindergarten statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)

05. Annual Literacy Intervention Plan. Annually each LEA will report on the effectiveness of the LEA's literacy intervention plan. Plans and reports are due by October 1 of each year. Plans shall include at a minimum: (3-22-17)

a. Projected literacy plan budget for the current school year; (3-22-17)

b. Metrics chosen by the LEA to determine effectiveness of the literacy plan and annual performance benchmarks; and (3-22-17)

c. Performance on metrics chosen to show program effectiveness for at a minimum the previous academic year. (3-22-17)

06. College and Career Advising and Mentoring Plans. Annually each LEA shall submit their college and career advising and mentoring plan to the State Board of Education by October 1. (3-22-17)

a. Plans shall include required metrics and at least one (1) or more additional metrics chosen by the LEA to determine effectiveness of the college and career advising and mentoring plan, baseline data and annual benchmarks. (3-22-17)

b. Performance on all effectiveness metrics shall be reported annually in the LEA's Continuous Improvement Plan annual report. (3-22-17)

c. At a minimum effectiveness metrics must include: (3-22-17)

i. Percent of learning plans reviewed annually by grade level, in grade nine (9) through grade twelve (12); (3-22-17)

ii. Number and percent of students who go on to some form of postsecondary education one (1) and two (2) years after graduation; and (3-22-17)

iii. Number of students graduating high school with a career technical certificate or an associate degree. (3-22-17)

802. LITERACY GROWTH TARGETS.

01. Statewide Trajectory Growth Targets. Statewide trajectory annual growth targets are based on aggregated student performance on the spring administration of the statewide reading assessments. Local growth targets are set by the LEA based on the LEA's available resources and student demographics. Statewide trajectory growth targets indicated the statewide goal for year over year increases in the percentage of students reading at grade level. (3-29-17)

a. Year one (1) and two (2): (3-29-17)

i. Kindergarten -- one percent (1%). (3-29-17)

ii. Grade one (1) -- one percent (1%). (3-29-17)

iii. Grade two (2) -- one percent (1%). (3-29-17)

iv. Grade three (3) -- one percent (1%). (3-29-17)

b. Year three (3), four (4), five (5), and six (6): (3-29-17)

i. Kindergarten -- one point eight percent (1.8%). (3-29-17)

ii. Grade one (1) -- two percent (2%). (3-29-17)

iii. Grade two (2) -- one point six percent (1.6%). (3-29-17)

iv. Grade three (3) -- one point two percent (1.2%). (3-29-17)

02. Annual Review. The State Board of Education will review the statewide student proficiency levels and the statewide trajectory growth targets annually. (3-29-17)

803. STATEWIDE AVERAGE CLASS SIZE.

For the purpose of determining the statewide average class size used in school district staff allowance calculations, school districts shall be grouped as follows: (3-29-17)

01. Group 1. Group 1 shall consist of school districts with an elementary divisor, pursuant to Section 33-1004, Idaho Code, of twenty (20) for grades one (1) through three (3) and twenty-three (23) for grades four (4) through six (6), and a secondary divisor of eighteen point five (18.5.) (3-29-17)

02. Group 2. Group 2 will consist of school districts with an elementary divisor, pursuant to Section 33-1004, Idaho Code, of twenty (20) for grades one (1) through three (3) and twenty-three (23) for grades four (4) through six (6), and a secondary divisor less than eighteen point five (18.5.) (3-29-17)

03. Group 3. Group 3 will consist of school districts with elementary divisors, pursuant to Section 33-1004, Idaho Code, of nineteen (19) or twenty (20) for grades one (1) through six (6), and a secondary divisor of less than eighteen point five (18.5.) (3-29-17)

04. Group 4. Group 4 will consist of school districts with elementary divisors, pursuant to Section 33-1004, Idaho Code, of less than nineteen (19) for grades one (1) through six (6), and a secondary divisor of less than eighteen point five (18.5.) (3-29-17)

804. -- 999. (RESERVED)

**IDAPA 08
TITLE 02
CHAPTER 02**

08.02.02 – RULES GOVERNING UNIFORMITY

000. LEGAL AUTHORITY.

All rules in IDAPA 08.02.02, “Rules Governing Uniformity,” are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code. Specific statutory references for particular rules are also noted as additional authority where appropriate. (7-1-02)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.02.02, “Rules Governing Uniformity.” (4-5-00)

02. Scope. Uniform standards and governance by the State Board of Education pertinent to Teacher Certification, School Facilities, Accreditation, Transportation, School Release Time, Driver’s Education and Juvenile Detention Centers. (7-1-02)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rules of this chapter are available at the Office of the State Board of Education located at 650 W. State St., Room 307, Boise, Idaho 83702. (7-1-02)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in these rules, administrative appeals are by written application to the State Board of Education pursuant to IDAPA 08.01.01, “Rules of the State Board of Education and Board of Regents of the University of Idaho – Administrative Procedures and Records,” Section 050. (3-14-05)

004. INCORPORATION BY REFERENCE.

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

01. Idaho Standards for the Initial Certification of Professional School Personnel as approved on June 20, 2018. Copies of this document can be found on the Office of the State Board of Education website at <https://boardofed.idaho.gov>. (4-11-19)

02. Standards for Idaho School Buses and Operations as approved on November 15, 2017. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <https://boardofed.idaho.gov>. (3-28-18)

03. Operating Procedures for Idaho Public Driver Education Programs as approved on June 16, 2016. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at <https://boardofed.idaho.gov>. (3-29-17)

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

The principal place of business of the State Board of Education (SBOE) and State Department of Education (SDE) is in Boise, Idaho. Both offices are located at 650 W. State, Boise Idaho 83702. The SDE is on the 2nd Floor, the SBOE is found in Room 307. Both offices are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address for the SBOE is PO Box 83720, Boise, ID 83720-0037. The mailing address for the SDE is PO Box 83720, Boise, ID 83720-0027. The SBOE phone number is (208) 334-2270 and the SDE phone number is (208) 332-6800. (3-25-16)

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule has been promulgated in accordance with the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and is a public record. (7-1-02)

007. DEFINITIONS.

- 01. Active Teacher.** K-12 teacher with a valid Idaho certificate who is currently teaching in an Idaho K-12 classroom or school, either in person or online. (3-29-17)
- 02. Alternative Routes.** Routes to teacher certification designed for candidates who want to enter the teaching profession from non-education professions or the paraprofessional profession, or for teachers lacking certification in a specific area defined as an emergency district need. (3-29-17)
- 03. Clinical Experience.** Guided, hands-on, practical applications and demonstrations of professional knowledge of theory to practice, skills, and dispositions through collaborative and facilitated learning in field-based assignments, tasks, activities, and assessments across a variety of settings. Clinical experience includes field experience and clinical practice as defined in this section. (4-11-19)
- 04. Clinical Practice.** Student teaching or internship opportunities that provide candidates with an intensive and extensive culminating field-based set of responsibilities, assignments, tasks, activities, and assessments that demonstrate candidates' progressive development of the professional knowledge, skills, and dispositions to be effective educators. Clinical practice includes student teaching and internship. (4-11-19)
- 05. Credential.** The general term used to denote the document on which all of a person's educational certificates and endorsements are listed. The holder is entitled to provide educational services in any and/or all areas listed on the credential. (3-16-04)
- 06. Endorsement.** Term used to refer to the content area or specific area of expertise in which a holder is granted permission to provide services. (3-16-04)
- 07. Field Experience.** Early and ongoing practice opportunities to apply content and pedagogical knowledge in Pre-K-12 settings to progressively develop and demonstrate knowledge, skills, and dispositions. (4-11-19)
- 08. Idaho Student Achievement Standards.** Standards of achievement for Idaho's K-12 students. See IDAPA 08.02.03, "Rules Governing Thoroughness." (3-16-04)
- 09. Individualized Professional Learning Plan.** An individualized professional development plan based on the Idaho framework for teaching evaluation as outlined in Section 120 of these rules to include interventions based on the individual's strengths and areas of needed growth. (3-28-18)
- 10. Institutional Recommendation.** Signed form or written verification from an accredited institution with a state board approved educator preparation program stating that an individual has completed the program, received a basic or higher rating in all components of the approved Idaho framework for teaching evaluation, has an individualized professional learning plan, has demonstrated the ability to produce measurable student achievement or student success, has the ability to create student learning objectives, and is now being recommended for state certification. Institutional recommendations must include statements of identified competency areas and grade ranges. Institutional Recommendation for administrators must additionally include a competency statement indicating proficiency in conducting accurate evaluations of instructional practice based upon the state's framework for evaluation as outlined in Section 120 of these rules. (3-28-18)
- 11. Internship.** Full-time or part-time supervised clinical practice experience in Pre-K-12 settings where candidates progressively develop and demonstrate their knowledge, skills, and dispositions. (4-11-19)
- 12. Local Education Agency (LEA).** An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. (3-29-17)
- 13. Orientation.** School district/school process used to acquaint teachers new to district/school on its policies, procedures and processes. (3-16-04)
- 14. Paraprofessional.** A noncertificated individual who is employed by a school district or charter

school to support educational programming. Paraprofessionals must work under the direct supervision of a properly certificated staff member for the areas they are providing support. Paraprofessionals cannot serve as the teacher of record and may not provide direct instruction to a student unless the paraprofessional is working under the direct supervision of a teacher. (3-29-17)

a. To qualify as a paraprofessional the individual must have a high school diploma or general equivalency diploma (GED) and: (3-29-17)

i. Demonstrate through a state board approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed as applicable to the academic areas they are providing support in; or (4-11-19)

ii. Have completed at least two (2) years of study at an accredited postsecondary educational institution; or (3-29-17)

iii. Obtained an associate degree or higher level degree; demonstrate through a state board approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed as applicable to the academic areas they are providing support in. (4-11-19)

b. Individuals who do not meet these requirements will be considered school or classroom aides. (3-29-17)

c. Duties of a paraprofessional include, but are not limited to, one-on-one tutoring; assisting in classroom management; assisting in computer instruction; conducting parent involvement activities; providing instructional support in a library or media center; acting as a translator in instructional matters; and providing instructional support services. Non-instructional duties such as providing technical support for computers, personal care services, and clerical duties are generally performed by classroom or school aides, however, this does not preclude paraprofessionals from also assisting in these non-instructional areas. (3-29-17)

15. Pedagogy. Teaching knowledge and skills. (3-16-04)

16. Practicum. Full-time or part-time supervised, industry-based experience in an area of intended career technical education teaching field to extend understanding of industry standards, career development opportunities, and application of technical skills. (4-11-19)

17. Student Learning Objective (SLO). A measurable, long-term academic growth target that a teacher sets at the beginning of the year for all student or for subgroups of students. SLOs demonstrate a teacher's impact on student learning within a given interval of instruction based upon baseline data gathered at the beginning of the course. (3-25-16)

18. Student Teaching. Extensive, substantive, and supervised clinical practice in Pre-K-12 schools for candidates preparing to teach. (4-11-19)

19. Teacher Leader. A teacher who facilitates the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs. (3-25-16)

008. -- 011. (RESERVED)

012. ACCREDITED INSTITUTION. For purposes of educator certification, an accredited school, college, university, or other educator training institution is considered by the Idaho State Board of Education to be one that is accredited by a regional accrediting association recognized by the State Board of Education or an alternative or non-traditional model approved by the State Board of Education. (Sections 33-107; 33-114; 33-1203, Idaho Code) (4-11-19)

013. CERTIFICATION OF TEACHERS TRAINED IN FOREIGN INSTITUTIONS. Considering credentials for teacher certification submitted by persons trained in the institutions of foreign countries will be initiated by a translation and evaluation of the applicant's credentials. (4-1-97)

01. Determination of Eligibility. Determination of eligibility for certification will be made by the State Department of Education as the agent of the State Board of Education. Appeals may be made to the Professional Standards Commission, (PSC). (Section 33-1209, Idaho Code) (3-16-04)

02. Other Procedures. All other procedures in effect at the time must be followed at the time of application. (4-1-97)

014. CERTIFICATES ISSUED TO APPLICANTS FROM REGIONALLY ACCREDITED INSTITUTIONS.

01. The Department of Education. The Department of Education is authorized to issue Idaho Certificates to applicants from regionally accredited institutions meeting requirements for certification or equivalent (i.e., those based on a baccalaureate degree) in other states when they substantially meet the requirements for the Idaho Certificate. (Sections 33-1203; 33-2203 Idaho Code) (3-29-17)

02. The Division of Career Technical Education. The Division of Career Technical Education is authorized to determine whether applicants meet the requirements for instructing or administering career technical programs at the secondary and postsecondary levels. (Section 33-2203, Idaho Code) (3-29-17)

015. IDAHO EDUCATOR CREDENTIAL.

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

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

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

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

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

b. Completed an approved educator preparation program and have an institutional recommendation from an accredited college or university specifying the grade ranges and subjects for which they are eligible to receive an endorsement in; (4-11-19)

c. Individuals seeking endorsement in a secondary grade (pursuant to Section 33-1001, Idaho Code) range must complete preparation in at least two (2) fields of teaching. One (1) of the teaching fields must consist of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours and a second field of teaching consisting of at least twenty (20) semester credit hours, or thirty (30) quarter credit hours. Preparation of not less than forty-five (45) semester credit hours, or sixty-seven (67) quarter credit hours, in a single subject area may be used in lieu of the two (2) teaching field requirements; (3-29-17)

d. Proficiency in areas noted above is measured by completion of the credit hour requirements provided herein. Additionally, each candidate must meet or exceed the state qualifying score on the state board approved content area and pedagogy assessments. (3-29-17)

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

02. Pupil Service Staff Certificate. Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as an occupational therapist or physical therapist may be required, as determined by the local educational agency, to hold the Pupil Service Staff Certificate with respective endorsements for which they qualify. (3-28-18)

a. School Counselor (K-12) Endorsement. To be eligible for a Pupil Service Staff Certificate - School Counselor (K-12) endorsement, a candidate must have satisfied the following requirements. The Pupil Service Staff Certificate with a School Counselor (K-12) endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (3-28-18)

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

ii. An institutional recommendation is required for a School Counselor (K-12) endorsement. (3-28-18)

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

i. Individuals serving as a school counselor pursuant to Section 33-1212, Idaho Code, shall be granted a Pupil Service Staff Certificate with a School Counselor – Basic (K-12) endorsement. The endorsement is valid for five (5) years or until such time as the holder no longer meets the eligibility requirements pursuant to Section 33-1212, Idaho Code. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (4-11-19)

ii. Individuals who received their endorsement pursuant to Section 33-1212, Idaho Code, prior to July 1, 2018, will be transitioned into the School Counselor – Basic (K-12) endorsement. Renewal date will remain the same as the initial credential. (3-28-18)

c. School Psychologist Endorsement. This endorsement is valid for five (5) years. In order to renew the endorsement, six (6) professional development credits are required every five (5) years. The renewal credit requirement may be waived if the applicant holds a current valid National Certification for School Psychologists (NCSP) offered through the National Association of School Psychologists (NASP). To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-25-16)

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

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

iii. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or

special education practicum, and completion of a minimum twelve hundred (1,200) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist; and (3-25-16)

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

d. School Nurse Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of either requirements in Subsections 015.02.c.i. or 015.02.c.ii. (4-11-19)

i. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing, and a baccalaureate degree in nursing, education, or a health-related field from an accredited institution. (4-11-19)

ii. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing; have two (2) years of full-time (or part-time equivalent) school nursing, community health nursing, or any other area of pediatric, adolescent, or family nursing experience; and have completed six (6) semester credit hours from a university or college in any of the following areas: (4-11-19)

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

(2) Nursing leadership. (4-11-19)

(3) Pediatric nursing or child development. (4-11-19)

(4) Population of community health. (4-11-19)

(5) Health care policy, ethics, or cultural competency. (4-11-19)

(6) Research and/or statistics. (4-11-19)

e. Interim Endorsement - School Nurse. This endorsement will be granted for those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. An Interim School Nurse Endorsement will be issued for three (3) years while the applicant is meeting the educational or experience requirements, or both, and it is not renewable. (4-11-19)

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

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

h. School Social Worker Endorsement. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement shall be accomplished by meeting the requirements of Subsections 015.02.g.i. through 02.g.iii., or by meeting the requirement in Subsection 015.02.g.iv.: (3-29-17)

i. A master's degree in social work (MSW) from a postsecondary institution accredited by an organization recognized by the State Board of Education. The program must be currently approved by the state educational agency of the state in which the program was completed; and (3-29-17)

- ii. An institution recommendation from an Idaho State Board of Education approved program; and (3-29-17)
 - iii. The successful completion of a school social work practicum in a kindergarten through grade twelve 12 (K-12) setting. Post-MSW extensive experience working with children and families may be substituted for the completion of a school social work practicum in a K-12 setting. (3-29-17)
 - iv. A current and valid master's degree or higher social work license pursuant to chapter 32, title 54 and the rules of the State Board of Social Work Examiners. (3-29-17)
 - i. **Interim Endorsement-Speech Language Pathologist.** This certificate will be granted for those who do not meet the educational requirements but who hold a baccalaureate degree in speech language pathology and are pursuing a master's degree in order to obtain the Pupil Service Staff Certificate endorsed in speech language pathology. An interim certificate will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (3-28-18)
 - j. **Occupational Therapist Endorsement.** A candidate with a current and valid Occupational Therapy license issued by the Occupational Therapy Licensure Board of Idaho shall be granted an Occupational Therapist endorsement. The Pupil Service Staff Certificate with an Occupational Therapist endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Occupational Therapy Licensure for the endorsement to remain valid. (4-11-19)
 - k. **Physical Therapist Endorsement.** A candidate with a current and valid Physical Therapy license issued by the Idaho Physical Therapy Licensure Board shall be granted a Physical Therapist endorsement. The Pupil Service Staff Certificate with a Physical Therapist endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Physical Therapy Licensure for the endorsement to remain valid. (3-28-18)
- 03. Administrator Certificate.** Every person who serves as a superintendent, a director of special education, a secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or is assigned to conduct the summative evaluation of certified staff is required to hold an Administrator Certificate. The certificate may be endorsed for service as a school principal, a superintendent, or a director of special education. Assistant superintendents are required to hold the Superintendent endorsement. Assistant principals or vice-principals are required to hold the School Principal endorsement. Directors of special education are required to hold the Director of Special Education endorsement. Possession of an Administrator Certificate does not entitle the holder to serve as a teacher at a grade level for which the educator is not qualified or certificated. All administrator certificates require candidates to meet the Idaho Standards for School Principals. The Administrator Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-28-18)
- a. **School Principal (Pre-K-12) Endorsement.** To be eligible for an Administrator Certificate endorsed for School Principal (Pre-K-12), a candidate must have satisfied the following requirements: (3-28-18)
 - i. Hold a master's degree from an accredited college or university. (3-25-16)
 - ii. Have four (4) years of full-time certificated experience working with students, Pre-K-12, while under contract in an accredited school setting. (3-25-16)
 - iii. Have completed an administrative internship in a state-approved program, or have one (1) year of experience as an administrator in grades Pre-K-12. (3-25-16)
 - iv. Provide verification of completion of a state-approved program of at least thirty (30) semester credit hours, forty-five (45) quarter credit hours, of graduate study in school administration for the preparation of school principals at an accredited college or university. This program shall include the competencies of the Idaho Standards for School Principals. (3-28-18)

- v. An institutional recommendation is required for a School Principal (Pre-K-12) Endorsement. (3-28-18)
- b. Superintendent (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate with a Superintendent (Pre-K-12) endorsement, a candidate must have satisfied the following requirements: (3-28-18)
 - i. Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university. (3-25-16)
 - ii. Have four (4) years of full-time certificated/licensed experience working with Pre-K-12 students while under contract in an accredited school setting. (3-25-16)
 - iii. Have completed an administrative internship in a state-approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent in grades Pre-K-12. (3-25-16)
 - iv. Provide verification of completion of an approved program of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours, of post-master's degree graduate study for the preparation of school superintendents at an accredited college or university. This program in school administration and interdisciplinary supporting areas shall include the competencies in Superintendent Leadership, in addition to the competencies in the Idaho Standards for School Principals. (3-28-18)
 - v. An institutional recommendation is required for a School Superintendent Endorsement (Pre-K-12). (3-28-18)
- c. Director of Special Education (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate endorsed for Director of Special Education (Pre-K-12), a candidate must have satisfied all of the following requirements: (3-28-18)
 - i. Hold a master's degree from an accredited college or university; (3-25-16)
 - ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting; (3-25-16)
 - iii. Obtain college or university verification of demonstrated the competencies of the Director of Special Education in Idaho Standards for Initial Certification of Professional School Personnel; (3-28-18)
 - iv. Obtain college or university verification of demonstrated competencies in the following areas, in addition to the competencies in the Idaho Standards for School Principals: Concepts of Least Restrictive Environment; Post-School Outcomes and Services for Students with Disabilities Ages Three (3) to Twenty-one (21); Collaboration Skills for General Education Intervention; Instructional and Behavioral Strategies; Individual Education Programs (IEPs); Assistive and Adaptive Technology; Community-Based Instruction and Experiences; Data Analysis for Instructional Needs and Professional Training; Strategies to Increase Program Accessibility; Federal and State Laws and Regulations and School District Policies; Resource Advocacy; and Technology Skills for Referral Processes, and Record Keeping; (3-28-18)
 - v. Have completed an administrative internship in the area of administration of special education; and (4-11-19)
 - vi. An institutional recommendation is required for Director of Special Education (Pre-K-12) endorsement. (3-28-18)
- 04. Certification Standards For Career Technical Educators.** Teachers of career technical courses or programs in secondary schools must hold an occupational specialist certificate and an endorsement in an appropriate occupational discipline. All occupational certificates must be approved by the Division of Career Technical Education regardless of the route an individual is pursuing to receive the certificate. (3-28-18)

05. Degree Based Career Technical Certification. (3-25-16)

a. Individuals graduating from an approved occupational teacher preparation degree program qualify to teach in the following five (5) disciplines: agricultural science and technology; business technology education; computer science technology; engineering; family and consumer sciences; marketing technology education; and technology education. Occupational teacher preparation course work must meet the Idaho Standards for the Initial Certification of Professional School Personnel. The occupational teacher education program must provide appropriate content to constitute a major in the identified field. Student teaching shall be in an approved program and include experiences in the major field. Applicants shall have accumulated one thousand (1,000) clock hours of related work experience or practicum in their respective field of specialization, as approved by the Division of Career Technical Education. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules. (3-28-18)

b. The Career Technical Administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs at the state Division of Career Technical Education or in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the Career Technical Administrator Certificate. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. (3-28-18)

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

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

(2) Additional course work may be selected from any of the following areas: administration and supervision of occupational programs; instructional supervision; administration internship; curriculum development; curriculum evaluation; research in curriculum; school community relations; communication; teaching the adult learner; coordination of work-based learning programs; and/or measurement and evaluation. (3-28-18)

ii. Hold a superintendent or principal (pre-K-12) endorsement on a standard administrator certificate and provide evidence of a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline or successfully complete the Division of Career Technical Education twenty-seven (27) month Idaho career technical education leadership institute. (3-28-18)

c. Work-Based Learning Coordinator Endorsement. Educators assigned to coordinate approved work-based experiences must hold the Work-Based Learning Coordinator endorsement. To be eligible, applicants must hold an occupational endorsement on the Standard Instructional Certificate or qualify for an Occupational Specialist Certificate, plus complete course work in coordination of work-based learning programs. (3-29-17)

d. Career Counselor Endorsement. The endorsement for a Career Counselor may be issued to applicants who hold a current Pupil Service Staff Certificate with a School Counselor (K-12) endorsement, and who have satisfied the following career technical requirement: Career Pathways and Career Technical Guidance; Principles/Foundations of Career Technical Education; and Theories of Occupational Choice. (3-28-18)

06. Industry-Based Occupational Specialist Certificate. The industry-based Occupational Specialist Certificates are industry-based career technical certifications issued in lieu of a degree-based career technical certificate. Certificate holders must meet the following eligibility requirements: (3-28-18)

a. Be at least twenty-two (22) years of age; document recent, gainful employment in the area for which certification is requested; possess either a high school diploma or General Educational Development (GED) certificate; meet provisions of Idaho Code; and, verify technical skills through work experience, industry certification or testing as listed below. When applicable, requirements of occupationally related state agencies must also be met.

Since educational levels and work experiences vary, applicants may be determined highly qualified under any one (1) of the following three (3) options: (3-28-18)

i. Have six (6) years or twelve thousand (12,000) hours of recent, gainful employment in the occupation for which certification is requested. Up to forty-eight (48) months credit or up to eight thousand (8,000) hours can be counted toward the six (6) years or twelve thousand (12,000) hours on a month-to-month basis for journeyman training or completed postsecondary training in a career technical education program; or (3-28-18)

ii. Have a baccalaureate degree in the specific occupation or related area, plus two (2) years or four thousand (4,000) hours of recent, gainful employment in the occupation for which certification is required, at least half of which must have been during the immediate previous five (5) years; or (3-28-18)

iii. Have completed a formal apprenticeship program in the occupation or related area for which certification is requested plus two (2) years or four thousand (4,000) hours of recent, gainful, related work experience, at least half of which must have been completed in the immediate previous five (5) years. (3-28-18)

b. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching in Idaho public schools or new to teaching in career technical education in Idaho public schools. The certificate is an interim certificate and is valid for three (3) years and is non-renewable. Applicants must meet all of the minimum requirements established in Subsection 015.06.a. of these rules. Individuals on a limited occupational specialist certificate must complete one (1) of the two (2) following pathways during the validity period of the certificate: (3-28-18)

i. **Pathway I - Coursework:** Within the three-year period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily complete the pre-service training prescribed by the Division of Career Technical Education and demonstrate competencies in principles/foundations of occupational education and methods of teaching occupational education. Additionally, the instructor must satisfactorily demonstrate competencies in two (2) of the following areas: career pathways and guidance; analysis, integration, and curriculum development; and measurement and evaluation. (3-28-18)

ii. **Pathway II – Cohort Training:** Within the first twelve (12) months, the holder must enroll in the Division of Career Technical Education sponsored two-year cohort training and complete the two (2) training within the three-year validity period of the interim certificate. (3-28-18)

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

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

ii. The Standard Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. Credit equivalency will be based on verification of forty-five (45) hours of participation at approved technical conferences, institutes, or workshops where participation is prorated at the rate of fifteen (15) hours per credit; or one hundred twenty (120) hours of approved related work experience where hours worked may be prorated at the rate of forty (4) hours per credit; or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. (3-28-18)

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

i. Are eligible for the Standard Occupational Specialist Certificate; (3-28-18)

ii. Provide evidence of completion of a teacher training degree program or eighteen (18) semester credits of Division of Career Technical Education approved education or content-related course work in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); and (3-28-18)

- iii. Have on file a new professional development plan for the next certification period. (3-28-18)
- iv. The Advanced Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. (3-28-18)

07. Postsecondary Specialist. A Postsecondary Specialist certificate will be granted to a current academic faculty member whose primary employment is with any accredited Idaho postsecondary institution. To be eligible to teach in the public schools under this postsecondary specialist certificate, the candidate must supply a recommendation from the employing institution (faculty's college dean). The primary use of this state-issued certificate will be for distance education, virtual classroom programs, and for public and postsecondary partnerships. (3-29-17)

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

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

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

- i. Hold a master's degree or higher in the content area being taught; (3-25-16)
- ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-25-16)
- iii. Complete and pass a criminal history background check as required according to Section 33-130, Idaho Code. (3-25-16)

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

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

b. Once an application with Tribal approval has been received, it will be reviewed and, if approved, it will be forwarded to the Office of Certification for a criminal history background check as required in Section 33-130, Idaho Code. The application must include a ten--finger fingerprint card or scan and a fee for undergoing a background investigation check pursuant to Section 33-130, Idaho Code. (3-28-18)

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

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

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

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

c. Authorization Letter. Upon receiving the items identified in Subsections 015.09.a. and 09.b., the State Department of Education shall issue a letter authorizing these individuals as Junior ROTC instructors.

(3-29-17)

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

a. Mathematics In-Service Program. In order to recertify, the state board approved mathematics instruction course titled “Mathematical Thinking for Instruction,” or another State Department of Education approved alternative course, shall be required. The “Mathematical Thinking for Instruction” course consists of three (3) credits. Teachers must take one (1) of the three (3) courses developed that is most closely aligned with their current assignment prior to July 1, 2019. Any teacher successfully completing said course shall be deemed to have met the requirement of Subsection 060.02.c. of this rule as long as said course is part of an official transcript or completed before September 1, 2013, and verified by the State Department of Education. Successful completion of a state board approved mathematics instruction course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following must successfully complete the “Mathematical Thinking for Instruction” course or another State Department of Education approved alternative course in order to recertify: (4-11-19)

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

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

iii. Each teacher holding an All Subjects (K-8) endorsement, Mathematics – Basic (5-9 or 6-12) endorsement, Mathematics (5-9 or 6-12) endorsement teaching in a mathematics content classroom (grade six (6) through grade twelve (12)) including Title I who is employed by a school district or charter school; and (3-28-18)

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

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

c. Administrator certificate renewal. In order to recertify, holders of an administrator certificate must complete a course consisting of a minimum of three (3) semester credits in the Idaho framework for teachers' evaluation pursuant to Section 33-1204, Idaho Code. Credits must be earned through an approved educator preparation program and include a laboratory component. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. The approved course must include the following competencies: (3-28-18)

i. Understanding professional practice in Idaho evaluation requirements, including gathering accurate evidence and artifacts, understanding and using the state framework for evaluation rubric with fidelity, proof of calibration and interrater reliability, ability to provide effective feedback for teacher growth, and understanding and advising teachers on individualized learning plan and portfolio development. (3-28-18)

ii. Understanding student achievement and growth in the Idaho evaluation framework, including understanding how measurable student achievement and growth measures impact summative evaluation ratings and proficiency in assessment literacy. (3-28-18)

016. IDAHO INTERIM CERTIFICATE.

The State Department of Education or the Division of Career Technical Education, as applicable to the certificate, is authorized to issue a three-year interim certificate to those applicants who hold a valid certificate/license from

another state or other entity that participates in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Agreement pursuant to Section 33-4104, Idaho Code, or engaged in an alternate route to certification as prescribed herein. (3-29-17)

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

02. Idaho Comprehensive Literacy Course. For all Idaho teachers working on interim certificates, (alternate authorizations, nontraditional routes, reinstatements or coming from out of the state), completion of a state board approved Idaho Comprehensive Literacy course or assessment, or approved secondary equivalent shall be a one-time requirement for full certification. (4-11-19)

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

03. Mathematical Thinking for Instruction. For all Idaho teachers or administrators working on interim certificates (alternate authorizations, nontraditional routes, reinstatements or coming from out of the state), with an All Subjects (K-8) endorsement, any mathematics endorsement, Exceptional Child Generalist endorsement, Blended Early Childhood/Early Childhood Special Education endorsement, or Administrator certificate must complete a state board approved Mathematical Thinking for Instruction, or another State Department of Education approved alternative course, as a one-time requirement for full certification. (4-11-19)

04. Technology. Out-of-state applicants may be reviewed by the hiring district for technology deficiencies and may be required to take technology courses to improve their technology skills. (3-28-18)

05. Reinstatement of Expired Certificate. An individual holding an expired Idaho certificate may be issued a nonrenewable three-year interim certificate. During the validity period of the interim certificate, the applicant must meet the following requirements to obtain a full certification during the term of the interim certificate: (3-28-18)

- a.** Two (2) years of successful evaluations as per Section 33-1001(14), Idaho Code. (3-28-18)
- b.** Measured annual progress on specific goals identified on Individualized Professional Learning Plan. (3-28-18)
- c.** Six (6) credit renewal requirement. (3-28-18)
- d.** Any applicable requirement for Idaho Comprehensive Literacy Course or Mathematical Thinking for Instruction as indicated in Subsections 016.02 and 016.03. (3-28-18)

06. Foreign Institutions. An educator having graduated from a foreign institution may be issued a non-renewable, three-year interim certificate. The applicant must also complete the requirements listed in Section 013 of these rules. (3-28-18)

07. Codes of Ethics. All laws and rules governing standard certificated staff with respect to conduct, discipline, and professional standards shall apply to all certified staff serving in an Idaho public school, including those employed under an interim certificate. (3-28-18)

017. CONTENT, PEDAGOGY AND PERFORMANCE ASSESSMENT FOR CERTIFICATION.

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

02. Out-of-State Waivers. An out-of-state applicant for Idaho certification holding a current certificate may request a waiver from the above requirement. The applicant shall provide evidence of passing a state board approved content, pedagogy and performance area assessment(s) or hold current National Board for Professional Standards Teaching Certificate. (4-11-19)

03. Idaho Comprehensive Literacy Assessment. All applicants for initial Idaho certification (Kindergarten through grade twelve (12)) from an Idaho approved educator preparation program must demonstrate competency in comprehensive literacy. Areas to be included as parts of the assessment are: phonological awareness, phonics, fluency, vocabulary, comprehension, writing, and assessments and intervention strategies. Each Idaho public higher education institution shall be responsible for the assessment of teacher candidates in its educator preparation program. The assessment must measure teaching skills and knowledge congruent with current research on best literacy practices for elementary students or secondary students (adolescent literacy) dependent upon level of certification and English Language Learners. In addition, the assessment must measure understanding and the ability to apply strategies and beliefs about language, literacy instruction, and assessments based on current research and best practices congruent with International Reading Association/National Council of Teachers of English standards, National English Language Learner's Association professional teaching standards, National Council for Accreditation of Teacher Education standards, and state accreditation standards. (4-11-19)

018. -- 020. (RESERVED)

021. ENDORSEMENTS.

Holders of a Standard Instructional Certificate, Standard Occupational Specialist Certificate, and Advanced Occupational Specialist Certificate may be granted endorsements in subject areas as provided herein. Instructional staff are eligible to teach in the grades and content areas of their endorsements. Idaho preparation programs shall prepare candidates for endorsements in accordance with the Idaho Standards for Initial Certification of Professional School Personnel. An official statement from the college of education of competency in a teaching area or field is acceptable in lieu of required credits if such statements are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. Statements must include the number of credits the competency evaluation is equivalent to. To add an endorsement to an existing credential, an individual shall complete the credit hour requirements as provided herein and shall also meet or exceed the state qualifying score on appropriate, state approved content, pedagogy and performance assessments. When converting semester credit hours to quarter credit hours, two (2) semester credit hours is equal to three (3) quarter credit hours. (3-28-18)

01. Clinical Experience Requirement. All endorsements require supervised clinical experience in the relevant content area, or a State Department of Education or Division of Career Technical Education approved alternative clinical experience as applicable to the area of endorsement. (4-11-19)

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

a. Option I -- An official statement from the college of education of competency in a teaching area or field is acceptable in lieu of courses for a teaching field if such statements are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. (3-28-18)

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

c. Option III -- Master's degree or higher. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid instructional certificate. (3-28-18)

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

i. Pathway 1 -- Endorsements may be added through state-approved testing and a mentoring

component. The appropriate test must be successfully completed within the first year of authorization in an area closely compatible with an endorsement for which the candidate already qualifies and is experienced. Additionally, requires the successful completion of a one (1)-year state-approved mentoring component; or (3-28-18)

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

022. ENDORSEMENTS A - D.

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

a. Forty-five (45) semester credit hours including course work in each of the following areas: agriculture education; agriculture mechanics; agriculture business management; soil science; animal science; career technical student organization leadership; plant science; and occupational teacher preparation pursuant to Subsection 015.05.a.; or (3-28-18)

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

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

03. American Government /Political Science (5-9 or 6-12). Twenty (20) semester credit hours to include: a minimum of six (6) semester credit hours in American government, six (6) semester credit hours in U.S. history survey, and a minimum of three (3) semester credit hours in comparative government. Remaining course work must be selected from political science. Course work may include three (3) semester credit hours in world history survey. (3-28-18)

04. Bilingual Education (K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Bilingual Education Teachers to include all of the following: upper division coursework in one (1) modern language other than English, including writing and literature, and advanced proficiency according to the American Council on the Teaching of Foreign Languages guidelines; cultural diversity; ESL/bilingual methods; linguistics, second language acquisition theory and practice; foundations of ESL/bilingual education, legal foundations of ESL/bilingual education, identification and assessment of English learners, biliteracy; at least one (1) semester credit hour in bilingual clinical field experience. (4-11-19)

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

06. Blended Early Childhood Education/Early Childhood Special Education (Birth - Grade 3). The Blended Early Childhood Education/Early Childhood Special Education (Birth - Grade 3) endorsement allows one to teach in any educational setting birth through grade three (3). To be eligible, a candidate must have satisfied the following requirements. (3-28-18)

a. A minimum of thirty (30) semester credit hours, or forty-five (45) quarter credit hours, in the philosophical, psychological, and methodological foundations, in instructional technology, and in the professional subject matter of early childhood and early childhood-special education. The professional subject matter shall include course work specific to the child from birth through grade three (3) in the areas of child development and learning; curriculum development and implementation; family and community relationships; assessment and evaluation; professionalism; and, application of technologies. (3-29-17)

b. The required credit hours here in, shall include not less than six (6) semester credit hours, or nine (9) quarter credit hours, of early childhood student teaching (K-3) and field experiences birth to age three (3) programs, and age three (3) to age five (5) programs, and three (3) semester credit hours, or four (4) quarter credit hours, of developmental reading. (3-29-17)

c. Proficiency in areas noted above is measured by one (1) of the following options: (3-29-17)

i. Option I -- Demonstration of competency within the Idaho Standards for Blended Early Childhood Education/Early Childhood Special Education Teachers. Additionally, each candidate shall meet or exceed the state qualifying score on approved early-childhood assessments. (3-29-17)

ii. Option II -- Completion of a CAEP accredited program in blended early childhood education/early childhood special education birth through grade three (3). Additionally, each candidate shall meet or exceed the state qualifying score on approved early-childhood assessments. (3-29-17)

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

a. Completion of a program of a minimum of twenty (20) semester credit hours in elementary education coursework to include: methodology (literacy, mathematics, science, physical education, art); content knowledge (mathematics, literacy, science, health, art); technology; assessment; and, field experiences in grades four (4) through six (6). (3-28-18)

08. Business Technology Education (6-12). (3-16-04)

a. Twenty (20) semester credit hours to include course work in each of the following areas: accounting; computer and technical applications in business; economics; methods of teaching business education; career guidance; career technical student organization leadership; business communication/writing; and office procedures. Additional competencies may be satisfied through the following: entrepreneurship; finance; marketing; business law; or business management; and occupational teacher preparation pursuant to Subsection 015.05.a.; or (3-28-18)

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

09. Chemistry (5-9 or 6-12). Twenty (20) semester credit hours in the area of chemistry, to include coursework in each of the following areas: inorganic and organic chemistry. (3-29-17)

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

a. Option I -- Twenty (20) semester credit hours to include methods of teaching speech/communications plus course work in at least four (4) of the following areas: interpersonal communication/human relations; argumentation/personal persuasion; group communications; nonverbal communication; public speaking; journalism/mass communications; and drama/theater arts. (3-29-17)

b. Option II -- Possess an English endorsement plus at least twelve (12) semester credit hours distributed among the following: interpersonal communication/human relations, public speaking, journalism/mass communications, and methods of teaching speech/communication. (3-29-17)

11. Computer Science (5-9 or 6-12). (3-29-17)

a. Twenty (20) semester credit hours of course work in computer science, including course work in the following areas: data representation and abstraction; design, development, and testing algorithms; software development process; digital devices systems network; and the role of computer science and its impact on the modern world; or (3-29-17)

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

12. Deaf/Hard of Hearing (K-12). Completion of a minimum of thirty-three (33) semester credit hours in the area of deaf/hard of hearing with an emphasis on instruction for students who use sign language or completion of a minimum thirty-three (33) semester credit hours in the area of deaf/hard of hearing with an emphasis on instruction for students who use listening and spoken language. An institutional recommendation specific to this endorsement is required. To be eligible for a Deaf/Hard of Hearing endorsement, a candidate must have satisfied the following requirements: (3-29-17)

- a. Completion of a baccalaureate degree from an accredited college or university; (3-29-17)
- b. Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or (3-29-17)
- c. Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; and (3-29-17)
- d. Completion of a program of a minimum of thirty-three (33) semester credit hours in the area of Deaf/Hard of Hearing and must receive an institutional recommendation specific to this endorsement from an accredited college or university. (3-29-17)

023. ENDORSEMENTS E - L.

01. Early Childhood Special Education (Pre-K-3). The Early Childhood Special Education (Pre-K-3) endorsement is non-categorical and allows one to teach in any Pre-K-3 special education setting. This endorsement may only be added to the Exceptional Child Generalist (K-8 or K-12) endorsement. To be eligible a candidate must have satisfied the following requirements: (3-28-18)

a. Completion of a program of a minimum of twenty (20) semester credit hours in the area of early childhood education to include course work in each of the following areas: child development and behavior with emphasis in cognitive-language, physical, social and emotional areas, birth through age eight (8); curriculum and program development for young children ages three to eight (3-8); methodology: planning, implementing and evaluating environments and materials for young children ages three to eight (3-8); guiding young children's behavior: observing, assessing and individualizing ages three to eight (3-8); identifying and working with atypical young children ages three to eight (3-8) parent-teacher relations; and student teaching at the Pre-K - 3 grades. (3-29-17)

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

03. Economics (5-9 or 6-12). Twenty (20) semester credit hours to include a minimum of three (3) semester credit hours of micro-economics, a minimum of three (3) semester credit hours of macro-economics, and a minimum of six (6) semester credit hours of personal finance/consumer economics/economics methods. Remaining course work may be selected from business, economics, or finance course. (3-28-18)

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

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

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

05. English (5-9 or 6-12). Twenty (20) semester credit hours, including coursework in all of the following areas: grammar, American literature, British literature, multicultural/world literature, young adult literature, and literary theory. Additionally, a course in advanced composition, excluding the introductory sequence designed to meet general education requirements, and a course in secondary English language arts methods are

required. (4-11-19)

06. English as a Second Language (ESL) (K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for ESL Teachers to include all of the following: a modern language other than English; cultural diversity; ESL methods; linguistics; second language acquisition theory and practice; foundations of ESL/bilingual education, legal foundations of ESL/bilingual education, identification and assessment of English learners; and at least one (1) semester credit in ESL clinical field experience. (4-11-19)

07. Exceptional Child Generalist (K-8, 6-12, or K-12). The Exceptional Child Generalist endorsement is non-categorical and allows one to teach in any special education setting, applicable to the grade range of the endorsement. Regardless of prior special education experience, all initial applicants must provide an institutional recommendation that an approved special education program has been completed, with field work to include student teaching in an elementary or secondary special education setting. To be eligible, a candidate must have satisfied the following requirements: (3-29-17)

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

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

08. Family and Consumer Sciences (6-12). (3-28-18)

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

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

09. Geography (5-9 or 6-12). Twenty (20) semester credit hours including course work in cultural geography and physical geography, and a maximum of six (6) semester credit hours in world history survey. The remaining semester credit hours must be selected from geography. (3-29-17)

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

11. Gifted and Talented (K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Teachers of Gifted and Talented Students, to include coursework in the following areas of gifted and talented education: foundations, creative and critical thinking, social and emotional needs, curriculum, instruction, assessment and identification, differentiated instruction, program design, and clinical practice. (4-11-19)

12. Health (5-9, 6-12, or K-12). Twenty (20) semester credit hours to include course work in each of the following areas: organization/administration/planning of a school health program; health, wellness, and behavior change; secondary methods of teaching health, to include field experience in a traditional classroom; mental/emotional health; nutrition; human sexuality; substance use and abuse. Remaining semester credits must be in health-related course work. To obtain a Health K-12 endorsement, applicants must complete an elementary health methods course. (3-29-17)

13. History (5-9 or 6-12). Twenty (20) semester credit hours to include a minimum of six (6) semester credit hours of U.S. history survey and a minimum of six (6) semester credit hours of world history survey. Remaining course work must be in history. Course work may include three (3) semester credit hours in American government. (3-29-17)

14. Humanities (5-9 or 6-12). An endorsement in English, history, music, visual art, drama, or foreign

language and twenty (20) semester credit hours in one of the following areas or ten (10) semester credit hours in each of two (2) of the following areas: literature, music, foreign language, humanities survey, history, visual art, philosophy, drama, comparative world religion, architecture, and dance. (3-29-17)

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

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

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

16. Literacy (K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Literacy Teachers to include the following areas: foundations of literacy (including reading, writing, listening, speaking, viewing, and language); development and diversity of literacy learners; literacy in the content area; literature for youth; language development; corrective/diagnostic/remedial reading; writing methods; and reading methods. To obtain a Literacy endorsement, applicants must complete the Idaho Comprehensive Literacy Course or the Idaho Comprehensive Literacy Assessment. (4-11-19)

024. ENDORSEMENTS M - Z.

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

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

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

02. Mathematics (5-9 or 6-12). Twenty (20) semester credit hours including course work in each of the following areas: Euclidean and transformational geometry, linear algebra, discrete mathematics, statistical modeling and probabilistic reasoning, and the first two (2) courses in a standard calculus sequence. A minimum of two (2) of these twenty (20) credits must be focused on secondary mathematics pedagogy. Statistics course work may be taken from a department other than the mathematics department. (3-29-17)

03. Mathematics - Basic (5-9 or 6-12). Twenty (20) semester credit hours in Mathematics content course work in algebraic thinking, functional reasoning, Euclidean and transformation geometry and statistical modeling and probabilistic reasoning. A minimum of two (2) of these twenty (20) credits must be focused on secondary mathematics pedagogy. Six (6) semester credit hours of computer programming may be substituted for six (6) semester credits in mathematics content. (3-29-17)

04. Music (5-9 or 6-12 or K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Music Teachers to include course work in the following: theory and harmony; aural skills, music history; conducting; applied music; and piano proficiency (class piano or applied piano), and secondary music methods/materials. To obtain a Music K-12 endorsement, applicants must complete an elementary music methods course. (3-29-17)

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

a. Option I -- Must hold an existing endorsement in one of the following areas: biological science, chemistry, Earth science, geology, or physics; and complete a total of twenty-four (24) semester credit hours as follows: (4-7-11)

i. Existing Biological Science Endorsement. Eight (8) semester credit hours in each of the following areas: physics, chemistry, and Earth science or geology. (3-29-17)

- ii. Existing Physics Endorsement. Eight (8) semester credit hours in each of the following areas: biology, chemistry, and Earth science or geology. (3-29-17)
- iii. Existing Chemistry Endorsement. Eight (8) semester credit hours in each of the following areas: biology, physics, and Earth science or geology. (3-29-17)
- iv. Existing Earth science or Geology Endorsement. Eight (8) semester credit hours in each of the following areas: biology, physics, and chemistry. (3-29-17)
- b. Option II -- Must hold an existing endorsement in Agriculture Science and Technology; and complete twenty-four (24) semester credit hours with at least six (6) semester credit hours in each of the following areas: biology, chemistry, Earth science or geology, and physics. (3-29-17)
- 06. Online-Teacher (K-12).** To be eligible for an Online-Teacher (K-12) endorsement, a candidate must have satisfied the following requirements: (3-28-18)
 - a. Meets the state's professional teaching and/or licensure standards and is qualified to teach in his/her field of study. (3-25-16)
 - b. Provides evidence of online course time as a student and demonstrates online learning experience. (4-11-19)
 - c. Has completed an eight (8) week online clinical practice in a K-12 program, or has one (1) year of verifiable and successful experience as a teacher delivering curriculum online in grades K-12 within the past three (3) years. (4-11-19)
 - d. Provides verification of completion of a state-approved program of at least twenty (20) semester credit hours of study in online teaching and learning at an accredited college or university or a state-approved equivalent. (3-25-16)
 - e. Demonstrates proficiency in the Idaho Standards for Online Teachers. (4-11-19)
- 07. Physical Education (PE) (5-9 or 6-12 or K-12).** Twenty (20) semester credit hours to include course work in each of the following areas: personal and teaching competence in sport, movement, physical activity, and outdoor skills; secondary PE methods; administration and curriculum to include field experiences in physical education; student evaluation in PE; safety and prevention of injuries; fitness and wellness; PE for special populations; exercise physiology; kinesiology/biomechanics; motor behavior; and current CPR and first aid certification. To obtain a PE K-12 endorsement, applicants must complete an elementary PE methods course. (3-29-17)
- 08. Physical Science (5-9 or 6-12).** Twenty (20) semester credit hours in the area of physical science to include a minimum of eight (8) semester credit hours in each of the following: chemistry and physics. (3-29-17)
- 09. Physics (5-9 or 6-12).** Twenty (20) semester credit hours in the area of physics. (3-28-18)
- 10. Psychology (5-9 or 6-12).** Twenty (20) semester credit hours in the area of psychology. (3-29-17)
- 11. Science – Middle Level (5-9).** Twenty-four (24) semester credit hours in science content coursework including at least eight (8) credits in each of the following: biology, earth science, and physical science to include lab components. Science foundation standards must be met. (4-11-19)
- 12. Social Studies (6-12).** Must have an endorsement in history, American government/political science, economics, or geography plus a minimum of twelve (12) semester credit hours in each of the remaining core endorsements areas: history, geography, economics, and American government/political science. (4-11-19)
- 13. Social Studies – Middle Level (5-9).** Twenty (20) Semester credit hours in social studies content

coursework including at least five (5) credits in each of the following: history, geography, and American government/political science or economics. Social studies foundations must be met. (4-11-19)

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

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

16. Teacher Leader. Teacher leaders provide technical assistance to teachers and other staff in the school district with regard to the selection and implementation of appropriate teaching materials, instructional strategies, and procedures to improve the educational outcomes for students. Candidates who hold this endorsement facilitate the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs. (4-11-19)

a. Teacher Leader – Instructional Specialist – Eligibility of Endorsement. To be eligible for a Teacher Leader – Instructional Specialist endorsement on the Standard Instructional Certificate, a candidate must have satisfied the following requirements: (4-11-19)

i. Education requirement: Hold a Standard Instructional Certificate. Content within coursework to include clinical supervision, instructional leadership, and advanced pedagogical knowledge, and have demonstrated competencies in the following areas: providing feedback on instructional episodes; engaging in reflective dialogue centered on classroom instruction, management, and/or experience; focused goal-setting and facilitation of individual and collective professional growth; understanding the observation cycle; and knowledge and expertise in data management platforms. (4-11-19)

ii. Experience: Completion of a minimum of three (3) years' full-time certificated teaching experience while under contract in an accredited school setting. (4-11-19)

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. (4-11-19)

b. Teacher Leader – Literacy – Eligibility for Endorsement. To be eligible for a Teacher Leader – Literacy endorsement on the Standard Instructional Certificate, a candidate must have satisfied the following requirements: (4-11-19)

i. Education Requirements: Hold a Standard Instructional Certificate and have demonstrated content competencies in the Idaho Literacy Standards. Coursework and content domains required include foundational literacy concepts; fluency, vocabulary development, and comprehension; literacy assessment concepts; and writing process, which are all centered on the following emphases: specialized knowledge of content and instructional methods; data driven decision making to inform instruction; research-based differentiation strategies; and culturally responsive pedagogy for diverse learners. (4-11-19)

ii. Experience: Completion of a minimum of three (3) years' full-time certificated experience while under contract in an accredited school setting. (4-11-19)

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. The candidate must meet or exceed the state qualifying score on appropriate state approved literacy content assessment. (4-11-19)

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

requirements: (4-11-19)

i. Education Requirements: Hold a Standard Instructional Certificate and have demonstrated content competencies. Coursework and content domains required include number and operation, geometry, algebraic reasoning, measurement and data analysis, and statistics and probability, which are centered on the following emphases: structural components of mathematics; modeling, justification, proof, and generalization; and specialized mathematical knowledge for teaching. (4-11-19)

ii. Experience: Completion of a minimum of three (3) years' full-time certificated teaching experience while under contract in an accredited school setting. (4-11-19)

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. The candidate must meet or exceed the state qualifying score on appropriate state approved math content assessment. (4-11-19)

d. Teacher Leader – Special Education – Eligibility for Endorsement. To be eligible for a Teacher Leader – Special Education endorsement on the Standard Instructional Certificate, a candidate must have satisfied the following requirements: (4-11-19)

i. Education Requirements: Hold a Standard Instructional Certificate endorsed Generalist K-12, K-8, or 5-9 and have demonstrated content competencies in the following areas: assessment of learning behaviors; individualization of instructional programs based on educational diagnosis; behavioral and/or classroom management techniques; program implementation and supervision; use of current methods, materials, and resources available and management and operation of special education management platforms; identification and utilization of community or agency resources and support services; counseling, guidance, and management of professional staff; and special education law, including case law. (4-11-19)

ii. Experience: Completion of a minimum of three (3) years' full-time certificated experience, at least two (2) years of which must be in a special education classroom setting, while under contract in an accredited school setting. (4-11-19)

iii. Provides verification of completion of a state-approved program of at least twenty (20) post baccalaureate semester credit hours of study at an accredited college or university or a state-approved equivalent. Program shall include ninety (90) supervised contact hours to include a combination of face-to-face and field-based professional development activities and evidence that knowledge gained and skills acquired are aligned with Idaho Teacher Leader Standards. (4-11-19)

17. Teacher Librarian (K-12). Twenty (20) semester credit hours of coursework leading toward competency as defined by Idaho Standards for Teacher Librarians to include the following: collection development/materials selection; literature for children and/or young adults; organization of information to include cataloging and classification; school library administration/management; library information technologies; information literacy; and reference and information service. (4-11-19)

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

a. Twenty (20) semester credit hours to include course work in each of the following areas: communication technology; computer applications; construction technology; electronics technology; manufacturing technology; power, energy and transportation and other relevant emerging technologies; career technical student organization leadership; principles of engineering design; and occupational teacher preparation pursuant to Subsection 015.05.a; or (3-28-18)

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

19. Theater Arts (5-9 or 6-12). Twenty (20) semester credit hours leading toward competency as

defined by Idaho Standards for Theater Arts Teacher, including coursework in each of the following areas: acting and directing, and a minimum of six (6) semester credits in technical theater/stagecraft. To obtain a Theater Arts (6-12) endorsement, applicants must complete a comprehensive methods course including the pedagogy of acting, directing and technical theater. (3-29-17)

20. Visual Arts (5-9, 6-12, or K-12). Twenty (20) Semester credit hours leading toward competency as defined by Idaho Standards for Visual Arts Teachers to include a minimum of nine (9) semester credit hours in: foundation art and design. Additional course work must include secondary arts methods, 2-dimensional and 3-dimensional studio areas. To obtain a Visual Arts (K-12) endorsement, applicants must complete an elementary art methods course. (3-29-17)

21. Visual Impairment (K-12). Completion of a program of a minimum of thirty (30) semester credit hours in the area of visual impairment. An institutional recommendation specific to this endorsement is required. To be eligible for a Visually Impaired endorsement, a candidate must have satisfied the following requirements: (3-28-18)

- a.** Completion of a baccalaureate degree from an accredited college or university; (3-29-17)
- b.** Completion in an Idaho college or university of a program in elementary, secondary, or special education currently approved by the Idaho State Board of Education, or completion in an out-of-state college or university of a program in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; (3-29-17)
- c.** Completion of a program of a minimum of thirty (30) semester credit hours in the area of Visual Impairment and must receive an institutional recommendation specific to this endorsement from an accredited college or university; and (3-29-17)
- d.** Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. (3-29-17)

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

- a.** Score an intermediate high (as defined by the American Council on the Teaching of Foreign Languages or equivalent) on an oral proficiency assessment conducted by an objective second party; and (3-28-18)
- b.** A qualifying score on a state approved specific foreign language content assessment, or if a specific foreign language content assessment is not available, a qualifying score on a state approved world languages pedagogy assessment) (3-28-18)

025. -- 027. (RESERVED)

028. PROFESSIONAL ENDORSEMENT.

Eligibility for the professional endorsement pursuant to Section 33-1201A, Idaho Code, may be established by providing additional evidence demonstrating effective teaching for the purpose of determining proficiency and student achievement in the event required standards for the professional endorsement are not met. (4-11-19)

01. Measurable Student Achievement and Student Success Indicators. Evidence of a majority of the applicable staff person's students meeting measurable student achievement targets, or student success indicator targets, may be demonstrated by the certificated staff member providing evidence that students from an accredited private or out-of-state public school have met targets set by the certificated staff member. The measurable student achievement or student success indicators must be comparable to the measurable student achievement or student success indicator targets established by the hiring school for certificated staff in similar employment areas and similar

grade ranges. (4-11-19)

02. Performance Criteria. Evidence of an overall rating of proficient, and no components rated as unsatisfactory on the state framework for teaching evaluation, may be provided through the submittal of annual evaluations showing standards aligned to the Idaho framework for teaching evaluation standards. (4-11-19)

03. Validity of Evidence. Evidence provided must show that the certificated staff member met each of the proficiency and student achievement requirements in each year required. (4-11-19)

04. Evaluation of Evidence. The local education agency administrator shall be responsible for evaluating the evidence provided and determining alignment with the school district or charter schools measurable student achievement and student success indicators and alignment with the Idaho framework for teaching evaluation standards. The reviewing administrator shall sign an affidavit stating the evidence meets the district and state standards for measurable student achievement and student success indicators and performance criteria. The local education agency shall report the equivalent performance criteria rating the certificated staff member received and indicate if any equivalent components were rated as unsatisfactory and the measurable student achievement or student success indicator used with verification that the majority of their students have met the measurable student achievement targets or student success indicators. Targets must be comparable to targets set for like groups of students at the hiring school. The state board of education or state department of education may request to review the evidence provided for determining proficiency and student achievement. (4-11-19)

029. -- 041. (RESERVED)

042. ALTERNATE ROUTES TO CERTIFICATION.

The purpose of this program is to provide an alternative for individuals to become certificated teachers in Idaho without following a standard educator preparation program. Alternative Routes to Certification shall allow individuals to serve as the teacher of record prior to having earned full certification status. The teacher of record is defined as the person who is primarily responsible for planning instruction, delivering instruction, assessing students formatively and summatively, and designating the final grade. Individuals who are currently employed as Paraprofessionals and, individuals with strong subject matter background but limited experience with educational methodology shall follow the alternate certification requirements provided herein. Individuals who are currently certificated to teach but who are in need of an emergency endorsement in another area may obtain an endorsement through an alternate route as described in Subsection 021.02 of these rules. (4-11-19)

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

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

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

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

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

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

one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-25-16)

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

i. A candidate must hold a baccalaureate degree or have completed all of the requirements of a baccalaureate degree except the student teaching portion; and (4-11-19)

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

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

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

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

iii. At the time of authorization the candidate must enroll in and work toward completion of the alternative route preparation program through a participating college/university or other state board approved certification program, and the employing school district. A teacher must attend, participate in, and successfully complete an individualized alternative route preparation program as one (1) of the conditions for annual renewal and to receive a certificate of completion; (4-11-19)

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

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

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

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

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

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

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

iii. Complete the Idaho Department of Education background investigation check. (3-28-18)

c. Interim Certificate. Upon completion of the certification process described herein, the individual will be awarded an interim certificate from the State Department of Education's Certification and Professional Standards Department. During the term of the interim certificate, teaching by the individual must be done in conjunction with a two (2) year teacher mentoring program approved by the Board. The individual must complete the

mentoring program during the term of the interim certificate. All laws and rules governing standard instructional certificated teachers and pupil service staff with respect to conduct, discipline and professional standards shall apply to individuals teaching under any Idaho certificate including an interim certificate. (3-28-18)

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

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

04. Alternative Authorization - Pupil Service Staff. The purpose of this alternative authorization is to allow Idaho school districts to request endorsement/certification when a position requiring the Pupil Service Staff Certificate cannot be filled with someone who has the correct endorsement/certification. The exception to this rule is the Interim School Nurse endorsement and the Interim Speech Language Pathologist endorsement. The requirements for these endorsements are defined in Subsection 015.02 of these rules. The alternate authorization is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress toward completion of an approved alternative route preparation program. Interim certification is valid for not more than three (3) years total. (3-28-18)

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

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

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

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

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

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

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

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

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

043. -- 059. (RESERVED)

060. APPLICATION PROCEDURES / PROFESSIONAL DEVELOPMENT.

To obtain a new, renew, or reinstate an Idaho Educator Credential, the applicant must submit an application on a form supplied by the State Department of Education or the Division of Career Technical Education as applicable to the type of certificate. All applications for new, renewed, or reinstated occupational specialist certificates must be submitted to the Division of Career Technical Education. The following requirements must be met to renew or reinstate an Idaho Educator Credential. (3-29-17)

01. State Board of Education Requirements for Professional Growth. (4-1-97)

a. Credits taken for recertification must be educationally related to the individualized professional

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

- i. Credits must be specifically tied to content areas and/or an area of any other endorsement; or (5-8-09)
- ii. Credits must be specific to pedagogical best practices or for administrative/teacher leadership; or (4-2-08)
- iii. Credits must be tied to a specific area of need designated by district administration. (4-2-08)
- iv. Credits must be taken during the validity period of the certificate. (3-28-18)

b. Graduate or undergraduate credit will be accepted for recertification. Credit must be transcribed and completed through a college or university accredited by an entity recognized by the State Board of Education. For pupil service staff, continuing education units completed and applied to the renewal of an occupational license issued by the Idaho Bureau of Occupational Licenses will be accepted for recertification. The continuing education units must be recognized by the Idaho Bureau of Occupational Licenses. (4-11-19)

c. Credits and continuing education units must be taken during the validity period of the certificate. (4-11-19)

d. All requests for equivalent in-service training to apply toward recertification, except occupational specialist certificates, must be made through the State Department of Education upon recommendation of the board of trustees consistent with the State Department of Education guidelines. Individuals holding Occupational Specialist Certificates must be made through the Division of Career Technical Education. Applicants must receive prior approval of in-service training and course work prior to applying for renewal. All in-service training must be aligned with the individual's individualized professional learning plan or related to professional practice. (3-28-18)

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

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

g. An appeals process, developed by the State Department of Education in conjunction with the Professional Standards Commission or the Division of Career Technical Education, as applicable to the certificate type, shall be available to applicants whose credits submitted for recertification, in part or as a whole, are rejected for any reason if such denial prevents an applicant from renewing an Idaho certificate. An applicant whose credits submitted for recertification are rejected, in part or as a whole, within six (6) months of the expiration of the applicant's current certification shall be granted an automatic appeal and a temporary certification extension during the appeal or for one (1) year, whichever is greater. (3-29-17)

02. State Board of Education Professional Development Requirements. (4-1-97)

a. Districts will have professional development plans. (4-1-97)

b. All certificated personnel will be required to complete at least six (6) semester credits or the equivalent within the five (5) year period of validity of the certificate being renewed. (4-11-19)

c. At least three (3) semester credits will be taken for university or college credit. Verification may be by official or unofficial transcript. Individuals found to have intentionally altered transcripts used for verification, who would have not otherwise met this renewal requirement, will be investigated for violations of the Code of Ethics for Idaho Professional Educators. Any such violations may result in disciplinary action. (3-28-18)

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

credit. (4-11-19)

061. -- 075. (RESERVED)

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

Believing in the worth and dignity of each human being, the professional educator recognizes the supreme importance of pursuing truth, striving toward excellence, nurturing democratic citizenship and safeguarding the freedom to learn and to teach while guaranteeing equal educational opportunity for all. The professional educator accepts the responsibility to practice the profession according to the highest ethical principles. The Code of Ethics for Idaho Professional Educators symbolizes the commitment of all Idaho educators and provides principles by which to judge conduct. (3-20-04)

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

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

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

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

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

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

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

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

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

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

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

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

- d.** Committing any act of harassment as defined by district policy; (4-11-06)
- e.** Soliciting, encouraging, or consummating a romantic or inappropriate relationship (whether written, verbal, virtual, or physical) with a student, regardless of age; (3-20-14)
- f.** Using inappropriate language including, but not limited to, swearing and improper sexual comments (e.g., sexual innuendoes or sexual idiomatic phrases); (3-20-04)
- g.** Taking or possessing images (digital, photographic, or video) of students of a harassing, confidential, or sexual nature; (4-11-15)
- h.** Inappropriate contact with any minor or any student regardless of age using electronic media; (4-11-06)
- i.** Furnishing alcohol or illegal or unauthorized drugs to any student or allowing or encouraging a student to consume alcohol or unauthorized drugs except in a medical emergency; (3-20-14)
- j.** Conduct that is detrimental to the health or welfare of students; and (3-20-14)
- k.** Deliberately falsifying information presented to students. (3-20-14)
- 04. Principle III - Alcohol and Drugs Use or Possession.** A professional educator refrains from the abuse of alcohol or drugs during the course of professional practice. Unethical conduct includes, but is not limited to: (3-20-14)

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

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

- f. Falsifying, deliberately misrepresenting, or deliberately omitting reasons for absences or leaves; (3-20-04)
- g. Falsifying, deliberately misrepresenting, or deliberately omitting information submitted in the course of an official inquiry or investigation; (3-20-14)
- h. Falsifying, deliberately misrepresenting, or deliberately omitting material information on an official evaluation of colleagues; and (3-20-14)
- i. Failure to notify the state of any criminal conviction of a crime violating the statutes and/or rules governing teacher certification. (3-20-14)

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

- a. Misuse, or unauthorized use, of public or school-related funds or property; (3-20-04)
- b. Failure to account for school funds collected from students, parents, or patrons; (3-20-14)
- c. Submission of fraudulent requests for reimbursement of expenses or for pay; (3-20-04)
- d. Co-mingling of public or school-related funds in personal bank account(s); (3-20-04)
- e. Use of school property for private financial gain; (3-20-14)
- f. Use of school computers to deliberately view or print pornography; and, (3-20-04)
- g. Deliberate use of poor budgeting or accounting practices. (3-20-04)

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

- a. Unauthorized solicitation of students or parents of students to purchase equipment, supplies, or services from the educator who will directly benefit; (3-20-14)
- b. Acceptance of gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest; (3-20-04)
- c. Tutoring students assigned to the educator for remuneration unless approved by the local board of education; and, (3-20-04)
- d. Soliciting, accepting, or receiving a financial benefit greater than fifty dollars (\$50) as defined in Section 18-1359(b), Idaho Code. (3-20-14)
- e. Keeping for oneself donations, whether money or items, that were solicited or accepted for the benefit of a student, class, classroom, or school. (3-28-18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

077. DEFINITIONS FOR USE WITH THE CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).

01. Administrative Complaint. A document issued by the State Department of Education outlining

the specific, purported violations of Section 33-1208, Idaho Code, or the Code of Ethics for Idaho Professional Educators. (3-20-04)

02. Allegation. A purported violation of the Code of Ethics for Idaho Professional Educators or Idaho Code. (3-20-04)

03. Certificate. A document issued by the Department of Education under the authority of the State Board of Education allowing a person to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian (Section 33-1201, Idaho Code). (3-20-04)

04. Certificate Denial. The refusal of the state to grant a certificate for an initial or reinstatement application. (3-20-04)

05. Certificate Suspension. A time-certain invalidation of any Idaho certificate as determined by a stipulated agreement or a due process hearing panel as set forth in Section 33-1209, Idaho Code. (3-20-04)

06. Complaint. A signed document defining the allegation that states the specific ground or grounds for revocation, suspension, denial, place reasonable conditions on a certificate or issuance of a letter of reprimand (Section 33-1209(1), Idaho Code). The State Department of Education may initiate a complaint. (4-11-06)

07. Conditional Certificate. Allows an educator to retain licensure under certain stated Certificate conditions as determined by the Professional Standards Commission (Section 33-1209(10), Idaho Code). (3-20-04)

08. Contract. Any signed agreement between the school district and a certificated educator pursuant to Section 33-513(1), Idaho Code. (3-20-04)

09. Conviction. Refers to all instances regarding a finding of guilt by a judge or jury; a plea of guilt by Nolo Contendere or Alford plea; or all proceedings in which a sentence has been suspended, deferred or withheld. (3-20-04)

10. Educator. A person who holds or applies for an Idaho Certificate (Section 33-1001(16) and Section 33-1201, Idaho Code). (3-20-04)

11. Education Official. An individual identified by local school board policy, including, but not limited to, a superintendent, principal, assistant principal, or school resource officer (SRO). (3-20-04)

12. Executive Committee. A decision-making body comprised of members of the Professional Standards Commission, including the chair and/or vice-chair of the Commission. A prime duty of the Committee is to review purported violations of the Code of Ethics for Idaho Professional Educators to determine probable cause and direction for possible action to be taken against a Certificate holder. (3-20-14)

13. Hearing. A formal review proceeding that ensures the respondent due process. The request for a hearing is initiated by the respondent and is conducted by a panel of peers. (3-20-04)

14. Hearing Panel. A minimum of three (3) educators appointed by the chair of the Professional Standards Commission and charged with the responsibility to make a final determination regarding the charges specifically defined in the Administrative Complaint. (3-20-04)

15. Investigation. The process of gathering factual information concerning a valid, written complaint in preparation for review by the Professional Standards Commission Executive Committee, or following review by the Executive Committee at the request of the deputy attorney general assigned to the Department of Education. (3-20-14)

16. Minor. Any individual who is under eighteen (18) years of age. (3-20-04)

17. Not-Sufficient Grounds. A determination by the Executive Committee that there is not-sufficient

evidence to take action against an educator's certificate. (3-20-14)

18. Principles. Guiding behaviors that reflect what is expected of professional educators in the state of Idaho while performing duties as educators in both the private and public sectors. (3-20-04)

19. Reprimand. A written letter admonishing the Certificate holder for his conduct. The reprimand cautions that further unethical conduct may lead to consideration of a more severe action against the holder's Certificate. (3-20-04)

20. Respondent. The legal term for the professional educator who is under investigation for a purported violation of the Code of Ethics for Idaho Professional Educators. (3-20-04)

21. Revocation. The invalidation of any Certificate held by the educator. (3-20-04)

22. Stipulated Agreement. A written agreement between the respondent and the Professional Standards Commission to resolve matters arising from an allegation of unethical conduct following a complaint or an investigation. The stipulated agreement is binding to both parties and is enforceable under its own terms, or by subsequent action by the Professional Standards Commission. (3-20-04)

23. Student. Any individual enrolled in any Idaho public or private school from preschool through grade 12. (3-20-04)

24. Sufficient Grounds. A determination by the Executive Committee that sufficient evidence exists to issue an Administrative Complaint. (3-20-04)

078. -- 099. (RESERVED)

100. OFFICIAL VEHICLE FOR APPROVING EDUCATOR PREPARATION PROGRAMS.
Section 33-114, Idaho Code

01. The Official Vehicle for the Approval of Educator Preparation Programs. The official vehicle for the approval of traditional educator preparation programs is the Council for the Accreditation of Educator Preparation (CAEP) standards and the approved Idaho Standards for the Initial Certification of Professional School Personnel. The Idaho Standards are based upon the accepted national standards for educator preparation and include state-specific, core teaching requirements. The State Department of Education will transmit to the head of each Idaho college or Department of Education a copy of all revisions to the Idaho Standards for the Initial Certification of Professional School Personnel. Such revisions will take effect and must be implemented within a period not to exceed two (2) years after notification of such revision. (4-11-19)

02. Non-Traditional Educator Preparation Program. The State Board of Education must approve all non-traditional route to teacher certification programs. The programs must include, at a minimum, the following components: (4-11-19)

a. Pre-assessment of teaching and content knowledge; (3-25-16)

b. An academic advisor with knowledge of the prescribed instruction area; (3-25-16)

c. Exams of pedagogy and content knowledge; and (3-25-16)

d. Be aligned to the Idaho Standards for the Initial Certification of Professional School Personnel. (3-25-16)

03. Reference Availability. The Idaho Standards for the Initial Certification of Professional School Personnel, incorporated by reference in Subsection 004.01, are available for inspection on the Office of the State Board of Education's website at www.boardofed.idaho.gov. (3-29-12)

04. Continuing Approval. (3-29-12)

a. The state of Idaho will follow the Council for Accreditation of Educator Preparation (CAEP) standards model by which institutions shall pursue continuing approval through a full program review every seven (7) years. The full program review shall be based upon the Idaho Standards for Initial Certification of Professional School Personnel. (4-11-19)

b. The state of Idaho will additionally conduct focused reviews of state-specific, core teaching requirements in the interim, not to exceed every third year following the full program review. (3-29-12)

c. All approved non-traditional educator preparation programs will be reviewed for continued approval on the same schedule as traditional educator preparation programs. Reviews will include determination of continued alignment with the approved Idaho Standards for the Initial Certification of Professional School Personnel and effectiveness of program completers. (4-11-19)

05. Payment Responsibilities for Educator Preparation Program Reviews. The Professional Standards Commission is responsible for Idaho educator preparation program reviews, including assigning responsibility for paying for program reviews. To implement the reviews, it is necessary that: (4-11-19)

a. The Professional Standards Commission pay for all state review team expenses for on-site teacher preparation reviews from its budget. (3-25-16)

b. Requesting institutions pay for all other expenses related to on-site educator preparation program reviews, including the standards review. (4-11-19)

101. -- 109. (RESERVED)

110. PERSONNEL STANDARDS.

The State Board of Education supports the efforts made by the Idaho Legislature to lower class size. Significant progress has been made in grades one through three (1-3). The State Board of Education believes that class sizes in grades four through six (4-6) are too high. Districts are encouraged to lower all class sizes as funds become available. Each district will develop personnel policies and procedures to implement the educational program of the district. The policies and procedures will address representation in each of the following personnel areas, as appropriate to student enrollment and the needs of each attendance area. Districts should strive to achieve ratios consistent with state class size ratio goals.

INSTRUCTIONAL PERSONNEL

TEACHERS	STATE GOALS
Kindergarten	20
Grades 1, 2, 3	20
Grades 4, 5, 6	26
Middle School/Jr. High	160 teacher load
High School	160 teacher load
Alternative School (7-12)	18 average daily class load

Schools are encouraged to explore technological options that provide for credible alternative delivery systems. Present and emerging information transmission technology may provide for greater teacher/pupil class size ratios.

PUPIL PERSONNEL

(Certificated School Counselors, Social Workers, Psychologists)	400:1 * student/district average
Secondary Media Generalist and Assistants	500:1 * student/district average

PUPIL PERSONNEL	
Elementary Media Generalist or Assistants	500:1 * student/district average
Building Administrative Personnel	Not to exceed 500:1 * district average

* The stated pupil to personnel ratio is the goal; each school district will assign personnel as appropriate to student enrollment and the needs of each attendance area.

Classroom Assistants - State Goal: will be provided where the student/teacher ratio is deemed excessive by the district or where other student special needs exist (e.g., limited English proficiency or special education).

Classified Personnel - State Goal: will be employed in each building to support the needs of the staff, students, and community. (4-1-97)

111. BULLYING, HARASSMENT AND INTIMIDATION PREVENTION AND RESPONSE.

01. Dissemination of Information. School districts and charter schools shall make reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students. (3-29-17)

02. Professional Development. The content of ongoing professional development for school staff related to bullying, harassment and intimidation shall include: (3-29-17)

- a. School philosophy regarding school climate and student behavior expectations; (3-29-17)
- b. Definitions of bullying, harassment, and intimidation; (3-29-17)
- c. School prevention strategies or programs including the identification of materials to be distributed annually to students and parents; (3-29-17)
- d. Expectations of staff intervention for bullying, harassment, and intimidation; (3-29-17)
- e. School process for responding to bullying, harassment, and intimidation including the reporting process for students and staff, investigation protocol, the involvement of law enforcement, related student support services and parental involvement; and (3-29-17)
- f. Other topics as determined appropriate by the school district or charter school. (3-29-17)

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student’s history of problem behaviors and performance. (3-29-17)

- a. Graduated consequences may include, but are not limited to: (3-29-17)
 - i. Meeting with the school counselor; (3-29-17)
 - ii. Meeting with the school principal and student’s parents or guardian; (3-29-17)
 - iii. Detention, suspension or special programs; and (3-29-17)
 - iv. Expulsion. (3-29-17)
- b. The graduated consequences are not intended to prevent or prohibit the referral of a student who

commits acts of harassment, intimidation or bullying to available outside counseling services or to law enforcement, or both, pursuant to Section 18-917A, Idaho Code. (3-29-17)

c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. (3-29-17)

04. Intervention. School district and charter school employees are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation, and bullying. Intervention shall be reasonably calculated to: (3-29-17)

- a.** Correct the problem behavior; (3-29-17)
- b.** Prevent another occurrence of the problem; (3-29-17)
- c.** Protect and provide support for the victim of the act; and (3-29-17)
- d.** Take corrective action for documented systemic problems related to harassment, intimidation, or bullying. (3-29-17)

05. Reporting. Annual reporting will occur at the end of the school year through an aggregate report identifying the total number of bullying incidents by school districts and charter schools, grade level, gender, and repeat offenders. The State Department of Education shall provide school districts and charter schools with the guidelines and forms for reporting. (3-29-17)

112. -- 119. (RESERVED)

120. LOCAL DISTRICT EVALUATION POLICY -- INSTRUCTIONAL STAFF AND PUPIL SERVICE STAFF CERTIFICATE HOLDERS.

Each school district board of trustees will develop and adopt policies for certified staff performance evaluation using multiple measures in which criteria and procedures for the evaluation of certificated personnel are research based. For pupil service staff, those standards shall be aligned with the profession's national standards. For instructional staff, those standards shall be aligned to Charlotte Danielson Framework for Teaching Second Edition domains and components specified in Subsection 120.01 of this rule, and must be determined based on professional practice. For all certification personnel, domain or component ratings, or both, may be weighted based on the individual's individualized professional learning plan. The summative evaluation rating must be based on a combination of professional practice and student achievement as specified in Subsections 120.02 and 120.03. The process of developing criteria and procedures for certificated personnel evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators, teachers, and parents. The evaluation policy will be a matter of public record and communicated to the certificated personnel for whom it is written. (3-28-18)

01. Standards. Each district evaluation model shall be aligned to state minimum standards that are based on Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. Those domains and components include: (3-29-10)

- a.** Domain 1 - Planning and Preparation: (3-29-10)
 - i.** Demonstrating Knowledge of Content and Pedagogy; (3-29-10)
 - ii.** Demonstrating Knowledge of Students; (3-29-10)
 - iii.** Setting Instructional Outcomes; (3-20-14)
 - iv.** Demonstrating Knowledge of Resources; (3-29-10)
 - v.** Designing Coherent Instruction; and (3-29-10)

- vi. Designing Student Assessments. (3-29-12)
- b.** Domain 2 - The Classroom Environment: (3-29-12)
 - i. Creating an Environment of Respect and Rapport; (3-29-10)
 - ii. Establishing a Culture for Learning; (3-29-10)
 - iii. Managing Classroom Procedures; (3-29-10)
 - iv. Managing Student Behavior; and (3-29-10)
 - v. Organizing Physical Space. (3-29-10)
- c.** Domain 3 - Instruction and Use of Assessment: (3-29-10)
 - i. Communicating with Students; (3-29-12)
 - ii. Using Questioning and Discussion Techniques; (3-29-10)
 - iii. Engaging Students in Learning; (3-29-10)
 - iv. Using Assessment in Instruction; and (3-29-12)
 - v. Demonstrating Flexibility and Responsiveness. (3-29-12)
- d.** Domain 4 - Professional Responsibilities: (3-29-10)
 - i. Reflecting on Teaching; (3-29-10)
 - ii. Maintaining Accurate Records; (3-29-10)
 - iii. Communicating with Families; (3-29-10)
 - iv. Participating in a Professional Community; (3-29-12)
 - v. Growing and Developing Professionally; and (3-29-10)
 - vi. Showing Professionalism. (3-29-10)

02. Professional Practice. All certificated instructional employees must receive an evaluation in which at least a majority of the evaluation ratings must be based on Professional Practice. All measures included within the Professional Practice portion of the evaluation must be aligned to the Charlotte Danielson Framework for Teaching Second Edition domains and components. Professional Practice shall include a minimum of two (2) documented observations annually, with at least one (1) observation being completed by January 1 of each year. In situations where certificated personnel are unavailable for two (2) documented classroom observations, due to situations such as long-term illness, late year hire, etc., one (1) documented classroom observation is acceptable. At least one (1) documented summative evaluation must include a rating for all components of the applicable professional standards used for evaluation of certified personnel. District evaluation models shall also include at least one (1) of the following as a measure to inform the Professional Practice portion of each certificated instructional employee evaluations: (3-28-18)

- a.** Parent/guardian input; (3-20-14)
- b.** Student input; and/or (3-20-14)

- c. Portfolios. (3-20-14)

03. Student Achievement. Instructional staff evaluation ratings must in part be based on measurable student achievement, as defined in Section 33-1001, Idaho Code, as applicable to the subjects and grade ranges taught by the instructional staff. All other certificated staff evaluations must include measurable student achievement or student success indicators, as defined in Section 33-1001, Idaho Code, as applicable to the position. This portion of the evaluation may be calculated using current and/or the immediate past year's data and may use one (1) year or both years' data. Growth in student achievement may be considered as an optional measure for all other school based and district based staff, as determined by the local board of trustees. (3-29-17)

04. Participants. Each district evaluation policy will include provisions for evaluating all certificated employees identified in Section 33-1001(16), Idaho Code. Evaluations shall be differentiated for certificated non-instructional employees and Pupil Service Staff Certificate holders in a way that aligns with the Charlotte Danielson Framework for Teaching Second Edition to the extent possible and aligned to the pupil service staff's applicable national standards. Policies for evaluating certificated employees should identify the differences, if any, in the conduct of evaluations for nonrenewable contract personnel and renewable contract personnel. (3-28-18)

05. Evaluation Policy – Content. Local school district policies will include, at a minimum, the following information: (4-1-97)

a. Evaluation criteria -- statements of the criteria upon which certificated personnel will be evaluated and rated. (3-28-18)

b. Evaluator -- identification of the individuals responsible for observing or evaluating certificated instructional staff and pupil service staff performance. The individuals assigned this responsibility shall have received training in conducting evaluations based on the statewide framework for evaluations within the immediate previous five (5) years of conducting any evaluations. (3-28-18)

c. Communication of results -- the method by which certificated personnel are informed of the results of evaluation. (4-1-97)

d. Personnel actions -- the action available to the school district as a result of the evaluation and the procedures for implementing these actions; e.g., job status change. Note: in the event the action taken as a result of evaluation is to not renew an individual's contract or to renew an individual's contract at a reduced rate, school districts should take proper steps to follow the procedures outlined in Sections 33-513 through 33-515, Idaho Code in order to assure the due process rights of all personnel. (3-20-14)

e. Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists regarding the results of certificated personnel evaluations. (4-1-97)

f. Individualizing teacher evaluation rating system -- a plan for how evaluations will be used to identify proficiency and record growth over time and be used to develop individualized professional learning plans. Districts shall have an individualized teacher evaluation rating system with a minimum of three (3) ratings used to differentiate performance of teachers and Pupil Service Staff Certificate holders including: (3-28-18)

i. Unsatisfactory being equal to "1"; (3-20-14)

ii. Basic being equal to "2"; and (3-20-14)

iii. Proficient being equal to "3". (3-20-14)

iv. A fourth evaluation rating of Distinguished, being equal to "4," may be used in addition to the three (3) minimum ratings at the discretion of the school district or charter school. (3-28-18)

g. A plan for including all stakeholders including, but not limited to, teachers, board members, administrators, and parents in the development and ongoing review of their teacher evaluation plan. (3-20-14)

06. Evaluation Policy – Frequency of Evaluation. The evaluation policy shall include a provision for evaluating all certificated personnel on a fair and consistent basis. (3-20-14)

07. Evaluation Policy - Personnel Records. Permanent records of each certificated personnel evaluation will be maintained in the employee’s personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code). Local school districts shall report the ratings of individual certificated personnel evaluations to the State Department of Education annually for State and Federal reporting purposes. The State Department of Education shall ensure that the privacy of all certificated personnel is protected by not releasing statistical data of evaluation ratings in local school districts with fewer than five (5) teachers and by only reporting that information in the aggregate by local school district. (3-28-18)

08. Evaluation System Approval. Each school district board of trustees will develop and adopt policies for teacher and Pupil Service Staff certificated performance evaluation in which criteria and procedures for the evaluation are research based and aligned with the Charlotte Danielson Framework for Teaching Second Edition and national standards for pupil service staff as applicable. By July 1, 2014, an evaluation plan which incorporates all of the above elements shall be submitted to the State Department of Education for approval. Once approved, subsequent changes made in the evaluation system shall be resubmitted for approval. (3-28-18)

121. LOCAL DISTRICT EVALUATION POLICY – SCHOOL ADMINISTRATOR.

All school and school district administrators must receive an annual evaluation. Individuals serving in the role of superintendent or its equivalent shall be evaluated by the local board of trustees. Individuals serving in the capacity of a school district superintendent shall be evaluated based on the school district evaluation policy for superintendents. For principal and other school level administrator evaluations, each school district board of trustees will develop and adopt policies for performance evaluation using multiple measures in which criteria and procedures for the evaluation of administratively certificated personnel serving as school principal or other school level administrators are research based and aligned to the standards and requirements outlined in Subsections 121.01 through 121.07 of this rule. For Special Education Directors, standards aligned with the profession’s national standards may replace those outlined in Subsection 121.01. The process of developing criteria and procedures for administrator evaluations will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators, teachers and parents. The evaluation policy will be a matter of public record and communicated to the principal for whom it is written. (3-28-18)

01. Standards. Each district principal and school level administrator evaluation model shall be aligned to state minimum standards based on the Interstate School Leaders Licensure Consortium (ISLLC) standards and include proof of proficiency in conducting teacher evaluations using the state’s framework for evaluations, the Charlotte Danielson Framework for Teaching Second Edition. Proof of training in evaluating teacher performance shall be required of all individuals assigned the responsibility for observing or evaluating certificated personnel performance. Principal evaluation standards shall additionally address the following domains and components: (3-28-18)

a. Domain 1: School Climate - An educational leader promotes the success of all students by advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional development. An educational leader articulates and promotes high expectations for teaching and learning while responding to diverse community interest and needs. (3-20-14)

i. School Culture - Principal establishes a safe, collaborative, and supportive culture ensuring all students are successfully prepared to meet the requirements for tomorrow’s careers and life endeavors. (3-20-14)

ii. Communication - Principal is proactive in communicating the vision and goals of the school or district, the plans for the future, and the successes and challenges to all stakeholders. (3-20-14)

iii. Advocacy - Principal advocates for education, the district and school, teachers, parents, and students that engenders school support and involvement. (3-20-14)

b. Domain 2: Collaborative Leadership - An educational leader promotes the success of all students by ensuring management of the organization, operations and resources for a safe, efficient and effective learning

environment. In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs. The educational leader uses research and/or best practices in improving the education program. (3-20-14)

i. Shared Leadership - Principal fosters shared leadership that takes advantage of individual expertise, strengths, and talents, and cultivates professional growth. (3-20-14)

ii. Priority Management - Principal organizes time and delegates responsibilities to balance administrative/managerial, educational, and community leadership priorities. (3-20-14)

iii. Transparency - Principal seeks input from stakeholders and takes all perspectives into consideration when making decisions. (3-20-14)

iv. Leadership Renewal - Principal strives to continuously improve leadership skills through, professional development, self-reflection, and utilization of input from others. (3-20-14)

v. Accountability - Principal establishes high standards for professional, legal, ethical, and fiscal accountability for self and others. (3-20-14)

c. Domain 3: Instructional Leadership - An educational leader promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community. The educational leader provides leadership for major initiatives and change efforts and uses research and/or best practices in improving the education program. (3-20-14)

i. Innovation - Principal seeks and implements innovative and effective solutions that comply with general and special education law. (3-20-14)

ii. Instructional Vision - Principal insures that instruction is guided by a shared, research-based instructional vision that articulates what students do to effectively learn. (3-20-14)

iii. High Expectations - Principal sets high expectation for all students academically, behaviorally, and in all aspects of student well-being. (3-20-14)

iv. Continuous Improvement of Instruction - Principal has proof of proficiency in assessing teacher performance based upon the Charlotte Danielson Framework for Teaching Second Edition. Aligns resources, policies, and procedures toward continuous improvement of instructional practice guided by the instructional vision. (3-20-14)

v. Evaluation - Principal uses teacher/principal evaluation and other formative feedback mechanisms to continuously improve teacher/principal effectiveness. (3-20-14)

vi. Recruitment and Retention -Principal recruits and maintains a high quality staff. (3-20-14)

02. Professional Practice. All principals must receive an evaluation in which a majority of the summative evaluation results are based on Professional Practice. All measures included within the Professional Practice portion of the evaluation must be aligned to the Domains and Components listed in Subsection 121.01.a. through 121.01.c. of this rule. As a measure to inform the Professional Practice portion of each evaluation, district evaluation models shall also include at least one (1) of the following: (3-28-18)

a. Parent/guardian input; (3-20-14)

b. Teacher input; (3-20-14)

c. Student input; and/or (3-20-14)

d. Portfolios. (3-20-14)

03. Student Achievement. All administrators must receive an evaluation in which part of the summative evaluation results are based in part on objective measures of growth in measurable student achievement, as defined in Section 33-1001, Idaho Code. This portion of the evaluation may be calculated using current and/or the immediate past year's data and may use one (1) or both years data. Growth in student achievement may be considered as an optional measure for all other school based and district based administrators, as determined by the local board of trustees. (3-28-18)

04. Evaluation Policy - Content. For evaluations conducted on or after July 1, 2014, local school district policies will include, at a minimum, the following information: (3-20-14)

- a. Evaluation criteria -- statements of the criteria upon which administrators will be evaluated. (3-28-18)
- b. Evaluator -- identification of the individuals responsible for observing or evaluating school level administrator performance. The individuals assigned this responsibility shall have received training in administrator evaluations based on the statewide framework for evaluations. (3-28-18)
- c. Communication of results -- the method by which principals are informed of the results of evaluation. (3-20-14)
- d. Personnel actions -- the action, available to the school district as a result of the evaluation, and the procedures for implementing these actions; e.g., job status change. (3-20-14)
- e. Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists regarding the results of an evaluations. (3-20-14)
- f. Individualizing principal evaluation rating system -- a plan for how evaluations will be used to identify proficiency and record growth over time. Districts shall have an individualized principal evaluation rating system with a minimum of three ratings used to differentiate performance of principals including: (3-28-18)
 - i. Unsatisfactory being equal to "1"; (3-20-14)
 - ii. Basic being equal to "2"; and (3-20-14)
 - iii. Proficient being equal to "3". (3-20-14)
 - iv. A fourth evaluation rating of Distinguished, being equal to "4," may be used in addition to the three (3) minimum ratings at the discretion of the school district or charter school. (3-28-18)
- g. A plan for including stakeholders including, but not limited to, teachers, board members, administrators, and parents in the development and ongoing review of their principal evaluation plan. (3-20-14)

05. Evaluation Policy - Frequency of Evaluation. The evaluation policy should include a provision for evaluating all administrators on a fair and consistent basis. All administrators shall be evaluated at least once annually no later than June 1 of each year. (3-28-18)

06. Evaluation Policy - Personnel Records. Permanent records of each principal evaluation will be maintained in the employee's personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code). Local school districts shall report the ratings of individual certificated personnel evaluations to the State Department of Education annually for State and Federal reporting purposes. The State Department of Education shall ensure that the privacy of all certificated personnel is protected by not releasing statistical data of evaluation ratings in local school districts in accordance with the approved policies of the Idaho State Board of Education Data Management Council. (3-28-18)

07. Evaluation System Approval. Each school district board of trustees will develop and adopt policies for principal performance evaluation in which criteria and procedures for the evaluation are research based and aligned with state standards. By July 1, 2014, an evaluation plan which incorporates all of the above elements

shall be submitted to the State Department of Education for approval. Once approved, subsequent changes made in the evaluation system shall be resubmitted for approval. (3-20-14)

122. -- 129. (RESERVED)

130. SCHOOL FACILITIES.

Each school facility consists of the site, buildings, equipment, services, and is a critical factor in carrying out educational programs. The focus of concern in each school facility is the provision of a variety of instructional activities and programs, with the health and safety of all persons essential. (4-1-97)

01. Buildings. All school buildings, including portable or temporary buildings, will be designed and built in conformance with the current edition of the codes specified in the Idaho Building Code Act, Section 39-4109, Idaho Code, including, the National Electrical Code, Uniform Plumbing Code, and Idaho General Safety and Health Standards. All school buildings, including portable or temporary buildings, will meet other more stringent requirements established in applicable local building codes. (3-16-04)

02. Inspection of Buildings. All school buildings, including portable or temporary buildings, will be inspected as provided in Section 39-4130, Idaho Code, for compliance with applicable codes. Following this inspection, the school district will, within twenty (20) days, (1) correct any deficiencies specified in the inspection report or (2), if the corrective action involves structural modification, file a written plan with the inspecting agency for correction by the beginning of the following school year. (4-1-97)

131. -- 139. (RESERVED)

140. ACCREDITATION.

All public secondary schools, serving any grade(s) 9-12, will be accredited pursuant to Section 33-119, Idaho Code. Accreditation is voluntary for elementary schools, grades K-8, and alternative schools not identified in Subsection 140.01.a. through 140.01.e. of this rule. (3-28-18)

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

a. School has an Average Daily Attendance greater than or equal to 36 students based on previous year's enrollment; (3-20-14)

b. School enrolls any students full-time for the school year once eligibility determination is made as opposed to schools that enroll students for "make-up" or short periods of time; (3-20-14)

c. School offers an instructional model that is different than that provided by the traditional high school within the district for a majority of the coursework, including but not limited to online/virtual curriculum; (3-20-14)

d. School administers diplomas that come from that alternative school as opposed to students receiving a diploma from the traditional high school within the school district; or (3-20-14)

e. School receives its own accountability rating for federal reporting purposes. (3-20-14)

02. Standards. Schools will meet the accreditation standards of the Northwest Accreditation Commission, a division of AdvancED. (3-28-18)

03. Residential Schools. In addition to the academic standards, residential schools must meet the applicable health and safety standards established pursuant to Section 39-1210, Idaho Code, to be considered fully accredited by the State Board of Education. (3-28-18)

04. Reporting. An annual accreditation report will be submitted to the State Board of Education identifying each accredited school and school district in the state and the status of their accreditation. (3-28-18)

141. -- 149. (RESERVED)

150. TRANSPORTATION.

Minimum School Bus Construction Standards. All new school bus chassis and bodies must meet or exceed Standards for Idaho School Buses and Operations as incorporated in Section 004 of these rules and as authorized in Section 33-1511, Idaho Code. (5-8-09)

151. -- 159. (RESERVED)

160. MAINTENANCE STANDARDS AND INSPECTIONS.

01. Safety. School buses will be maintained in a safe operating condition at all times. Certain equipment or parts of a school bus that are critical to its safe operation must be maintained at prescribed standards. When routine maintenance checks reveal any unsafe condition identified in the Standards for Idaho School Buses and Operations as incorporated in Section 004 of these rules the school district will eliminate the deficiency before returning the vehicle to service. (5-8-09)

02. Annual Inspection. After completion of the annual school bus inspection, and if the school bus is approved for operation, an annual inspection sticker, indicating the year and month of inspection, will be placed in the lower, right-hand corner of the right side front windshield. The date indicated on the inspection sticker shall correlate to State Department of Education's annual school bus inspection certification report signed by pupil transportation maintenance personnel and countersigned by the district superintendent. (Section 33-1506, Idaho Code) (7-1-02)

03. Sixty-Day Inspections. At intervals of not more than sixty (60) calendar days, excluding documented out-of-use periods in excess of thirty (30) days, the board of trustees shall cause inspection to be made of each school bus operating under the authority of the board. Except that, no bus with a documented out-of-use period in excess of sixty (60) days shall be returned to service without first completing a documented sixty (60) day inspection. Annual inspections are considered dual purpose and also meet the sixty (60) day inspection requirement. (Section 33-1506, Idaho Code) (7-1-04)

04. Documentation of Inspection. All inspections will be documented in writing. Annual inspections must be documented in writing on the form provided by the State Department of Education. (4-1-97)

05. Unsafe Vehicle. When a bus has been removed from service during a State Department of Education inspection due to an unsafe condition, the district will notify the State Department of Education on the appropriate form before the bus can be returned to service. When a bus has been found to have deficiencies that are not life-threatening, it will be repaired within thirty (30) days and the State Department of Education notified on the appropriate form. If the deficiencies cannot be repaired within thirty (30) days, the bus must be removed from service until the deficiencies have been corrected or an extension granted. (7-1-02)

06. Withdraw from Service Authority. Subsequent to any federal, national, or state advisory with good cause given therefor, the district shall, under the direction of the State Department of Education, withdraw from service any bus determined to be deficient in any prescribed school bus construction standard intended to safeguard life or minimize injury. No bus withdrawn from service under the provisions of this section shall be returned to service or used to transport students unless the district submits to the State Department of Education a certification of compliance specific to the school bus construction standard in question. (Section 33-1506, Idaho Code) (7-1-04)

161. -- 169. (RESERVED)

170. SCHOOL BUS DRIVERS AND VEHICLE OPERATION.

All school districts and school bus drivers must meet or exceed the training, performance and operation requirements delineated in the Standards for Idaho School Buses and Operations as incorporated in Section 004 of these rules. (Section 33-1508; 33-1509, Idaho Code) (5-8-09)

171. -- 179. (RESERVED)

180. WRITTEN POLICY.

The board of trustees will establish and adopt a set of written policies governing the pupil transportation system. Each school district that provides activity bus transportation for pupils shall have comprehensive policies and guidelines regarding activity transportation. (7-1-02)

181. -- 189. (RESERVED)

190. PROGRAM OPERATIONS.

School district fiscal reporting requirements as well as reimbursable and non-reimbursable costs within the Pupil Transportation Support Program, including but not limited to administration, field and activity trips, safety busing, contracting for transportation services, leasing of district-owned buses, insurance, ineligible and non-public school students, ineligible vehicles, capital investments including the purchasing of school buses and equipment, program support and district waiver procedures shall be delineated in Standards for Idaho School Buses and Operations incorporated in Section 004 of these rules. Approved school activities shall include structured college/university visits when such visits are part of the school district college and career advising and mentoring plan. (Section 33-1006, Idaho Code) (3-28-18)

191. -- 219. (RESERVED)

220. RELEASE TIME PROGRAM FOR ELEMENTARY AND SECONDARY SCHOOLS.

In the view of the State Board of Education, public elementary and secondary school programs that permit the practice of releasing students from school for the purpose of attending classes in religious education or for other purposes should observe certain practices that are in keeping with the present state of the law. These practices are designed to ensure that the public school operation is not adversely affected and that public funds and property are not used for sectarian religious instruction in a way which violates the United States Constitution, the Idaho State Constitution, or state law. These practices should include the following: (Section 33-519, Idaho Code) (4-1-97)

01. Scheduling. The local school board will have reasonable discretion over the scheduling and timing of the release program. Release time programs may not interfere with the scheduling of classes, activities and programs of the public schools. (4-1-97)

02. Voluntary Decision. The decision of a school district to permit release time programs for kindergarten through grade eight (K-8), as well as the decision of individual students to participate, must be purely voluntary. (4-1-97)

03. Time Limit. Release time will be scheduled upon the application of a parent or guardian of a student in grades nine through twelve (9-12), not to exceed five (5) periods per week or one hundred sixty-five (165) hours during any one (1) academic school year. (4-1-97)

04. Location. Release time programs will be conducted away from public school buildings and public school property. (4-1-97)

05. Request by Parent. No student will be permitted to leave the school grounds during the school day to attend release time programs except upon written request from a parent or guardian filed with the school principal. Such written request by the parent will become a part of the student's permanent record. (4-1-97)

06. Record Maintenance. The public school will not be responsible for maintaining attendance records for a student who, upon written request of a parent or guardian, is given permission to leave the school grounds to attend a release time program. The school district will maintain a record of each student's daily schedule that indicates when a student is released for classes in religious education or for other purposes. (4-1-97)

07. Liability. The school district is responsible for ensuring that no public school property, public funds or other public resources are used in any way to operate these programs. The school district is not liable for any injury, act or event occurring while the student participates in such programs. (4-1-97)

08. Course Credit. No credit will be awarded by the school or district for satisfactory completion by a student of a course or courses in release time for religious instruction. Credit may be granted for other purposes, at the discretion of the local school board. (4-1-97)

09. Separation From Public Schools. Public schools will not include schedules of classes for release time programs in school catalogs, registration forms or any other regularly printed public school material. Registration for release time programs must occur off school premises, and must be done on forms and supplies furnished by the group or institution offering the program. Teachers of release time programs are not to be considered members of any public school faculty and should not be asked to participate as faculty members in any school functions or to assume responsibilities for operation of any part of the public school program. (4-1-97)

10. Transportation Liability. Public schools and school districts will not be liable or responsible for the health, safety and welfare of students while they are being transported to and from or participating in release time programs. (4-1-97)

221. -- 229. (RESERVED)

230. DRIVER EDUCATION.

Public Schools. Pursuant to Section 004 of these rules, all public driver education courses offered in Idaho public schools must be conducted in compliance with all the requirements in the Operating Procedures for Idaho Public Driver Education Programs, as incorporated. (4-7-11)

231. -- 239. (RESERVED)

240. JUVENILE DETENTION CENTERS.

01. Definition of Terms. (4-1-97)

a. Juvenile Detention Centers: Facilities that provide for the temporary care of children, as defined in the Juvenile Justice Reform Corrections Act, who require secure custody, for their own or the community's protection, in physically restricting facilities pending court disposition or subsequent to court disposition. (Section 33-2009, Idaho Code) (4-1-97)

b. Juvenile Offender: A person, as defined in the Juvenile Justice Reform Act, who has been petitioned or adjudicated for a delinquent act that would constitute a felony or misdemeanor if committed by an adult. (4-1-97)

02. Instructional Program. Every public school district in the state within which is located a public or private detention facility housing juvenile offenders pursuant to court order will provide an instructional program. The instructional program will: (4-1-97)

a. Provide course work that meets the minimum requirements of Idaho State Board of Education Rules. (4-1-97)

b. Provide instruction in the core of instruction. (4-1-97)

c. Include the following components, where appropriate: self-concept improvement, social adjustment, physical fitness/personal health, vocational/occupational, adult living skills, and counseling. (4-1-97)

d. Provide instruction and guidance that may lead to a high school diploma. School districts will accept such instruction for purposes of issuing credit when the detention center certifies to the school that the appropriate work is completed. (4-1-97)

e. Be directed by an instructor who holds an appropriate, valid certificate. (4-1-97)

f. Be provided to each student not later than two (2) school days after admission and continue until the student is released from the detention center. (4-1-97)

- g.** Be provided to students who have attained “school age” as defined in Idaho Code 33-201. (4-1-97)
- h.** Be provided for a minimum of four (4) hours during each school day. (4-1-97)
- i.** Be based on the needs and abilities of each student. The resident school district will provide pertinent status information as requested by the Juvenile Detention Center. (4-1-97)
- j.** Be coordinated with the instructional program at the school the student attends, where appropriate. (4-1-97)
- k.** Be provided in a facility that is adequate for instruction and study. (4-1-97)
- 03. State Funding of Instructional Programs at Juvenile Detention Centers.** (4-1-97)

 - a.** Every student housed in a juvenile detention center pursuant to court order and participating in an instructional program provided by a public school district will be counted as an exceptional child by the district for purposes of state reimbursement. (4-1-97)
 - b.** Public school districts that educate pupils placed by Idaho court order in juvenile detention centers will be eligible for an allowance equivalent to the previous year’s certified local annual tuition rate per pupil. The district allowance will be in addition to support unit funding and included in the district apportionment payment. (4-1-97)
 - c.** To qualify for state funding of instructional programs at Juvenile Detention Centers, school districts must apply for such funding on forms provided by the State Department of Education. Applications are subject to the review and approval of the State Superintendent of Public Instruction. School districts will submit attendance and enrollment reports as required by the State Superintendent of Public Instruction. Juvenile Detention Centers will submit reports to the local school district as required. (4-1-97)

241. -- 999. (RESERVED)

**IDAPA 08
TITLE 02
CHAPTER 03**

08.02.03 – RULES GOVERNING THOROUGHNESS

000. LEGAL AUTHORITY.

All rules in this Thoroughness chapter (IDAPA 08.02.03) are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under sections 33-116, 33-118, and 33-1612, Idaho Code. Specific statutory references for particular rules are also noted as additional authority where appropriate. (4-5-00)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.02.03 “Rules Governing Thoroughness.” (4-5-00)

02. Scope. These rules shall govern the thorough education of all public school students in Idaho. (4-5-00)

002. WRITTEN INTERPRETATIONS.

Any written interpretations are on file at the office of the State Board of Education at 650 West State Street, Boise, Idaho 83702. (3-15-02)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the Rules of the State Board of Education or in the State Board of Education Governing Policies and Procedures, all administrative appeals allowed by law will be conducted pursuant to the Idaho Administrative Procedure Act and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (4-5-00)

004. INCORPORATION BY REFERENCE.

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

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

a. Arts and Humanities Categories: (3-24-17)

i. Dance, as revised and adopted on August 11, 2016; (3-24-17)

ii. Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)

iii. Media Arts, as adopted on August 11, 2016. (3-24-17)

iv. Music, as revised and adopted on August 11, 2016; (3-24-17)

v. Theater, as revised and adopted on August 11, 2016; (3-24-17)

vi. Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)

vii. World languages, as revised and adopted on August 11, 2016. (3-24-17)

b. Computer Science, adopted on November 28, 2016. (3-24-17)

c. Driver Education, as revised and adopted on August 10, 2017. (3-28-18)

d. English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)

- e. Health, as revised and adopted on August 11, 2016. (3-24-17)
- f. Information and Communication Technology, as revised and adopted on August 10, 2017. (3-28-18)
- g. Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h. Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i. Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j. Science, as revised and adopted on August 10, 2017. (3-28-18)
- k. Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l. College and Career Readiness Competencies adopted on June 15, 2017. (3-28-18)
- m. Career Technical Education Categories: (3-29-17)
 - i. Agricultural and Natural Resources, as revised and adopted on August 16, 2018. (4-11-19)
 - ii. Business and Marketing Education, as revised and adopted on August 31, 2017. (3-28-18)
 - iii. Engineering and Technology Education, as revised and adopted on August 16, 2018. (4-11-19)
 - iv. Health Sciences, as adopted on August 16, 2018. (4-11-19)
 - v. Family and Consumer Sciences, as revised and adopted on August 16, 2018. (4-11-19)
 - vi. Skilled and Technical Sciences, as revised and adopted on August 16, 2018. (4-11-19)
 - vii. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)
- 02. The English Language Development (ELD) Standards.** The World-Class Instructional Design and Assessment (WIDA) 2012 English Language Development (ELD) Standards as adopted by the State Board of Education on August 16, 2012. Copies of the document can be found on the WIDA website at www.wida.us/standards/eld.aspx. (4-4-13)
- 03. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards.** The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)
- 04. The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors.** Achievement Level Descriptors as adopted by the State Board of Education on April 14, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)
- 05. The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)
- 06. The Idaho Content Standards Core Content Connectors.** The Idaho Content Standards Core Content Connectors as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)
 - a. English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-28-18)

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

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

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

09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-2-08)

10. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on October 17, 2018. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-11-19)

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

The principal place of business of the State Board of Education is in Boise, Idaho. The office is located at 650 W. State Street, Room 307, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Office of the State Board of Education, PO Box 83720, Boise, Idaho 83720-0037. the telephone number is (208) 334-2270, the facsimile number is (208) 334-2632, and the email address is board@osbe.idaho.gov. (3-15-02)

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule has been promulgated in accordance with the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and is a public record. (3-15-02)

007. DEFINITIONS A - G.

01. Achievement Standards. Define “below basic,” “basic,” “proficient,” and “advanced” achievement levels on the Idaho Standards Achievement Tests (ISAT) and level one (1) through level six (6) on Idaho’s English language assessment by setting scale score cut points. These cut scores are paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance level descriptors or PLDs, and are provided by performance level, by content area, and by grade. (3-29-17)

02. Advanced Opportunities. Are defined as Advanced Placement courses, Dual Credit courses, Technical Competency Credit, or International Baccalaureate programs. (3-25-16)

03. Advanced Placement® (AP) - College Board. The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (4-11-06)

04. All Students. All students means all public school students, grades K-12. (4-11-06)

05. Alternative Assessment (Other Ways of Testing). Any type of assessment in which students create a response to a question rather than choose a response from a given list, as with multiple-choice or true/false. Alternative assessments can include short-answer questions, essays, oral presentations, exhibitions, and portfolios. (4-5-00)

06. Assessment. The process of quantifying, describing, or gathering information about skills, knowledge or performance. (4-5-00)

07. Assessment Standards. Statements setting forth guidelines for evaluating student work, as in the “Standards for the Assessment of Reading and Writing.” (4-5-00)

08. Asynchronous Course. An online course in which an online platform is used to deliver all curricula. The majority of communication exchanges occur in elapsed time and allow students and teachers to participate according to their schedule. Asynchronous courses do not prohibit the use of a paraprofessional, certificated staff or other staff member being present at the physical location during instructional periods where instruction takes place, such as a school computer lab. (4-4-13)

09. Authentic. Something that is meaningful because it reflects or engages the real world. An “authentic task” asks students to do something they might really have to do in the course of their lives, or to apply certain knowledge or skills to situations they might really encounter. (4-5-00)

10. Basic Educational Skills Training. Instruction in basic skills toward the completion/attainment of a certificate of mastery, high school diploma, or GED. (4-5-00)

11. Career Technical Education. Formal preparation for semi-skilled, skilled, technical, or paraprofessional occupations, usually below the baccalaureate level. (4-11-06)

12. Classic Texts. Literary or other works (e.g., films, speeches) that have been canonized, either continuously or intermittently, over a period of time beyond that of their initial publication and reception. (4-5-00)

13. College and Career Readiness. College and career readiness is the attainment and demonstration of state board adopted competencies that broadly prepare high school graduates for a successful transition into some form of postsecondary education and/or the workplace. (3-28-18)

14. Content Standards. Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (4-2-08)

15. Context (of a Performance Assessment). The surrounding circumstances within which the performance is embedded. For example, problem solving can be assessed in the context of a specific subject (such as mathematics) or in the context of a real-life laboratory problem requiring the use of mathematics, scientific, and communication skills. (4-5-00)

16. Cooperative Work Experience. Classroom learning is integrated with a productive, structured work experience directly related to the goals and objectives of the educational program. Schools and participating businesses cooperatively develop training and evaluation plans to guide and measure the progress of the student. School credit is earned for successful completion, and the work may be paid or unpaid. Cooperative work experiences are also known as co-operative education or co-op. (4-5-00)

17. Criteria. Guidelines, rules or principles by which student responses, products, or performances, are judged. What is valued and expected in the student performance, when written down and used in assessment, become rubrics or scoring guides. (4-5-00)

18. Cues. Various sources of information used by readers to construct meaning. The language cueing systems include the graphophonic (also referred to as graphophonemic) system, which is the relationship between oral and written language (phonics); the syntactic system, which is the relationship among linguistic units such as prefixes, suffixes, words, phrases, and clauses (grammar); and semantic system, which is the study of meaning in language. Reading strategies and language cueing systems are also influenced by pragmatics-the knowledge readers have about the ways in which language is understood by others in their culture. (4-5-00)

19. “C” Average. A combined average of courses taken on a four (4) point scale with “C” equal to two (2) points. (4-11-06)

20. Diploma. A document awarded to a student by a secondary school to show the student has successfully completed the state and local education agency graduation requirements. Diplomas may be awarded to

individuals who attended a secondary school prior to the year in which the student is requesting issuance of a diploma based on the graduation requirements in existence at the time the student attended. Determination of meeting past graduation requirements may be determined based on proficiency as determined by the local education agency. Each local education agency may determine the format of the diploma, including the recognition of emphasis areas based on a student's completion of courses or courses or studies in an emphasis area or educational pathways, including but not limited to science, technology, engineering and math (STEM), career technical education, or arts and music.

(3-28-18)

21. Decode. (4-5-00)

a. To analyze spoken or graphic symbols of a familiar language to ascertain their intended meaning. (4-5-00)

b. To change communication signals into messages, as to decode body language. (4-5-00)

22. Dual Credit. Dual credit allows high school students to simultaneously earn credit toward a high school diploma and a postsecondary degree or certificate. Postsecondary institutions work closely with high schools to deliver college courses that are identical to those offered on the college campus. Credits earned in a dual credit class become part of the student's permanent college record. Students may enroll in dual credit programs taught at the high school or on the college campus. (4-11-06)

23. Emergent Literacy. Development of the association of print with meaning that begins early in a child's life and continues until the child reaches the stage of conventional reading and writing. (4-5-00)

24. Employability Skills. Work habits and social skills desirable to employers, such as responsibility, communication, cooperation, timeliness, organization, and flexibility. (4-5-00)

25. Entry-Level Skills. The minimum education and skill qualifications necessary for obtaining and keeping a specific job; the starting point in a particular occupation or with a certain employer. (4-5-00)

26. Evaluation (Student). Judgment regarding the quality, value, or worth of a response, product, or performance based on established criteria, derived from multiple sources of information. Student evaluation and student assessment are often used interchangeably. (4-5-00)

27. Experiential Education (Application). Experiential education is a process through which a learner constructs knowledge, skill, and value from direct experiences. (4-5-00)

28. Exploratory Experience (Similar to a Job Shadow). An opportunity for a student to observe and participate in a variety of worksite activities to assist in defining career goals. An in-school exploratory experience is a school-based activity that simulates the workplace. (4-5-00)

29. Fluency. The clear, rapid, and easy expression of ideas in writing or speaking; movements that flow smoothly, easily, and readily. (4-5-00)

30. Genre (Types of Literature). A category used to classify literary and other works, usually by form, technique, or content. Categories of fiction such as mystery, science fiction, romance, or adventure are considered genres. (4-5-00)

31. Graphophonic/Graphophonemic. One (1) of three (3) cueing systems readers use to construct texts; the relationships between oral and written language (phonics). (4-5-00)

008. DEFINITIONS H - S.

01. Idaho Standards Achievement Tests. Statewide assessments aligned to the state content standards and used to measure a student's knowledge of the applicable content standards. (3-29-17)

02. Integrated Assessment. Assessment based on tasks that measures a student's ability to apply

concepts, principles, and processes from two (2) or more subject disciplines to a project, issue, or problem. (3-24-17)

03. International Baccalaureate (IB) - Administered by the International Baccalaureate Organization, the IB program provides a comprehensive liberal arts course of study for students in their junior and senior years of high school. IB students take end-of-course exams that may qualify for college credit. Successful completion of the full course of study leads to an IB diploma. (4-11-06)

04. Interdisciplinary Study. An approach to learning in two (2) or more disciplines that enables students to identify and apply authentic connections and integrate essential concepts that transcend individual disciplines. (3-24-17)

05. Laboratory. A laboratory science course is defined as one in which at least one (1) class period each week is devoted to providing students with the opportunity to manipulate equipment, materials, specimens or develop skills in observation and analysis and discover, demonstrate, illustrate or test scientific principles or concepts. (4-11-06)

06. Learning Plan. The plan that outlines a student's program of study, which should include a rigorous academic core and a related sequence of electives in academic, career technical education (CTE), or humanities aligned with the student's post-graduation goals. (4-11-06)

07. Narrative. Text in any form (print, oral, or visual) that recounts events or tells a story. (4-5-00)

08. Norm-Referenced Assessment. Comparing a student's performance or test result to performance of other similar groups of students; (e.g., he typed better than eighty percent (80%) of his classmates.) (4-5-00)

09. On-Demand Assessment. Assessment that takes place at a predetermined time and place. Quizzes, state tests, SATs, and most final exams are examples of on-demand assessment. (4-5-00)

10. Performance Assessment. Direct observation of student performance or student work and professional judgment of the quality of that performance. Good quality performance assessment has pre-established performance criteria. (4-5-00)

11. Performance-Based Assessment. The measurement of educational achievement by tasks that are similar or identical to those that are required in the instructional environment, as in performance assessment tasks, exhibitions, or projects, or in work that is assembled over time into portfolio collections. (4-5-00)

12. Performance Criteria. A description of the characteristics that will be judged for a task. Performance criteria may be holistic, analytic trait, general or specific. Performance criteria are expressed as a rubric or scoring guide. Anchor points or benchmark performances may be used to identify each level of competency in the rubric or scoring guide. (4-5-00)

13. Phonics. Generally used to refer to the system of sound-letter relationships used in reading and writing. Phonics begins with the understanding that each letter (or grapheme) of the English alphabet stands for one (1) or more sounds (or phonemes). (4-5-00)

14. Portfolio. A collection of materials that documents and demonstrates a student's academic and work-based learning. Although there is no standard format for a portfolio, it typically includes many forms of information that exhibit the student's knowledge, skills, and interests. By building a portfolio, students can recognize their own growth and learn to take increased responsibility for their education. Teachers, mentors, and employers can use portfolios for assessment purposes and to record educational outcomes. (4-5-00)

15. Professional Development. A comprehensive, sustained, timely, and intensive process to improve effectiveness of teachers and administrators in raising student achievement, which: (4-4-13)

a. Aligns with rigorous state academic achievement standards, local educational agency goals, school improvement goals, and effective technology integration. (4-4-13)

b. Utilizes data driven instruction using a thorough review and continual evaluation of data on teacher and student performance to define clear goals and distinct outcomes. (4-4-13)

c. Provides opportunities that are individualized enough to meet distinct and diverse levels of need for teachers and administrators. (4-4-13)

d. Is facilitated by well-prepared school administrators, coaches, mentors, master teachers, lead teachers, or third-party providers under contract with the State Department of Education, school district, or charter school, and supported by external research, expertise, or resources. (4-4-13)

e. Fosters a collective responsibility by educators within the school for improved student performance and develops a professional learning community. (4-4-13)

16. Project Based Learning. A hands-on approach to learning that encourages students to create/interpret/communicate an original work or project and assesses quality and success of learning through performance/presentation/production of that work or project. (3-24-17)

17. Print Awareness. In emergent literacy, a learner's growing awareness of print as a system of meaning, distinct from speech and visual modes of representation. (4-5-00)

18. Proficiency. Having or demonstrating a high degree of knowledge or skill in a particular area. (4-5-00)

19. School-to-Work Transition. A restructuring effort that provides multiple learning options and seamless integrated pathways to increase all students' opportunities to pursue their career and educational interests. (4-5-00)

20. Service Learning. Combining service with learning activities to allow students to participate in experiences in the community that meet actual human needs. Service learning activities are integrated into the academic curriculum and provide structured time for a student to think, talk, or write about what was done or seen during the actual service activity. Service learning provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their communities, and helps foster the development of a sense of caring for others. (4-5-00)

21. Skill Certificate. Portable, industry-recognized credential that certifies the holder has demonstrated competency on a core set of performance standards related to an occupational cluster area. Serving as a signal of skill mastery at benchmark levels, skill certificates may assist students in finding work within their community, state, or elsewhere. A National Skills Standards Board is presently charged with issuing skill voluntary standards in selected occupations based on the result of research and development work completed by twenty-two (2) contractors. (4-5-00)

22. Standards. Statements about what is valued in a given field, such as English language arts, and/or descriptions of what is considered quality work. See content standards, assessment standards, and achievement standards. (4-2-08)

23. Standardization. A set of consistent procedures for constructing, administering and scoring an assessment. The goal of standardization is to ensure that all students are assessed under uniform conditions so the interpretation of performance is comparable and not influenced by differing conditions. Standardization is an important consideration if comparisons are to be made between scores of different individuals or groups. (4-5-00)

24. Standards-Based Education. Schooling based on defined knowledge and skills that students must attain in different subjects, coupled with an assessment system that measures their progress. (4-5-00)

25. Structured Work Experience. A competency-based educational experience that occurs at the worksite but is tied to the classroom by curriculum through the integration of school-based instruction with worksite experiences. Structured work experience involves written training agreements between school and the worksite, and individual learning plans that link the student's worksite learning with classroom course work. Student progress is

supervised and evaluated collaboratively by school and worksite personnel. Structured work experience may be paid or unpaid; may occur in a public, private, or non-profit organization; and may or may not result in academic credit and/or outcome verification. It involves no obligation on the part of the worksite employer to offer regular employment to the student subsequent to the experience. (4-5-00)

26. Student Learning Goals (Outcomes). Statements describing the general areas in which students will learn and achieve. Student learning goals typically reflect what students are expected to know by the time they leave high school, such as to read and communicate effectively; think critically and solve problems; develop positive self-concept, respect for others and healthy patterns of behavior; work effectively in groups as well as individually; show appreciation for the arts and creativity; demonstrate civic, global and environmental responsibility; recognize and celebrate multicultural diversity; exhibit technological literacy; have a well developed knowledge base which enhances understanding and decision making, and demonstrate positive problem solving and thinking skills. (4-5-00)

27. Synchronous Course. A course in which the teacher and students interact at the same time. May be applied to both traditional and technology based courses. (3-29-12)

009. DEFINITIONS T - Z.

01. Technical Competency Credit. Technical competency credit is a sequenced program of study that allows secondary students to document proficiency in the skills and abilities they develop in approved high school career technical programs to be evaluated for postsecondary transcription at a later date. Technical Competency Credits are awarded for skills and competencies identified as eligible through an agreement with at least one Idaho postsecondary institution. Eligible skills and competencies are included as part of a high school career technical program and approved by the postsecondary institution through the agreement in advance to student participation. Credits are granted by the postsecondary institution for which the agreement is with and are transcribed at the time the student enrolls at the postsecondary institution. (3-25-16)

02. Technology Education. A curriculum for elementary, middle, and senior high schools that integrates learning about technology (e.g., transportation, materials, communication, manufacturing, power and energy, and biotechnology) with problem-solving projects that require students to work in teams. Many technology education classrooms and laboratories are well equipped with computers, basic hand tools, simple robots, electronic devices, and other resources found in most communities today. (4-5-00)

03. Total Quality Management. A systematic approach to standardizing and increasing the efficiency of internal systems and processes, whether in a business or a school, using statistical and management tools for continuous improvement. Emphasis is on documenting effective processes, committing to meet customers' needs and sharing decision making. (3-15-02)

04. Transferable Skills. Skills that are inter-changeable among different jobs and workplaces. For example, the ability to handle cash is a skill one could use as both a restaurant cashier and a bank teller. The ability to problem solve or work as a team member is transferable among most jobs and workplaces. (4-11-06)

05. 2+2 or 4+2. A planned, streamlined sequence of academic and career technical courses which eliminates redundancies between high school and community college curricula; 2+2 is high school years eleven (11) and twelve (12) and community college years thirteen (13) and fourteen (14); 4+2 is high school years nine (9), ten (10), eleven (11), and twelve (12) and community college years thirteen (13) and fourteen (14). (4-11-06)

06. Unique Student Identifier. A number issued and assigned by the State Department of Education to each student currently enrolled or who will be enrolled in an Idaho local education agency to obtain data. (5-8-09)

07. Writing Process. The many aspects of the complex act of producing written communication; specifically, planning, drafting, revising, editing, and publishing. (4-5-00)

08. Word Recognition. (4-5-00)

a. The quick and easy identification of the form, pronunciation, and appropriate meaning of a work previously met in print or writing; (4-5-00)

b. The process of determining the pronunciation and some degree of meaning of a word in written or printed form. (4-5-00)

010. – 099. (RESERVED)

100. BASIC CURRICULUM.
(Section 33-118, Idaho Code) (4-1-97)

101. KINDERGARTEN CURRICULUM.
Kindergarten curriculum will be established at the local level. (Section 33-208, Idaho Code) (4-5-00)

102. INSTRUCTIONAL REQUIREMENTS.

01. Instruction and Programs. All schools will deliver a core of instruction and advisement programs (see Section 108, Guidance Programs) for each student in elementary schools, middle schools/junior high and high schools. (4-5-00)

02. Standards. All students will meet standards established locally (at a minimum, the standards of the state) through rigorous accountability, which includes challenging examinations, demonstrations of achievement, and other appropriate tests and measures. (4-5-00)

103. INSTRUCTION GRADES 1-12.

01. Instruction. Instruction is inclusive of subject matter, content and course offerings. Patterns of instructional organization are a local school district option. Schools will assure students meet locally developed standards with the state standards as a minimum.* (*This includes special instruction that allows limited English proficient students to participate successfully in all aspects of the school's curriculum and keep up with other students in the regular education program. It also includes special learning opportunities for accelerated, learning disabled students and students with other disabilities.) (4-5-00)

02. Instructional Courses. At appropriate grade levels, instruction will include but not be limited to the following: (4-11-06)

a. Language Arts and Communication will include instruction in reading, writing, English, literature, technological applications, spelling, speech and listening, and, in elementary schools, cursive writing. (3-20-14)

b. Mathematics will include instruction in addition, subtraction, multiplication, division, percentages, mathematical reasoning and probability. (4-1-97)

c. Science will include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (4-1-97)

d. Social Studies will include instruction in history, government, geography, economics, current world affairs, citizenship, and sociology. (4-1-97)

104. OTHER REQUIRED INSTRUCTION.
Other required instruction for all students and other required offerings of the school are: (4-1-97)

01. Elementary Schools. (4-11-06)

a. The following section outlines other information required for all elementary students, as well as other required offerings of the school:

Fine Arts (art and music)
Health (wellness)
Physical Education (fitness) (4-11-06)

- b.** Additional instructional options as determined by the local school district. For example:

Languages other than English
Career Awareness (4-1-97)

02. Middle Schools/Junior High Schools. (4-11-06)

a. No later than the end of Grade eight (8) each student shall develop parent-approved student learning plans for their high school and post-high school options. The learning plan shall be developed by students with the assistance of parents or guardians, and with advice and recommendation from school personnel. It shall be reviewed annually and may be revised at any time. The purpose of a parent-approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. A student learning plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the state and school district's or LEA's graduation standards in preparation for postsecondary goals. The school district or LEA will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (3-28-18)

b. A student must have met the grade eight (8) mathematics standards before the student will be permitted to enter grade nine (9). (4-11-19)

- c.** Other required instruction for all middle school students:

Health (wellness)
Physical Education (fitness) (4-11-06)

- d.** Other required offerings of the school:

Family and Consumer Science
Fine and Performing Arts
Career Technical Education
Advisory Period (middle school only, encouraged in junior high school) (4-11-06)

03. High Schools. (4-11-15)

a. High schools must offer a wide variety of courses to satisfy state and local graduation requirements. High schools are required to provide instructional offerings in Physical Education (fitness) and Career Technical Education and the instruction necessary to assure students are college and career ready at the time of graduation. (3-28-18)

b. High schools will annually review and update with the student the parent-approved student learning plans outlined in Subsection 104.02.a. (4-11-15)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (5-8-09)

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. (3-12-14)

a. Credits. (Effective for all students who enter the ninth grade in the fall of 2010 or later.) One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and

chair of the board of trustees of the district or LEA. The waiver request shall provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. (3-29-10)

b. Mastery. Notwithstanding the credit definition of Subsection 105.01.a., a student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. (3-29-17)

c. Secondary Language Arts and Communication. Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements. (3-29-10)

d. Mathematics. Six (6) credits are required. Secondary mathematics includes Integrated Mathematics, Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and quantitative reasoning. Dual credit engineering and computer science courses aligned to the state standards for grades nine (9) through (12), including AP Computer Science and dual credit computer Science courses may also be counted as a mathematics credit if the student has completed Algebra II (or equivalent integrated mathematics) standards. Students who choose to take computer science and dual credit engineering courses may not concurrently count such courses as both a mathematics and science credit. (4-11-19)

i. Students must complete secondary mathematics in the following areas: (3-12-14)

(1) Two (2) credits of Algebra I, Algebra I level equivalent Integrated Mathematics or courses that meet the High School Algebra Content Standards; (4-11-19)

(2) Two (2) credits of Geometry, Geometry level equivalent Integrated Mathematics, or courses that meet the Idaho High School Geometry Content Standards; and (4-11-19)

(3) Two (2) credits of mathematics of the student's choice. (3-29-10)

ii. Two (2) credits of the required six (6) credits of mathematics must be taken in the last year of high school in which the student intends to graduate. For the purposes of this subsection, the last year of high school shall include the summer preceding the fall start of classes. Students who return to school during the summer or the following fall of the next year for less than a full schedule of courses due to failing to pass a course other than mathematics are not required to retake a mathematics course as long as they have earned six (6) credits of high school level mathematics. (4-11-19)

iii. Students who have completed six (6) or more high school credits of mathematics prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking mathematics during their last year of high school. High School mathematics credits completed in middle school shall count for the purposes of this section. (4-11-19)

iv. Students who earn eight (8) or more high school credits of mathematics that include Algebra II or higher level of mathematics class before the student's senior year are not required to take mathematics during their last year of high school. High school mathematics credits earned in middle school shall count for the purposes of this section. (4-11-19)

e. Science. Six (6) credits are required, four (4) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (4-11-19)

i. Up to two (2) credits in Dual credit engineering and computer science courses aligned to the state standards for grades nine (9) through (12), including AP Computer Science, Dual Credit Computer Science may be used as science credits. Students who choose to take computer science and Dual Credit Engineering may not

concurrently count such courses as both a mathematics and science credit. (4-11-19)

ii. Secondary sciences include instruction in the following areas: biology, physical science or chemistry, and earth, space, environment, or approved applied science. Four (4) credits of these courses must be laboratory based. (3-29-10)

f. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (3-29-10)

g. Humanities. Two (2) credits are required. Humanities courses include instruction in visual arts, music, theatre, dance, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Interdisciplinary Humanities Content Standards. (3-28-18)

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Effective for all public school students who enter grade nine (9) in Fall 2015 or later, each student shall receive a minimum of one (1) class period on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (3-12-14)

i. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the Physical Education Content Standards in a format provided by the school district. (3-28-18)

02. Content Standards. Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (3-29-10)

03. College Entrance Examination. (Effective for all public school students who enter grade nine (9) in Fall 2012 or later.) (3-12-14)

a. A student must take one (1) of the following college entrance examinations before the end of the student's eleventh grade year: SAT or ACT. Students who participated in the Compass assessment prior to its final administration may also use the Compass to meet this requirement. Students receiving special education services through a current Individualized Education Plan (IEP) may utilize the ACCUPLACER placement exam in lieu of the SAT or ACT. (3-28-18)

b. A student who misses the statewide administration of the college exam during the student's grade eleven (11) for one (1) of the following reasons, may take the examination during their grade twelve (12) to meet this requirement: (3-25-16)

i. Transferred to an Idaho school district during grade eleven (11) and has not previously participated in one of the allowed college entrance exams outlined in Subsection 03.a; (3-28-18)

ii. Was homeschooled during grade eleven (11) and is enrolled in an Idaho high school as a diploma seeking student; or (3-28-18)

iii. Missed the spring statewide administration of the college entrance exam dates for documented medical reasons. (3-12-14)

c. A student may elect an exemption in from the college entrance exam requirement if the student is: (3-28-18)

i. Receiving special education services through a current Individual Education Plan (IEP) that

specifies the student meets the alternate assessment eligibility criteria; (3-28-18)

ii. Enrolled in a Limited English Proficient (LEP) program for three (3) academic years or less; or (3-12-14)

iii. Transferring from out of state to an Idaho high school in grade twelve (12). (3-28-18)

d. A school district, on behalf of a student, on a form established by the State Department of Education, may submit an appeal application requesting the Superintendent of Public Instruction or their designee consider another college entrance exam or college placement exam to fulfill this requirement, or exempt the student due to extenuating circumstances. (3-28-18)

04. Senior Project. The senior project is a culminating project to show a student's ability to analyze, synthesize, and evaluate information and communicate that knowledge and understanding. A student must complete a senior project by the end of grade twelve (12). Senior projects may be multi-year projects, group or individual projects, or approved pre-internship or school to work internship programs, at the discretion of the school district or charter school. The project must include elements of research, development of a thesis using experiential learning or integrated project based learning experiences and presentation of the project outcome. Additional requirements for a senior project are at the discretion of the local school district or LEA. Completion of a postsecondary certificate or degree at the time of high school graduation or an approved pre-internship or internship program may be used to meet this requirement. (4-11-19)

05. Civics and Government Proficiency. Pursuant to Section 33-1602, Idaho Code, each LEA may establish an alternate path for determining if a student has met the state civics and government content standards. Alternate paths are open to all students in grades seven (7) through twelve (12.) Any student who has been determined proficient in the state civics and government content standards either through the completion of the civics test or an alternate path shall have it noted on the student's high school transcript. (3-29-17)

06. Middle School. A student will have met the high school content and credit area requirement for any high school course if the requirements outlined in Subsections 105.06.a. through 105.06.c. of this rule are met. (3-25-16)

a. The student completes such course with a grade of C or higher before entering grade nine (9); (3-12-14)

b. The course meets the same content standards that are required in high school for the same course; and (3-25-16)

c. The course is taught by a teacher properly certified to teach high school content and who meets the federal definition of highly qualified for the course being taught. (3-25-16)

d. The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. Notwithstanding this requirement, the student's parent or guardian shall be notified in advance when credits are going to be transcribed and may elect to not have the credits and grade transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. except as provided in 105.01.d.iii. The transcribing high school is required to verify the course meets the requirements specified in Subsections 105.06.a. through 105.06.b. of this rule. (3-25-16)

07. Special Education Students. A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)

08. Foreign Exchange Students. A foreign exchange student may be eligible for graduation by

completing a comparable program as approved by the school district or LEA. (4-11-06)

106. ADVANCED OPPORTUNITIES.

01. Advanced Opportunities Requirement. All high schools in Idaho shall be required to provide Advanced Opportunities, as defined in Section 007, or provide opportunities for students to take courses at the postsecondary campus. (3-29-17)

02. Advanced Opportunities Early Graduation Scholarship Funding (Effective July 1, 2016). (3-29-17)

a. Scholarship Calculation. (3-29-17)

i. The statewide average daily attendance-driven funding per enrolled pupil shall be calculated by adding the previous fiscal year's statewide distributions for salary-based apportionment, benefit apportionment and discretionary funds, and dividing the total by the previous year's statewide public school enrollment for all grades. (3-29-17)

ii. The statewide average daily attendance-driven funding per enrolled pupil shall be recalculated each fiscal year. (3-29-17)

iii. All benefits paid for scholarships and to public schools shall be based on the statewide average daily attendance-driven funding per enrolled pupil figure for the fiscal year in which the benefit is paid. (3-29-17)

b. Payments to Idaho Colleges and Universities. (3-29-17)

i. Annual scholarship payments will be made in one (1) installment during the first semester in which the student is enrolled, regardless of the number of years early the student graduated. Proof of enrollment in an Idaho public college or university must be obtained before any scholarship payment is made. (3-29-17)

ii. The State Department of Education will be responsible for making payments to the Idaho public colleges and universities attended by eligible students. The payments must be made no later than August 30 for the fall semester and January 30 for the spring semester. (3-29-17)

c. Payments to Public Schools. (3-29-17)

i. Public schools shall report to the State Department of Education, no later than June 15 of each school year, students who have graduated early. (3-29-17)

ii. The State Department of Education will make a single annual payment to public schools no later than October 1 of each year for all early graduates who are not attending the public school that school year as a result of early graduation. (3-29-17)

107. MIDDLE LEVEL CREDIT SYSTEM.

A school district or LEA must implement a credit system no later than grade seven (7) that includes components that address the credit requirements, credit recovery, alternate mechanisms and attendance. The local school district or LEA may establish credit requirements beyond the state minimum. (3-29-10)

01. Credit Requirements. Each district or LEA credit system shall require students to attain a minimum of eighty percent (80%) of the total credits attempted before the student will be eligible for promotion to the next grade level. Each district or LEA credit system shall require a student to attain, at a minimum, a portion of the total credits attempted in each area in which credits are attempted except for areas in which instruction is less than a school year before the student will be eligible for promotion to the next grade level. (3-29-10)

02. Credit Recovery. A student who does not meet the minimum requirements of the credit system shall be given an opportunity to recover credits or complete an alternate mechanism in order to become eligible for promotion to next grade level. (3-29-10)

03. Alternate Mechanism. A school district or LEA may establish an alternate mechanism to determine eligibility for grade level promotion. The alternate mechanism shall require a student to demonstrate proficiency of the appropriate content standards. All locally established mechanisms used to demonstrate proficiency will be forwarded to the State Department of Education. Alternate mechanisms must be re-submitted to the Department when changes are made to the mechanism. (3-29-10)

04. Attendance. Attendance shall be an element included in the credit system, alternate mechanism or both. (3-29-10)

05. Special Education Students. The Individualized Education Program (IEP) team for a student who is eligible for special education services under the Individuals with Disabilities Education Improvement Act may, establish alternate requirements or accommodations to credit requirements as are deemed necessary for the student to become eligible for promotion to the next grade level. (3-29-10)

06. Limited English Proficient (LEP) Students. The Educational Learning Plan (ELP) team for a Limited English Proficient (LEP) students, as defined in Subsection 112.05.g.iv., may establish alternate requirements or accommodations to credit requirements as deemed necessary for the student to become eligible for promotion to the next grade level. (3-29-10)

108. GUIDANCE PROGRAMS (SECTION 33-1212, IDAHO CODE).

In each Idaho school, a comprehensive guidance program will be provided as an integral part of the educational program. A comprehensive guidance and counseling program includes these elements: (4-1-97)

01. Guidance. A guidance curriculum that identifies knowledge and skills to be attained by all students at various stages of their development and provides appropriate activities for their achievement. (4-5-00)

02. Individual Planning. Individualized planning with students and their parents in each of these domains: personal/social development, educational development, and career development. (4-5-00)

03. Response Services of Counseling, Consultation, and Referral. (4-5-00)

04. System Support Functions That Promote Effective Delivery of Guidance Services. (4-5-00)

109. SPECIAL EDUCATION.

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

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

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

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

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

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

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

e. Governing Special Education Requirements. Sections 33-201, 33-2001 through 2002, 33-2004 through 2005, and 33-2010, Idaho Code; Section 109 of these rules; the Individuals with Disabilities Education Act

(IDEA), Parts A and B, (20 U.S.C., Sections 1400-1419); IDEA Regulations (34 C.F.R. Part 300); Idaho Special Education Manual; and special education case law that sets precedence in Idaho. (3-29-10)

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

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

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

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

b. The State Department of Education shall provide education agencies with a sample set of policies and procedures that is consistent with governing special education requirements. The Department shall monitor all education agencies and private agencies who provide special education services to students with disabilities for compliance with governing special education requirements and adopted policies and procedures. (4-5-00)

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

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

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

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

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

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

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

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

f. Education agencies may employ paraprofessional personnel to assist in the provision of special

education and related services to students with disabilities if they meet standards established by the State Department of Education. (4-5-00)

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

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

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

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

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

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

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

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

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

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

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

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

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

e. When a student who has been determined eligible for special education, as indicated by a current IEP, transfers from one (1) Idaho education agency to another, the student is entitled to continue to receive special

education services. The receiving education agency may accept and implement the existing IEP or may convene an IEP team meeting to develop a new IEP. If a new IEP cannot be developed within five (5) school days, or if the education agency wishes to re-evaluate the child, an interim (short-term) IEP shall be implemented pending development of the standard IEP. (4-5-00)

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

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

a. If a parent or adult student disagrees with an individualized education program (IEP) team's proposed IEP for the student, the parent or adult student may file a written objection to all or parts of the proposed IEP. If the written objection is emailed, postmarked or hand delivered within ten (10) calendar days of the date the parent or adult student receives written notice of the proposed IEP, the proposed change cannot be implemented for fifteen (15) calendar days, or as extended through mutual agreement by the district and the parent or adult student while the parties work to resolve the dispute. Parties may choose to hold additional IEP team meetings which may be facilitated by the State Department of Education (SDE) or request voluntary mediation through the SDE. If these methods fail or are refused, the proposed IEP shall be implemented after fifteen (15) calendar days unless a due process hearing is filed by the parents or adult student, during which time the student shall remain in the current educational placement during the pendency of any administrative or judicial proceeding, unless the district/adult student agree otherwise. The written objection cannot be used to prevent the education agency from placing a student in an interim alternative educational setting in accordance with IDEA discipline procedures, or to challenge an eligibility/identification determination. (3-29-17)

b. Mediation may be requested by an education agency, parent, or adult student, or offered by the State Department of Education at any time. The Department shall screen all such requests to determine appropriateness. Any time a hearing is requested, the Department shall offer mediation using policies and requirements set forth in the Individuals with Disabilities Education Act regulations. If the Department appoints a mediator, the Department shall be responsible for compensating the mediator. All mediation participants will receive a copy of the Notification of Mediation Confidentiality form. Attorney fees may not be awarded for a mediation that is conducted prior to a request for a due process hearing. (3-29-17)

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

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

e. Due process hearings shall be conducted pursuant to IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Individuals with Disabilities Education Act requirements, and the Idaho Special Education Manual, incorporated by reference in Section 004 of this rule. In case of any conflict between the IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" and the IDEA, the IDEA shall supersede the IDAPA 04.11.01, and IDAPA 04.11.01 shall supersede the Idaho Special Education Manual. (3-29-17)

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

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

h. During the hearing the education agency shall provide reasonable accommodations as required by federal and state regulations. Disputes concerning reasonable accommodations shall be referred to the U.S. Department of Education's Americans with Disabilities Act (ADA) Committee for resolution. (3-29-17)

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

j. A parent or adult student has the right to an independent educational evaluation (IEE) at public expense if the parent or adult student disagrees with an evaluation obtained by the education agency. Whenever an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria the education agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent or adult student's right to an IEE. If an education agency has cost as one (1) of the criteria the education agency uses when it initiates an evaluation, the education agency may apply that criteria to independent educational evaluations. However, the parent or adult student has the right to demonstrate that unique circumstances justify an IEE that falls outside the education agency's cost criteria, and if so demonstrated, that IEE shall be publicly funded. A due process hearing may be initiated by the education agency to determine if the evaluation conducted by the education agency is appropriate. If the final decision of a hearing officer, or civil court, if the hearing officer's decision is appealed, is that the evaluation conducted by the education agency is appropriate, the parent or adult student still has the right to an independent educational evaluation, but not at the education agency's expense. (3-29-17)

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

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

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

08. Special Education Advisory Panel. The State Superintendent of Public Instruction shall appoint

members to serve on the Special Education Advisory Panel. Panel members shall elect annually an individual to serve a one (1) year term as vice-chair followed by a one (1) year term as chair. (4-5-00)

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

Alternative secondary programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. Designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth, pursuant to Section 33-1001, Idaho Code. ()

01. Instruction. Special instruction courses for at-risk youth enrolled in an alternative secondary program will include: (4-1-97)

- a.** Core academic content that meets or exceeds minimum state standards; (3-29-17)
- b.** A physical fitness and personal health component; (3-29-17)
- c.** Career and technical education component approved by the state division of career technical education; (3-29-17)
- d.** A personal finance, parenting, and child care component; and (3-29-17)
- e.** A personal and career counseling component. (3-29-17)

02. Graduation Credit. Graduation credit may be earned in the following areas: academic subjects, electives, and approved work-based learning experiences. Nonacademic courses, i.e., classroom and office aides do not qualify for credit unless they are approved work-based learning experiences. (4-5-00)

03. Special Services. Special services for at-risk youth enrolled in alternative secondary programs include the following where appropriate: (3-29-17)

- a.** A day care center when enrollees are also parents. This center should be staffed by a qualified child care provider. (4-1-97)
- b.** Direct social services that may include officers of the court, social workers, counselors/psychologists. (4-1-97)
- c.** All services in accordance with the student's Individualized Education Program. (3-29-17)

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

01. Philosophy. Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. The State Board of Education will provide oversight for all components of the comprehensive assessment program. (4-2-08)

- 02. Purposes.** The purpose of assessment in the public schools is to: (3-15-02)
 - a.** Measure and improve student achievement; (3-15-02)
 - b.** Assist classroom teachers in designing lessons; (3-15-02)
 - c.** Identify areas needing intervention and remediation, and acceleration; (3-15-02)

- d.** Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-02)
- e.** Inform parents and guardians of their child's progress; (3-15-02)
- f.** Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-02)
- g.** Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-02)
- h.** Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-02)

03. Content. The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the National Assessment of Educational Progress (NAEP), the Idaho English Language Assessment, the Idaho Standards Achievement Tests (ISAT), the Idaho Alternate Assessment, and a college entrance exam. (3-29-12)

04. Testing Population. All students in Idaho public schools, grades kindergarten through twelve (K-12), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (4-2-08)

a. All students who are eligible for special education shall participate in the statewide assessment program. (4-6-05)

b. Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (4-6-05)

c. Limited English Proficient (LEP) students, as defined in Subsection 112.05.g.iv., may receive designated supports or accommodations, or both, for the ISAT assessment if need has been indicated by the LEP student's Educational Learning Plan (ELP) team. The team shall outline the designated supports or accommodations, or both, in an ELP prior to the assessment administration. Designated supports or accommodations, or both, shall be familiar to the student during previous instruction and for other assessments. LEP students who are enrolled in their first year of school in the United States may take Idaho's English language assessment in lieu of the English language ISAT, but will still be required to take the ISAT (Mathematics and Science). Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.05.e. However, such LEP students are not required to be counted for accountability purposes as described in Subsection 112.05.i. (3-29-17)

05. Scoring and Report Formats. Scores will be provided for each subject area assessed and reported in standard scores, benchmark scores, or holistic scores. Test results will be presented in a class list report of student scores, building/district summaries, content area criterion reports by skill, disaggregated group reports, and pressure sensitive labels as appropriate. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. (4-7-11)

a. Effective April 1, 2009, all students taking the Idaho Standards Achievement Test (ISAT) must have a unique student identifier. (4-7-11)

b. Districts must send all assessment results and related communication to parents within three (3) weeks of receipt from the state. (4-7-11)

06. Comprehensive Assessment Program. The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.n. Each assessment will be comprehensive of and aligned to the

Idaho State Content Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program. (3-29-17)

a. Kindergarten - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

b. Grade 1 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

c. Grade 2 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (4-11-15)

d. Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-29-17)

e. Grade 4 - National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-29-17)

f. Grade 5 - Grade 5 Idaho Standards Achievement Tests in English language usage, mathematics, and science, Idaho Alternate Assessment, Idaho English Language Assessment. (3-29-17)

g. Grade 6 - Grade 6 Idaho Standards Achievement Tests, Idaho Alternate Assessment in English language usage and mathematics, Idaho English Language Assessment. (3-29-17)

h. Grade 7 - Grade 7 Idaho Standards Achievement Tests, Idaho Alternate Assessment in English language usage, mathematics, and science, Idaho English Language Assessment. (3-29-17)

i. Grade 8 - National Assessment of Educational Progress, Grade 8 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-29-17)

j. Grade 9 - High School Idaho Standards Achievement Tests (optional at the discretion of the school district or charter school), Idaho Alternate Assessment, Idaho English Language Assessment. (3-29-17)

k. Grade 10 - High School Idaho Standards Achievement Tests, Idaho Alternate Assessment, Idaho English Language Assessment. (4-2-08)

l. Grade 11 - Idaho English Language Assessment, college entrance exam. (3-29-17)

m. Grade 12 - National Assessment of Educational Progress, Idaho English Language Assessment. (4-2-08)

n. Students are required to take a high school End of Course Assessment in science provided by the state and administered by the district as applicable to the course completed by the students. (3-29-17)

07. Comprehensive Assessment Program Schedule. (5-3-03)

a. The Idaho Reading Indicator will be administered in accordance with Section 33-1615, Idaho Code. (3-29-17)

b. The National Assessment of Educational Progress will be administered in timeframe specified by the U.S. Department of Education. (3-15-02)

c. The Idaho Standards Achievement Tests will be administered in the Spring in a time period specified by the State Board of Education. (4-11-15)

d. The Idaho Alternate Assessment will be administered in a time period specified by the State Board of Education. (4-2-08)

e. Idaho's English Language Assessment will be administered in a time period specified by the State Board of Education. (3-29-17)

08. Costs Paid by the State. Costs for the following testing activities will be paid by the state: (4-1-97)

a. All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-02)

b. Statewide distribution of all assessment materials; and (3-29-12)

c. Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program. (3-29-12)

09. Costs of Additional Services. Costs for any additional administrations or scoring services not included in the prescribed statewide comprehensive assessment program will be paid by the participating school districts. (3-15-02)

10. Services. The comprehensive assessment program should be scheduled so that a minimum of instructional time is invested. Student time spent in testing will not be charged against attendance requirements. (3-15-02)

11. Test Security, Validity and Reliability. (4-2-08)

a. Test security is of the utmost importance. To ensure integrity of secure test items and protect validity and reliability of test outcomes, test security must be maintained. School districts will employ security measures in protecting statewide assessment materials from compromise. Each individual who has any opportunity to see test items must sign a state-provided confidentiality agreement, which the district must keep on file in the district for at least two (2) years. Documentation of security safeguards must be available for review by authorized state and federal personnel. (4-2-08)

b. Any assessment used for federal reporting shall be independently reviewed for reliability, validity, and alignment with the Idaho Content Standards. (4-2-08)

12. Demographic Information. Accurate demographic information must be submitted as required for each test to assist in interpreting test results. It may include but is not limited to race, sex, ethnicity, and special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (4-2-08)

13. Dual Enrollment. For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-02)

a. The Idaho Standards Achievement Tests (grades 3-8 and High School). (3-29-17)

b. A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (4-6-05)

i. Language Arts/Communications. (3-15-02)

ii. Math. (3-15-02)

- iii. Science. (3-15-02)
- iv. Social Studies. (3-15-02)
- v. Health. (3-15-02)
- vi. Humanities. (3-15-02)

112. ACCOUNTABILITY.

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

(3-29-17)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

vi. Five (5) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-29-17)

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

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

a. ISAT Student Achievement Levels. There are four (4) levels of student achievement for the ISAT: Below Basic, Basic, Proficient, and Advanced. Definitions for these levels of student achievement are adopted by reference in Section 004 of these rules. (4-11-19)

b. Idaho's English Language Assessment Proficiency Levels. There are six (6) levels of language proficiency for students testing on the Idaho English Language Assessment: Level 1, Level 2, Level 3, Level 4, Level 5, and Level 6. Definitions for these levels of language proficiency are adopted by reference in Section 004 of these rules. (4-11-19)

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

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

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

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

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

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

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

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

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

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

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

(2) Students who are absent for the entire state-approved testing window because of medical reasons or are homebound are exempt from taking the ISAT if such circumstances prohibit them from participating. Students

who drop out, withdraw, or are expelled prior to the beginning of the final makeup portion of the test window are considered exited from the school. (4-7-11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

h. Graduation Rate. The graduation rate will be based on the rate of the cohort of students entering grade nine (9) during the same academic year and attending or exiting the school within a four (4) year or five (5) year period as applicable to the measure being determined. In determining the graduation cohort the school year shall

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

(3-29-17)

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

(3-29-17)

113. (RESERVED)

114. FAILURE TO MEET ANNUAL MEASURABLE PROGRESS.

01. Accountability Measures and Timelines. Accountability measures and timelines will be determined by the state board of education for school districts and schools who fail to meet annual measurable progress.

(3-29-17)

02. Compliance with Federal Law. All schools and local educational agencies in this state shall comply with applicable federal laws governing specific federal grants.

(4-6-05)

a. With respect to schools and local educational agencies in this state that receive federal grants under title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 (Title I schools), the State Department of Education shall develop procedures for approval by the State Board of Education, consistent with federal law, that describe actions to be taken by local educational agencies and schools in this state in regard to schools that fail to meet interim and long-term progress goals.

(3-29-17)

b. With respect to schools and local educational agencies in this state that do not receive federal grants under Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, such non-Title I schools and local educational agencies shall be required to comply with federal law and state requirements with the procedures relating to failure to meet interim and long-term progress goals as provided in Subsection 114.02.a. of this rule, as if they were Title I schools, except that any provisions relating to the use of federal grants to pay for such expenses shall not be applicable to such non-Title I schools and local educational agencies. In such event, non-title I schools shall be required to fund such compliance costs from general operating funds.

(3-29-17)

03. State Department of Education. With respect to the implementation of duties and responsibilities described under Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, that are applicable to a state educational agency, the State Department of Education shall perform such duties and responsibilities delegated by the State Board of Education, including, but not limited to, making technical assistance available to local educational agencies that fail to meet interim and long-term goals, and for providing technical assistance, developing improvement plans, and providing for mandatory corrective actions to local educational agencies as required under federal law and state law.

(3-29-17)

115. DATA COLLECTION.

The State Department of Education will collect the required information from participating school files for state and federal reporting and decision-making. The enrollment collection will contain information about the enrollment of the student attributes such as unique student identifier, active special education, Limited English Proficient (LEP), migrant, grade level, gender, race, and free/reduced lunch status. The collection will be done in mid-October, early February, and May (end of the testing window). Each participating school is required to verify and assure the accuracy of the data submitted in the files.

(5-8-09)

01. State Data System. In accordance with the provisions of Section 33-133, Idaho Code, the following data elements will be added to the state data system:

(3-28-18)

- a. Grade Point Average (GPA). (3-28-18)

116. UNIQUE STUDENT IDENTIFIER.

01. Assignment. Effective April 1, 2009, each student enrolled or enrolling in an Idaho school district or LEA will be assigned a unique student identifier. The unique student identifier shall follow the student from each school district or LEA or upon return to a school district or LEA after an absence from a school district or LEA no matter how long of absence has occurred. (5-8-09)

a. School districts must obtain unique student identifiers by providing the following information to the State Department of Education for each student: (5-8-09)

i. First and last name as written on a legal document such as birth certificate, passport, visa, social security card, or other such legal document. (5-8-09)

ii. Date of birth. (5-8-09)

iii. Ethnicity. (5-8-09)

iv. Gender. (5-8-09)

b. School districts or LEAs may provide any or all of the following additional information to help ensure unique identification such as: (5-8-09)

i. Birth mother's first and last name. (5-8-09)

ii. Parents' or guardians' first and last name(s). (5-8-09)

iii. Social security number. (5-8-09)

iv. County of birth. (5-8-09)

117. (RESERVED)

118. HOME SCHOOL.

Any student not attending a public or private school within the state of Idaho may, as an alternative, receive educational instruction in a home school setting at the direction of the student's parent or guardian. A home schooled student is required to receive such instruction in subjects commonly and usually taught in the public schools of the state of Idaho. (4-4-13)

119. -- 128. (RESERVED)

129. COMMUNICATION.

01. Communication Skills Emphasis. Communication skills enabling students to be responsible citizens of their homes, schools and communities will be emphasized throughout the curriculum. The teaching and demonstrating of effective communication skills will be exemplified throughout the kindergarten through twelve (K-12) system. (4-1-97)

02. Age-Appropriate Classroom, School, and Community Activities. Each year, age-appropriate classroom, school and community activities will be provided to all students for the purpose of developing written and oral communication skills with individuals and groups. Good listening skills are a critical component of the communication process. (Section 33-1612, Idaho Code) (4-1-97)

130. TECHNOLOGY.

Throughout the kindergarten through twelve (K-12) system, technology will be integral to curriculum, instruction and

assessment. (Section 33-1612, Idaho Code). Technology moves communication to a new dimension. The kindergarten through twelve (K-12) system must lay the foundation for students to be able to participate comfortably in an increasingly technological society. Classroom activities will include instruction using multi-media, distance learning and other technologies. (4-1-97)

01. Distance Learning Settings. In distance learning settings, districts will provide for: (4-1-97)

a. Adequate student contact with a teacher or paraprofessional during instructional process. (4-1-97)

b. Ready access for answering student questions. (4-1-97)

c. Adequate teacher time to provide students with feedback on assignments and questions. (4-1-97)

02. Cooperative Instructional Initiatives. Cooperative instructional initiatives from post-secondary institutions among districts and other sources are encouraged. Local school districts will be responsible for the quality of the programs offered and will assure that all state standards are met. (4-1-97)

131. -- 139. (RESERVED)

140. WORKFORCE SKILLS.

01. Academic Skill Development. All students will be provided the opportunity to develop their academic skills (i.e., reading, language arts and communication, mathematics, science, social studies) and to develop the skills necessary for entering the workforce, including self-management skills (i.e., ability to plan, self-discipline, respect for authority, ongoing skill improvement), individual and teamwork skills (i.e., personal initiative, working with others), thinking/information skills (i.e., reasoning, problem solving, acquiring and using information) and vocational-technical skills based on the standards of the industry as approved by the State Board of Vocational Education. (4-1-97)

02. Other Skill Development. Recognizing that students may or may not be active in the workforce, the State Board believes all students should be provided the opportunity to become contributing community and family members. This instruction includes homemaking skills (i.e., nutrition, child development, resource management); balancing work and family responsibilities; and entrepreneurial skills. (4-1-97)

03. Work-Based Learning Experiences. Work-based learning experiences may be provided as part of the instruction in the school. For students to receive credit, these experiences will include: training plans, training agreements, approved work sites, and supervision by appropriately certificated personnel. If work-based learning experiences are selected, they will be included in the Parent Approved Student Learning Plans. Instruction will be organized to facilitate a successful transition into the workforce and further education. (4-1-97)

141. -- 149. (RESERVED)

150. BASIC VALUES.

Honesty, self-discipline, unselfishness, respect for authority and the central importance of work are emphasized. (See Section 33-1612) (4-1-97)

151. -- 159. (RESERVED)

160. SAFE ENVIRONMENT AND DISCIPLINE.

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

School Climate
Discipline
Student Health
Violence Prevention

Possessing Weapons on Campus
Substance Abuse - Tobacco, Alcohol, and Other Drugs
Suicide Prevention
Student Harassment
Drug-free School Zones
Building Safety including Evacuation Drills
Relationship Abuse and Sexual Assault Prevention and Response

Districts will conduct an annual review of these policies and procedures. (See Section 33-1612) (3-20-14)

161. -- 169. (RESERVED)

170. CITIZENSHIP.

Schools will provide instruction and activities necessary for students to acquire the skills to enable them to be responsible citizens in their homes, schools, communities, state and nation. (Section 33-1612, Idaho Code) (4-1-97)

171. GIFTED AND TALENTED PROGRAMS.

01. Definitions. The following definitions apply only to Section 171 of these rules. (4-2-08)

a. Department. State Department of Education. (3-30-07)

b. District. Local school district. (3-30-07)

c. Gifted/talented children. Those students who are identified as possessing demonstrated or potential abilities that give evidence of high performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities Section 33-2001, Idaho Code. (3-30-07)

d. Governing gifted and talented educational requirements. Sections 33-201, 33-2001, 33-2003, Idaho Code. (3-30-07)

02. Legal Compliance. The State Department of Education and districts shall comply with all governing gifted and talented education requirements. (3-30-07)

03. District Plan. Each school district shall develop and write a plan for its gifted and talented program. The plan shall be submitted to the Department no later than October 15, 2001. The plan shall be updated and submitted every three (3) years thereafter and shall include: (3-30-07)

a. Philosophy statement. (3-30-07)

b. Definition of giftedness. (3-30-07)

c. Program goals. (3-30-07)

d. Program options. (3-30-07)

e. Identification procedures. (3-30-07)

f. Program evaluation. (3-30-07)

04. Screening. The district's process for identifying gifted and talented students shall include the following steps: (3-30-07)

a. The district shall screen all potentially gifted and talented students to ensure they have an opportunity to be considered; and (3-30-07)

b. The district shall assess those students meeting the screening criteria and gather additional information concerning their specific aptitudes and educational needs; and (3-30-07)

c. The district shall match student needs with appropriate program options. (3-30-07)

05. Assessment. Placement decisions shall not be determined by a single criterion (for instance, test scores, other measurement, teacher recommendation, or nomination). The district's identification process shall use multiple indicators of giftedness with information obtained through the following methods and sources: (3-30-07)

a. Procedures for obtaining information about students shall include formal assessment methods, such as group and individual tests of achievement, general ability, specific aptitudes and creativity. (3-30-07)

b. Procedures for obtaining information about students shall also include informal assessment methods, such as checklists, rating scales, pupil product evaluations, observations, nominations, biographical data, questionnaires, interviews and grades. (3-30-07)

c. Information about students shall be obtained from multiple sources, such as teachers, counselors, peers, parents, community members, subject area experts, and the students themselves. (3-30-07)

06. Administration. The district shall designate a certificated staff person to be responsible for development, supervision, and implementation of the gifted and talented program. (3-30-07)

172. -- 199. (RESERVED)

200. K-12 IDAHO CONTENT STANDARDS.

As stated in Subsection 105.02 of these Thoroughness rules, all students graduating from Idaho public high schools must meet locally established content standards. The standards set forth in Section 004 of this rule are state content standards that shall be the minimum standards used by every school district in the state in order to establish a level of academic content necessary to graduate from Idaho's public schools. Each school district may set standards more rigorous than these state content standards but no district shall use any standards less rigorous than those set forth in these Thoroughness rules. The implementation time and effective date for these Content Standards rules is the graduating senior class of 2005. (3-29-10)

201. -- 999. (RESERVED)

**IDAPA 08
TITLE 02
CHAPTER 04**

08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, 33-5203, and 33-5210(4)(e), Idaho Code, the Board is authorized to promulgate rules implementing the provisions of Title 33, Chapter 52, Idaho Code. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.02.04, “Rules Governing Public Charter Schools.” (4-11-06)

02. Scope. These rules establish a consistent application and review process for the approval and maintenance of public charter schools in Idaho. (4-11-06)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the offices of the Board. (4-11-06)

003. ADMINISTRATIVE APPEALS.

The provisions found in Sections 400 through 404, of these rules, shall govern administrative appeals of public charter schools. (4-11-06)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (4-11-06)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (4-11-06)

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-11-06)

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-11-06)

04. Telephone Number. The telephone number of the Board is (208) 334-2270. (4-11-06)

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (4-11-06)

06. Web Address. The electronic address of the State Board of Education is <https://boardofed.idaho.gov>. (4-11-06)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-11-06)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Authorizer Fee. Fee paid by each public charter school to its authorized chartering entity. (3-20-14)

02. Board. Means the Idaho State Board of Education. (4-11-06)

03. Commission. Means the Idaho Public Charter School Commission, as provided by Section 33-5213, Idaho Code. (4-11-06)

04. Department. Means the Idaho Department of Education. (4-11-06)

05. Institution. For the purpose of this section, Institution means an Idaho public college, university of community college, or a private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities. (3-20-14)

06. Petitioners. Means the group of persons who submit a petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school, as provided by Section 33-5205, Idaho Code, and the procedures described in Sections 200 through 205 of these rules. (4-11-06)

07. School Year. Means the period beginning on July 1 and ending the next succeeding June 30 of each year. (4-11-06)

011. -- 099. (RESERVED)

100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.

01. Responsibilities of Petitioners on Approval of Charter. Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall provide the Board with written notice of such approval. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. (4-4-13)

02. Authorization to Begin Educational Instruction. The public charter schools authorized to begin educational instruction during a given school year shall be those public charter schools that have received approval from their authorized chartering entities to begin educational instruction during such school year. A public charter school that is approved by an authorized chartering entity, but which does not begin educational instruction must confirm with the Board, on or before March 1 preceding the next succeeding school year, that it is able to begin educational instruction during such school year. (3-20-14)

101. AUTHORIZED CHARTERING ENTITY.

01. Institution. An institution shall receive approval from their governing board prior to authorizing any charter schools. (3-20-14)

a. Petitions shall be submitted to the president of the institution or his designee. (3-20-14)

b. An institution may approve or deny a petition. (3-28-18)

c. Notwithstanding Sections 400 through 404, of these rules, denial of a new petition by an institution is final. A petitioner may submit a petition that has been denied by an institution to any authorized chartering entity. (3-20-14)

102. AUTHORIZER FEE.

01. Notification. It is the responsibility of each authorizer to notify the Department if the authorizer fee has not been received by the date specified in Section 33-5208, Idaho Code. (3-20-14)

a. The authorizer must provide notification of the delinquent fee to the charter school prior to reporting to the Department. (3-20-14)

b. The authorizer must provide the amount delinquent and proof of notification to the charter school within thirty (30) days of the non-payment of the authorizer fee. (3-20-14)

c. The Department shall withhold the amount of the delinquent fee from the next scheduled release of

funds to the charter school. The funds will be withheld until the Department has received notification from the authorizer that the authorizer fee has been paid in full. (3-20-14)

103. -- 199. (RESERVED)

200. PROCEDURE FOR FORMATION OF A NEW PUBLIC CHARTER SCHOOL.

01. Assistance with Petitions. The Department shall, in accordance with Section 33-5211, Idaho Code, provide technical assistance to public charter school petitioners. The Department shall undertake this statutory responsibility by conducting public charter school workshops, as discussed in Subsection 200.02 of this rule. (4-11-06)

02. Public Charter School Workshops. The purpose of the public charter school workshops shall be to provide public charter school petitioners with a brief overview of a variety of educational and operational issues relating to public charter schools, as well as to answer questions and to provide technical assistance, as may be necessary, to aid petitioners in the preparation of public charter school petitions. (4-11-06)

03. Petition Submittal. A public charter school petition may be submitted to only one (1) authorized chartering entity at a time. A petitioner may submit a petition that has been denied by an authorized chartering entity to any other authorized chartering entity after an appeal process, if any, is complete and a final decision has been reached. (3-28-18)

201. POLICIES AND PROCEDURES ADOPTED BY AN AUTHORIZED CHARTERING ENTITY.

An authorized chartering entity may adopt its own charter school policies and procedures describing the charter school petition process and the procedures that petitioners must comply with in order to form a new public charter school, including a public virtual school. Petitioners must comply with the charter school policies and procedures adopted by the authorized chartering entity with which a petition is submitted. Such charter school policies and procedures must comply with Title 33, Chapter 52, Idaho Code, and the rules promulgated by the Board. If there is any conflict between the charter school policies and procedures adopted by an authorized chartering entity and rules promulgated by the Board, then the Board rules shall govern. (3-20-14)

202. NEW PUBLIC CHARTER SCHOOL APPLICATION REQUIREMENTS.

Pursuant to Section 33-5205, Idaho Code, petitioners seeking to establish a new public charter school must complete an application consisting of all of the following elements: (3-28-18)

01. Introduction. Briefly introduce the proposed public charter school by providing the following: (3-28-18)

a. Cover page with the proposed school's name, intended opening year, general location, and the contact information for one (1) petitioner who will serve as liaison with the authorizer during the petition process; (3-28-18)

b. Table of contents; (3-28-18)

c. One-page (1) executive summary describing the proposed school's organizational structure, educational program, and student outcome expectations; and (3-28-18)

d. Mission statement. (3-28-18)

02. Educational Program. Describe the proposed school's educational program by explaining the following: (3-28-18)

a. Educational philosophy; (3-28-18)

b. Student academic achievement standards and any additional goals and methods for measuring achievement; (3-28-18)

c. Key educational design elements, including curricula, tools and instructional methods identified to carry out the educational philosophy and meet academic and mission-specific goals, which may include evidence demonstrating efficacy of these elements; and (3-28-18)

d. Strategies for meeting the needs of specific student populations, including, but not limited to, at-risk students, special education students, English language learners, and gifted students. (3-28-18)

03. Financial and Facilities Plan. Demonstrate a sound understanding of public charter school finances and facilities needs. (3-28-18)

a. State whether the school intends to provide transportation or food service, and provide plans for provision of these services if they will be offered; (3-28-18)

b. Describe how the school's finances will be managed and monitored; (3-28-18)

c. Provide a working draft of the school's prospective facilities plan, including likely facilities needs and estimated costs; (3-28-18)

d. Provide a description of any potential facilities that have been identified and a timeline and process for securing appropriate space; and (3-28-18)

e. Attach the following to Appendix A: Pre-opening budget and three-year operating budget, including detailed assumptions for all revenue and expenditures for each year; year one (1), break-even budget demonstrating the minimum enrollment needed to achieve a zero (0) or marginal net income balance at the end of the year; cash flow projection for the first operational year, demonstrating an understanding of charter school monetary flow; evidence of existing and anticipated funds; and evidence that projected facilities costs are reasonable within the start-up and three-year budgets. (3-28-18)

04. Board Capacity And Governance Structure. Provide information about the legal entity and the individuals involved in opening the proposed school. (3-28-18)

a. Attach copies of the nonprofit corporation's Articles of Incorporation and Corporate Bylaws to Appendix B, though note that they will not be incorporated as part of the school's charter; (3-28-18)

b. Provide a description of the governance structure; (3-28-18)

c. List any already identified members of the board of directors, attach their professional resumes to Appendix C, and provide any additional information about their qualifications; (3-28-18)

d. Describe the board's plan for a smooth transition from initial founding members to subsequent members; and (3-28-18)

e. Describe the plan for board member recruitment and training. (3-28-18)

05. Student Demand and Primary Attendance Area. Demonstrate the need and community demand for the proposed public charter school in the selected location. (3-28-18)

a. Describe the primary attendance area and list the public school districts that overlap this area; (3-28-18)

b. Clearly articulate the need and demand for a school in the selected location, including demographics for the intended neighborhood. Need is the reason(s) existing schools are insufficient or inadequate and includes state performance data. Demand is evidence of desire from prospective families to attend the school; (3-28-18)

c. Describe the population of students the proposed school intends to serve and how the selected location supports serving such students; (3-28-18)

- d. Provide the target enrollment by grade level and projected growth over five (5) years; (3-28-18)
- e. Describe any community partnerships or other local support for the proposed school; and (3-28-18)
- f. Describe strategies for informing under-served students and their families about the prospective school and the enrollment process. (3-28-18)

06. School Leadership and Management. Describe the proposed school’s administrative leadership structure, and provide information about any potential education service providers. (3-28-18)

a. Attach an organizational chart to Appendix D illustrating the proposed school’s leadership structure and indicating the reporting structures of school leaders to the board. If school leaders have already been identified, include their names, contact information, resumes, and any additional information about their qualifications in the appendices. (3-28-18)

b. Describe the responsibilities of and relationships among school leadership, the governing board, instructional leaders, and staff, and include a plan for evaluating school leaders. (3-28-18)

c. If the proposed school intends to work with an educational service provider, provide the name of the company, a contact within the company, and specify in detail the extent of the entity’s participation in the management and operation of the school. Attach the following to Appendix E: (3-28-18)

i. A term sheet indicating the fees to be paid by the proposed school to the management company, the length of the proposed contract, the terms for the contracts renewal, and provisions for termination; (3-28-18)

ii. Copies of the two (2) most recent contracts that the entity has executed with operating charter schools; and (3-28-18)

iii. A detailed description of the education service provider’s relationship to the school’s board of directors; (3-28-18)

iv. A detailed description of how and why the management organization or educational service provider was selected, and evidence that the organization provides high-quality service to similarly situated schools, if applicable. (3-28-18)

07. Supporting Documents. (3-28-18)

a. Appendix A – Budgets, cash flow, additional funds. (3-28-18)

b. Appendix B – Articles of Incorporation and Bylaws. (3-28-18)

c. Appendix C – Board of Directors. (3-28-18)

d. Appendix D – School Administration. (3-28-18)

e. Appendix E – Education Service Provider. (3-28-18)

f. Appendix F – Optional additional supporting documents. (3-28-18)

203. ADMISSION PROCEDURES.

01. Model Admission Procedures. All public charter schools must have an admission procedure approved by their authorized chartering entity, which complies with Section 33-5206(11), Idaho Code, and Section 203 of this rule. In order to ensure that public charter schools utilize a fair and equitable selection process for initial admission to and enrollment in a public charter school, as well as admission to and enrollment in a public charter school during subsequent school years, the Board has approved model admission procedures that may be utilized and

adopted by petitioners. The approved model admission procedures are described in Subsections 203.03 through 203.12 of these rules. Petitioners are not required to adopt the Board's model admission procedures, but must demonstrate a reason for varying from the Board's approved procedures. (3-28-18)

02. Enrollment Opportunities. Charter holders shall ensure that citizens in the primary attendance area shall be made aware of the enrollment opportunities of the public charter school. Such process shall include the dissemination of enrollment information, taking into consideration the language demographics of the attendance area, at least three (3) months in advance of the enrollment deadline established by the public charter school each year, to be posted in highly visible and prominent locations within the area of attendance of the public charter school. In addition, petitioners shall ensure that such process includes the dissemination of press release or public service announcements, to media outlets that broadcast within, or disseminate printed publications within, the area of attendance of the public charter school; petitioners must ensure that such announcements are broadcast or published by such media outlets on not less than three (3) occasions, beginning not later than fourteen (14) days prior to the enrollment deadline each year. Finally, such enrollment information shall advise that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national or ethnic origin, religion, gender, social or economic status, or special needs. (3-28-18)

03. Enrollment Deadline. Each year a public charter school shall establish an enrollment admissions deadline, which shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received. The enrollment deadline cannot be changed once the enrollment information is disseminated as required by Subsection 203.02. (4-11-06)

04. Requests for Admission. A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child in this state, may make a request in writing for such child to attend a public charter school. In the case of a family with more than one (1) child seeking to attend a public charter school, a single written request for admission must be submitted on behalf of all siblings. The written request for admission must be submitted to, and received by, the public charter school at which admission is sought on or before the enrollment deadline established by the public charter school. The written request for admission shall contain the name, grade level, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. Only written requests for admission shall be considered by the public charter school. Written requests for admission received after the established enrollment deadline will be added to the bottom of the waiting list for the appropriate grade. If there is an opening in one grade, a sibling, if any, from a late submitted application must go to the bottom of the sibling list. (4-11-06)

05. Admission Preferences. A public charter school shall establish an admission preference for students residing in the attendance area of the public charter school, as provided in Section 33-5206, Idaho Code. In addition, a public charter school may establish additional admission preferences, as authorized by Section 33-5206(11), Idaho Code. (3-28-18)

06. Proposed Attendance List for Lottery. Each year the public charter school shall create an attendance list containing the names of all prospective students on whose behalf a written request for admission was timely received by the public charter school, separated by grade level. In addition, the proposed attendance list shall contain columns next to the name of each student, in which the public charter school will designate admission preferences applicable to each prospective student. The columns shall be designated "A" for returning student preference; "B" for founders preference; "C" for sibling preference, with a corresponding cross-reference to each of the siblings of the prospective student; and "D" for attendance area preference. (4-11-06)

07. Equitable Selection Process. If the initial capacity of a public charter school is insufficient to enroll all prospective students, or if capacity is insufficient to enroll all prospective students in subsequent school years, then the public charter school shall determine the students who will be offered admission to the public charter school by conducting a fair and equitable selection process. The selection procedure shall be conducted as follows: (4-11-06)

a. The name of each prospective student on the proposed attendance list shall be individually affixed to or written on a three by five (3 x 5) inch index card. The index cards shall be separated by grade. The selection procedure shall be conducted one (1) grade level at a time, with the order for each grade level selected randomly. The index cards containing the names of the prospective students for the grade level being selected shall be placed into a single container. (4-11-06)

b. A neutral, third party shall draw the grade level to be completed first and then draw each index card from the container for that grade level, and such person shall write the selection number on each index card as drawn, beginning with the numeral "1" and continuing sequentially thereafter. In addition, after selecting each index card, the name of the person selected will be compared to the proposed attendance list to determine whether any preferences are applicable to such person. (4-11-06)

c. If the name of the person selected is a returning student, then the letter "A" shall be written on such index card. If the name of the person selected is the child of a founder, the letter "B" shall be written on such index card. If the name of the person selected is the sibling of another student that has already been selected for admission to the public charter school, then the letter "C" shall be written on such index card. If the name of the person selected resides in the attendance area of the public charter school, then the letter "D" shall be written on such index card. (4-11-06)

d. With regard to the sibling preference, if the name of the person selected has a sibling who has already been selected, but the person previously selected did not have the letter "C" written on his or her index card (because a sibling had not been selected for admission prior to the selection of the index card of that person), then the letter "C" shall now be written on that person's index card at this time. (4-4-13)

e. With regard to the founder's preference, a running tally shall be kept during the course of the selection procedure of the number of index cards, in the aggregate, that have been marked with the letter "B." When the number of index cards marked with the letter "B" equals ten percent (10%) of the proposed capacity of the public charter school for the school year at issue, then no additional index cards shall be marked with the letter "B," even if such person selected would otherwise be eligible for the founders preference. (4-11-06)

f. After all index cards have been selected for each grade, then the index cards shall be sorted for each grade level in accordance with the following procedure. All index cards with the letter "A" shall be sorted first, based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "B," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "C," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "D," based on the chronological order of the selection number written on each index card; followed, finally, by all index cards containing no letters, based on the chronological order of the selection number written on each index card. (4-11-06)

g. After the index cards have been drawn and sorted for all grade levels, the names shall be transferred by grade level, and in such order as preferences apply, to the final selection list. (4-11-06)

08. Final Selection List. The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. (4-11-06)

09. Notification and Acceptance Process. (4-11-06)

a. With respect to students selected for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send an offer letter to the parent, guardian, or other person who submitted a written request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent, or guardian, and returned to the public charter school by the date designated in such offer letter by the public charter school. (4-11-06)

b. With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send a letter to the parent,

guardian, or other person who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. (4-11-06)

c. If a parent, guardian, or other person receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

d. If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

10. Subsequent School Years. The final selection list for a given school year shall not roll over to the next subsequent school year. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. (4-11-06)

204. (RESERVED)

205. REVIEW OF PETITIONS.

01. If Denied, Petitioners May Appeal. (4-11-06)

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states or explains the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. (4-11-06)

b. Petitions submitted to a local board of trustees of a school district or the public charter school commission may be appealed. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. (3-20-14)

206. -- 299. (RESERVED)

300. PUBLIC CHARTER SCHOOL RESPONSIBILITIES.

01. General. The governing board of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all public charter school operational and educational activities. In addition, the governing board of a public charter school shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. (3-20-14)

02. Compliance with Terms of Performance Certificate. The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with the terms and conditions of the performance certificate approved executed in accordance with Section 33-5205B(1), Idaho Code. (3-20-14)

03. Annual Reports. The governing board of a public charter school must submit an annual audit of the fiscal operations as required in Section 33-5206(7), Idaho Code. An authorized chartering entity may reasonably request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its performance certificate. (3-28-18)

04. Operational Issues. The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the public charter school is not operating in compliance with the terms and conditions of its performance certificate. Thereafter, the governing board of the public charter school shall also be responsible for advising its authorized chartering entity with follow-up information

as to when, and how, such operational issues are finally resolved and corrected. (3-20-14)

05. Articles of Incorporation and Bylaws. The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity of any revisions or amendments to the articles of incorporation or bylaws. (3-28-18)

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate. (3-20-14)

302. CHARTER REVISIONS.

The governing board of a public charter school may reasonably request revisions to an approved charter or performance certificate, as authorized by Section 33-5206(8), Idaho Code. (3-20-14)

01. Request for Revision of Charter or Performance Certificate. The governing board of a public charter school that desires to revise its charter or performance certificate must submit a written request and the proposed revisions to the public charter school's authorized chartering entity. (3-28-18)

02. Procedure for Reviewing Request for Charter or Performance Certificate Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of the written request and proposed revisions in which to issue its decision on the request for charter or performance certificate revision. The authorized chartering entity shall consider the request for charter or performance certificate revision at its next regular meeting following the date of receipt of the written request and proposed revisions, provided that the request and proposed revisions are submitted no fewer than thirty (30) days in advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter or performance certificate revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter or performance certificate revision. (3-28-18)

03. Approval of Proposed Charter or Performance Certificate Revision. If the authorized chartering entity approves the proposed charter or performance certificate revision, a copy of such revision shall be executed by each of the parties to the charter or performance certificate and shall be treated as either a supplement to, or amendment of, the final approved charter or performance certificate, whatever the case may be. (3-28-18)

04. Denial of Proposed Charter or Performance Certificate Revision. If the proposed revision is denied, then the authorized chartering entity must prepare a written notice of its decision denying the request for charter or performance certificate revision. The decision to deny a request for a charter or performance certificate revision shall contain all of the reasons for the decision. The public charter school may appeal the decision denying the request for charter or performance certificate revision to the Board. The provisions of Section 403 of these rules shall govern the appeal. (3-20-14)

303. REVOCATION.

An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section 303 of this rule if a public charter school has failed to meet any of the specific, written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified. (3-20-14)

01. Written Notice of Intention to Revoke Charter. The authorized chartering entity must provide the public charter school with reasonable notice of the authorized chartering entity's intent to revoke the charter, which shall be in writing and must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. (4-11-06)

02. Public Hearing. The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than

sixty (60) days after the date the notice was sent by the authorized chartering entity. (4-11-06)

a. Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. (4-11-06)

b. The public hearing shall be conducted by the authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. (4-11-06)

03. Charter Revocation. If the authorized chartering entity determines that the public charter school has failed to meet any of the specific written conditions for necessary improvements established pursuant to the provisions of Section 33-520B(1), Idaho Code, by the dates specified, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. (3-28-18)

304. -- 399. (RESERVED)

400. APPEALS.

The following actions relating to public charter schools may be appealed to the Department or to the Board, as applicable, in accordance with the procedures described in Sections 401 through 403 of these rules: (4-11-06)

01. Denial of New Petition. The denial by an authorized chartering entity of a petition to form a new public charter school, as authorized by Section 33-5207, Idaho Code. (4-11-06)

02. Approval of Conversion Petition. The approval of a petition by an authorized chartering entity to convert a traditional public school to a public charter school over the objection of thirty (30) or more persons or employees of the local school district, as authorized by Section 33-5207, Idaho Code. (4-11-06)

03. Denial of Charter or Performance Certificate Revision. The denial by the authorized chartering entity of a public charter school of a request to revise a charter or performance certificate, as authorized by Section 33-5206(8), Idaho Code. (3-20-14)

04. Revocation. A decision of an authorized chartering entity to revoke a charter, as authorized by Section 33-5209C(7), Idaho Code. (3-20-14)

401. APPEAL TO THE DEPARTMENT OF A DECISION RELATING TO THE FORMATION OF A NEW OR CONVERSION PUBLIC CHARTER SCHOOL.

The denial of a petition to form a new public charter school, or the granting of a petition to form a conversion public charter school over the objection of thirty (30) or more persons or employees of the local school district, may be appealed to the Department, as provided by Section 33-5207(1), Idaho Code. The following procedures shall govern such appeals. (4-11-06)

01. Submission of Appeal. To institute an appeal, the petitioners/appellants shall submit a notice of appeal and request for public hearing in writing to the Department that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the decision of the authorized chartering entity that reviewed the petition. A copy of the notice of appeal shall be submitted to the authorized chartering entity, and with the Board. In addition, contemporaneous with the submission of the notice of appeal, the petitioners/appellants shall also submit to the Department two (2) copies of the complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: (4-11-06)

a. The name, address, and telephone number of the person or persons submitting the appeal on behalf of petitioners/appellants, as well as the authorized chartering entity that issued the decision being appealed. (4-11-06)

b. The complete petition that was submitted to the authorized chartering entity, including any amendments thereto or supplements thereof. (4-11-06)

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the petition was considered or discussed. (4-11-06)

d. All correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition from the date the original petition was submitted until the date the authorized chartering entity issued the decision being appealed. (4-11-06)

e. The written decision provided by the authorized chartering entity to the petitioner. A copy of such notice of appeal shall be submitted to the authorized chartering entity whose decision is being appealed, and to the Board. (4-11-06)

02. Hearing Officer. The Department shall hire a hearing officer to review the action of the authorized chartering entity and to conduct a public hearing, pursuant to Section 67-5242, Idaho Code. The Department shall forward to the hearing officer one (1) copy of the record provided by petitioners/appellants and attached to the notice of appeal within ten (10) business days of receipt. (4-11-06)

03. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the hearing officer receives the notice of appeal and request for a public hearing submitted to the Department. (4-11-06)

04. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time, place, and nature of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-11-06)

05. Prehearing Conference. The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (4-11-06)

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. Any party may request that a transcript of the recorded hearing be prepared, at the expense of the party requesting such transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (4-11-06)

07. Hearing Officer's Recommendation. The hearing officer shall issue a recommendation within ten (10) days after the date of the hearing. The recommendation shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the hearing officer; and a recommendation affirming or reversing the decision of the authorized chartering entity. The hearing officer shall mail or deliver a copy of the recommendation to the Department, the petitioners/appellants, and the authorized chartering entity. (4-11-06)

08. Review of Recommendation by Authorized Chartering Entity. (4-11-06)

a. The authorized chartering entity shall hold a public hearing to review the recommendation of the hearing officer within thirty (30) days of receipt of the recommendation. (4-11-06)

b. Written notification of the scheduled public hearing shall be sent by the authorized chartering entity to the petitioners/appellants at least ten (10) days prior to the scheduled hearing date. (4-11-06)

c. The authorized chartering entity shall make a final decision to affirm or reverse its initial decision within ten (10) days after the date the public hearing is conducted. (4-11-06)

09. Reversal of Initial Decision. (4-11-06)

a. If the authorized chartering entity reverses its initial decision and denies the conversion of a traditional public school to a public charter school, then that decision is final and there shall be no further appeal. (4-11-06)

b. If the authorized chartering entity reverses its initial decision and approves the new public charter school, then the charter shall be granted and there shall be no further appeal. (4-11-06)

10. Affirmation of Initial Decision. (4-11-06)

a. If the authorized chartering entity affirms its initial decision to authorize the conversion of a traditional public school to a public charter school, then the charter shall be granted and there shall be no further appeal. (4-11-06)

b. If the authorized chartering entity affirms its initial decision and denies the grant of a new public charter school, then the petitioners/appellants may appeal such final decision further to the Board in accordance with the procedure described in Section 402 of these rules. (4-11-06)

402. APPEAL TO THE BOARD RELATING TO THE DENIAL OF A REQUEST TO FORM A NEW PUBLIC CHARTER SCHOOL.

The following procedures shall govern an appeal to the Board of the final decision of an authorized chartering entity relating to the denial of a petition to form a new public charter school. (4-11-06)

01. Submission of Appeal. The petitioners/appellants shall submit a notice of appeal in writing with the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within twenty-one (21) days from the date the authorized chartering entity issues its final decision to deny a petition to form a new public charter school. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the petitioners/appellants shall also submit to the Board, two (2) copies of a complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order, must be tabbed and indexed, and must contain, at a minimum, the following documents: (4-11-06)

a. The complete record submitted to the Department, as provided in Subsection 401.01.a. through 401.01.e. of these rules. (4-11-06)

b. A transcript, prepared by a neutral person whose interests are not affiliated with a party to the appeal, of the recorded public hearing conducted by the hearing officer, as described in Subsection 401.06 of these rules. (4-11-06)

c. A copy of the hearing officer's recommendation. (4-11-06)

d. Copies of audio or video recordings, if any, and the minutes of the public hearing conducted by the authorized chartering entity to consider the recommendation of the hearing officer, as described in Subsection 401.08.a. through 401.08.c. of these rules. (4-11-06)

e. Copies of any additional correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition subsequent to the public hearing conducted by the Department. (4-11-06)

f. The final written decision provided by the authorized chartering entity to the petitioners/appellants. (4-11-06)

02. Public Hearing. A public hearing to review the final decision of the authorized chartering entity shall be conducted within a reasonable time from the date that the Board receives the notice of appeal, but not later than sixty (60) calendar days from such date. The public hearing shall be for the purpose of considering all of the materials in the record that were presented at prior proceedings. However, new evidence, testimony, documents, or

materials that were not previously considered at prior hearings on the matter may be accepted or considered, in the sole reasonable discretion of the Board, or of the charter appeal committee or public hearing officer, as described in Subsection 402.04 of this rule. (4-11-06)

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-11-06)

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (4-11-06)

05. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or appointed public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming or reversing the decision of the authorized chartering entity, or such other action recommended by the charter appeal committee or public hearing officer, such as remanding the matter back to the authorized chartering entity, or redirecting the petition to another authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. (4-11-06)

06. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the petitioner/appellant and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board or by a charter appeal committee, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The final decision and order of the Board shall be sent to both the petitioners/appellants and the authorized chartering entity, and will not be subject to reconsideration. With respect to such written decision, the Board may take any of the following actions: (4-11-06)

a. Approve the charter, if the Board determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the request. In the event the Board approves the charter, the charter shall operate under the jurisdiction of the Commission, as provided by Section 33-5207(6), Idaho Code. (4-11-06)

b. Remand the petition back to the authorized chartering entity for further consideration with directions or instructions relating to such further review. If the authorized chartering entity further considers the matter and again denies the petition, then that decision is final and there shall be no further appeal. (4-4-13)

c. Redirect the petition for consideration by the Commission, if the appeal is regarding a denial decision made by the board of trustees of a local school district. (4-4-13)

d. Deny the appeal submitted by the petitioners/appellants. (4-11-06)

403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR PERFORMANCE CERTIFICATE OR A CHARTER NON-RENEWAL OR REVOCATION DECISION. The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter non-renewal or revocation decision. (3-20-14)

01. Submission of Appeal. The public charter school shall submit a notice of appeal in writing to the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to non-renew or revoke a charter or to deny a charter or performance certificate revision. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the appellant charter school shall also submit to the Board one (1) hard copy and one (1) electronic copy of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: (3-20-14)

a. The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. (4-11-06)

b. Copies of all correspondence or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being appealed. (4-11-06)

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the matter on appeal was considered or discussed. (4-11-06)

d. The written decision provided by the authorized chartering entity to the appellant public charter school. (4-11-06)

02. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. (4-11-06)

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-11-06)

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (4-11-06)

05. Prehearing Conference. The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (4-11-06)

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (4-11-06)

07. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, or reversing the action or decision of the authorized chartering entity.

A copy of the recommended findings shall be mailed or delivered to all the parties. (4-11-06)

08. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: (4-11-06)

a. Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the non-renewal or revocation of the charter, or the request to revise the charter or performance certificate, or that the authorized chartering authority acted in an arbitrary manner in determining to non-renew or revoke the charter, or in denying the request to revise the charter or performance certificate. (3-20-14)

b. Deny the appeal filed by the appellants. (4-11-06)

404. EX PARTE COMMUNICATIONS.

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, no party to the appeal nor any representative of any such party to the appeal, nor any person or entity interested in such appeal, may communicate, directly or indirectly, regarding any substantive issue in the appeal with the Board or the charter appeal committee or any hearing officer appointed to hear or preside over the appeal hearing, except upon notice and opportunity for all parties to participate in the communication. (4-11-06)

405. -- 499. (RESERVED)

500. MISCELLANEOUS.

01. Definition of LEA. As used in Section 500 of these rules, the term “local education agency” or “LEA” means a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in the state, as such term is defined in the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, and as such term is further defined in 34 CFR 300.18. (4-11-06)

02. LEA Designations. Section 33-5203(7), Idaho Code, provides that the board of trustees of a school district may designate a public charter school it authorizes as an LEA, with the concurrence of the public charter school board of directors. In order to designate a public charter school as an LEA, the board of trustees of the school district must submit to the Department the following no later than February 1 in order for any such designation to be effective for the following school year: (3-20-14)

a. Verification that the board of trustees is the authorized chartering entity of the public charter school it wishes to designate as an LEA. (3-20-14)

b. Written documentation that the board of trustees of the school district and the board of trustees of the public charter school have agreed to the designation of the public charter school as an LEA. Such documentation shall be signed by representatives of both parties. (3-20-14)

501. -- 999. (RESERVED)

**IDAPA 08
TITLE 02
CHAPTER 05**

08.02.05 – RULES GOVERNING PAY FOR SUCCESS CONTRACTING

000. LEGAL AUTHORITY.

In accordance with Sections 33-125B(8), Idaho Code, the State Board of Education may promulgate rules implementing the provisions of Section 33-125B, Idaho Code. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.02.05, “Rules Governing Pay for Success Contracting.” (3-29-17)

02. Scope. These rules constitute the requirements for Pay for Success Contracting. (3-29-17)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the Board. (3-29-17)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the rules of the Board or in the Board Governing Policies and Procedures, all administrative appeals allowed by law will be conducted as provided herein. (3-29-17)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (3-29-17)

005. OFFICE INFORMATION -- OFFICE HOURS AND CONTACT INFORMATION.

The offices of the Department are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (3-29-17)

01. Street Address. The offices of the Department are located at 650 W. State Street, Boise, Idaho. (3-29-17)

0027. 02. Mailing Address. The mailing address of the Department is P.O. Box 83720, Boise, Idaho 83720- (3-29-17)

03. Web Address. The electronic address of the Department of Education is <https://sde.idaho.gov>. (3-29-17)

04. Telephone Number. The telephone number of the Department is (208) 332-6800. (3-29-17)

05. Facsimile. The facsimile number of the Department is (208) 334-2228. (3-29-17)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-29-17)

007. -- 009. (RESERVED)

010. DEFINITIONS.

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

02. Department. The State Department of Education. (3-29-17)

03. Oversight Committee. Committee formed pursuant to Section 33-125B(6), Idaho Code, to evaluate pay for success contracting proposals. (3-29-17)

04. Pay for Success Contracting. Contracting for services with private entities whereby services are

reimbursed based on the achievement of outcomes pursuant to Section 33-125B, Idaho Code. (3-29-17)

011. -- 100. (RESERVED)

101. INITIATING CONTRACTING.

01. Two Routes for Initiating Contracting. Contracting may be initiated through two (2) separate routes. (3-29-17)

a. Initiated by Department. The Department may issues a request for information upon identification of a need for a service; or (3-29-17)

b. Initiated by interested party. An interested party or service provider may identify a need for service and submit a proposal to the State Department of Education. Proposals must include a letter of intent to participate in a pay for success contract and must include the following information: (3-29-17)

i. Special service(s) that the service provider will provide; (3-29-17)

ii. How the services will enhance student academic achievement; (3-29-17)

iii. Source of education funding from which savings will be realized; (3-29-17)

iv. Identity of one (1) or more qualified external evaluators; (3-29-17)

v. Provide external evaluator's qualifications and expertise as required pursuant to Section 33-125B, Idaho Code; and (3-29-17)

vi. Identify local education agencies (LEA) that have expressed interest in participating in the service and documentation that LEA meets the requirements pursuant to Section 33-125B, Idaho Code. (3-29-17)

02. Additional Information. As part of the review process, the oversight committee may request additional information. (3-29-17)

03. Format. Proposals may be submitted in electronic or hard copy format. (3-29-17)

102. PROPOSAL EVALUATION.

01. Timeline. (3-29-17)

a. Within five (5) business days of receipt of the complete proposal, the proposal will be forwarded electronically to the oversight committee. (3-29-17)

b. After receiving the proposal, the oversight committee will determine if additional information is needed to evaluate the proposal. The oversight committee will request additional information from the interested party within thirty (30) days of receiving the initial proposal. (3-29-17)

c. The interested party shall respond to a request for additional information within fifteen (15) days of receiving the request. (3-29-17)

i. Requests for additional response time may be granted at the discretion of the oversight committee. (3-29-17)

ii. If the interested party fails to respond or additional information is not received within the specified time, the oversight committee may reject the proposal without further consideration. (3-29-17)

d. The oversight committee shall hold an initial meeting either in-person, telephonically, or by other means, to consider the merits of the proposal within forty-five (45) days of receipt of the proposal. (3-29-17)

e. The oversight committee chair shall inform the Department designated staff person, and the interested party, of its decision on a proposal within ninety (90) days of receipt of the complete proposal. (3-29-17)

02. Oversight Committee Action. Following consideration of a proposal, the oversight committee shall take one (1) of the following actions: (3-29-17)

a. Require the Department to start negotiations with the interested party; (3-29-17)

b. Require the Department to start negotiations with the interested party, subject to conditions imposed by the oversight committee; (3-29-17)

c. Reject the proposal with suggestions for improving the proposal prior to considering resubmittal, or; (3-29-17)

d. Reject the proposal. (3-29-17)

03. Proposal Resubmittal. Proposals that have been rejected may be resubmitted for consideration if amendments have been made to the proposal or additional information has been added for the oversight committee's consideration. (3-29-17)

103. CONTRACT NEGOTIATIONS.

01. Negotiation Teams. Contract negotiations for accepted proposals shall involve the following individuals: (3-29-17)

a. The Department chief budget officer or designee; (3-29-17)

b. One (1) or more individuals with a background in complex financial instruments; (3-29-17)

c. One (1) or more individuals with a background in complex financial instruments, at least one (1) of which will be from the state treasurer's office or the state endowment fund board; (3-29-17)

d. One (1) or more financial officers from a local education agency. In the event a local education agency has already been identified to participate in the proposal, the chief financial officer for the local education agency shall participate. (3-29-17)

e. One (1) or more individuals representing the interested party. (3-29-17)

02. Negotiation Timeline. Negotiations shall be completed within ninety (90) days unless extended by the oversight committee. To be extended by the oversight committee, the committee must determine that all parties have made a best effort to negotiate the contract. (3-29-17)

03. Negotiation Updates. The Department shall provide regular contract negotiation updates to the oversight committee, not less than every thirty (30) days during contract negotiations. Failure to negotiate mutually agreeable terms within ninety (90) days shall be reported to the oversight committee. The committee may extend the timeline for negotiations, appoint a new negotiations team or terminate the negotiations. (3-29-17)

04. Time Tracking. State employees' time spent on the evaluation or negotiation shall be tracked and recorded on a per proposal basis and be provided to the oversight committee, or to other interested parties upon request. (3-29-17)

104. CONTRACT MONITORING.

Contract monitoring reports will be submitted to the oversight committee by the Department in a timeline and format established by the oversight committee. (3-29-17)

105. -- 999. (RESERVED)

**IDAPA 08
TITLE 03
CHAPTER 01**

08.03.01 – RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION

000. LEGAL AUTHORITY.

The Public Charter School Commission, in accordance with Section 33-5213, Idaho Code, adopts these rules. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.03.01, “Rules of the Public Charter School Commission.” (4-11-06)

02. Scope. These rules provide the requirements for the governance and administration of the Public Charter School Commission. (4-11-06)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations of the rules of this chapter, if any, are available at the offices of the Public Charter School Commission. (4-11-06)

003. ADMINISTRATIVE APPEALS.

The provisions of Title 33, Chapter 52, Idaho Code, and IDAPA 08.02.04, “Rules Governing Public Charter Schools,” govern appeals from decisions of the Commission. (4-11-06)

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (4-11-06)

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

The Public Charter School Commission is located in the offices of the Idaho State Board of Education. (4-11-06)

01. Office Hours. The Board offices are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (4-11-06)

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-11-06)

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-11-06)

04. Telephone Number. The telephone number of the Board is (208) 334-2270. (4-11-06)

05. Facsimile. The Board’s FAX number is (208) 334-2632. (4-11-06)

06. Web Address. The electronic address of the Board of Education is <https://boardofed.idaho.gov>. (4-11-06)

006. PUBLIC RECORDS ACT COMPLIANCE.

Commission records are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-11-06)

007. -- 099. (RESERVED)

100. DEFINITIONS.

01. Board. The Idaho State Board of Education or its designee. (4-11-06)

02. Commission. The Public Charter School Commission or its designee. (4-11-06)

101. -- 199. (RESERVED)

200. PROCEEDINGS BEFORE THE COMMISSION.

Proceedings or other matters before the Commission or its duly appointed hearing officer are governed by the provisions of Title 33, Chapter 52, Idaho Code, IDAPA 08.02.04, and these rules. (4-11-06)

201. COMMUNICATIONS WITH COMMISSION.

All written communications and documents intended to be part of an official record of decision in any proceeding before the Commission of any hearing officer appointed by the Commission must be filed with the individual designated by the agency. Unless otherwise provided by statute, rule, order, or notice, documents are considered filed when received by the officer designated to receive them, not when mailed or otherwise transmitted. (4-11-06)

202. COMPUTATIONS OF TIME.

Whenever statute, these or other rules, order, or notice requires an act be done within a certain number of days of a given day, the given day is not included in the count, but the last day of the period so computed is included in the count. If the day the act must be done is Saturday, Sunday, or a legal holiday, the act may be done on the first day following that is not a Saturday, Sunday, or legal holiday. (4-11-06)

203. BOARD MEETINGS -- MAJORITY -- CHAIRMAN.

01. Majority. A simple majority of members voting shall be sufficient to decide any matter pending before the Commission. (4-11-06)

02. Chairman Vote. The chairman shall vote only when necessary to break a tie. (4-11-06)

204. -- 299. (RESERVED)

300. COMPLIANCE MONITORING.

The Commission shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate, including compliance with all applicable federal and state education standards and all applicable state and federal laws, rules and regulations, and policies. See IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 301.01. Commission staff will make a site visit and verify the existence of the following documents after the charter is granted: (3-20-14)

01. Certificate of Occupancy. Certificate of Occupancy for the public charter school site; (4-4-13)

02. Building Inspection Reports. A copy of the inspection report from the Idaho Division of Building Safety; (4-4-13)

03. Fire Marshal Report. A fire marshal report for the public charter school site; (4-11-06)

04. Insurance Binders. Copies of insurance binders from a company authorized to do business in Idaho for a liability policy, a property loss policy, worker's compensation insurance, unemployment insurance, and health insurance; (4-4-13)

05. Health District Inspection Certificate. A copy of the health certificate issued by the health district for each site at which students will be taught; (4-11-06)

06. Instructional Staff Certification. Proof of certification for all instructional staff employed by the public charter school; and (4-4-13)

301. REQUIRED DOCUMENTS PUBLIC CHARTER SCHOOLS AUTHORIZED BY THE COMMISSION MUST SUBMIT TO THE COMMISSION.

01. Lease Agreement. If school structures are leased, a copy of the lease agreement for the building(s) at which students will be taught; (4-4-13)

02. Financial Statements. Audited financial statements from an independent auditor must be submitted as required by Section 33-701, Idaho Code; (4-4-13)

03. Accreditation Reports. A copy of any notice from the public charter school's accrediting body that the public charter school has failed to meet or maintain full accreditation requirements must be submitted within five (5) business days of receipt; (3-28-18)

04. Complaints. Copies of any complaints filed against the public charter school including, but not limited to, lawsuits and complaints filed with the Idaho Professional Standards Commission relating to school employees, within five (5) business days of receipt; (4-4-13)

05. Board Members. A current list of all public charter school board members, including full name, address, telephone number, and resume must be on file with the Commission within five (5) business days of any changes; (4-4-13)

06. Proof of Compliance. Additional proof of compliance as reasonably requested by the Commission. (4-4-13)

302. -- 399. (RESERVED)

400. PETITION -- PUBLIC HEARING.

A public hearing, as required by Section 33-5205(2), Idaho Code, for consideration of a petition on its merits shall be conducted by the Commission. Citizens intending to testify must notify the Commission the day of the meeting. Public comment will be limited to ten (10) minutes, unless otherwise determined by the Commission chairman. (3-20-14)

401. -- 999. (RESERVED)

**IDAPA 08
TITLE 04
CHAPTER 01**

08.04.01 – RULES OF THE IDAHO DIGITAL LEARNING ACADEMY

000. LEGAL AUTHORITY.

In accordance with Sections 33-5504, 33-5505, and 33-5507, Idaho Code, the Board is authorized to promulgate rules implementing the provisions of Title 33, Chapter 55, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 08.04.01, “Rules of the Idaho Digital Learning Academy.” (3-30-07)

02. Scope. These rules provide the requirements for the governance and administration of the Idaho Digital Learning Academy’s Board of Directors. (3-30-07)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these Rules. (3-30-07)

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by the Idaho Administrative Procedure Act, Title 67, Chapter 52 and IDAPA 04.01.11, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-30-07)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by Reference to these rules. (3-30-07)

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

The Idaho Digital Learning Academy is located in Boise, Idaho. (3-30-07)

01. Office Hours. The Idaho Digital Learning Academy’s offices are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (3-30-07)

02. Street Address. The offices of the Idaho Digital Learning Academy are located at 300 West Fort Street, Boise, ID 83702. (3-28-18)

03. Mailing Address. The mailing address of the Idaho Digital Learning Academy is 300 West Fort Street, Boise, ID 83702. (3-28-18)

04. Telephone Number. The telephone number of the Idaho Digital Learning Academy is 208-342-0207. (3-30-07)

05. Facsimile. The facsimile number of the Idaho Digital Learning Academy is 208-342-1031. (3-30-07)

06. Website and E-Mail Address. The electronic address of the Idaho Digital Learning Academy is <http://www.idahodigitallearning.org/> and the e-mail address is idla@IdahoDigitalLearning.org. (3-30-07)

006. PUBLIC RECORDS ACT COMPLIANCE.

The Idaho Digital Learning Academy’s records are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-30-07)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Idaho Digital Learning Academy (IDLA). Idaho Digital Learning Academy is defined in Section 33-5505(3) and means an online educational program organized as a fully accredited secondary school with statewide

capabilities for delivering accredited courses to Idaho resident students at no cost to the student unless the student enrolls in additional courses beyond full-time enrollment. Participation in the academy by public school students shall be in compliance with academy and local school district policies. Adult learners and out-of-state students shall pay tuition commensurate with rates established by the state board with the advice of the superintendent, and such funds shall be included in the budget and audit of the academy's fiscal records. (3-28-18)

02. Acceptable Use Policy (AUP). An Acceptable Use Policy is a policy that governs behavior in a computer or online environment. An Acceptable Use Policy outlines appropriate and inappropriate behavior, including specific examples of inappropriate behavior as well as the consequences of violating the policy. Acceptable use guidelines include, but are not limited to, guidelines pertaining to the use of profanity or threatening language, copyright violations, revealing personal information (either their own or someone else's), disrupting the use of a school network, or importation of sexually explicit, drug-related, and other offensive materials into the course environment. (3-30-07)

03. Designee. In the absence of the IDLA Director, a representative from the IDLA Board of Directors or an administrative staff member may be appointed by the IDLA Board of Directors to serve as designee. (3-30-07)

011. -- 100. (RESERVED)

101. ACCREDITATION. IDLA must maintain accreditation by an organization recognized by the State Board of Education. (3-28-18)

102. ACCOUNTABILITY.

01. Exams. Each IDLA course will require the student to take a comprehensive final exam at an approved site under proctored conditions. (3-28-18)

02. Student Work and Ethical Conduct. (3-30-07)

a. IDLA will inform students in writing of the consequences of plagiarism. The consequences for plagiarism are set out in the IDLA student handbook which is made available online at all times and is communicated to each student and parent prior to the beginning of each class. IDLA will investigate suspected cases of plagiarism and inform parents, students, and the local school district when a suspected case arises. (3-28-18)

b. Acceptable use and behavior in a distance-learning environment is determined by local school district's policies IDLA students and parents will be informed by the IDLA AUP specifically governing behavior in an online school. IDLA will provide a copy of the IDLA AUP to the Idaho State Board of Education in the IDLA Annual Report. (3-28-18)

c. In a case of violation of the acceptable use policy or other disciplinary issues, IDLA will notify the local school district. The local school district is responsible for the appropriate disciplinary action. IDLA should be notified by the local school district of any disciplinary action resulting from a student's participation in an IDLA course. (3-30-07)

d. The IDLA Director or designee reserves the right to deny disruptive students access to IDLA courses in the future or remove them from participating in an existing course. Appeals to the denial or removal from a course may be made in writing to the IDLA Board of Directors discussing the circumstances for removal or denial. The IDLA Board of Directors will review the appeal and hold a special board meeting to allow the student an opportunity to speak to the issue. The IDLA Board of Directors will issue a final decision within ten (10) days of the board meeting. (3-28-18)

03. Teacher Interaction. IDLA faculty are required to contact students within the first twenty-four (24) hours of class. Contact includes phone, e-mail, web conferencing, or other technological means. IDLA is required to submit periodic progress reports and final course percentages for individual students' grades which are then reported to the local school district for transcription to the student's academic record. (3-28-18)

103. FEES.

The IDLA fee schedule will be provided to the Idaho State Board of Education in the IDLA Annual Report to the State Board of Education. (3-30-07)

104. -- 999. (RESERVED)

**IDAPA 08
TITLE 05
CHAPTER 01**

08.05.01 – RULES GOVERNING SEED AND PLANT CERTIFICATION

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Title 22, Chapter 15, Idaho Code. (4-6-15)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 08.05.01, “Rules Governing Seed and Plant Certification,” by Idaho Crop Improvement Association, Inc. (4-6-15)

02. Scope. These rules govern the standards and procedures for the certification of seeds, tubers, plants, or plant parts in the state of Idaho by the Regents of the University of Idaho through the Idaho Agricultural Experiment Station in the College of Agricultural and Life Sciences and its duly authorized agent, Idaho Crop Improvement Association, Inc., as an agent and instrumentality and servant of the State. (4-6-15)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rule of this chapter will be made available at the Idaho State Board of Education office. (4-6-15)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Board under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (4-6-15)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this rule. The Idaho Seed and Plant Certification Standards are adopted by the Idaho Crop Improvement Association. Copies of the following documents may be obtained from the Idaho Crop Improvement Association, Inc. website at <http://www.idahocrop.com/index.aspx>, or from the Idaho Crop Improvement Association, Inc. office. (4-6-15)

01. Prohibited Noxious Seed in Idaho Certified Seed. The standard Prohibited Noxious Seed in Idaho Certified Seed of the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

02. Seed Certification Fee & Application Schedule. The Seed Certification Fee and Application Schedule of the Idaho Crop Improvement Association, Inc., as last modified and approved on July 11, 2014. (4-6-15)

03. Idaho Alfalfa Certification Standards. The Idaho Alfalfa Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

04. Idaho Bean Certification Standards. The Idaho Bean Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)

05. Idaho Red Clover Certification Standards. The Idaho Red Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

06. Idaho Chickpea Certification Standards. The Idaho Chickpea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

07. Idaho Grain Certification Standards. The Idaho Grain Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on February 28, 2017. (3-28-18)

08. Idaho Grass Certification Standards. The Idaho Grass Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)

09. Idaho Rapeseed/Canola/Mustard Certification Standards. The Idaho Rapeseed/Canola/Mustard Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 26, 2016. (3-29-17)

10. Idaho Potato Certification Standards. The Idaho Potato Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on January 16, 2018. (4-11-19)

11. Pre-Variety Germplasm Certification Regulations in Idaho. The Pre-variety Germplasm Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

12. Idaho Lentil Certification Standards. The Idaho Lentil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

13. Idaho Blue Flax Certification Standards. The Idaho Blue Flax Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

14. Idaho Milkvech Certification Standards. The Idaho Milkvech Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

15. Idaho Pea Certification Standards. The Idaho Pea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

16. Idaho Sanfoin Certification Standards. The Idaho Sanfoin Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

17. Idaho Birdsfoot Trefoil Certification Standards. The Idaho Birdsfoot Trefoil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

18. Idaho White Clover Certification Standards. The Idaho White Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

19. Idaho Penstemon Certification Standards. The Idaho Penstemon Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)

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

01. Physical Addresses. The main office of the Idaho Crop Improvement Association, Inc. is located at 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices are located at: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (4-6-15)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays. These office hours apply to each branch. (4-6-15)

03. Mailing Addresses. The mailing address for the Idaho Crop Improvement Association, Inc. main office is 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices mailing addresses are: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (4-6-15)

04. Telephone Numbers. The telephone number for the Idaho Crop Improvement Association, Inc. main office is (208) 884-8225. The telephone numbers for the branches are: Idaho Falls (208) 522-9198; Dalton Gardens (208) 762-5300; Twin Falls (208) 733-2468. (4-6-15)

05. Fax Numbers. The fax number for the Idaho Crop Improvement Association Inc. main office is (208) 884-4201. The fax numbers for the branches are: Idaho Falls (208) 529-4358; Dalton Gardens (208) 762-5335;

Twin Falls (208) 733-4803.

(4-6-15)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Idaho Crop Improvement Association Inc., and the State Law Library. (4-6-15)

007. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Title 22, Chapter 15, Idaho Code, the definitions found in the standards of the Idaho Crop Improvement Association, Inc., incorporated by reference in Section 004 of these rules, apply to these rules. (4-6-15)

011. (RESERVED)

012. APPLICABILITY.

These rules apply to all seeds, tubers, plants, or plant parts located in, imported into, or exported from the state of Idaho that have an application for certification properly filed with a seed certification agency. (4-6-15)

013. OFFICIAL IN CHARGE OF CERTIFIED SEED.

The Idaho Legislature, at its 35th Session, enacted Senate Bill No. 107, the "Seed and Plant Certification Act of 1959". This Act designated the Regents of the University of Idaho, through the Agricultural Experiment Station of the College of Agriculture, as the seed certifying agency for the State. This Act further gives the Regents of the University of Idaho the authority to designate an agent to administer and conduct the certification program. The Regents of the University of Idaho on April 27, 1959, appointed the Idaho Crop Improvement Association, Inc., as its duly authorized agent to administer and conduct seed certification in Idaho as provided by the Seed and Plant Certification Act of 1959. (4-6-15)

014. SEED CERTIFICATION FEE AND APPLICATION SCHEDULE.

The Idaho Crop Improvement Association may assess a fee to defray the costs of seed testing and administration of the seed certification program. Fees are established through the Idaho Crop Improvement Association, Inc. (4-6-15)

015. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION

DOCKET NO. 08-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 33-118, 33-130, 33-1205, 33-2402 and 2403, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

This rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 08, rules of the State Board of Education:

IDAPA 08

- 08.01.11, *Registration of Postsecondary Educational Institutions and Proprietary Schools:*
 - Subsection 200.07 Registration Fee, Postsecondary Educational Institutions
 - Subsection 300.06 Registration Fee, Proprietary Schools
- 08.02.02, *Rules Governing Uniformity:*
 - Section 066 Fees, Educator Certification
 - Subsection 075.03, Fingerprinting and Background Investigation Checks
- 08.02.03, *Rules Governing Thoroughness:*
 - Section 128, Curricular Materials Selection and Online Course Approval

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, [Vol. 19-6SE, pages 1172-1183](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 33-118, 33-130, 33-1205, 33-2402 and 2403, Idaho Code, Idaho Code.

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 08.01.11

- Annual registration fee for initial registration or renewal of registration is equal to one-half of one percent (.5%) of the gross Idaho tuition revenue of the institution during the previous tax reporting year (Jan 1 - Dec 31), but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000).

IDAPA 08.02.02.066

- Initial Certificate - \$75
- Renewal Certificate - \$75
- Alternate Route Authorization - \$100
- Additions or Changes to an Existing Certificate - \$25
- Replace an Existing Certificate - \$10

IDAPA 08.02.02, Background Check/Fingerprinting

- Fingerprinting Processing Fee, All Applicants (excluding volunteers) - \$28.25
- Fingerprinting Processing Fee, Volunteers - \$26.25

IDAPA 08.02.03

- Curricular Materials Review submission fee \$60 or an amount equal to the retail price of each curricular material.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

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

**IDAPA 08
TITLE 01
CHAPTER 11**

**08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS**

(BREAK IN CONTINUITY OF SECTIONS)

200. REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS.

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

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

a. Unless exempted by statute or this rule, as provided herein, a postsecondary educational institution which maintains a presence within the state of Idaho, or that operates or purports to operate from a location within the state of Idaho, shall register and hold a valid certificate of registration issued by the Board. An institution shall not conduct, provide, offer, or sell a course or courses of study, or degree unless registered. (3-29-12)

b. Registration shall be for the period beginning on the date a certificate of registration is issued and continue through June 30 of the next succeeding year. A registered postsecondary educational institution must renew its certificate of registration annually, and renewal of registration is not automatic. (3-29-10)

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

d. A new or start-up entity that desires to operate as a postsecondary educational institution in Idaho but which is not yet accredited by an accreditation organization recognized by the Board must register and operate as a proprietary school until accreditation is obtained. A new or start-up entity that is accredited and authorized to operate in another state, and which desires to operate as a postsecondary educational institution in Idaho offering degrees for which specialized program accreditation is required, may be granted approval to operate subject to the successful attainment of such program accreditation within the regular program accreditation cycle required by the accreditor. (3-29-12)

e. There is no inherent or private right to grant degrees in Idaho. That authority belongs only to institutions properly authorized to operate in Idaho under these rules. (3-29-12)

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

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

b. Idaho presence shall include medical/osteopathic education clinical instruction occurring in the state of Idaho as part of a course of study leading to a degree pursuant to a formal multi-year arrangement or agreement between such clinic and an institution providing medical/osteopathic education instruction where eleven (11) or more students of the institution are physically present simultaneously at a single field site. (4-11-15)

- c.** Idaho presence shall not include: (3-29-12)
- i.** Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 200.03.a. of this rule; (3-29-12)
 - ii.** Medical education instruction occurring in the state of Idaho by an institution pursuant to a medical education program funded by the state of Idaho; (3-29-12)
 - iii.** Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or (3-29-12)
 - iv.** Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. (3-29-12)

04. Institutions Exempt from Registration. (4-9-09)

a. Idaho public postsecondary educational institutions. Section 33-2402(1), Idaho Code, provides that a public institution supported primarily by taxation from either the state of Idaho or a local source in Idaho shall not be required to register. (4-9-09)

b. Certain Idaho private, nonprofit, postsecondary educational institutions. A private, nonprofit, postsecondary educational institution that is already established and operational as of the date when this rule first went into effect (Brigham Young University - Idaho, College of Idaho, Northwest Nazarene University, New Saint Andrews College, Boise Bible College), and located within the state of Idaho, and that is accredited by an accreditation organization recognized by the Board, as set forth in Section 100 of this rule, shall not be required to register. A private, nonprofit, institution is located within the state of Idaho only if it has been lawfully organized in the state of Idaho and its principal place of business is located within the state of Idaho. An institution exempt under this subsection may voluntarily register by following the procedure for registration provided herein. (3-29-12)

c. Idaho religious institutions. A religious institution located within the state of Idaho that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that grants only religious degrees shall not be required to register. (3-29-12)

05. Institutions That Must Register. Unless exempt under Subsection 200.04 of this rule, any entity that desires to operate as a postsecondary educational institution in Idaho must register as provided herein. (3-29-12)

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

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

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

active operations until approval of registration is received. (3-29-12)

09. Information Required. (3-29-12)

a. An application must include all the information requested on the application form, as well as the following information: (3-29-12)

i. Copy of most recent accreditation letter showing the period of approval; (4-7-11)

ii. Current list of chief officers - e.g. president, board chair, chief academic officer, chief fiscal officer; (4-9-09)

iii. Enrollment data for current and past two (2) years; (4-9-09)

iv. Copy of annual audited financial statement, or other financial instrument as established by the executive director; (4-11-15)

v. Any additional information that the Board may request. (4-9-09)

vi. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, and other relevant information to assist students in making an informed decision to enroll. Institutions offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. Institutions with courses or courses of study that have not been fully accredited must disclose to prospective students in these courses or courses of study the accreditation status of the program and anticipated date for full accreditation. (4-4-13)

b. The Board may, in connection with a renewal of registration, request that an institution only submit information that documents changes from the previous year, provided that the institution certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 200.07 of this rule, shall remain applicable. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

300. REGISTRATION OF PROPRIETARY SCHOOLS.

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

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

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

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

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

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

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

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

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

ii. Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or (3-29-12)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**IDAPA 08
TITLE 02
CHAPTER 02**

08.02.02 – RULES GOVERNING UNIFORMITY

(BREAK IN CONTINUITY OF SECTIONS)

066. FEES.

The state Department of Education shall maintain a record of all certificates issued, showing names, dates of issue and renewal, and if revoked, the date thereof and the reason therefor. A nonrefundable fee shall accompany each application for a prekindergarten through grade twelve (12) certificate, alternate certificate, change in certificate or replacement as follows: (3-16-04)

- 01. Initial Certificate.** All types, issued for five (5) years -- seventy-five dollars (\$75). (3-16-04)
- 02. Renewal Certificate.** All types, issued for five (5) years -- seventy-five dollars (\$75). (3-16-04)
- 03. Alternate Route Authorization.** All types, issued for one (1) year -- one hundred dollars (\$100). (3-16-04)
- 04. Additions or Changes During the Life of an Existing Certificate.** Twenty-five dollars (\$25). (3-16-04)
- 05. To Replace an Existing Certificate.** Ten dollars (\$10). (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

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

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

- 01. Definitions.** (4-9-09)

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

b. Background Investigation Check. The submission of a completed applicant fingerprint card or scan by an authorized entity submitted under an enacted state statute/local ordinance or federal law, approved by the Attorney General of the United States allowing a search of the state and federal criminal history indices for non-criminal justice purposes including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances. (3-28-18)

c. Background Investigation Check Result. The response to a state and federal background investigation check initiated by a fingerprint submission from an authorized entity for non-criminal justice purposes. Results are returned to the submitting authorized entity by the state criminal history repository (Idaho State Police Bureau of Criminal Investigation). (3-28-18)

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

- e. Candidate. An individual attending a postsecondary program. (4-9-09)
- f. Contractor. An agency, company/business, or individual that has signed a contract or agreement to provide services to an LEA and private or parochial school. (4-9-09)
- g. Employee. A person who is hired for a wage, salary, fee, or payment to perform work for an employer. (3-28-18)
- h. Fingerprint Card or Scan. The process for obtaining impressions of an individual's fingerprint images, both ten (10) individual finger impressions rolled from nail to nail and slap or flat impressions taken simultaneously without rolling. Fingerprints may be recorded utilizing either an inked standard fingerprint card or using a livescan device. Standard fingerprint cards may also be scanned for submission to the state repository for background investigation check purposes. (3-28-18)
- i. Rejected Fingerprint Cards or Scans. A fingerprint card or scan that has been returned by the Idaho State Police Bureau of Criminal Identification or Federal Bureau of Investigation for poor quality prints. (3-28-18)
- j. Unsupervised Contact. Direct contact or interaction with students not under the direct supervision of an LEA employee in a K-12 setting. This includes contact or interaction with students in scheduled school activities that occur outside of the school or outside of normal school hours. (3-28-18)
- 02. Individuals Required to Complete a Background Investigation Check.** (3-28-18)
- a. All applicants for certificates; (3-28-18)
- b. Certificated and noncertificated employees; (3-28-18)
- c. Substitute teachers; (3-28-18)
- d. Contractors who have unsupervised contact with students in a public K-12 setting, including contractors who are providing student services; (3-28-18)
- e. Student teachers or any postsecondary candidates who have unsupervised contact with students in a public K-12 setting; (3-28-18)
- f. Volunteers who have unsupervised contact with students in a public K-12 setting; (3-28-18)
- g. Any individuals who have unsupervised contact with students in a public K-12 setting. (3-28-18)
- 03. Fee.** The SDE shall charge a fee for undergoing a background investigation check pursuant to Section 33-130, Idaho Code. (3-28-18)
- 04. Rejected Fingerprint Cards or Scans.** (4-9-09)
- a. When a fingerprint card has been rejected a new completed fingerprint card is required. (4-9-09)
- b. The rejected fingerprint card will be sent back to the originating LEA, private or parochial school, contractor, postsecondary program, or individual. (3-28-18)
- c. A new fingerprint card must be completed by a law enforcement agency to ensure legible fingerprints. Both the rejected fingerprint card and the new fingerprint card must be returned to the SDE within thirty (30) calendar days. (3-28-18)
- d. If the new fingerprint card and rejected fingerprint card are returned after thirty (30) calendar days, a fee, pursuant to Subsection 075.03 of these rules, is required to be paid. (3-28-18)

05. Secured Background Investigation Check Website. The SDE will maintain a background investigation check website listing the background investigation check results for review by the LEA, private or parochial school, contractor or postsecondary program. Each LEA, private or parochial school, contractor and postsecondary program will have access to the background investigation check secure site listing their employees, statewide substitute teacher list, and student teacher list. (3-28-18)

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

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

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

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

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

a. When an employee returns to any LEA, private or parochial school, or contractor after a break in service, a new background investigation check must be completed pursuant to Section 33-130, Idaho Code. (3-28-18)

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

09. Postsecondary. (4-9-09)

a. The postsecondary program will submit a completed fingerprint card or scan for all candidates who are applying for unsupervised contact with students in a public K-12 setting including student teaching, internships, or other types of candidate training. (4-11-19)

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

IDAPA 08
TITLE 02
CHAPTER 03

08.02.03 – RULES GOVERNING THOROUGHNESS

(BREAK IN CONTINUITY OF SECTIONS)

128. CURRICULAR MATERIALS SELECTION AND ONLINE COURSE APPROVAL (SECTIONS 33-118; 33-118A, IDAHO CODE).

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. Committee appointments shall consist of not less than ten (10) total members from the following stakeholder groups: certified Idaho classroom teachers, Idaho public school administrators, Idaho higher education officials, parents, trustees, local board of education members, members of the Division of Career Technical Education, and State Department of Education personnel. The Executive Secretary will be an employee of the State Department of Education and will be a voting member of the committee. The State Department of Education shall charge publishers submission fees of sixty dollars (\$60) or equal to the retail price of each, whichever is greater, to defray the costs incurred in the curricular material review and adoption process. (3-27-13)

01. Subject Areas. Curricular materials are adopted by the State Board of Education for a period of six (6) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, physical education, handwriting, literature, driver education, limited English proficiency. (3-25-16)

02. Multiple Adoptions. Multiple adoptions are Made in Each Subject Area. (4-5-00)

03. Bids. Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. (4-5-00)

04. Depository. The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. (4-5-00)

05. Local Policies. School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. (4-5-00)

06. Online Course Review and Approval Process. The State Department of Education shall administer the review and approval of online course providers and courses. Reviewers shall be certified Idaho classroom teachers. Online course providers are approved for a period of four (4) years. The State Department of Education shall charge online course providers submission fees based on the number of courses offered, not to exceed the actual costs incurred in the online course and course provider review and approval process. (3-20-14)

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 08-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-4303, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 79-84](#).

IDAPA 08.01.13 sets out the eligibility and application requirements for the Opportunity Scholarship, as authorized by Section 33-4303, Idaho Code. Senate Bill 1279 (2018), amended Section 33-4303, Idaho Code, authorizing the State Board of Education to award up to 20% of the funds appropriated for the Opportunity Scholarship to individuals with 24 or more postsecondary credits.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

Tracie Bent, Chief Planning and Policy Officer
Office of the State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Ph: (208) 332-1582
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 08-0113-1901

This rulemaking is being republished in its entirety.
Previously made amendments are shown in **red plain text (non-italicized)**.

010. DEFINITIONS.

01. **Adult Learner.** An individual who: ()
- a. Is not currently enrolled in a postsecondary institution accredited by a body recognized by the State Board of Education; ()
- b. Has not attended more than two (2) courses at a postsecondary institution at any time during the twenty-four (24) month period immediately prior to application for the Opportunity Scholarship; and ()
- c. Has earned twenty-four (24) or more transferable credits from a postsecondary institution accredited by a body recognized by the State Board of Education. ()
02. **Grade Point Average (GPA).** The average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. (3-20-14)
03. **Graduation Plan.** A plan developed by the postsecondary student in consultation with the postsecondary institution that identifies the certificate or degree the student is pursuing, the course and credit requirements necessary for earning the certificate or degree, the application of previously earned credits and credits granted through prior learning assessments, the estimated number of terms remaining to complete the certificate or degree and the proposed courses to be taken during each term. ()

011. -- 100. (RESERVED)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (3-28-18)

01. **Undergraduate Student.** An eligible student must be pursuing their first undergraduate certificate or degree from an institution accredited by a body recognized by the State Board of Education. A student may have received multiple certificates or degrees as part of the natural progression towards a recognized baccalaureate degree program. A student who is enrolled in a graduate program, but who has not yet earned a baccalaureate degree, is not eligible for an opportunity scholarship. A student enrolled in an undergraduate program is eligible for consideration for an opportunity scholarship, even if some of the student's courses are at the graduate level. ()
02. **Academic Eligibility.** To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (3-28-18)
- a. A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of two point seven (2.7) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or ()
- b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or (3-28-18)
- c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of two point seven (2.7) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. ()
- d. An Adult Learner must have a minimum cumulative grade point average of two point five (2.5) or higher on a scale of four point zero (4.0). Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) decimal place. ()

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

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

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

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

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

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

iii. Upon review of the student's academic transcript(s), the student cannot complete their degree/certificate in the major they have identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. (3-28-18)

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Initial Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than the deadline set by the executive director each year if an Adult Learner and not later than March 1 for all other students. Adult Learner applications will be processed and awarded on a monthly basis up to the application deadline. An applicant without electronic capabilities may request a waiver of this requirement and, if granted, submit an application on the form established by the Board through the United States Postal Service that must be postmarked not later than the applicable application deadline. All applicants must complete and submit the FAFSA on or prior to the application deadline. ()

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

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the executive director or designee. (3-28-18)

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (3-28-18)

a. Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. (3-28-18)

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules. (3-28-18)

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

a. The Board will establish annually the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the opportunity scholarship program. (3-28-18)

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

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

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

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

iv. The eligible maximum award amount for Adult Learners enrolled in less than twenty-four (24) credit hours or its equivalent in an academic year attending an eligible four-year postsecondary institution, or less than eighteen (18) credit hours or its equivalent in an academic year attending an eligible two-year institution, will be prorated as follows: ()

(1) Enrolled in six (6) to eight (8) credits or its equivalent per term - fifty percent (50%) of the maximum; ()

(2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term - seventy-five percent (75%) of the maximum; and ()

(3) Enrolled in twelve (12) or more credits or its equivalent per term - one hundred percent (100%) of the maximum. ()

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

(BREAK IN CONTINUITY OF SECTIONS)

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules: (3-28-18)

01. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. **Notwithstanding these provisions, a scholarship recipient who has received the Opportunity Scholarship as an Adult Learner may retain eligibility by completing twelve (12) or more credit hours or its equivalent each academic year the student received the Opportunity Scholarship award. All students may use the summer term to meet the annual credit accumulation requirements.** ()

02. Satisfactory Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of **two point seven (2.7)** on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award **at the institutions the student attended while receiving the scholarship,** and must be maintaining satisfactory academic progress, consistent within federal financial aid regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. **Students receiving an Opportunity Scholarship award as an Adult Learner must make satisfactory progress on their graduation plan established with the eligible institution at the time of admission.** ()

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

04. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. (3-28-18)

303. -- 399. (RESERVED)

400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Statements of Continuing Eligibility. An eligible Idaho postsecondary educational institution participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of each academic year. Such statements must include verification that the scholarship recipient is still enrolled, attending **part-time, if an Adult Learner, and full-time for all other scholarship recipients,** maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. ()

02. Other Requirements. An eligible Idaho postsecondary educational institution must: (4-2-08)

a. Be eligible to participate in Federal Title IV financial aid programs, and must supply documentation to the Board verifying this eligibility, and prompt notification regarding any changes in this status; (4-2-08)

b. Have the necessary administrative computing capability to administer the Opportunity Scholarship Program on its campus, and electronically report student data records to the Board; (4-2-08)

c. Provide data on student enrollment and federal, state, and private financial aid for students to the Board, and (4-2-08)

d. Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho law and these rules related to the program. (4-2-08)

03. Adult Learner Evaluation. Upon admission, scholarship recipients receiving an award as an Adult Learner will be administered prior learning assessments to determine eligibility for credit for prior learning, including credit for prior experiential learning. As part of this process an eligible institution will work with the student to develop a graduation plan for the program they are entering that includes estimated completion dates.

()

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.01 – RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 08-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107 and 33-116, 33-320, 33-1212A, 33-1614, and 33-1616, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

During the 2019 Legislative Session the Idaho Legislature enacted legislation that removed the reference to the grade range performance metrics from Section 33-320, Idaho Code, and tied the required annual progress reporting to the new school district accountability report cards. These statutory changes conflict with the language in IDAPA 08.02.02.801 making it necessary to remove the language identifying the grade range performance metrics from Administrative Code. In addition to these changes, as part of the rule review process required by the Red Tape Reduction Act two additional sections were identified that are now obsolete and are being removed.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 85-92](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 08-0201-1902**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

651. -- 800. (RESERVED)

801. CONTINUOUS IMPROVEMENT PLANNING AND TRAINING.

In accordance with Section 33-320, Idaho Code, every local education agency (LEA) shall develop and maintain a strategic plan that includes a continuous improvement process focused on improving student performance of the LEA. (3-25-16)

01. Definitions. (4-11-15)

a. Administrator. As used in this section administrator means the superintendent of the school district or administrator of a charter school. (4-11-15)

b. Board. Board means the Idaho State Board of Education. (4-11-15)

c. Executive Director. Executive Director means the Executive Director of the Idaho State Board of Education. (4-11-15)

d. Local Education Agency Board. As used in this section local education agency or LEA Board means the board of trustees of a school district or board of directors of a charter school. (4-11-15)

e. Local Education Agency. As used in this section local education agency (LEA) means public school district or charter school.. (4-11-15)

f. Continuous Improvement Plan. As used in this section, a continuous improvement plan focuses on annual measurable outcomes and the analysis of data to assess and prioritize needs and measure outcomes. (3-25-16)

02. Reimbursement Eligibility. LEA's may request reimbursement for training conducted pursuant to Section 33-320, Idaho Code. To be eligible for reimbursement the training and trainer must meet the following criteria: (4-11-15)

a. Training. The training must cover one (1) or more the follow subjects: (4-11-15)

i. Continuous improvement planning training. Continuous improvement planning training must include, but is not limited to, training on continuous process improvement, use and analysis of data, and methods for setting measurable targets based on student outcomes; (3-25-16)

ii. School finance; (4-11-15)

iii. Administrator evaluations, including, but not limited to, specifics on the Idaho state evaluation requirements and framework; (4-11-15)

iv. Ethics; or (4-11-15)

v. Governance. (4-11-15)

- b.** Documentation of Training. Training records shall be kept by the LEA showing: (4-11-15)

 - i. The length of the training in hours; (4-11-15)
 - ii. The subject(s) covered by the training; (4-11-15)
 - iii. The participants included in the training or validation of attendance of specific participants as applicable; and (4-11-15)
 - iv. The curriculum, agenda, or other documentation detailing the content of the training. (4-11-15)
- c.** Training Format. A majority of the LEA board and the administrator must collaborate on the continuous improvement plan and engage students, parents, educators and the community, as applicable to the training subject and format. The training facilitator must be physically present or have the ability to interact directly with all training participants. Sufficient time must be provided during the sessions to give the participants an opportunity to discuss issues specific to the LEA. (3-25-16)
- d.** Trainer Qualifications. The trainer must meet the following qualifications: (4-11-15)

 - i. May not be a current employee of the LEA; (4-11-15)
 - ii. Must have two (2) years of documented training experience in the area of training being provided for the LEA; and (4-11-15)
 - iii. Must provide at least three (3) recommendations from individuals who participated in past training sessions conducted by the trainer. These recommendations must be included with the application to determine the trainer's qualifications. (4-11-15)
- e.** Qualified Trainers. Trainer qualifications will be determined by the Office of the State Board of Education. The State Board of Education will maintain a list of qualified trainers and the subject areas in which they are qualified. (4-11-15)

 - i. An individual or company may submit an application for consideration to be placed on the list of qualified trainers or the LEA may submit the application on behalf of the individual or company. (4-11-15)
 - ii. Applications must be submitted to the Executive Director in a format established by the Executive Director. (4-11-15)
 - iii. Trainer qualifications must be determined prior to the LEA's request for reimbursement of training costs. (4-11-15)
- 03. Audit.** If requested, LEA's must provide training documentation or other information to verify eligibility prior to reimbursement. (4-11-15)
- 04. Annual Literacy Intervention Plan.** Annually each LEA will report on the effectiveness of the LEA's literacy intervention plan. Plans and reports are due by October 1 of each year. Plans shall include at a minimum: (3-22-17)

 - a.** Projected literacy plan budget for the current school year; (3-22-17)
 - b.** Metrics chosen by the LEA to determine effectiveness of the literacy plan and annual performance benchmarks; and (3-22-17)
 - c.** Performance on metrics chosen to show program effectiveness for at a minimum the previous academic year. (3-22-17)

05. College and Career Advising and Mentoring Plans. Annually each LEA shall submit their college and career advising and mentoring plan to the State Board of Education by October 1. (3-22-17)

a. Plans shall include required metrics and at least one (1) or more additional metrics chosen by the LEA to determine effectiveness of the college and career advising and mentoring plan, baseline data and annual benchmarks. (3-22-17)

b. Performance on all effectiveness metrics shall be reported annually in the LEA's Continuous Improvement Plan annual report. (3-22-17)

c. At a minimum effectiveness metrics must include: (3-22-17)

i. Percent of learning plans reviewed annually by grade level, in grade nine (9) through grade twelve (12); (3-22-17)

ii. Number and percent of students who go on to some form of postsecondary education one (1) and two (2) years after graduation; and (3-22-17)

iii. Number of students graduating high school with a career technical certificate or an associate degree. (3-22-17)

IDAPA 08 – STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 08-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-136, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Section 33-136, Idaho Code, directs the State Board of Education to adopt rules supporting suicide awareness and prevention training for public school personnel. A new section of 08.02.02 details the critical components that shall be included in any suicide awareness and prevention training offered to public school personnel.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10 pages 93-94](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Eric Studebaker, Director of Student Engagement and Safety, at (208) 332-6961, or estudebaker@sde.idaho.gov.

Dated this 26th Day of November, 2019.

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

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 08-0202-1901

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized)**.

112. SUICIDE PREVENTION IN SCHOOLS.

As schools offer annual professional development for school staff related to preventing, intervening, and responding to suicide, the content shall include: ()

01. Prevention. School philosophy regarding school climate and the promotion of protective factors; data on suicide for the region or state, or both; risk and protective factors for students; suicide myths and facts; and how to develop community partnerships. ()

02. Intervention. How to utilize safe and appropriate language and messaging when addressing students; warning signs of suicide ideation for students; local and school-based protocols for aiding a suicidal individual; local protocols for seeking help for self and students; identification of appropriate mental health services and community resources for referring students and their families; information about state statutes on responsibility, liability, and duty to warn; confidentiality issues; and the need to ask others directly if they are suicidal. ()

03. Postvention. Evidence-based protocol for responding to a student/staff suicide. ()

113. -- 119. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1903

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 08-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-2009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 95-97](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 08-0202-1903**

This rulemaking is being republished in its entirety.

**No changes have been made to the Pending rule, however, previously made
amendments are shown in red plain text (non-italicized).**

240. JUVENILE DETENTION CENTERS.

01. Instructional Program. Every public school district in the state within which is located a public or private detention facility housing juvenile offenders pursuant to court order will provide an instructional program. The instructional program will: (4-1-97)

a. Provide course work that meets the minimum requirements of Idaho State Board of Education Rules. (4-1-97)

b. Provide instruction in core **subject areas**. ()

c. Include the following components, where appropriate: self-concept improvement, social adjustment, physical fitness/personal health, vocational/occupational, adult living skills, and counseling. (4-1-97)

d. Provide instruction and guidance that may lead to a high school diploma. School districts will accept such instruction for purposes of issuing credit when the detention center certifies to the school that the appropriate work is completed. (4-1-97)

e. Be directed by an instructor who holds an appropriate, valid certificate. (4-1-97)

f. Be provided to each student not later than two (2) school days after admission and continue until the student is released from the detention center. (4-1-97)

g. Be provided to students who have attained “school age” as defined in Idaho Code 33-201. (4-1-97)

h. Be provided for a minimum of four (4) hours during each school day. (4-1-97)

i. Be based on the needs and abilities of each student. The resident school district will provide pertinent status information as requested by the Juvenile Detention Center. (4-1-97)

j. Be coordinated with the instructional program at the school the student attends, where appropriate. (4-1-97)

k. Be provided in a facility that is adequate for instruction and study. (4-1-97)

02. State Funding of Instructional Programs at Juvenile Detention Centers. (4-1-97)

a. Every student housed in a juvenile detention center pursuant to court order and participating in an instructional program provided by a public school district will be counted as an exceptional child by the district for purposes of state reimbursement. (4-1-97)

b. Public school districts that educate pupils placed by Idaho court order in juvenile detention centers will be eligible for an allowance equivalent to the previous year’s certified local annual tuition rate per pupil. The district allowance will be in addition to support unit funding and included in the district apportionment payment. (4-1-97)

c. To qualify for state funding of instructional programs at Juvenile Detention Centers, school districts must apply for such funding on forms provided by the State Department of Education. Applications are subject to the review and approval of the State Superintendent of Public Instruction. School districts will submit attendance and enrollment reports as required by the State Superintendent of Public Instruction. Juvenile Detention Centers will submit reports to the local school district as required. (4-1-97)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 08-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-118, 33-1612, and 33-2211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Each career technical education program has content standards that are developed cooperatively with Idaho educators and Idaho industry partners. Prior to 2016, these standards were standalone documents updated and maintained by the Division of Career Technical Education. To be consistent with the academic content standards, during the 2016 rulemaking process the Division started the process of bringing the career technical education content standards forward for incorporation into Administrative Code.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 98 - 101](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 08-0203-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

004. INCORPORATION BY REFERENCE.

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

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

- a.** Arts and Humanities Categories: (3-24-17)
 - i. Dance, as revised and adopted on August 11, 2016; (3-24-17)
 - ii. Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii. Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv. Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v. Theater, as revised and adopted on August 11, 2016; (3-24-17)
 - vi. Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
 - vii. World languages, as revised and adopted on August 11, 2016. (3-24-17)
- b.** Computer Science, adopted on November 28, 2016. (3-24-17)
- c.** Driver Education, as revised and adopted on August 10, 2017. (3-28-18)
- d.** English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e.** Health, as revised and adopted on August 11, 2016. (3-24-17)
- f.** Information and Communication Technology, as revised and adopted on August 10, 2017. (3-28-18)
- g.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h.** Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i.** Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j.** Science, as revised and adopted on August 10, 2017. (3-28-18)
- k.** Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l.** College and Career Readiness Competencies adopted on June 15, 2017. (3-28-18)

- m. Career Technical Education Categories: (3-29-17)
 - i. Agricultural and Natural Resources, as revised and adopted on August 29, 2019. ()
 - ii. Business and Marketing Education, as revised and adopted on August 29, 2019. ()
 - iii. Engineering and Technology Education, as revised and adopted on August 29, 2019. ()
 - iv. Health Sciences, as adopted on August 29, 2019. ()
 - v. Family and Consumer Sciences, as revised and adopted on August 16, 2018. (4-11-19)
 - vi. Skilled and Technical Sciences, as revised and adopted on August 29, 2019. ()
 - vii. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)
- 02. The English Language Development (ELD) Standards.** The World-Class Instructional Design and Assessment (WIDA) 2012 English Language Development (ELD) Standards as adopted by the State Board of Education on August 16, 2012. Copies of the document can be found on the WIDA website at www.wida.us/standards/eld.aspx. (4-4-13)
- 03. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards.** The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)
- 04. The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors.** Achievement Level Descriptors as adopted by the State Board of Education on April 14, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)
- 05. The Idaho Content Standards Core Content Connectors.** The Idaho Content Standards Core Content Connectors as adopted by the State Board of Education. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. ()
 - a. English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-28-18)
 - b. Mathematics, as adopted by the State Board of Education on August 10, 2017. (3-28-18)
 - c. Science, as adopted by the State Board of Education on June 19, 2019. ()
- 06. The Idaho Alternate Assessment Achievement Standards.** Alternate Assessment Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)
- 07. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-2-08)
- 08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-2-08)
- 09. The Idaho Special Education Manual.** The Idaho Special Education Manual as adopted by the State Board of Education on October 17, 2018. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-11-19)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 08-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-133, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 102-103](#).

Section 33-133, Idaho Code requires any new data elements that are added to the state longitudinal data system to be added through the negotiated rulemaking process. This rulemaking adds chronic absenteeism to the state longitudinal data system. Chronic Absenteeism has been historically collected and reported directly to the US Department of Education by the school districts. The US Department of Education has changed how this required data element is reported by the states necessitating this change.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0201-1901

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized)**.

115. DATA COLLECTION.

The State Department of Education will collect the required information from participating school files for state and federal reporting and decision-making. The enrollment collection will contain information about the enrollment of the student attributes such as unique student identifier, active special education, Limited English Proficient (LEP), migrant, grade level, gender, race, and free/reduced lunch status. The collection will be done in accordance with the reporting requirements established in Chapter 10, Title 33, Idaho Code, or as needed for state and federal accountability purposes. Each participating school is required to verify and assure the accuracy of the data submitted in the files. ()

01. State Data System. In accordance with the provisions of Section 33-133, Idaho Code, the following data elements will be added to the state data system: (3-28-18)

a. Grade Point Average (GPA); and (3-28-18)

b. Chronic Absenteeism. ()

IDAPA 08 – STATE BOARD OF EDUCATION
08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS
DOCKET NO. 08-0204-1901
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 08-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-5203, 33-5209A, 33-5209B, 33-5209C, and 33-5210, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 104-105](#).

Pursuant to Section 33-5208B, Idaho Code, a chartering entity may “nonrenew or grant renewal” to a charter school. This rule will add language to the charter renewal and performance certificate review process to clarify what happens to a charter school when an authorizing chartering entity chooses to not review their performance certificate and takes no action to renew or nonrenew a charter.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

Tracie Bent, Chief Planning and Policy Officer
Office of the State Board of Education
650 W. State Street
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Boise, Idaho 83720-0037
Ph: (208) 332-1582
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 08-0204-1901

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized)**.

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

01. Monitoring. Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate. ()

02. Performance Certificate Review. Pursuant to Section 33-5209B, Idaho Code, an authorized chartering entity may renew or nonrenew a charter for a term of five (5) years following the initial three-year term. Should a chartering entity take no action to renew or nonrenew the charter, and the charter school has met all of the existing performance certificate targets, the charter school shall be provisionally renewed until such time as the chartering entity takes action. The five-year term of the renewed charter shall be based on the provisional renewal date. ()

**IDAPA 11 – IDAHO STATE POLICE
FORENSIC SERVICES**

11.03.01– RULES GOVERNING ALCOHOL TESTING

DOCKET NO. 11-0301-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under docket no. 11-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-2901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November 6, 2019 Idaho Administrative Bulletin, [Vol. 19-11, pages 296-302](#).

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

No fiscal impact is created by these changes.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lab Director Matthew Gamette, phone (208) 884-7217, fax (208) 884-7290, e-mail matthew.gamette@isp.idaho.gov.

Dated this 13th day of December, 2019.

Charlie Spencer
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Rules Review Officer
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 11-0301-1901**

**This rulemaking is being republished in its entirety.
Previously made amendments are shown in red plain text (non-italicized).**

002. INCORPORATION BY REFERENCE.

The following are incorporated by reference in this chapter of rules: (4-7-11)

01. Conforming Products List of Evidential Breath Measurement Devices (revised 11/2/2017).
This document is available on the Internet at <https://www.gpo.gov/fdsys/pkg/FR-2017-11-02/pdf/2017-23869.pdf>.
()

003. -- 009. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND ABBREVIATIONS.

- 01. Alcohol.** The chemical compounds of ethyl alcohol, methyl alcohol, or isopropyl alcohol. ()
- 02. Approved Vendor.** A source/provider/manufacture of an approved standard. ()
- 03. Blood Alcohol Analysis.** An analysis of blood to determine the concentration of alcohol present. ()
- 04. Breath Alcohol Analysis.** An analysis of breath to determine the concentration of alcohol present. ()
- 05. Breath Alcohol Test.** A breath sample or series of separate breath samples provided during a breath testing sequence(s). ()
- 06. Breath Alcohol Testing Sequence.** A sequence of events as determined by the Idaho State Police Forensic Services, which may be directed by the instrument, the Operator, or both, and may consist of air blanks, performance verification, internal standard checks, and breath samples. ()
- 07. Breath Testing Specialist (BTS).** An operator who has completed advanced training approved by the department and are certified to perform routine instrument maintenance, teach instrument operation skills, proctor proficiency tests for instrument Operators, and testifying as an expert on alcohol physiology and instrument function in court. ()
- 08. Calibration.** A set of laboratory operations which establish under specified conditions, the relationship between values indicated by a measuring instrument or measuring system, or values represented by a material, and the corresponding known values of a measurement. ()
- 09. Certificate of Analysis.** A certificate stating the standards used for performance verification have been tested and approved for use by the ISPFS or are manufactured by an ISO 17025:2005, 17025:2017, (or equivalent standard) vendor and are traceable to N.I.S.T. standards. ()
- 10. Certificate of Instrument Calibration.** A certificate stating that an individual breath alcohol testing instrument has been evaluated by the ISPFS and found to be suitable for forensic alcohol testing. The certificate bears the signature of the calibration analyst at Idaho State Police Forensic Services, and the effective date of the instrument approval. ()
- 11. Department.** The Idaho State Police. ()
- 12. Deprivation Period.** A minimum time period of fifteen (15) minutes immediately prior to evidentiary breath alcohol testing during which the subject/individual is not to be allowed to smoke, drink, or eat substances containing alcohol. ()

13. Evidentiary Test. A blood, breath, or urine test performed on a subject/individual for potential evidentiary or legal purposes. A distinction is made between evidentiary testing and non-quantitative screening/monitoring. ()

14. Idaho State Police Forensic Services (ISPFS). A division of the Idaho State Police. ISPFS is dedicated to providing forensic science services to the criminal justice system of Idaho. ISPFS is the administrative body for the alcohol testing programs in Idaho. ()

15. Laboratory. The place at which specialized devices, instruments and methods are used by trained personnel to measure the concentration of alcohol in samples of blood, vitreous humor, urine, or beverages for law enforcement purposes. ()

16. MIP/MIC. An abbreviation used to designate minor in possession or minor in consumption of alcohol. ()

17. Monitoring Period. A minimum time period of fifteen (15) minutes immediately prior to evidentiary breath alcohol testing. The monitoring period consists of a mandatory deprivation period and discretionary observation period. The observation period becomes mandatory if the numeric results from only a single breath sample are used. ()

18. Observation Period. The time period running concurrently with the deprivation period in which the officer(s) should be observing the subject/individual, and any belch/burp/vomit/regurgitation should be noted by the operator(s). The officer(s) should be in a position, either physically or remotely, to be able to use their available senses to detect the aforementioned events. ()

19. Operator Certification. The condition of having satisfied the training requirements for administering breath alcohol tests as established by the department. ()

20. Operator. An individual certified by the department as qualified by training to administer breath alcohol tests. ()

21. Performance Verification. A verification of the accuracy of the breath testing instrument utilizing a performance verification standard. Performance verification should be reported to three decimal places. While ISPFS uses the term performance verification, manufacturers and others may use a term such as “calibration check” or “simulator check.” ()

22. Performance Verification Standard. An ethyl alcohol standard used for field performance verifications. The standard is provided or approved, or both, by the department. ()

23. Proficiency Testing. A periodic analysis of blood, urine, or other liquid specimen(s) whose alcohol content is unknown to the testing laboratory, to evaluate the capability of that laboratory to perform accurate analysis for alcohol concentration. ()

24. Quality Control. An analysis of referenced samples whose alcohol content is known, which is performed with each batch of blood, vitreous humor, urine or beverage analysis to ensure that the laboratory’s determination of alcohol concentration is reproducible and accurate. ()

25. Urine Alcohol Analysis. An analysis of urine to determine the concentration of alcohol present. ()

011. – 012. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

014. REQUIREMENTS FOR PERFORMING BREATH ALCOHOL TESTING.

01. Instruments. Each breath testing instrument model shall be approved by the department and be listed in the “Conforming Products List of Evidential Breath Measurement Devices” published in the Federal Register by the United States Department of Transportation as incorporated by reference in Section 004 of this rule. The department will maintain a list of benchtop and portable instruments approved for evidentiary testing use in Idaho. Each individual breath testing instrument must be certified by the department. The department may, for cause, remove a specific instrument by serial number from evidential testing and suspend or withdraw certification thereof. (4-11-15)

02. Report. Each direct breath testing instrument shall report alcohol concentration as grams of alcohol per two hundred ten (210) liters of breath. (7-1-93)

03. Administration. Breath tests shall be administered in conformity with standards established by the department. Standards shall be developed for each type of breath testing instrument used in Idaho, and such standards shall be issued in the form of Idaho administrative rules, ISPFS analytical methods, and ISPFS standard operating procedures. (4-11-15)

a. The breath alcohol test must be administered by an operator (BTO or BTS) currently certified in the use of the instrument. (4-11-15)

b. Prior to administering the monitoring period, any foreign objects/materials which have the potential to enter the instrument/breath tube or may present a choking hazard (e.g. gum, chewing tobacco, food) should be removed. (4-11-15)

c. The operator shall administer a monitoring period prior to evidentiary testing. (4-11-15)

d. If mouth alcohol is suspected or indicated by the testing instrument, the operator shall begin another fifteen (15) minute monitoring period if repeating the testing sequence. If during the monitoring period the subject/individual vomits or regurgitates material from the stomach into the breath pathway, the monitoring period should start over. If there is doubt as to the events occurring during the monitoring period (e.g. silent burp, belch, vomit, regurgitation), the operator should evaluate the instrument results for any indication of mouth alcohol. (4-11-15)

e. A complete breath alcohol test includes two (2) valid breath samples taken during the testing procedure and preceded by air blanks. The breath samples performed with a portable breath testing instrument should be approximately two (2) minutes apart or more. If the subject/individual fails or refuses to provide **two (2) adequate samples** as requested by the operator, the test result of **a single adequate sample** shall be considered valid. If a single test result is used, then the **observation criteria of the monitoring period (observation period) is mandatory**. For hygienic reasons, the operator should use a new mouthpiece for each subject/individual tested. ()

f. The operator has the discretion to end breath testing, repeat breath testing, or request a blood draw at any point during the testing process as the circumstances require (including but not limited to lack of sample correlation, lack of subject participation or cooperation, subject is incoherent or incapable of following instructions, subject incapacitation). If a subject/individual fails or refuses to provide adequate samples as requested by the operator, the results obtained are still considered valid, provided the failure to supply the requested samples was the fault of the subject/individual and not the operator. ()

g. A third breath sample shall, when possible, be collected if the first two (2) results differ by more than 0.02 g/210L alcohol. Unless mouth alcohol is indicated or suspected, it is not necessary to repeat the monitoring period prior to obtaining a third breath sample. (4-11-15)

h. The results for breath samples should correlate within 0.02 g/210L alcohol to show consistent sample delivery, indicate the absence of RFI, and to indicate the absence of alcohol contamination in the subject/individual’s breath pathway as a contributing factor to the breath results. ()

i. In the event of an instrument failure, the operator should attempt to utilize another instrument or have blood drawn. (4-11-15)

04. Training. Each individual operator (BTO or BTS) shall demonstrate sufficient training to operate the instrument correctly. This shall be accomplished by successfully completing a training course approved by the department on each instrument model utilized by the operator. Operator certifications issued after July 1, 2013 are valid for two (2) calendar years from the course completion date. The department may revoke individual operator (BTO/BTS) certification for cause. (4-11-15)

05. Performance Verification Checks. Each breath testing instrument shall be checked for accuracy with a performance verification standard approved by the department. Performance verification checks shall be performed according to a procedure established by the department and be documented. The official time and date of the performance verification is the time and date recorded on the printout, or the time and date recorded in the log. (4-11-15)

a. A performance verification check shall occur within twenty-four (24) hours before or after an evidentiary test. The benchtop instrument requires a performance verification check as part of the testing sequence. On the portable instrument, multiple breath alcohol tests may be covered by a single performance verification. (4-11-15)

b. A performance verification on a portable instrument consists of two (2) samples at either the 0.08 or 0.20 level. Both samples must be run with the same performance verification standard. Three (3) attempts at obtaining an acceptable performance verification are allowed. Troubleshooting measures may be employed during this process. If the third performance verification fails, the instrument shall be taken out of service **and** not be returned to service until it has been calibrated and certified by ISPFS. ()

c. A performance verification acquired during a breath testing sequence on an approved benchtop instrument consists of one (1) sample at either the 0.08 or 0.20 level. A performance verification acquired outside the breath testing sequence on an approved benchtop instrument consists of two (2) samples at either the 0.08 or 0.20 level. Three (3) attempts at obtaining an acceptable performance verification are allowed. Troubleshooting measures may be employed during this process. If the third performance verification fails, the instrument must be taken out of service **and** not be returned to service until it has been calibrated and certified by ISPFS. ()

d. Performance verification checks must be within +/- 10% of the performance verification standard target value. (4-11-15)

e. A wet bath 0.08 performance verification standard should be replaced with fresh standard approximately every twenty-five (25) verifications or every calendar month, whichever comes first. For a closed loop, recirculating system (e.g. the Intox 5000 series), the 0.08 performance verification standard should be replaced with fresh standard approximately every one hundred (100) verifications or every calendar month, whichever comes first. (4-11-15)

f. A wet bath 0.20 performance verification standard should be replaced with fresh standard approximately every twenty-five (25) verifications. (4-11-15)

g. Dry gas performance verification standards may be used continuously without replacement until the canister is spent or the expiration date is reached. (4-11-15)

h. Performance verification standards should not be used beyond the expiration date. (4-11-15)

i. If Section 18-8004C, Idaho Code, (excessive alcohol concentration) is applicable, then a 0.20 performance verification must be run and results documented once per calendar month. Failure to perform a 0.20 performance verification will not invalidate any tests where Section 18-8004C, Idaho Code, is not applicable. A performance verification with a 0.20 standard does not need to be performed within twenty-four (24) hours of an evidentiary breath test in excess of 0.20 g/210L alcohol. (4-11-15)

j. Temperature of the wet bath simulator shall be between thirty-three point five degrees Celsius (33.5°C) and thirty-four point five degrees Celsius (34.5°C) in order for the performance verification results to be valid. (4-11-15)

- k. An agency may run additional performance verification standard levels at their discretion. (4-11-15)
- 06. Records.** Operators must document and retain test results (i.e. written log, printout, or electronic database). All records regarding maintenance and results shall be retained for three (3) years. ISPFS is not responsible for storage of documentation not generated by ISPFS. (4-11-15)
- 07. Deficiencies.** Failure to meet any of the conditions listed in Sections 013 and 014. Any laboratory or breath testing instrument may be disapproved for failure to meet one (1) or more of the requirements listed in Sections 013 and 014, and approval may be withheld until the deficiency is corrected. (4-7-11)
- 08. Standards.** Premixed alcohol simulator solutions shall be from an approved vendor and explicitly approved in writing by the department before distribution within Idaho. Dry gas standards from ISO 17025:2005 certified providers are explicitly approved by the department for use in Idaho without evaluation by the department. (4-11-15)
- 09. MIP/MIC.** The presence or absence of alcohol is the determining factor in the evidence in an MIP/MIC case. The instrumentation used in obtaining the breath sample is often the same instrumentation utilized for acquiring DUI evidence. The different standard of evidence requires different standards for the procedure. (4-11-15)
- a. Fifteen (15) minute monitoring period: The monitoring period is not required for the MIP/MIC procedure. (4-11-15)
- b. The breath alcohol test must be administered by an operator currently certified in the use of that instrument. (4-11-15)
- c. The instrument used must be certified by ISPFS. The instrument only needs to be initially certified by ISPFS. Initial certification shows that the instrument responds to alcohols and not to acetone. The instrument does not need to be checked regularly or periodically with any of the 0.08 or 0.20 standard. (4-11-15)
- d. The officer should have the individual being tested remove all loose foreign material from their mouth before testing. False teeth, partial plates, or bridges installed or prescribed by a dentist or physician do not need to be removed to obtain a valid test. The officer may allow the individual to briefly rinse their mouth out with water prior to the breath testing. Any alcohol containing material left in the mouth during the entirety of the breath test sampling could contribute to the results in the breath testing sequence. (4-11-15)
- e. A complete breath alcohol test includes two (2) valid breath samples taken from the subject and preceded by an air blank. The breath samples do not need to be consecutive samples from the same subject. The individual breath samples should be approximately two (2) minutes apart or more. A deficient or insufficient sample does not automatically invalidate a test sample. The operator should use a new mouthpiece for each individual. ()
- f. A third breath sample is required if the first two (2) results differ by more than 0.02 g/210L alcohol. In the event that all three (3) samples fall outside the 0.02 g/210L alcohol correlation, and testing indicates or the officer suspects mouth alcohol, they must administer a fifteen (15) minute monitoring period and then retest the subject. If mouth alcohol is not suspected or indicated by the test results, then the officer may retest the subject without administering a monitoring period. (4-11-15)
- g. The operator should manually log test results and/or retain printouts for possible use in court. (4-11-15)
- h. The instrument must not be in passive mode for the testing of subjects for evidential purposes. (4-11-15)
- i. The passive mode of testing using the Lifeloc FC20 or ASIII should be used for testing liquids or containers of liquid for the presence or absence of alcohol. (4-11-15)

IDAPA 11 – IDAHO STATE POLICE
11.08.01 – RULES GOVERNING HEMP TRANSPORTATION
DOCKET NO. 11-0801-2001 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 19, 2019.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 67-2901, 67-2901A, and 67-2901B, Idaho Code, and the Agricultural Improvement Act of 2018. Pub. Law No. 115-334, 132 Stat. 4490, and the Agricultural Act of 2014. Pub. Law No. 113-79, 128 Stat. 649.

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

Currently any substance that contains THC is illegal in Idaho. Recent changes in federal statute and rule define hemp as a product which may contain THC in certain amounts. This rule is needed to provide regulation for the interstate transportation of hemp through Idaho in order to protect the health, safety and welfare of the State of Idaho from the illicit drug trade, and to comply with existing federal statute and rule.

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

This rule is necessary to provide for recent changes in federal statute and rule to provide for interstate transportation of hemp, as defined and stated in [Executive Order 2019-13](#).

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Major Charlie Spencer, phone (208) 884-7203, fax (208) 884-7290, e-mail charlie.spencer@isp.idaho.gov.

Dated this 26th day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 11-0801-2001
(New Chapter)

11.08.01 – RULES GOVERNING HEMP TRANSPORTATION

000. LEGAL AUTHORITY.

01. General. The Director of the Idaho State Police has general rulemaking authority pursuant to Sections 67-2901, 67-2901A, and 67-2901B, Idaho Code. (11-19-19)T

02. Specific. By Executive Order No. 2019-13, the Director of the Idaho State Police was directed by the Governor to engage in rulemaking concerning hemp transportation through the state of Idaho, in light of the 2018 Farm Bill. (11-19-19)T

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.08.01, “Rules Governing Hemp Transportation,” IDAPA 11, Title 08, Chapter 01. (11-19-19)T

02. Scope. These rules concern the authorization, transportation, and enforcement for the transportation of hemp through the state of Idaho. Nothing within these rules shall authorize or be interpreted to legalize hemp, its byproducts, oils, or any other derivative prohibited by Idaho law. These rules only permit the interstate transportation of hemp consistent with the 2018 Farm Bill and its implementing regulations and Executive Order No. 2019-13. (11-19-19)T

002. – 009. (RESERVED)

010. DEFINITIONS.

01. 2014 Farm Bill. The Agricultural Act of 2014. Pub. Law No. 113-79, 128 Stat. 649 (11-19-19)T

02. 2018 Farm Bill. The Agricultural Improvement Act of 2018. Pub. Law No. 115-334, 132 Stat. 4490. (11-19-19)T

03. Bill of Lading. A shipping document containing the shipment contents, origination, including lot number, and destination of the farm product, the weight of the load, and the type of vehicle hauling or transporting the farm product. This form will be available on the Department website, <https://isp.idaho.gov/>. (11-19-19)T

04. Controlled Substance. As defined in Section 37-2701, Idaho Code. (11-19-19)T

05. Department. The Idaho State Police. (11-19-19)T

06. Driver Affirmation. A form provided by the Department signed by the driver of a vehicle hauling or transporting hemp stating that his or her vehicle contains no illicit drugs or variations of hemp not explicitly authorized by the 2014 Farm Bill or the 2018 Farm Bill. This form will be available on the Department website, <https://isp.idaho.gov/>. (11-19-19)T

07. Entity. As defined in 7 C.F.R. §990.1. (11-19-19)T

08. Farm Product. As defined in Section 22-701, Idaho Code. (11-19-19)T

09. Hemp. As defined in Section 7 U.S.C. §1639o and as measured in conformance with 7 CFR § 990.25. (11-19-19)T

10. Highway. As defined in Section 49-109, Idaho Code. (11-19-19)T

- 11. Immediate Vicinity of an Interstate Highway.** Within one mile or less of an interstate highway as needed to secure fuel or sustenance. (11-19-19)T
- 12. Indian Country.** As defined in Section 18 U.S.C. §1151, which has the same meaning as “territory of the Indian Tribe” as defined in 7 C.F.R. §990.1. (11-19-19)T
- 13. Indian Tribe.** As defined in Section 7 U.S.C. §1639o. (11-19-19)T
- 14. Inspection Report.** A report given to transporters upon completion of the hemp inspection at the port of entry or roadside confirming all required documents were presented and whether any samples of the hemp were taken. (11-19-19)T
- 15. Interstate Highway.** As defined in Section 40-110, Idaho Code. (11-19-19)T
- 16. Laboratory Report.** A laboratory results report which confirms each lot of hemp complies with the 2014 Farm Bill or the 2018 Farm Bill, as provided in 7 C.F.R. §§990.70(d) and 990.71(d), and which was produced by a DEA-registered laboratory. (11-19-19)T
- 17. Lawful-Hemp Verification.** A written verification that the hemp being transported was produced by a grower or producer duly-licensed by a state or Indian Tribe authorized to regulate hemp production under the 2014 Farm Bill or the 2018 Farm Bill or an equivalent USDA hemp producer license. The hemp production license for the producer of the hemp being transported, or a copy thereof, must be attached. This form will be available on the Department website, <https://isp.idaho.gov/>. (11-19-19)T
- 18. Lot.** As defined in 7 C.F.R. §990.1. (11-19-19)T
- 19. Marijuana.** A controlled substance as defined in Section 37-2701, Idaho Code. (11-19-19)T
- 20. Peace Officer.** As defined in Section 19-5101, Idaho Code. (11-19-19)T
- 21. Producer.** As defined in 7 C.F.R. §990.1. (11-19-19)T
- 22. Roadway.** As defined in Section 49-119, Idaho Code. (11-19-19)T
- 23. State.** As defined in Section 7 U.S.C. §1639o. (11-19-19)T
- 24. Transporter.** Any person, individual, partnership, corporation, association, grower, farmer, producer or any other entity engaged in hauling, transporting, delivering, or otherwise moving hemp in interstate commerce. (11-19-19)T
- 25. Vehicle.** As defined in Section 49-123, Idaho Code. (11-19-19)T

011. ABBREVIATIONS.

- 01. DEA.** The United States Drug Enforcement Administration. (11-19-19)T
- 02. ITD.** The Idaho Transportation Department. (11-19-19)T
- 03. ISDA.** The Idaho State Department of Agriculture. (11-19-19)T
- 04. USDA.** United States Department of Agriculture. (11-19-19)T

012. TRANSPORTATION.

- 01. First Port of Entry.** Any transporter or vehicle hauling hemp shall have the affirmative duty to stop at the first port of entry encountered in the state of Idaho to declare the presence of any hemp. No transporter or vehicle hauling hemp shall proceed past or travel through an established or temporary port of entry during its hours of

operation while transporting hemp without presenting the hemp for inspection. Should the first established or temporary port of entry be closed for operations, the transporter or vehicle must stop at the first available port of entry. (11-19-19)T

02. Required Documentation. Any transporter or vehicle hauling hemp shall carry and provide upon initial declaration at a port of entry, and upon request during any contact with a peace officer in the State of Idaho, the following documents: (11-19-19)T

- a. The Driver Affirmation; (11-19-19)T
- b. The Lawful-Hemp Verification; (11-19-19)T
- c. The Laboratory Report; and (11-19-19)T
- d. The Bill of Lading. (11-19-19)T

03. Vehicle Detention. Authorized ITD personnel at ports of entry and any peace officer may detain any vehicle transporting hemp and said detention shall be as long as reasonably necessary to effectuate inspection, sampling, and weighing of any hemp. (11-19-19)T

04. Transporter Consent to Inspection. Any transporter of hemp shall consent to inspection of the shipment to ensure that the hemp complies with the 2014 Farm Bill or the 2018 Farm Bill and 7 C.F.R. §990.1 et seq., and to randomly-selected, reasonably-sized samples, retained by the inspecting peace officer for further off-sight testing. Transporters shall not be entitled to compensation for these de minimis samples. (11-19-19)T

05. Sample Analysis. Samples shall be subjected to analysis in a manner consistent with the 2018 Farm Bill and 7 C.F.R. §990.1 et seq., to determine total delta-9 tetrahydrocannabinol (THC) including all tetrahydrocannabinolic acid (THCA). Hemp samples not in compliance with the 2018 Farm Bill and 7 C.F.R. §990.1 et seq., may subject the transporter to criminal penalties for marijuana under Chapter 27, Title 37, Idaho Code. (11-19-19)T

06. Shipment Weight. Weight for purposes of enforcement is deemed to be the declared weight on the transporter's bill of lading or the actual weight at time of inspection, whichever is greater. (11-19-19)T

07. Transporter Receipt of Inspection Report. Once the hemp inspection is complete at the port of entry or roadside, hemp transporters will be given an inspection report, which must be presented upon request during any contact with a peace officer in the state of Idaho subsequent to the initial declaration at the port of entry or roadside. (11-19-19)T

08. Permissible Roadways for Transport. Within the state of Idaho, hemp shall only be transported on interstate highways and in the immediate vicinity of an interstate highway. No hemp shall be transported on any other roadway or highway other than an interstate highway or in the immediate vicinity of an interstate highway except in the case of a detour authorized by ITD, as the transporter is directed by any peace officer, or to facilitate transport to or from Indian Country located wholly or partially within the state of Idaho to or from the closest interstate highway. (11-19-19)T

09. Transporter to Avoid Delay. Any transporter hauling hemp shall proceed through the state of Idaho with all due speed and avoid any unnecessary delay. (11-19-19)T

10. Law Enforcement. Except when hemp is transported as authorized by these rules, nothing in these rules shall inhibit or restrict any peace officer from enforcing to the fullest extent the laws of this state prohibiting marijuana under Chapter 27, Title 37, Idaho Code. (11-19-19)T

11. Failure to Comply. Failure to comply with any of these rules may subject a transporter to the laws of this state prohibiting marijuana under Chapter 27, Title 37, Idaho Code, including any and all criminal and civil penalties as authorized by law. (11-19-19)T

12. Enforcement of Rule. The Department may contract with ISDA and ITD as necessary to efficiently carry out these rules. (11-19-19)T

13. Rules Are Effective Upon Adoption. These rules apply prospectively and nothing within these rules shall authorize or be interpreted to apply to hemp transported in the state of Idaho prior to these rules being adopted. (11-19-19)T

013. – 999. (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. 13-0108-1903

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-408, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 178-179](#). This rule is a new section relative to Omnibus rules.

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

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau at (208) 334-2920.

Dated this 19th day of November, 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
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 13-0108-1903

This rulemaking is being republished in its entirety.

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

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 – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-408, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Except for changes made to conform with pending rules published in the November 20, 2019 Administrative Bulletin, there are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 180-181](#).

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

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 13-0108-1904

This rulemaking is being republished in its entirety.

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. ()

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 *will* apply 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.* ()

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. ()

c. For each species, the total number of outfitter allocated controlled hunt tags *will* be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 255.01.a., the resulting net number *will* 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. ()

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 *will* be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. ()

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 – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections, 36-104, 36-408, and 36-1102, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. In addition to changes made to conform with pending rules published in the November 20, 2019 Administrative Bulletin, the Commission adopted a minor change to the Section 102.02 catchline to reflect its added content. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 182-185](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jeff Knetter at (208) 334-2920.

Dated this 19th day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 13-0109-1902

**(Only those sections that have changed from the original proposed
text are printed in this Bulletin following this notice.)**

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

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. ()

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 *or in a depredation hunt when authorized by the Director.* ()

02. Youth General Hunts and Youth Passport Holder Hunt Eligibility. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. ()

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. ()

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. ()

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: ()

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. ()

ii. Landowner permission hunt *application eligibility is limited to persons who have* a signed permission slip, *which includes the landowner's name and address*, from a landowner who owns more than seventy-nine (79) acres in the hunt area. ()

iii. Youth-only controlled hunt *application eligibility is limited to persons* nine (9) to seventeen (17) years of age, provided they *will be* ten (10) to seventeen (17) years of age during the hunt for which they apply. *A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person* sixty-five (65) years of age or older with a senior *or disabled* combination *or* hunting license may apply *on a* first-come, first-served *basis for* leftover youth-only controlled hunt permits. ()

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, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. ()

i. Duplicate license numbers will not be accepted. *Applications from Holders of a Duplicate License (Type 501) will be processed only if they include original license numbers.* ()

ii. Only one (1) application per person or group will be accepted. Additional applications will result in all applicants being declared ineligible. ()

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. ()

iv. A “group application” is defined as two (2) hunters applying for the same controlled hunt on the same application. ()

v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. ()

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. ()

04. Tag Validation. ()

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. *Tag and permit validation means cutting out and completely removing* two (2) triangles on the border of *each* tag and permit, one (1) for the month and one (1) for the day of the kill. ()

b. The tag and permit must remain attached so long as the turkey is in transit or storage. ()

05. Tag Designation. ()

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. ()

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. ()

c. *The designation of the controlled hunt permit is not effective unless it is:* ()

i. *Made on a form prescribed by the Department and submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707.* ()

ii. *Completed before the first opening hunt date for the permit.* ()

d. Any child cannot be designated more than one (1) controlled hunt permit per calendar year. ()

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. ()

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. ()

01. Upland Game Bird Permit. ()

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 Upland Game Bird Permit in possession. ()

b. Permit Limit. Each Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. ()

c. Permit Validation. Any person harvesting a pheasant where a 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. ()

02. Youth Pheasant Season. The youth pheasant season is open only to *licensed* hunters ten (10) to seventeen (17) years of age and hunting passport holders eight (8) to seventeen (17) years of age, *provided such youth hunters/passport holders are* accompanied in the field at all times by *a licensed hunter* eighteen (18) years of age or older. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. UPLAND GAME BIRD METHODS OF TAKE.

- 01. Upland Game Birds.** No person *may* take upland game birds: ()
- a.** With a trap, snare, net, crossbow, or firearm. ()
 - i.** EXCEPT *upland game birds may be taken with* a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, *or muzzleloading shotgun; or* ()
 - ii.** EXCEPT, forest grouse only *may be taken with* a crossbow *or firearm.* ()
 - b.** From any watercraft. ()
 - c.** By the use or aid of any electronic call. ()
 - d.** By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. ()
 - e.** When hunting on *locations* where *an Upland Game Bird permit is required*, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ()
- 02. Wild Turkey.** In addition to the methods listed above, *no person may take* wild turkey: ()
- a.** With lead shot exceeding BB size. ()
 - b.** With steel shot exceeding T size. ()
 - c.** By the use of dogs, except during fall hunts. ()

(BREAK IN CONTINUITY OF SECTIONS)

500. OFFICIAL SHOOTING HOURS.

No person *may* take game birds outside of official shooting hours. ()

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. ()

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 Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ()

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 – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b)(6), 36-106(e)(5)(A), 36-701(d), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Except for changes made to conform with pending rules published in the November 20, 2019 Administrative Bulletin, there are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 186-187](#).

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

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 13-0110-1901

This rulemaking is being republished in its entirety.

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, POSSESSION, RELEASE, AND SALE OF LIVE WILDLIFE.

No person may import into, export from, sell, or transport, cause to be transported, *possess (hold in captivity), propagate*, or release within the state of Idaho any living wildlife, including eggs thereof, without having first obtained a permit from the Department. ()

01. Exemptions for Import, Export, Transport, Possession or Sale. No permit is *needed* from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): ()

- a. Agricultural or domestic animals. ()
- b. Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. ()
- c. Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. ()
- d. Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). ()
- 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. ()
- f. Birds of prey, provided actions comply with IDAPA 13.01.14, "Rules Governing Falconry." ()

02. Exemptions for Unprotected and Predatory Wildlife. ()

a. Wildlife classified as Unprotected Wildlife and Predatory Wildlife that are lawfully taken by a person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may be sold, exported, transported, or possessed, without additional permit from the Department, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. 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. ()

b. Lawfully taken native unprotected or predatory wildlife may be released on private lands in the county of origin without a Department permit 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. ()

03. Exemption for Native Reptiles and Amphibians. A person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may capture alive, or hold in captivity and possess, up to four (4) individuals per species of Idaho native reptiles or amphibians at the same time, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. ()

04. Restriction on Permit Issuance. The Department will not issue any permit for import, export, transport, release, *possession*, 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.* ()

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING
FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 122-124](#).

The Commission adopted the pending rule with a change to the proposed rule. After considering public comment, the Commission made the requirement concerning breakaway devices and stops an optional “or” requirement for one of the two types of devices. This language was different in the proposed rule. The Commission adopted the changes in the proposed rule to remove the requirement for diverters, with discretion to require diverters on a limited geographic basis under the conditions described in the rule.

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

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cory Mosby at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 13-0117-1901**

This rulemaking is being republished in its entirety.

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

400. TRAPPING BIG GAME ANIMALS.

Trapping may be used to take ONLY gray wolf and ONLY under the following conditions. ()

01. Methods of Take When Trapping. No person trapping gray wolf may: ()

a. Use any set, EXCEPT a ground set. ()

b. Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; EXCEPT: ()

i. Gray wolves may be trapped near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes *do* not include any man-caused mortality. ()

ii. Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. ()

iii. Gray wolves may be trapped using the parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife," Subsections 300.02.c. and 300.02.d. in Game Management Units as identified by the Commission's Big Game Season Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ()

c. Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.01.b. ()

d. Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ()

e. Use live animals as a bait or attractant. ()

f. Place any ground set on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. ()

g. Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; EXCEPT ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ()

h. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area, except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. ()

i. Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. ()

j. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. ()

- k.** Trap *for* any gray wolf within one-half (1/2) mile of any active Department big game feeding site. ()
- l.** Trap *for* gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. ()
- m.** *Place or set any ground set snare without two (2) diverters in an area identified by Commission Proclamation as requiring their use (based on levels of non-target catch of animals whose capture may be avoided by diverter use).* ()
- 02.** ***Exceptions for Dispatch.*** *A trapped gray wolf may be dispatched any time of day or night, and a trapped gray wolf may be dispatched with any rimfire rifle, rimfire handgun or any muzzleloading handgun in exception to IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Sections 400 and 410.* ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.01.02 – EMERGENCY MEDICAL SERVICES (EMS) – RULE DEFINITIONS

DOCKET NO. 16-0102-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule amends rule chapter titles to align with updates being made to the titles that will go into effect at Sine Die, 2020. Also, minor corrections were made to align with current practices in pronoun usage.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 4, 2019, Idaho Administrative Bulletin, [Vol. 19-9, pages 189 through 192](#).

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 14th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0102-1901**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

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, “Idaho Emergency Medical Services (EMS) Physician Commission.” ()

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, “Idaho Emergency Medical Services (EMS) Physician Commission.” ()

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 *their* designee. ()

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, “Emergency Medical Services (EMS) Physician Commission”; and ()

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

24. Emergency Medical Services (EMS). Under Section 56-1012(16), Idaho Code, emergency medical services or EMS is aid rendered by an individual or group of individuals who do the following: ()

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 011.24.a. through 011.24.c. of this rule.** ()
- 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, “Idaho Emergency Medical Services (EMS) Physician Commission”; and ()
- 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 – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being amended to remove the references to Section 005 that will itself be removed from all chapters of rules effective Sine Die, 2020.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 4, 2019, Idaho Administrative Bulletin, [Vol. 19-9, pages 193 through 194](#).

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 14th day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0103-1901

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.

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, *see* <http://www.idahoems.org>. ()

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, *see* <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 – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed.

The complete text of the proposed rule was published in the September 4, 2019, Idaho Administrative Bulletin, Vol. 19-9, pages 195 through 199.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 14th day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0107-1901

This rulemaking is being republished in its entirety.
Previously made amendments are shown in **red plain text (non-italicized)**.

103. RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA).

01. Licensed EMS Personnel from a REPLICA Member State. 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 apply for Idaho EMS licensure within ninety (90) days of affiliation with an Idaho EMS agency. ()

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 claim an EMS agency in that state as their primary affiliation, Idaho licensure is not required. ()

(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 within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. ()

02. Standardized Examination Not Completed. If all components of the standardized examination are not successfully completed 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. ()

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. ()

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. Competency Certification. 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. ()

08. 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)

09. 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

16.02.01 – RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

DOCKET NO. 16-0201-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2020, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1024 through 56-1030, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

To best protect the public's health and safety, the document incorporated in this chapter, "Time Sensitive Emergency Standards Manual," is being revised and updated. Edition 2020-1 of this Standards Manual will become effective July 1, 2020. The revision to these rules will ensure that the most recent edition of the manual has the force and effect of law.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 125 through 126](#).

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

There is no anticipated fiscal impact to the state general fund or any other funds related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Melissa Ball at (208) 334-2124.

Dated this 14th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0201-1901**

**This rulemaking is being republished in its entirety.
Previously made amendments are shown in red plain text (non-italicized).**

004. INCORPORATION BY REFERENCE.

The Time Sensitive Emergency System Standards Manual, Edition 2020-1, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at <https://tse.idaho.gov/> or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249.

()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.02.02 – RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES
(EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2020, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1013A and 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

To best protect the public's health and safety, the document incorporated in this chapter, "Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual," is being revised and updated. Edition 2020-1 of this Standards Manual will become effective July 1, 2020. The revision to these rules will ensure that the most recent edition of the manual has the force and effect of law.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 127 through 128](#).

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

There is no anticipated fiscal impact to the state general fund or any other funds related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 14th day of November, 2019.

Tamara Prisock
DHW - Administrative Rules Unit
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P.O. Box 83720
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Phone: (208) 334-5500
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0202-1901**

**This rulemaking is being republished in its entirety.
Previously made amendments are shown in red plain text (non-italicized).**

004. INCORPORATION BY REFERENCE.

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2020-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained on the Internet at www.emspc.dhw.idaho.gov or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID, 83712-8249, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.08 – VITAL STATISTICS RULES

DOCKET NO. 16-0208-1901

NOTICE OF RULEMAKING – RESCISSION OF TEMPORARY RULE AND VACATION OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket and is rescinding the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 39-242, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the rescission and vacation of this rulemaking:

This Notice of Rulemaking hereby rescinds the temporary rules and vacates the proposed rulemaking, effective November 14, 2019. This docket has been determined to be invalid by operation of law and is thereby rescinded and vacated for voidness, and in accordance with the Red Tape Reduction Act.

The temporary rule, adopted under this Docket 16-0208-1901 by the Department of Health and Welfare, and the proposed rule were published together in the July 3, 2019, Administrative Bulletin, [Volume 19-7, pages 164 through 168](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of proposed rulemaking and rescission of temporary rule, contact Elke Shaw-Tulloch, (208) 334-5950.

Dated this 14th day of November, 2019.

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.02.14 – RULES GOVERNING CONSTRUCTION AND OPERATION OF
PUBLIC SWIMMING POOLS IN IDAHO
DOCKET NO. 16-0214-1901
NOTICE OF RULEMAKING – VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 56-1003 and 56-1007, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

The Department, with support from the local public health districts, is vacating this proposed rulemaking. Rather than going pending under this docket number, the changes that published as proposed in the October 2, 2019, Idaho Administrative Bulletin are going pending in the Department's fee Omnibus Docket No. 16-0000-1900F that published in the Wednesday, November 20, 2019, Idaho Administrative Special Edition Bulletin, [Vol. 19-11SE, pages 2329 through 2346](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Sonja Schriever at (208) 334-6950.

Dated this 14th day of November, 2019.

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.01 – ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-239, 56-250, 56-253, 56-255, 56-256 and 56-257, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Section 281 provides Medicaid services to inmates of a public institution should they need inpatient care in a hospital. This section will align with the rule in IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD)” around the ineligibility of inmates of public institutions;

Section 400 outlines the rules that govern the newly expanded adult population that may receive Medicaid for people 19 - 64 years of age. This section also includes the pregnancy Medicaid program since the income limits and coverage aligns with other adult coverage; and

Section 500 removes the relevant rules related to Pregnant Women coverage incorporated into section 400.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 148 through 152](#).

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:

These rule changes have no anticipated fiscal impact to the state general fund, will conform language, and will remove conflicting guidelines in IDAPA with state statutes that have already been adopted. These administrative rule changes do not introduce any additional costs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Camille Schiller, (208) 334-5969.

Dated this 14th day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0301-1901

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.

281. MEDICAL EXCEPTION FOR INMATES.

An inmate can receive Medicaid while they are an inpatient in a medical *facility*. The inmate *must* meet all Medicaid eligibility requirements. ()

282. -- 289. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

400. MEDICAID FOR ADULTS.

Medicaid is available for the following adults: ()

01. Parent, Caretaker Relative, or a Pregnant Woman. ()

a. The individual **who is** a parent, caretaker relative, or a pregnant woman in the household budget unit. ()

b. The individual **who is** responsible for an eligible dependent child, which includes the unborn child of a pregnant woman. ()

c. The individual **who lives** in the same household with the eligible dependent child. ()

02. Adults Under Age 65. The individual must: ()

a. Be age nineteen (19) or older and under age sixty-five (65); ()

b. Not entitled to or enrolled in Medicare Part A or Part B; and. ()

c. Not otherwise eligible for any other coverage under the State Plan. ()

03. MAGI Income Eligibility. For any of the eligibility groups described in Subsections 400.01 and 02, the individual must meet all income requirements of the Medicaid program for eligibility determined according to MAGI methodologies identified in Sections 300 through 303, and 411 of these rules. Eligibility is based on: ()

a. The number of members included in the household budget unit; ()

b. All countable income for the household budget unit; **and** ()

c. Eligible individuals will have income calculated using their modified adjusted gross income (MAGI). Individuals with MAGI not greater than one hundred thirty-three per cent (133%) after applying a five per cent (5%) disregard to income are eligible to receive Medicaid in this section. ()

04. Member of More Than One Budget Unit. No person may receive benefits in more than one (1)

budget unit during the same month. (3-20-14)

05. More Than One Medicaid Budget Unit in Home. If there is more than one (1) Medicaid budget unit in a home, each budget unit is considered a separate unit. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

419. TRANSITIONAL MEDICAID FOR PARENTS AND CARETAKER RELATIVES.

Participants who no longer qualify for Medicaid due to an increase in earned income or working hours are eligible for an additional twelve (12) months of Medicaid. Participants must have been eligible for Medicaid during at least three (3) of the six (6) months immediately preceding the month in which the participant became ineligible. ()

(BREAK IN CONTINUITY OF SECTIONS)

421. PREGNANT WOMAN INELIGIBLE BECAUSE OF EXCESS INCOME.

A pregnant woman who receives health care assistance and becomes ineligible because of an increase in income will continue to receive coverage through the end of the month in which the sixtieth day of her postpartum period falls. ()

422. -- 519. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

545. PRESUMPTIVE ELIGIBILITY FOR CHILDREN AND ADULTS.

Presumptive eligibility determination for qualifying medical coverage groups can only be provided by a qualified hospital defined in Section 011 or these rules. ()

01. Presumptive Eligibility Decisions. Decisions of presumptive eligibility can be made for **individuals**, who meet program requirements for MAGI-based Medicaid coverage. ()

02. Presumptive Eligibility Determination. Presumptive eligibility determinations are made by a qualified hospital when an individual receiving medical services is not covered by health care insurance and the financial assessment by hospital staff indicates the individual is eligible for Medicaid Coverage in Idaho. This determination is made by hospital staff through an online presumptive application process: (3-20-14)

a. Prior to completion of a full Medicaid application; and (3-20-14)

b. Prior to a determination being made by the Department on the full application. (3-20-14)

03. Presumptive Eligibility Period. The presumptive eligibility period begins on the date the presumptive application is filed online and ends with the earlier of the following: (3-20-14)

a. The date the full eligibility determination is completed by the Department; or (3-20-14)

b. The end of the month after the month the qualified hospital completed the presumptive eligibility determination. (4-11-15)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1803

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

These changes will comply with a federal mandate. Children's intervention services currently offered under federal Home and Community-Based waiver authorities will be moved into the State Plan to allow access to these intervention services for all eligible children who have a medically necessary need and functional and/or behavioral need for such services. Rules regarding children's state plan services (school-based services) are set forth in IDAPA 16.03.09 and rules regarding Home and Community-Based Services (HCBS) 1915(c) waiver and 1915(i) (state plan option benefits) are set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits. To change children's intervention services from waiver to state plan, the descriptions of the following services will be moved from IDAPA 16.03.10 to IDAPA 16.03.09 under the heading "Children's Habilitation Intervention Services":

The existing intervention service of Habilitative Intervention is being divided into two separate services to capture skill training interventions and therapeutic-type behavioral interventions. The Family-directed Services in the Children's Developmental Disability Services 1915(c) waiver are also contained in the 1915(i) Extended State Plan authority. Even though the 1915(c) will expire in June of this year, the Family-directed Services will remain in IDAPA 16.03.10. under the 1915(i) benefit authority. The support services in this rule are Respite, Habilitative Supports, Family Education and Family-Directed Community Supports. This group of services will be re-titled "Children's Developmental Disabilities (DD) Home and Community-Based Services (HCBS) State Plan Option."

Because these rule changes move intervention services into the State Plan, all Medicaid-eligible children with an identified need may access services, therefore a cost increase is anticipated. However, by providing intervention services to children in need at an earlier age, more costly intervention may be avoided as the child ages. Additionally, these rule changes add language to establish a tiered provider structure allowing for providers, with higher credentials than those currently allowed in rule, to deliver these services. These changes will add a higher reimbursement rate for these higher credentialed providers resulting in an increase to the overall cost of providing these services. Again, higher quality services provided to children may cause a reduction in need for more intensive services as the child ages.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 169 through 198](#).

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:

These rule changes will result in a total additional cost of \$2,860,000 (\$820,800 General Funds and \$2,039,200 Federal Funds). Additional costs will support an increase in rates paid to providers with higher credentials than the

program currently pays to existing providers. An increase in costs will also result from moving these services to the State Plan, which will allow all eligible children with an established need for children's habilitation intervention services to access these services. Analysis of this cost increase was requested in Medicaid's 2019 Budget under Budget Bill JGT008 and approved for funding by the 2019 Legislature.

Based on the Rough Order of Magnitude (ROM) requested through Medicaid Management Information System (MMIS), the changes required in the payment system will not involve any additional expenditures outside of Molina's existing contract scope of work.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Angie Williams, (208) 287-1169.

Dated this 14th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0309-1803**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.

Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, subject to the coverage limitations contained in these rules. Those individuals eligible for services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are also eligible for the services covered under this chapter of rules, unless specifically exempted. (5-8-09)

- 01. Hospital Services.** The range of hospital services covered is described in Sections 400 through 449 of these rules. (5-8-09)
- a.** Inpatient Hospital Services are described in Sections 400 through 406. (3-30-07)
 - b.** Outpatient Hospital Services are described in Sections 410 through 416. (3-30-07)
 - c.** Reconstructive Surgery services are described in Sections 420 through 426. (3-30-07)
 - d.** Surgical procedures for weight loss are described in Sections 430 through 436. (3-30-07)
 - e.** Investigational procedures or treatments are described in Sections 440 through 446. (3-30-07)

02. Ambulatory Surgical Centers. Ambulatory Surgical Center services are described in Sections 450 through 499 of these rules. (5-8-09)

03. Physician Services and Abortion Procedures. Physician services and abortion procedures are described in Sections 500 through 519 of these rules. (5-8-09)

a. Physician services are described in Sections 500 through 506. (3-30-07)

b. Abortion procedures are described in Sections 510 through 516. (3-30-07)

04. Other Practitioner Services. Other practitioner services are described in Sections 520 through 559 of these rules. (5-8-09)

a. Non-physician practitioner services are described in Sections 520 through 526. (7-1-17)

b. Chiropractic services are described in Sections 530 through 536. (3-30-07)

c. Podiatrist services are described in Sections 540 through 545. (3-29-12)

d. Licensed midwife (LM) services are described in Sections 546 through 552. (3-29-12)

e. Optometrist services are described in Sections 553 through 556. (3-29-12)

05. Primary Care Case Management. Primary care case management services are described in Sections 560 through 579 of these rules. (5-8-09)

a. Healthy Connections services are described in Sections 560 through 566. (4-4-13)

06. Prevention Services. The range of prevention services covered is described in Sections 570 through 649 of these rules. ()

a. Children's habilitation intervention services are described in Sections 570 through 577. ()

b. Child Wellness Services are described in Sections 580 through 586. (3-30-07)

c. Adult Physical Services are described in Sections 590 through 596. (3-30-07)

d. Screening mammography services are described in Sections 600 through 606. (3-30-07)

e. Diagnostic Screening Clinic services are described in Sections 610 through 614. (4-4-13)

f. Additional Assessment and Evaluation services are described in Section 615. (4-4-13)

g. Health Questionnaire Assessment is described in Section 618. (4-4-13)

h. Preventive Health Assistance benefits are described in Sections 620 through 626. (5-8-09)

i. Nutritional services are described in Sections 630 through 636. (3-30-07)

j. Diabetes Education and Training services are described in Sections 640 through 646. (3-30-07)

07. Laboratory and Radiology Services. Laboratory and radiology services are described in Sections 650 through 659 of these rules. (5-8-09)

08. Prescription Drugs. Prescription drug services are described in Sections 660 through 679 of these rules. (5-8-09)

- 09. Family Planning.** Family planning services are described in Sections 680 through 689 of these rules. (5-8-09)
- 10. Outpatient Behavioral Health Services.** Community-based outpatient services for behavioral health treatment are described in Sections 707 through 711 of these rules. (3-20-14)
- 11. Inpatient Psychiatric Hospital Services.** Inpatient Psychiatric Hospital services are described in Sections 700 through 706. (3-20-14)
- 12. Home Health Services.** Home health services are described in Sections 720 through 729 of these rules. (5-8-09)
- 13. Therapy Services.** Occupational therapy, physical therapy, and speech-language pathology services are described in Sections 730 through 739 of these rules. (5-8-09)
- 14. Audiology Services.** Audiology services are described in Sections 740 through 749 of these rules. (5-8-09)
- 15. Durable Medical Equipment and Supplies.** The range of covered durable medical equipment and supplies is described in Sections 750 through 779 of these rules. (5-8-09)
- a.** Durable Medical Equipment and supplies are described in Sections 750 through 756. (3-30-07)
- b.** Oxygen and related equipment and supplies are described in Sections 760 through 766. (3-30-07)
- c.** Prosthetic and orthotic services are described in Sections 770 through 776. (3-30-07)
- 16. Vision Services.** Vision services are described in Sections 780 through 789 of these rules. (5-8-09)
- 17. Dental Services.** The dental services covered by Medicaid are covered under a selective contract as described in Section 800 through 819 of these rules. (4-11-19)
- 18. Essential Providers.** The range of covered essential services is described in Sections 820 through 859 of these rules. (5-8-09)
- a.** Rural health clinic services are described in Sections 820 through 826. (3-30-07)
- b.** Federally Qualified Health Center services are described in Sections 830 through 836. (3-30-07)
- c.** Indian Health Services Clinic services are described in Sections 840 through 846. (3-30-07)
- d.** School-Based services are described in Sections 850 through 857. (3-20-14)
- 19. Transportation.** The range of covered transportation services is described in Sections 860 through 879 of these rules. (5-8-09)
- a.** Emergency transportation services are described in Sections 860 through 866. (3-30-07)
- b.** Non-emergency medical transportation services are described in Sections 870 through 876. (4-4-13)
- 20. EPSDT Services.** EPSDT services are described in Sections 880 through 889 of these rules. (5-8-09)
- 21. Specific Pregnancy-Related Services.** Specific pregnancy-related services are described in Sections 890 through 899 of these rules. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

567. -- 569. (RESERVED)

SUB AREA: PREVENTION SERVICES
(Sections 570 - 649)

570. CHILDREN'S HABILITATION INTERVENTION SERVICES (CHIS).

CHIS are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. These intervention services are delivered directly to Medicaid-eligible participants with identified developmental limitations that impact the participant's functional skills and behaviors across an array of developmental domains. Case Management is an available option to assist participants accessing *CHIS* by the Department as described in the Medicaid Provider Handbook. ()

571. CHIS: DEFINITIONS.

01. Annual. Every three hundred sixty-five (365), days except during a leap year which equals three hundred sixty-six (366) days. ()

02. Aversive Intervention. Uses unpleasant physical or sensory stimuli in an attempt to reduce undesired behavior. The stimuli usually cannot be avoided, is pain inducing, or both. ()

03. Community. Natural, integrated environments outside the participant's home, *outside of DDA center-based settings, or at school outside of school hours.* ()

04. Developmental Disabilities Agency (DDA). A DDA is an agency that is: ()

a. A type of developmental disabilities facility, as defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis; ()

b. Certified by the Department to provide services to participants with developmental disabilities; and ()

c. A business entity, open for business to the general public. ()

05. Duplication of Services. Services are considered duplicate when: ()

a. Goals are not separate and unique to each service provided; or ()

b. When more than one (1) service is provided at the same time, unless otherwise authorized. ()

06. Educational Services. *Services that are provided in buildings, rooms or areas designated or used as a school or as educational facilities; that are provided during specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students; and that are included in the individual educational plan for the participant or required by federal and state educational statutes or regulations; are not related service; and such services are provided to school age individuals defined in Section 33-201, Idaho Code.* ()

07. Evidence-Based Interventions. Interventions that have been scientifically researched and reviewed in peer-reviewed journals, replicated successfully by multiple independent investigators, have been shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed individuals trained in the evidence-based model. ()

08. Evidence-Informed Interventions. Interventions that use elements or components of evidence-

based techniques and are delivered by a qualified individual, *who* are not certified or credentialed in an evidence-based model. ()

09. Human Services Field. A diverse field that is focused on improving the quality of life for participants. Areas of academic study include, but are not limited to, sociology, special education, counseling, and psychology or other areas of academic study as referenced in the Medicaid Provider Handbook. ()

10. Practitioner of the Healing Arts, Licensed. Advanced practice registered nurse, nurse practitioner, or physician assistant. ()

11. Recreational Services. *Activities or services that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, and special day parties (birthday, Christmas, etc.).* ()

12. Restrictive Intervention. Any intervention that is used to restrict the rights or freedom of movement of a person and includes chemical restraint, mechanical restraint, physical restraint, and seclusion. ()

13. Telehealth. Telehealth is an electronic real-time synchronized audio-visual contact between a qualified professional and participant for the purpose of treatment. The professional and participant interact as if they were having a face-to-face service. Telehealth services must be delivered in accordance with the Idaho Medicaid Telehealth Policy. ()

14. Treatment Fidelity. The consistent and accurate implementation of children's habilitation services accordance with the modality, manual, protocol or model. ()

15. Vocational Services. *Services or programs that are directly related to the preparation of individuals for paid or unpaid employment. The test of the vocational nature of the service is whether the services are provided with the expectation that the participant would be able to participate in a sheltered workshop or in the general workforce within one (1) year.* ()

572. CHIS: ELIGIBILITY REQUIREMENTS.

01. Medicaid Eligibility. Participants must be eligible for Medicaid and the service for which the CHIS provider is seeking reimbursement. ()

02. Age of Participants. CHIS are available to participants from birth through the month of their twenty-first birthday. ()

03. Eligibility Determination. Participants eligible to receive CHIS must have a demonstrated functional need or a combination of functional and behavioral needs that require intervention services; or requires intervention to correct or ameliorate their condition in accordance with Section 880 of these rules. A functional or behavioral need is determined by the Department approved screening tool when a deficit is identified in three (3) or more of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, or maladaptive behavior. A deficit is defined as one-point-five (1.5) or more standard deviations below the mean for functional areas or above the mean for maladaptive behavior. ()

573. CHIS: COVERAGE AND LIMITATIONS.

01. Excluded for Medicaid Payment. The following are excluded for Medicaid payment: ()

i. Vocational services; ()

ii. Educational services; and ()

iii. Recreational services. ()

02. Service Delivery. The *CHIS* allowed under the Medicaid state plan authority include evaluations, diagnostic and therapeutic treatment services provided on an outpatient basis. These services help improve individualized functional skills, develop replacement behaviors, and promote self-sufficiency of the participant. *CHIS* may be delivered in the community, the participant's home, or in a DDA in accordance with the requirements of this chapter. Duplication of services is not reimbursable. ()

03. Required Recommendation. *CHIS* must be recommended by a physician or other practitioner of the healing arts within his or her scope of practice, under state law. ()

a. The *CHIS* provider may not seek reimbursement for services provided more than thirty (30) calendar days prior to the signed and dated recommendation. ()

b. The recommendation *is only required to be completed once and must be received prior to submitting the initial prior authorization request*. If the participant has not accessed *CHIS* for more than three hundred sixty-five (365) calendar days, then a new recommendation must be received. ()

04. Required Screening. Needs are determined through the current version of the Vineland Adaptive Behavior Scales or other Department-approved screening tools that are conducted by the family's chosen *CHIS* provider, the Department, or its designee, and are administered in accordance with the protocol of the tool. The screening tool *is only required to be completed once and must be completed prior to submitting the initial prior authorization request*. The following apply: ()

a. If a screening tool has been completed by the Department, or its designee, a new screening is not required. ()

b. If the participant has been determined eligible *by the Department*, a new screening tool is not required. ()

c. If the participant has not accessed *CHIS* for more than three hundred sixty-five (365) calendar days, a new screening must be completed. ()

d. The screening cannot be billed more than once unless an additional screening is required in accordance with guidelines as outlined in the Medicaid Provider Handbook. ()

05. Services. All *CHIS* recommended on a participant's assessment and clinical treatment plan must be prior authorized by the Department, or its contractor. The following *CHIS* are available for eligible participants and are reimbursable services when provided in accordance with these rules: ()

a. **Habilitative Skill Building.** This direct intervention service includes techniques used to develop, improve, and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a participant. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible participant. Services include *individual* or group interventions. ()

i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) participants. ()

ii. As the number and needs of the participants increase, the participant ratio *in the group* must be adjusted *from three (3) to two (2)*. ()

iii. Group services will only be reimbursed when the participant's objectives relate to benefiting from group interaction. ()

b. **Behavioral Intervention.** This service utilizes direct intervention techniques used to produce positive meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based

strategies while also addressing any identified habilitative skill *building* needs. These services are provided to participants who exhibit interfering behaviors that impact the independence or abilities of the participant, such as impaired social skills and communication or destructive behaviors. Intervention services may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible participant. Evidence-based or evidence-informed practices are used to promote positive behaviors and learning while reducing interfering behaviors and developing behavioral self-regulation. Services include *individual* or group interventions. ()

i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) participants. ()

ii. As the number and severity of the participants with behavioral issues increase, the participant ratio *in the group* must be adjusted *from three (3) to two (2)*. ()

iii. Group services should only be delivered when the participant's objectives relate to benefiting from group interaction. ()

c. **Interdisciplinary Training.** This is a companion service to behavioral intervention and habilitative skill *building* and is used to assist with implementing a participant's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the participant's needs. This service is to be utilized for collaboration, with the participant present, during the provision of services between the intervention specialist or professional and a Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, behavioral or mental health professional. ()

d. **Crisis Intervention.** This service may include providing training to staff directly involved with the participant, delivering intervention directly with the eligible participant, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences. Crisis intervention is *provided in the home or community on a short-term basis typically not to exceed thirty (30) days. Positive behavior interventions must be used prior to, and in conjunction with, the implementation of any restrictive intervention. Crisis intervention is available for participants who have an unanticipated event, circumstance, or life situation that places a participant at risk of at least one (1) of the following:* ()

i. Hospitalization; ()

ii. Out of home placement; ()

iii. Incarceration; or ()

iv. Physical harm to self or others, including a family altercation or psychiatric relapse. ()

e. **Assessment and Clinical Treatment Plan (ACTP).** *The ACTP is a comprehensive assessment that guides the formation of the implementation plan(s) that include developmentally appropriate objectives and strategies related to identified needs. The qualified provider conducts an assessment to evaluate the participant's strengths, needs, and functional abilities across environments. This process guides the development of intervention strategies and recommendations for services related to the participant's identified needs. The ACTP must be monitored and adjusted to reflect the current needs of the participant. The CHIS provider must document that a copy of the ACTP was offered to the participant's parent or legal guardian. The ACTP must be completed on a Department approved form as referenced in the Medicaid Provider Handbook and contain the following minimum standards:* ()

i. Clinical interview(s) must be completed with the parent or legal guardian; ()

ii. Administer or obtain *an objective and validated comprehensive skills or developmental assessment approved by the Department. The most current version of the assessment must be used and the assessment must have been completed within the last three-hundred and sixty-five (365) days;* ()

- iii. Review of assessments, reports, and relevant history; ()
- iv. Observations in at least one (1) environment; ()
- v. A reinforcement inventory or preference assessment; ()
- vi. A transition plan; and ()
- vii. Be signed by the individual completing the assessment and the parent or legal guardian. ()

574. CHIS: PROCEDURAL REQUIREMENTS.

All *CHIS* identified on a participant's *ACTP* must be prior authorized by the Department, or its contractor, and must be maintained in each participant's file. The *CHIS* provider is responsible for documenting and submitting the participant's *ACTP* to obtain prior authorization before delivering any *CHIS*. ()

01. Prior Authorization Request. The request must be submitted to the Department, or its contractor, who will review and approve or deny prior authorization requests and notify the provider and the parent or legal guardian of the decision. Prior authorization is intended to help ensure the provision of medically necessary services and will be approved according to the timeframes established by the Department and as described in the Medicaid Provider Handbook. ()

a. Once the initial request for prior authorization is submitted, *CHIS* may be delivered for a maximum of twenty-four (24) total hours for up to thirty (30) calendar days or until the prior authorization is approved. Initial prior authorization requests must include: ()

- i. A recommendation from a physician or other practitioner of the healing arts; ()
- ii. The *ACTP*; and ()
- iii. Implementation plan(s). ()

b. Ongoing prior authorization requests must include: ()

- i. A list of the participant's objectives; ()
- ii. Graphs showing change lines; ()
- iii. A brief analysis of data regarding progress or lack of progress to meeting each objective; ()
- iv. A list of all *CHIS* hours being requested and the qualification of the individual(s) who will provide them; ()
- v. Request for the annual *ACTP*, if applicable; ()
- vi. New implementation plans, *if applicable*; ()
- vii. An updated annual *ACTP*, *if applicable*; and ()

viii. An annual written summary with an analysis of data regarding the participant's progress or lack of progress, justification for any changes made to implementation of programming for new objectives, discontinuation of objectives, if applicable, and a summary of parent(s) or caregiver(s) response to teaching of coordinated methods. ()

c. The following services *may be requested retroactively*: ()

- i. The initial *ATCP*; ()

- ii. *The screening tool; and* ()
- iii. *Crisis intervention within seventy-two (72) hours of the service initiation.* ()
- c. *The following services may be requested retroactively:* ()
 - i. *The initial ACTP; and* ()
 - ii. *The screening tool; and* ()
 - iii. *Crisis intervention within seventy-two (72) hours of the service initiation.* ()

02. Implementation Plan(s). *An implementation plan will provide details on how intervention will be implemented and must be completed by a qualified provider. All implementation plan objectives must be related to a need identified on the ATCP. The provider must document that a copy of the participant's implementation plan(s) was offered to the participant's parent or legal guardian. The implementation plan(s) must include the following requirements:* ()

- a. *Participant's name;* ()
- b. *Measurable, behaviorally-stated objectives including criteria for successful achievement, and a baseline statement;* ()
- c. *Location(s) where objectives will be implemented;* ()
- d. *Precursor behaviors for participants receiving behavioral intervention;* ()
- e. *Description of the treatment modality to be utilized;* ()
- f. *Discriminative stimulus or direction;* ()
- g. *Targets, steps, task analysis or prompt level;* ()
- h. *Correction procedure;* ()
- i. *Data collection;* ()
- j. *Reinforcement, including type and frequency;* ()
- k. *A plan for generalization and a plan for family training;* ()
- l. *A behavior response plan for participants receiving behavioral intervention;* ()
- m. *Any restrictive or aversive interventions being implemented must be reviewed and approved by a licensed individual working within the scope of their practice; and* ()
- n. *A signature of the qualified provider who completed the document(s), date signed, and credential.* ()

03. Requirements for Program Documentation. *Providers must maintain records for each participant served. Failure to maintain such documentation may result in the recoupment of funds paid for undocumented services. For each participant, the following program documentation is required for each visit made or service provided to the participant, including at a minimum the following information:* ()

- a. *Date, time, and duration;* ()
- b. *Summary of session or service provided, and if interdisciplinary training is provided,*

documentation must include who the service was delivered to and the content covered; ()

c. Data documentation that corresponds to the implementation plans *for habilitative skill building or behavioral intervention*; ()

d. Location of service delivery; and ()

e. Signature of the individual providing the service, date signed, and credential. ()

04. Supervision. Supervision includes both face-to-face observation and direction to the staff regarding developmental and behavioral techniques, progress measurement, data collection, function of behaviors, and generalization of acquired skills for a participant. Supervision is provided to ensure staff demonstrate the necessary skills to correctly provide the services as defined in this rule and informs of any modification needed to the methods implemented to support the accomplishment of outcomes identified in the *ACTP*. Supervision must be provided in accordance with the requirements of the evidence-based model or in accordance with each individual provider qualification. Intervention specialists providing services to children birth to three (3) years old must be supervised by an *intervention specialist* or *intervention professional* who also meets the birth to three (3) years old requirements. ()

575. CHIS: PROVIDER QUALIFICATIONS AND DUTIES.

CHIS are delivered by individuals who meet *or exceeds* one (1) of the qualifying criteria below in Subsections 575.01 through 575.07 of this rule, and are employed by a certified DDA, or who meet the criteria as defined in Subsection 575.08 of this rule and is enrolled as an independent *CHIS* provider. All providers of *CHIS* must meet the continuing training requirements in Subsection 575.09 of this rule. ()

01. Crisis Intervention Technician. A crisis intervention technician can deliver crisis intervention directly with the eligible participant and must meet the qualifications of a community-based supports staff as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 526. The technician must be under the supervision of a specialist or professional who is observing and reviewing the direct crisis intervention services performed. *Supervision* must occur monthly, or more often as necessary, to ensure the technician demonstrates the necessary skills to correctly provide the crisis intervention service. ()

02. Intervention Technician. *An intervention technician* can deliver habilitative skill building, behavioral intervention, and crisis intervention. This is a provisional position intended to allow an individual to gain the necessary degree, *competency*, or experience needed to qualify as an intervention specialist *or higher*. *An intervention technician* must be an employee of a DDA and be under the supervision of a specialist or professional who is observing and reviewing the direct services performed by the *intervention technician*. Supervision must occur monthly, or more often as necessary, to ensure the *intervention technician* demonstrates the necessary skills to correctly provide the *intervention*. Provisional status is limited to a single eighteen (18) successive month period. The qualifications for this type of provider can be met by one (1) of the following: ()

a. An individual who is currently enrolled and is within *twenty-four (24)* semester credits, or equivalent, to complete their bachelor's degree *or higher* from an accredited institution in a human services field *and working towards meeting the experience and competency requirements*; or ()

b. An individual who holds a bachelor's degree *from an accredited institution* in a human services field *or has a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field and working towards meeting the experience and competency requirements*. ()

03. Intervention Specialist. *An intervention specialist* can deliver all *CHIS*, complete assessments and implementation plans, and must be under the supervision of a specialist or professional who is observing and reviewing the direct *CHIS* performed. Supervision must occur monthly, or more often as necessary, to ensure the *intervention specialist* demonstrates the necessary skills to correctly provide the service. An *intervention specialist* who will complete assessments or supervise an individual completing assessments must have a minimum of ten (10) hours of documented training and five (5) hours of supervised experience in completing comprehensive assessments and implementation plans for participants with functional or behavioral needs. The qualifications for this type of provider can be met by one (1) of the following: ()

a. An individual who holds a Habilitative Intervention Certificate of Completion in Idaho *with an expiration date of July 1, 2019 or later*, will be allowed to continue providing services as an intervention specialist as long as there is not a gap of more than three (3) successive years of employment as an intervention specialist; or ()

b. An individual who holds a bachelor's degree from an accredited institution in a human services field or a has a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field; and ()

i. Can demonstrate one thousand forty (1,040) hours of supervised experience working with participants birth to twenty-one (21) years of age who demonstrate functional or behavioral needs; and ()

ii. Meets the competency requirements by completing one (1) of the following: ()

(1) A Department-approved competency checklist referenced in the Medicaid Provider Handbook; or ()

(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training; or ()

(3) Other Department-approved competencies as defined in the Medicaid Provider Handbook. ()

c. An individual who provides services to children birth to three (3) years of age must also demonstrate a minimum of two hundred forty (240) hours of professionally supervised experience providing assessment or evaluation, curriculum development, and service provision in the areas of communication, cognition, motor, adaptive (self-help), and social-emotional development with infants and toddlers birth to five (5) years of age with developmental delays or disabilities. Experience must be through paid employment or university internship or practicum experience and may be documented within the supervised experience listed in Subsection 575.02.b.i. of this rule, and have one (1) of the following: ()

i. An elementary education certificate or special education certificate with an endorsement in early childhood special education; or ()

ii. A blended Early Childhood or Early Childhood Special Education (EC or ECSE) certificate; or ()

iii. A bachelor's or master's degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, counseling, or nursing. This individual must have a minimum of twenty-four (24) semester credits from an accredited college or university, which can be within their bachelor's or master's degree coursework, or can be in addition to the degree coursework. Courses must cover the following *as defined in the Medicaid Provider Handbook*: ()

(1) Promotion of development and learning for children from birth to five (5) years of age. ()

(2) Assessment and observation methods that are developmentally appropriate assessment of young children with developmental delays or disabilities; ()

(3) Building family and community relationships to support early interventions; ()

(4) Development of appropriate curriculum for young children; ()

(5) Implementation of instructional and developmentally effective approaches for early learning, including strategies for children and their families; and ()

(6) Demonstration of knowledge of policies and procedures in special education and early intervention ()

and demonstration of knowledge of exceptionalities in children's development. ()

04. Intervention Professional. *An intervention professional can deliver all CHIS and complete assessments and implementation plans. Intervention professionals must meet the following minimum qualifications:* ()

a. *Hold a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, psychology, education, or behavior analysis which may be documented within the individual's degree program, other coursework, or training; and* ()

b. *Have one thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training.* ()

c. *An individual who provides services to children birth to three (3) years of age must meet the requirements defined in Subsection 575.03.c. of this rule.* ()

05. Evidence-Based Model (EBM) Intervention Paraprofessional. *An EBM intervention paraprofessional can deliver habilitative skill building, crisis intervention, and behavioral intervention, and must be supervised in accordance with the evidence-based model. The qualifications for this type of provider are:* ()

a. *An individual who holds a high school diploma or general equivalency diploma; and* ()

b. *Holds a para-level certification or credential in an evidence-based model approved by the Department.* ()

06. Evidence-Based Model (EBM) Intervention Specialist. *An EBM intervention specialist can deliver all CHIS and complete assessments and implementation plans. This individual must be supervised in accordance with the evidenced-based model and may also supervise the evidence-based paraprofessional working within the same evidence-based model. The qualifications for this type of provider are:* ()

a. *An individual who holds a bachelor's degree from an accredited institution in accordance with their certification or credentialing requirements; and* ()

b. *Holds a bachelor-level certification or credential in an evidence-based model approved by the Department.* ()

c. *An individual who provides services to children birth to three (3) years of age must also have a minimum of two hundred forty (240) hours of professionally supervised experience providing assessment or evaluation, curriculum development, and service provision in the areas of communication, cognition, motor, adaptive (self-help), and social-emotional development with infants and toddlers birth to five (5) years of age with developmental delays or disabilities. Experience must be through paid employment or university activities.* ()

07. Evidence-Based Model (EBM) Intervention Professional. *An EBM intervention professional can deliver all CHIS and complete assessments and implementation plans. The qualifications for this type of provider are:* ()

a. *An individual who holds a master's degree or higher from an accredited institution in accordance with their certification or credentialing requirements; and* ()

b. *Holds a masters-level certification or credential in an evidence-based model approved by the Department.* ()

c. *An individual who provides services to children birth to three (3) years of age must meet the requirements defined in Subsection 575.06.c. of this rule.* ()

08. Independent CHIS Provider. This type of provider can deliver all types of *CHIS*, complete assessments and implementation plans in accordance with their provider qualification *as defined in Subsections 575.03, 575.04, 575.06, and 575.07 of these rules*. Documentation of supervision must be maintained in accordance with the Department's record retention requirements. *The following must be met:* ()

a. Obtain an independent Medicaid provider agreement through the Department and maintain in good standing; ()

b. Be certified in CPR and first aid prior to delivering services and maintain current certification thereafter; ()

c. Complete a criminal history and background check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; ()

d. Follow all applicable requirements in Sections 570 through 577 of these rules; and ()

e. Not receive supervision from an individual that they are directly supervising. ()

09. Continuing Training Requirements. Each individual providing *CHIS* must complete a minimum of twelve (12) hours of training each calendar year, including one (1) hour of ethics and six (6) hours of behavior methodology or evidence-based intervention. The following criteria applies: ()

a. Training must be relevant to the services being delivered. ()

b. *Continuing training requirements for new independent providers or employees of a DDA who have not provided CHIS for a full calendar year, may be prorated as defined in the Medicaid Provider Handbook.* ()

c. Individuals who have not completed the required training during the previous calendar year, may not provide services in the current calendar year until the required number of training hours have been completed. ()

d. Training hours may not be earned in the current calendar year to be applied to a future calendar year. ()

e. Training topics can be repeated but the content of the continuing training must be different each calendar year; and ()

576. CHIS: PROVIDER REIMBURSEMENT.

01. Reimbursement. *The CHIS in Sections 570 through 577 of these rules are reimbursed as defined in IDAPA 16.03.10, Medicaid Enhanced Plan Benefits," Section 038.* ()

02. Claim Forms. Provider claims for payment must be submitted on claim forms provided or approved by the Department. General billing instructions will be provided by the Department. ()

03. Rates. The reimbursement rates calculated for *CHIS* include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location. ()

577. CHIS: QUALITY ASSURANCE.

The Department will establish performance criteria to meet federal assurances that measure the outcomes and effectiveness of the *CHIS*. Quality assurance activities will include the observation of service delivery with participants, face-to-face visits to review program protocol, and review of participant records maintained by the provider. All *CHIS* providers must grant the Department immediate access to all information requested to review compliance with these rules. ()

01. Quality Assurance. Quality assurance consists of reviews to assure compliance with the Department's rules and regulations for *CHIS*. The Department will visit providers to monitor outcomes, assure treatment fidelity, and assure health and safety. The Department will also gather information to assess family and participant satisfaction with services. These findings may lead to quality improvement activities to enhance provider processes and outcomes for the participant. If problems are identified that impact health and safety or are not resolved through quality improvement activities, implementation of a corrective action process will occur. ()

02. Quality Improvement. Quality improvement consists of the Department working with the provider to resolve identified issues and enhance services provided. Quality improvement activities may include any of the following: ()

- a. Consultation; ()
- b. Technical assistance and recommendations; or ()
- c. A Corrective Action. ()

03. Corrective Action. Corrective action is a formal process used by the Department to address significant, ongoing, or unresolved deficient practices identified during the review process as provided in Section 205.03 of these rules. Corrective action, as outlined in the Department's corrective action plan process, includes: ()

- a. Issuance of a corrective action plan; ()
- b. Referral to Medicaid Program Integrity Unit; or ()
- c. Action against a provider agreement. ()

578. -- 579. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

850. SCHOOL-BASED SERVICE: DEFINITIONS.

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

02. CHIS. *CHIS* are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. These intervention services are delivered directly to Medicaid eligible students with identified developmental limitations that impact the student's functional skills and behaviors across an array of developmental domains. *CHIS* include habilitative skill *building*, behavioral intervention, behavioral consultation, crisis intervention, and interdisciplinary training services. ()

03. Educational Services. Services that are provided in buildings, rooms, or areas designated or used as a school or an educational setting, which are provided during the specific hours and time periods in which the educational instruction takes place in the school day and period of time for these students, which are included in the individual educational plan (IEP) for the student. (7-1-16)

04. Evidence-Based Interventions. Interventions that have been scientifically researched and reviewed in peer reviewed journals, replicated successfully by multiple independent investigators, have been shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed *individuals* trained in the evidence-based model. ()

05. Evidence-Informed Interventions. Interventions that use elements or components of evidence-

based techniques and are delivered by a qualified individual *who* are not certified or credentialed in an evidence-based model. ()

06. Human Services Field. A diverse field that is focused on improving the quality of life for participants. Areas of academic study include sociology, special education, counseling, and psychology, or other areas of academic study as referenced in the Medicaid Provider Handbook. ()

07. School-Based Services. School-based services are health-related and rehabilitative services provided by Idaho public school districts and charter schools under the Individuals with Disabilities Education Act (IDEA). (7-1-13)

08. The Psychiatric Rehabilitation Association (PRA). An association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. The PRA also maintains a certification program to promote the use of qualified staff to work for individuals with mental illness. <http://www.psychrehabassociation.org>. (7-1-16)

09. PRA Credential. Certificate or certification in psychiatric rehabilitation based upon the primary population with whom the individual works in accordance with the requirements set by the PRA. (7-1-19)

10. Practitioner of the Healing Arts. A physician's assistant, nurse practitioner, or clinical nurse specialist who is licensed and approved by the state of Idaho to make such recommendations or referrals for Medicaid services. (7-1-13)

11. Serious Mental Illness (SMI). In accordance with 42 CFR 483.102(b)(1), a person with SMI: (3-20-14)

a. Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-V; and (3-20-14)

b. Must have a functional impairment that substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (3-20-14)

12. Serious and Persistent Mental Illness (SPMI). A participant must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-V with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. (3-20-14)

13. Telehealth. Telehealth is an electronic real-time synchronized audio-visual contact between a qualified professional and participant for the purpose of treatment. The professional and participant interact as if they were having a face-to-face service. Telehealth services must be delivered in accordance with the Idaho Medicaid Telehealth Policy. ()

851. SCHOOL-BASED SERVICE: PARTICIPANT ELIGIBILITY.

To be eligible for medical assistance reimbursement for covered services, school districts and charter schools must ensure: ()

01. Medicaid Eligibility. Eligible for Medicaid and the service for which the school district or charter school is seeking reimbursement; ()

02. School Enrollment. Enrolled in an Idaho school district or charter school; (7-1-13)

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

04. Educational Disability. Identified as having an educational disability under the Department of Education standards in IDAPA 08.02.03, "Rules Governing Thoroughness." (7-1-13)

05. Parental Consent. Providers must obtain a one-time parental consent to access public benefits or insurance from a parent or legal guardian for school-based Medicaid reimbursement. (7-1-16)

(BREAK IN CONTINUITY OF SECTIONS)

852. SCHOOL-BASED SERVICE: SERVICE-SPECIFIC PARTICIPANT ELIGIBILITY.

Skills Building/Community Based Rehabilitation Services (CBRS). Behavioral Intervention, Behavioral Consultation, and Personal Care Services (PCS) have additional eligibility requirements. (7-1-19)

01. Skills Building/Community Based Rehabilitation Services (CBRS). To be eligible for Skills Building/CBRS, the student must meet one (1) of the following: (7-1-19)

a. A student who is a child under eighteen (18) years of age must meet the Serious Emotional Disturbance (SED) eligibility criteria for children in accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code. A child who meets the criteria for SED must experience a substantial impairment in functioning. The child's level and type of functional impairment must be documented in the school record. A Department-approved assessment must be used to obtain the child's initial functional impairment score. Subsequent scores must be obtained at least annually in order to determine the child's change in functioning that occurs as a result of mental health treatment. (7-1-16)

b. A student who is eighteen (18) years old or older must meet the criteria of Serious and Persistent Mental Illness (SPMI). This requires that a student participant meet the criteria for SMI, as described in 42 CFR 483.102(b)(1), have at least one (1) additional functional impairment, and have a diagnosis under DSM-V, or later edition, with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. In addition, the psychiatric disorder must be of sufficient severity to affect the participant's functional skills negatively, causing a substantial disturbance in role performance or coping skills in at least two (2) of the areas listed below on either a continuous or intermittent basis, at least once per year. The skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The detail of the participant's level and type of functional impairment must be documented in the medical record in the following areas: (7-1-16)

- i. Vocational **or** educational; ()
- ii. Financial; (3-20-14)
- iii. Social relationships **or** support; ()
- iv. Family; (3-20-14)
- v. Basic living skills; (3-20-14)
- vi. Housing; (3-20-14)
- vii. Community **or** legal; or ()
- viii. Health **or** medical. ()

02. CHIS. Students eligible to receive habilitative skill *building*, behavioral intervention, behavioral consultation, crisis intervention, and interdisciplinary training services must have a standardized Department-approved assessment to identify functional, or behavioral needs, or both, that interfere with the student's ability to access an education or require intervention services to correct or ameliorate their condition in accordance with Section 880 of these rules. ()

a. A functional need is determined when the student exhibits a deficit in an overall adaptive composite or deficits in three (3) or more of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency. A deficit is defined as one point five (1.5) or more standard deviations below the mean for all functional areas. ()

b. A behavioral need is determined when the student exhibits maladaptive behaviors that include frequent disruptive behaviors, aggression, self-injury, criminal or dangerous behavior evidenced by a score of at least one point five (1.5) standard deviations from the mean in at least two (2) behavior domains and by a rater familiar with the student, or at least two (2) standard deviations from the mean in one (1) composite score that consists of at least three (3) behavior domains by a rater familiar with the student, on a standardized behavioral assessment approved by the Department. ()

03. Personal Care Services. To be eligible for personal care services (PCS), the student must have a completed children's PCS assessment and allocation tool approved by the Department. To determine eligibility for PCS, the assessment results must find the student requires PCS due to a medical condition that impairs the physical or functional abilities of the student. (7-1-16)

853. SCHOOL-BASED SERVICE: COVERAGE AND LIMITATIONS.

The Department will pay school districts and charter schools for covered rehabilitative and health-related services. Services include medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code. (7-1-13)

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

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

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

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

d. Payment for school-related services will not be provided to students who are inpatients in nursing homes or hospitals. (7-1-16)

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

a. Be recommended or referred by a physician or other practitioner of the healing arts. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral; (3-28-18)

b. Be conducted by qualified professionals for the respective discipline as defined in Section 855 of these rules; (3-20-14)

c. Be directed toward a diagnosis; (7-1-16)

d. Include recommended interventions to address each need; and (7-1-16)

- e. Include name, title, and signature of the person conducting the evaluation. (7-1-16)

03. Reimbursable Services. School districts and charter schools can bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other practitioner of the healing arts for the Medicaid services for which the school district or charter school is seeking reimbursement. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral. The recommendations or referrals are valid up to three hundred sixty-five (365) days. (3-28-18)

a. Behavioral Intervention. Behavioral Intervention is a **direct intervention** used to promote **positive, meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based strategies, while also addressing any identified habilitative skill building needs** and the student's ability to participate in educational services, as defined in Section 850 of these rules, through a consistent, assertive, and continuous intervention process to address behavior goals identified on the IEP. **Behavioral intervention** includes conducting a functional behavior assessment and **developing a behavior implementation plan** with the purpose of preventing or treating behavioral conditions. **This service is provided** to students who exhibit maladaptive behaviors. Services include individual or group behavioral interventions. ()

i. Group services must be provided by one (1) qualified staff providing direct services for **two (2) or three (3)** students. ()

ii. As the number and severity of the students with behavioral issues increases, the student ratio **in the group** must be adjusted accordingly **from three (3) to two (2)**. ()

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

b. Behavioral Consultation. Behavioral consultation assists other service professionals by consulting with the IEP team during the assessment process, performing advanced assessment, coordinating the implementation of the behavior implementation plan and providing ongoing training to the behavioral interventionist and other team members. (7-1-13)

i. Behavioral consultation cannot be provided as a direct intervention service. (7-1-13)

ii. Behavioral consultation must be limited to thirty-six (36) hours per student per year. (7-1-13)

c. Crisis Intervention. Crisis intervention services may include providing training to staff directly involved with the student, delivering intervention directly with the eligible student, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences. This service is provided on a short-term basis typically not to exceed thirty (30) school days and **is available for students who have** an unanticipated event, circumstance, or life situation that places a student at risk of at least one (1) of the following: ()

i. Hospitalization; ()

ii. Out-of-home placement; ()

iii. Incarceration; or ()

iv. Physical harm to self or others, including a family altercation or psychiatric relapse. ()

d. Habilitative Skill Building. Habilitative *skill building* is a direct intervention service that includes techniques used to develop, improve and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a student. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible student. Services include individual or group interventions. ()

- i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) students. ()
- ii. As the number and needs of the students increase, the student ratio *in the group* must be adjusted from three (3) to two (2). ()
- iii. Group services should only be delivered when the student's goals relate to benefiting from group interaction. ()
- e. **Interdisciplinary Training.** Interdisciplinary training is a companion service to behavioral intervention and habilitative skill *building* and is used to assist with implementing a student's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the student's needs. This service is to be utilized for collaboration, with the student present, during the provision of services between the intervention specialist or professional and a Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, or behavioral or mental health professional. ()
- f. **Medical Equipment and Supplies.** Medical equipment and supplies that are covered by Medicaid must be medically necessary, ordered by a physician, and prior authorized. Authorized items must be for use at the school where the service is provided. Equipment that is too large or unsanitary to transport from home to school and back may be covered, if prior authorized. The equipment and supplies must be for the student's exclusive use and must be transferred with the student if the student changes schools. All equipment purchased by Medicaid belongs to the student. (7-1-16)
- g. **Nursing Services.** Skilled nursing services must be provided by a licensed nurse, within the scope of his or her practice. Emergency, first aid, or non-routine medications not identified on the plan as a health-related service are not reimbursed. (7-1-16)
- h. **Occupational Therapy and Evaluation.** Occupational therapy and evaluation services for vocational assessment, training or vocational rehabilitation are not reimbursed. (3-30-07)
- i. **Personal Care Services.** School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements. Personal care services do not require a goal on the plan of service. The provider must deliver at least one (1) of the following services: (7-1-16)
 - i. Basic personal care and grooming to include bathing, care of the hair, assistance with clothing, and basic skin care; (7-1-13)
 - ii. Assistance with bladder or bowel requirements that may include helping the student to and from the bathroom or assisting the student with bathroom routines; (7-1-16)
 - iii. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; (7-1-13)
 - iv. Assisting the student with physician-ordered medications that are ordinarily self-administered, in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 490.05; (7-1-13)
 - v. Non-nasogastric gastrostomy tube feedings, if the task is not complex and can be safely performed in the given student care situation, and the requirements are met in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 303.01. (7-1-13)
- j. Physical Therapy and Evaluation. (3-30-07)
- k. Psychological Evaluation. (3-30-07)
- l. Psychotherapy. (3-30-07)

m. Skills Building/Community Based Rehabilitation Services (CBRS). Skills Building/CBRS are interventions to reduce the student's disability by assisting in gaining and utilizing skills necessary to participate in school. They are designed to build competency and confidence while increasing mental health and/or decreasing behavioral symptoms. Skills Building/CBRS provides training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, and coping skills. These services are intended to prevent placement of the student into a more restrictive educational situation. (7-1-19)

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

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

p. Transportation Services. School districts and charter schools can receive reimbursement for mileage for transporting a student to and from home and school when: (7-1-16)

i. The student requires special transportation assistance, a wheelchair lift, an attendant, or both, when medically necessary for the health and safety of the student; (3-28-18)

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

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

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

v. The mileage, as well as the services performed by the attendant, are documented. See Section 855 of these rules for documentation requirements. (3-20-14)

q. Interpretive Services. Interpretive services needed by a student who is deaf or does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health-related service may be billed with the following limitations: (7-1-13)

i. Payment for interpretive services is limited to the specific time that the student is receiving the health-related service; documentation for interpretive service must include the Medicaid reimbursable health-related service being provided while the interpretive service is provided. (7-1-16)

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

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

(BREAK IN CONTINUITY OF SECTIONS)

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

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

01. Behavioral Intervention. Behavioral intervention must be provided by, or under the supervision of, an **intervention specialist or professional. Individuals providing behavioral intervention must be one (1) of the following:** ()

a. Intervention Paraprofessional. Intervention paraprofessionals may provide direct services. The **specialist or professional must observe and review the direct services performed by the paraprofessional monthly, or**

more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An intervention paraprofessional *under the direction of a qualified intervention specialist or professional* must: ()

- i. Be at least eighteen (18) years of age; ()
- ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; and ()
- iii. Meet the paraprofessional requirements as defined in IDAPA 08.02.02, "Rules Governing Uniformity." ()

b. *Intervention Technician. Intervention technician is a provisional position intended to allow an individual to gain the necessary degree, competency, or experience needed to qualify as an intervention specialist or higher. Provisional status is limited to a single eighteen (18) successive month period. The specialist or professional must observe and review the direct services performed by the technician monthly, or more often as necessary, to ensure the technician demonstrates the necessary skills to correctly provide the direct service. An intervention technician under the direction of a qualified intervention specialist or professional, must:* ()

- i. *Be an individual who is currently enrolled and is within twenty-four (24) semester credits, or equivalent, to complete their bachelor's degree or higher from an accredited institution in a human services field and working towards meeting the experience and competency requirements;* or ()
- ii. *Hold a bachelor's degree from an accredited institution in a human services field or a has a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field and working towards meeting the experience and competency requirements.* ()

c. *Intervention Specialist. Intervention specialists may provide direct services, complete assessments, and develop implementation plans. Intervention specialists who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following:* ()

- i. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in IDAPA 08.02.02, "Rules Governing Uniformity," Sections 021-024; or ()
- ii. An individual who holds a Habilitative Intervention Certificate of Completion in Idaho *with an expiration date of July 1, 2019 or later*, and does not have a gap of more than three (3) years of employment as an intervention specialist, or ()
- iii. An individual who holds a bachelor's degree from an accredited institution in a human services field or has a bachelor's degree and a minimum of twenty-four (24) semester credits in a human services field, can demonstrate one thousand forty (1,040) hours of supervised experience working with children who demonstrate functional or behavioral needs, and meets the competency requirements by completing one (1) of the following: ()

- (1) A Department-approved competency checklist referenced in the Medicaid Provider Handbook; ()
- (2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training; or ()
- (3) Other Department-approved competencies as defined in the Medicaid Provider Handbook. ()

d. *Intervention Professional. Intervention professionals may provide direct services, complete assessments, and develop implementation plans. Intervention professionals who will complete assessments must have*

documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following: ()

i. An individual who holds a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis *psychology, education*, or behavior analysis which may be documented within the individual's degree program, other coursework, or training; and ()

ii. *Have* one thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training. ()

e. Evidence-Based Model (EBM) Intervention Paraprofessional. EBM intervention paraprofessionals may provide direct services. EBM intervention paraprofessionals must be supervised in accordance with the evidence-based model in which they are certified or credentialed. The EBM intervention specialist or professional must observe and review the direct services performed by the paraprofessional to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An EBM intervention paraprofessional must: ()

i. Hold a high school diploma; and ()

ii. Hold a para-level certification or credential in an evidence-based model approved by the Department. ()

f. Evidence- Based Model (EBM) Intervention Specialist. EBM intervention specialists may provide direct services, complete assessments, and develop implementation plans. EBM intervention specialists must be supervised in accordance with the evidence-based model in which they are certified or credentialed. The EBM intervention professional must observe and review the direct services performed by the specialist to ensure the specialist demonstrates the necessary skills to correctly provide the direct service. The specialist may supervise the EBM intervention paraprofessional working within the same evidence-based model. An EBM intervention specialist must: ()

i. Hold a bachelor's degree from an accredited institution in accordance with their certification or credentialing requirements; and ()

ii. Hold a *bachelors-level* or credential in an evidence-based model approved by the Department. ()

g. Evidence-Based Model (EBM) Intervention Professional. EBM intervention professionals may provide direct services, complete assessments, and develop implementation plans. EBM intervention professionals may supervise EBM intervention paraprofessionals or specialists working within the same evidence-based model in which they are certified or credentialed. An EBM intervention professional must: ()

i. Hold a master's degree or higher from an accredited institution in accordance with their certification or credentialing requirements; and ()

ii. Hold a *masters-level* certification or credential in an evidence-based model approved by the Department. ()

02. Behavioral Consultation. Behavioral consultation must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis *psychology, education*, or behavior analysis (may be included as part of degree program); and who meets one (1) of the following: ()

a. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in IDAPA 08.02.02, “Rules Governing Uniformity”; ()

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

c. An occupational therapist who is qualified and registered to practice in Idaho; ()

d. An intervention professional, as defined in Subsection 855.01 of this rule; or ()

e. An Evidence-Based Model (EBM) intervention professional, as defined in Subsection 855.01 of this rule. ()

03. Crisis Intervention. Crisis intervention must be provided by, or under the supervision of an *intervention specialist* or professional. *Individuals* providing crisis intervention must be one (1) of the following: ()

a. An intervention paraprofessional, as defined in Subsection 855.01 of this rule; ()

b. An *intervention technician*, as defined in Subsection 855.01 of this rule; ()

c. An intervention specialist, as defined in Subsection 855.01 of this rule; ()

d. An intervention professional, as defined in Subsection 855.01 of this rule; ()

e. An EBM intervention paraprofessional, as defined in Subsection 855.01 of this rule; ()

f. An EBM intervention specialist, as defined in Subsection 855.01 of this rule; ()

g. An EBM intervention professional, as defined in Subsection 855.01 of this rule; ()

h. A licensed physician, licensed practitioner of the healing arts; ()

i. An advanced practice registered nurse; ()

j. A licensed psychologist; ()

k. A licensed clinical professional counselor or professional counselor; ()

l. A licensed marriage and family therapist; ()

m. A licensed masters social worker, licensed clinical social worker, or licensed social worker; ()

n. A psychologist extender registered with the Bureau of Occupational Licenses; ()

o. A licensed registered nurse (RN); ()

p. A licensed occupational therapist; or ()

q. An endorsed or certified school psychologist. ()

04. Habilitative Skill Building. Habilitative skill *building* must be provided by, or under the supervision of, an intervention specialist or professional. *Individuals* providing habilitative skill *building* must be one (1) of the following: ()

a. An intervention paraprofessional, as defined in Subsection 855.01 of this rule; ()

- b. An intervention technician, as defined in Subsection 855.01 of this rule; ()*
- c. An intervention specialist, as defined in Subsection 855.01 of this rule; ()*
- d. An intervention professional, as defined in Subsection 855.01 of this rule; ()*
- e. An EBM intervention paraprofessional, as defined in Subsection 855.01 of this rule; ()*
- f. An EBM intervention specialist, as defined in Subsection 855.01 of this rule; or ()*
- g. An EBM intervention professional, as defined in Subsection 855.01 of this rule. ()*
- 05. Interdisciplinary Training.** *Interdisciplinary Training must be provided by one (1) of the following: ()*
 - a. An intervention specialist, as defined in Subsection 855.01 of this rule; ()*
 - b. An intervention professional, as defined in Subsection 855.01 of this rule; ()*
 - c. An EBM intervention specialist, as defined in Subsection 855.01 of this rule; ()*
 - d. An EBM intervention professional, as defined in Subsection 855.01 of this rule. ()*
- 06. Medical Equipment and Supplies.** See Subsection 853.03 of these rules. (3-20-14)
- 07. Nursing Services.** Nursing services must be provided by a licensed registered nurse (RN) or by a licensed practical nurse (LPN) licensed to practice in Idaho. (7-1-13)
- 08. Occupational Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)
- 09. Personal Care Services.** Personal care services must be provided by or under the direction of a registered nurse licensed by the State of Idaho. (7-1-13)
 - a.** Providers of PCS must have at least one (1) of the following qualifications: (7-1-13)
 - i.** Licensed Registered Nurse (RN). A person currently licensed by the Idaho State Board of Nursing as a licensed registered nurse; (7-1-13)
 - ii.** Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; (7-1-16)
 - iii.** Certified Nursing Assistant (CNA). A person currently certified by the State of Idaho; or (7-1-16)
 - iv.** Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. (4-11-19)
 - b.** The licensed registered nurse (RN) must review or complete, or both, the PCS assessment and develop or review, or both, the written plan of care annually. Oversight provided by the RN must include all of the following: (7-1-16)
 - i.** Development of the written PCS plan of care; (7-1-13)
 - ii.** Review of the treatment given by the personal assistant through a review of the student's PCS service detail reports as maintained by the provider; and (7-1-16)

- iii. Reevaluation of the plan of care as necessary, but at least annually. (7-1-13)
- c. The RN must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (7-1-16)
- 10. Physical Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)
- 11. Psychological Evaluation.** A psychological evaluation must be provided by a: (7-1-13)
 - a. Licensed psychiatrist; (7-1-13)
 - b. Licensed physician; (7-1-13)
 - c. Licensed psychologist; (7-1-13)
 - d. Psychologist extender registered with the Bureau of Occupational Licenses; or (7-1-13)
 - e. Endorsed or certified school psychologist. (7-1-16)
- 12. Psychotherapy.** Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: (7-1-13)
 - a. Psychiatrist, M.D.; (7-1-13)
 - b. Physician, M.D.; (7-1-13)
 - c. Licensed psychologist; (7-1-13)
 - d. Licensed clinical social worker; (7-1-13)
 - e. Licensed clinical professional counselor; (7-1-13)
 - f. Licensed marriage and family therapist; (7-1-13)
 - g. Certified psychiatric nurse (R.N.), as described in Subsection 707.13 of these rules; (7-1-13)
 - h. Licensed professional counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (7-1-13)
 - i. Licensed masters social worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (7-1-13)
 - j. Licensed associate marriage and family therapist whose provision of psychotherapy is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or (7-1-13)
 - k. Psychologist extender, registered with the Bureau of Occupational Licenses, whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (7-1-13)
- 13. Skills Building/Community Based Rehabilitation Services (CBRS).** Skills Building/CBRS must be provided by one (1) of the following. Skills Building/Community Based Rehabilitation Services (CBRS) provider who is not required to have a PRA credential must be one (1) of the following: (7-1-19)

- a. Licensed physician, licensed practitioner of the healing arts; (7-1-16)
- b. Advanced practice registered nurse; (7-1-16)
- c. Licensed psychologist; (7-1-13)
- d. Licensed clinical professional counselor or professional counselor; (7-1-13)
- e. Licensed marriage and family therapist; (7-1-16)
- f. Licensed masters social worker, licensed clinical social worker, or licensed social worker; (7-1-13)
- g. Psychologist extender registered with the Bureau of Occupational Licenses; (7-1-13)
- h. Licensed registered nurse (RN); (7-1-13)
- i. Licensed occupational therapist; (7-1-13)
- j. Endorsed or certified school psychologist; (7-1-16)
- k. Skills Building/Community Based Rehabilitation Services specialist. A Skills Building/CBRS specialist must: (7-1-19)
 - i. Be an individual who has a bachelor’s degree and holds a current PRA credential; or (7-1-19)
 - ii. Be an individual who has a bachelor’s degree or higher, but does not hold a current PRA credential and was hired on or after November 1, 2010, to work as a Skills Building/CBRS specialist to deliver Medicaid-reimbursable mental health services. This individual may continue to provide Medicaid-reimbursable Skills Building/CBRS without a current PRA credential for a period not to exceed thirty (30) months. This thirty-month (30) period does not restart with new employment as a Skills Building/CBRS specialist when transferring to a new school district, charter school, or agency. The individual must show documentation that they are working towards obtaining the required PRA credential. In order to continue providing Skills Building/CBRS as a Skills Building/CBRS specialist beyond a total period of thirty (30) months, the individual must have obtained the required current PRA credential; (7-1-19)
 - iii. Be under the supervision of a licensed behavioral health professional, a physician, nurse, or an endorsed or certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision of the specialist to review treatment provided to student participants on an ongoing basis. The frequency of the one-to-one (1:1) supervision must occur at least monthly. Supervision can be conducted using telehealth when it is equally effective as direct on-site supervision; and ()
 - iv. Have a credential required for CBRS specialists. (7-1-19)
 - (1) Skills Building/CBRS specialists who intend to work primarily with adults, age eighteen (18) or older, must obtain a current PRA credential to work with adults. (7-1-19)
 - (2) Skills Building/CBRS specialists who intend to work primarily with adults, but also with participants under the age of eighteen (18), must obtain a current PRA credential to work with adults, and must have additional training addressing children’s developmental milestones, or have evidence of classroom hours in equivalent courses. The individual’s supervisor must determine the scope and amount of training the individual needs in order to work competently with children assigned to the individual’s caseload. (7-1-19)
 - (3) Skills Building/CBRS specialists who intend to work primarily with children under the age of eighteen (18) must obtain a current PRA credential to work with children. (7-1-19)
 - (4) Skills Building/CBRS specialists who intend to primarily work with children, but also work with participants eighteen (18) years of age or older, must obtain a current PRA credential to work with children, and must

have additional training or have evidence of classroom hours addressing adult issues in psychiatric rehabilitation. The individual's supervisor must determine the scope and amount of training the worker needs in order to competently work with adults assigned to the individual's caseload. (7-1-19)

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

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

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

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

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

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

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

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

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

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-2001

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 56-202(b) Idaho Code and Senate Bill 1204 (2019).

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

This chapter makes reference to the federal Institutions for Mental Disease (IMD) exclusion, which will no longer apply as of the effective date of the approved Medicaid waiver or state plan authority. All mentions of this exclusion in rule are being deleted to allow Medicaid reimbursement for IMD services.

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

This rule change will allow Medicaid reimbursement for services delivered to eligible adults in an IMD setting. Currently such services cannot be reimbursed, so this change confers a benefit to citizens needing treatment for substance use disorders and/or mental health disorders in an IMD setting.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Clay Lord at (208) 364-1979.

Dated this 14th day of November, 2019.

Tamara Prisock
DHW - Administrative Rules Unit
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**THE FOLLOWING IS THE TEMPORARY RULE FOR DOCKET NO. 16-0309-2001
(Only Those Sections With Amendments Are Shown.)**

701. INPATIENT BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.

01. Inpatient Psychiatric Hospital Services. Participants are eligible who have a diagnosis from the current DSM with substantial impairment in thought, mood, perception, or behavior. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. Medical necessity must be demonstrated for admission or extended stay by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. Services may be provided in: (7-1-18)

- a. A freestanding psychiatric hospital; (7-1-18)
- b. A hospital psychiatric unit; **and** (1-1-20)T
- c. **Subject to federal approval, an institution for mental diseases.** (1-1-20)T

02. Inpatient Substance Use Disorder Services. Participants are eligible when medical necessity is demonstrated by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. (1-1-20)T

03. Severity of Illness Criteria. Both severity of illness and intensity of services criteria must be met for admission to an IMD or psychiatric unit of a general hospital. (7-1-18)

a. Severity of illness criteria. The participant must meet one (1) of the following criteria related to the severity of **their** psychiatric illness: (1-1-20)T

i. Is currently dangerous to self as indicated by at least one (1) of the following: (3-30-07)

(1) Has actually made an attempt to take **their** own life in the last seventy-two (72) hours (details of the attempt must be documented); or (1-1-20)T

(2) Has demonstrated self-mutilative behavior within the past seventy-two (72) hours (details of the behavior must be documented); or (3-30-07)

(3) Has a clear plan to seriously harm himself, overt suicidal intent, and lethal means available to follow the plan (this information can be from the participant or a reliable source and details of the participant's plan must be documented); or (7-1-18)

(4) The participant has a current plan, specific intent, or recurrent thoughts to seriously harm himself or others, and is at significant risk of making an attempt without immediate intervention; or (7-1-18)

ii. Participant is actively violent or aggressive and exhibits homicidal ideation or other symptoms **that** indicate **they are** a probable danger to others as indicated by one (1) of the following: (1-1-20)T

(1) The participant has engaged in, or threatened, behavior harmful or potentially harmful to others or caused serious damage to property **that** would pose a serious threat of injury or harm to others within the last twenty-four (24) hours (description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to the present); or (1-1-20)T

(2) The participant has made threats to kill or seriously injure others or to cause serious damage to property **that** would pose a threat of injury or harm to others and has effective means to carry out the threats (details of threats must be documented); or (1-1-20)T

(3) A mental health professional has information from the participant or a reliable source that the participant has a current plan, specific intent, or recurrent thoughts to seriously harm others or property and is at significant risk of making the attempt without immediate intervention (details must be documented); or (7-1-18)

iii. Participant is gravely impaired as indicated by at least one (1) of the following criteria: (7-1-18)

(1) The participant has such limited functioning that **their** physical safety and well being are in jeopardy due to **their** inability for basic self-care, judgment and decision making (details of the functional limitations must be documented); or (1-1-20)T

(2) The acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the participant unmanageable and unable to cooperate in non-hospital treatment (details of the participant's behaviors must be documented); or (7-1-18)

(3) There is a need for treatment, evaluation, or complex diagnostic testing where the participant's level of functioning or communication precludes assessment or treatment, **or both**, in a non-hospital based setting, and may require close supervision of medication or behavior or both. (1-1-20)T

(4) The participant is undergoing severe or medically complicated withdrawal from alcohol, opioids, stimulants, or sedatives. (7-1-18)

04. Intensity of Service Criteria. The participant must meet all of the following criteria related to the intensity of services needed for treatment. (7-1-18)

a. Documentation that ambulatory care resources available in the community do not meet the treatment needs of the participant; and (7-1-18)

b. The services provided can reasonably be expected to improve the participant's condition or prevent further regression so that inpatient services will no longer be needed; and (7-1-18)

c. Treatment of the participant's condition requires services on an inpatient basis, including twenty-four (24) hour nursing observation. (7-1-18)

d. Exceptions. The requirement to meet intensity of service criteria may be waived for first-time admissions if severity of illness is met and the physician is unable to make a diagnosis or treatment decision while the participant is in **their** current living situation. The waiver of the intensity of services requirement can be for no longer than forty-eight (48) hours and is not waivable for repeat hospitalizations. (1-1-20)T

05. Exclusions. If a participant meets one (1) or more of the following criteria, Medicaid reimbursement will be denied: (7-1-18)

a. The participant is unable to actively participate in an outpatient treatment program solely because of a major medical condition, surgical illness or injury; or (7-1-18)

b. The participant has a primary diagnosis of being intellectually disabled and the primary treatment need is related to the intellectual disability. (7-1-18)

702. INPATIENT BEHAVIORAL HEALTH SERVICES: COVERAGE AND LIMITATIONS.

01. Initial Length of Stay. An initial length of stay, or a prior authorization requirement, will be established by the Department, or its designee, in the Idaho Medicaid Provider Handbook. Requirements for establishing length of stay will never be more restrictive than requirements for non-behavioral health services in a general hospital. (7-1-18)

02. Extended Stay. The Department, or its designee, will establish authorization requirements in the Idaho Medicaid Provider Handbook. An authorization is necessary when the appropriate care of the participant indicates the need for inpatient days in excess of the initial length of stay or previously approved extended stay. (7-1-18)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1704

NOTICE OF RULEMAKING – VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 56-118, 56-202(b), and 56-264, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

This proposed rulemaking is being vacated. At the request of Division of Financial Management, rather than going pending under this docket number, the changes that published as proposed in the October 2, 2019, Idaho Administrative Bulletin are going pending in the Department's non-fee Omnibus Docket No. 16-0000-1900 that published in the Wednesday, November 20, 2019, Idaho Administrative Special Edition Bulletin, [Vol. 19-11SE, pages 1737 through 1945](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Karen Westbrook at (208) 364-1960.

Dated this 14th day of November, 2019.

Tamara Prisock
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1806

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Department has simplified and clarified some of the language in the proposed language described below. Notably children’s habilitation intervention services was shortened to CHIS and assessment and clinical treatment plan was shortened to ACTP.

These changes will comply with a federal mandate. Children's intervention services currently offered under federal Home and Community-Based waiver authorities will be moved into the State Plan to allow access to these intervention services for all eligible children who have a medically necessary need and functional and/or behavioral need for such services. Rules regarding children's state plan services (school-based services) are set forth in IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” and rules regarding Home and Community-Based Services (HCBS) 1915(c) waiver and 1915(i) (state plan option benefits) are set forth in IDAPA 16.03.10. To change children's intervention services from waiver to state plan, the descriptions of the following services will be moved from IDAPA 16.03.10 to IDAPA 16.03.09 under the heading “Children's Habilitation Intervention Services.”

The existing intervention service of habilitative intervention is being divided into two separate services to capture skill training interventions and therapeutic-type behavioral interventions. The Family Directed Services in the Children's Developmental Disability Services 1915(c) waiver are also contained in the 1915(i) Extended State Plan authority. Even though the 1915(c) will expire in June of this year, the family directed services will remain in IDAPA 16.03.10. under the 1915(i) benefit authority. The support services in this rule are respite, habilitative supports, family education, and family-directed community supports. This group of services will be re-titled “Children's Developmental Disabilities (DD) Home and Community-Based Services (HCBS) State Plan Option.”

Because these rule changes move intervention services into the State Plan, all Medicaid-eligible children with an identified need may access services, therefore a cost increase is anticipated. However, by providing intervention services to children in need at an earlier age, more costly intervention may be avoided as the child ages. Additionally, these rule changes add language to establish a tiered provider structure allowing for providers, with higher credentials than those currently allowed in rule, to deliver these services. These changes will add a higher reimbursement rate for these higher credentialed providers resulting in an increase to the overall cost of providing these services. Again, higher quality services provided to children may cause a reduction in need for more intensive services as the child ages.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 199 through 235](#).

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:

These rule changes will result in a total additional cost of \$2,860,000 (\$820,800 General Funds and \$2,039,200 Federal Funds). Additional costs will support an increase in rates paid to providers with higher credentials than the program currently pays to existing providers. An increase in costs will also result from moving these services to the State Plan, which will allow all eligible children with an established need for children's habilitation intervention services to access these services. Analysis of this cost increase was requested in Medicaid's 2019 Budget under Budget Bill JGT008 and approved for funding by the 2019 Legislature.

Based on the Rough Order of Magnitude (ROM) requested through Medicaid Management Information System (MMIS), the changes required in the payment system will not involve any additional expenditures outside of Molina's existing contract scope of work.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Angie Williams, (208) 287-1169.

Dated this 14th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE AMENDED PENDING RULE FOR
DOCKET NO. 16-0310-1806**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History Check. Agencies must verify that individuals working in the area listed in Subsection 009.03 of these rules whom are employed or whom they contract have complied with the provisions in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (3-19-07)

02. Additional Criminal Convictions. Once an individual has received a criminal history clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (3-19-07)

03. Providers Subject to Criminal History and Background Check Requirements. The following providers are required to have a criminal history and background check: (3-19-07)

- a.** Adult Day Health Providers. The criminal history and background check requirements applicable to providers of adult day health as provided in Sections 329 and 705 of these rules. (4-4-13)
- b.** Adult Residential Care Providers. The criminal history and background check requirements applicable to adult residential care providers as provided in Section 329 of these rules. (4-2-08)
- c.** Attendant Care Providers. The criminal history and background check requirements applicable to attendant care providers as provided in Section 329 of these rules. (4-2-08)
- d.** Behavior Consultation or Crisis Management Providers. The criminal history and background check requirements applicable to behavior consultation or crisis management providers as provided in Section 705 of these rules. (4-4-13)
- e.** Certified Family Home Providers and All Adults in the Home. The criminal history and background check requirements applicable to certified family homes are found in Sections 305, 329 and 705 of these rules, and as provided in IDAPA 16.03.19, "Rules Governing Certified Family Homes." (4-2-08)
- f.** Chore Services Providers. The criminal history and background check requirements applicable to chore services providers as provided in Sections 329 and 705 of these rules. (4-2-08)
- g.** Companion Services Providers. The criminal history and background check requirements applicable to companion services providers as provided in Section 329 of these rules. (4-2-08)
- h.** Day Habilitation Providers. The criminal history and background check requirements applicable to day habilitation providers as provided in Section 329 of these rules. (4-4-13)
- i.** Developmental Disabilities Agencies (DDA). The criminal history and background check for DDA and staff as provided in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 009. (7-1-11)
- j.** Homemaker Services Providers. The criminal history and background check requirements applicable to homemaker services providers as provided in Section 329 of these rules. (4-2-08)
- k.** Personal Assistance Agencies Acting As Fiscal Intermediaries. The criminal history and background check requirements applicable to the staff of personal assistance agencies acting as fiscal intermediaries as provided in Subsection 329.02 of these rules. (3-19-07)
- l.** Personal Care Providers. The criminal history and background check requirements applicable to personal care providers as provided in Subsection 305.06 of these rules. (3-19-07)
- m.** Residential Habilitation Providers. The criminal history and background check requirements applicable to residential habilitation providers as provided in Sections 329 and 705 of these rules, and IDAPA 16.04.17 "Rules Governing Residential Habilitation Agencies," Sections 202 and 301. (4-2-08)
- n.** Respite Care Providers. The criminal history and background check requirements applicable to respite care providers as provided in Sections 329, 665, and 705 of these rules. (7-1-11)
- o.** Service Coordinators and Paraprofessionals. The criminal history and background check requirements applicable to service coordinators and paraprofessionals working for an agency as provided in Section 729 of these rules. (3-19-07)
- p.** Skilled Nursing Providers. The criminal history and background check requirements applicable to skilled nursing providers as provided in Sections 329 and 705 of these rules. (4-4-13)
- q.** Supported Employment Providers. The criminal history and background check requirements applicable to supported employment providers as provided in Sections 329 and 705 of these rules. (4-2-08)

r. Therapeutic Consultant. The criminal history and background check requirements applicable to therapeutic consultation providers as provided in Section 685 of these rules. (7-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

038. GENERAL REIMBURSEMENT: TYPES OF PARTICIPANT SERVICES.
The following types of services are reimbursed as provided in Section 037 of these rules. (4-4-13)

01. Personal Care Services. The fees for personal Care Services (PCS) described in Section 300 of these rules. (4-4-13)

02. Aged and Disabled Waiver Services. The fees for personal care services (PCS) described in Section 320 of these rules. (4-4-13)

03. Children’s Developmental Disabilities (DD) Home and Community-Based Services (HCBS) State Plan Option. The fees for Children’s DD HCBS state plan option described in Section 520 of these rules. ()

04. Adults with Developmental Disabilities Waiver Services. The fees for adults with developmental disabilities waiver services described in Section 700 of these rules. (4-4-13)

05. Service Coordination. The fees for service coordination described in Section 720 of these rules. (4-4-13)

06. Therapy Services. The fees for physical therapy, occupational therapy, and speech-language pathology services described in Section 215 of these rules include the use of therapeutic equipment to provide the modality or therapy. No additional charge may be made to either the Medicaid program or the client for the use of such equipment. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

SUB-PART: CHILDREN’S DEVELOPMENTAL DISABILITIES (DD) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN OPTION
(Sections 520 - 528)

520. CHILDREN’S DD HCBS STATE PLAN OPTION.
In accordance with Section 1915(i) of the Social Security Act, the Department will pay for home and community-based services provided by individuals or agencies that have entered into a provider agreement with the Department. ()

521. CHILDREN’S DD HCBS STATE PLAN OPTION: DEFINITIONS.
For the purposes of Sections 520 through 528 of these rules, the following terms are used as defined below. ()

01. Annual. Every three hundred sixty-five (365) days, except during a leap year which equals three hundred sixty-six (366) days. ()

02. Community. Natural, integrated environments outside of the participant’s home, *outside of DDA center-based settings, or at school outside of school hours.* ()

03. Developmental Disabilities Agency (DDA). ()

a. A type of developmental disabilities facility, as defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis; ()

b. Certified by the Department to provide services to participants with developmental disabilities; and ()

c. A business entity, open for business to the general public. ()

04. Family-Centered Planning Process. A participant-focused planning process directed by the participant or the participant's decision-making authority and facilitated by the paid or non-paid plan developer. The family-centered planning team discusses the participant's strengths, needs, and preferences, including the participant's safety and the safety of those around the participant. This discussion helps the participant or the participant's decision-making authority make informed choices about the services and supports included on the plan of service. (7-1-16)

05. Family-Centered Planning Team. The planning group who helps inform the participant about available services to develop the participant's plan of service. This group includes, at a minimum, the participant, the participant's decision-making authority, and the plan developer. The family-centered planning team must include people chosen by the participant and the family. ()

06. HCBS State Plan Option. The federal authority under Section 1915(i) of the Social Security Act that allows a state to provide through a state plan amendment, medical assistance for home and community-based services for elderly and participants with disabilities *who* without the provision of services the participants would require institutional level of care. ()

07. Integration. The process of promoting a lifestyle for participants with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of participants with developmental disabilities. ()

08. Level of Support. The amount of services and supports necessary to allow the participant to live independently and safely in the community. ()

09. Medical, Social, and Developmental Assessment Summary. A form used by the Department or its contractor to gather a participant's medical, social and developmental history and other summary information. It is required for all participants receiving home and community-based services under a plan of service. The information is used in the assessment and authorization of a participant's services. ()

10. Plan Developer. A paid or non-paid person who, under the direction of the participant or the participant's decision-making authority, is responsible for developing a single plan of service and subsequent addenda. The plan of service must cover all services and supports identified during the family-centered planning process and must meet the HCBS person-centered plan requirements as described in Section 317 of these rules. ()

11. Plan Monitor. A person who oversees the provision of services on a paid or non-paid basis and is identified on the participant's plan of service. ()

12. Plan of Service. An initial or annual plan of service, developed by the participant, the participant's decision-making authority, and the family-centered planning team, that identifies all services that were determined through a family-centered planning process. Plan development is required in order to provide DD services to children from birth through seventeen (17) years of age. This plan must be developed in accordance with Sections 316 and 317 of these rules. ()

13. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. (7-1-11)

14. Prior Authorization (PA). A process for determining a participant's eligibility for services and

medical necessity prior to the delivery or payment of services as **described in** Sections 520 **through** 528 of these rules. ()

15. Provider Status Review. The written documentation that identifies the participant's progress toward goals defined in the plan of service, and demonstrates the continued need for the service. (7-1-11)

16. Right Care. Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. (7-1-11)

17. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (7-1-11)

18. Right Price. The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. (7-1-11)

19. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (7-1-11)

20. Supervisor. *An individual responsible for the supervision of DDA staff or independent providers that must meet the intervention specialist or professional qualifications as outlined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits", Section 570.* ()

21. Support Services. Services that provide supervision and assistance to a participant or facilitates integration into the community. ()

522. CHILDREN'S DD HCBS STATE PLAN OPTION: ELIGIBILITY DETERMINATION. Final determination of a participant's eligibility will be made by the Department. ()

01. Initial Eligibility Assessment Developmental Disability Determination. The Department, or its contractor, will determine if a child meets established criteria for a developmental disability by completing the following: ()

- a.** Documentation of a participant's developmental disability diagnosis, demonstrated by: ()
 - i.** A medical assessment that contains medical information that accurately reflects the current status of the participant or establishes categorical eligibility in accordance with Section 66-402(5)(a), Idaho Code; or ()
 - ii.** The results of psychometric testing, if eligibility for developmental disabilities services is based on intellectual disability and there is no prior testing, or prior testing is inconclusive or invalid. Initial eligibility determinations also require documentation of diagnosis for a participant whose eligibility is based on developmental disabilities other than intellectual disability. ()

b. An assessment of functional skills that reflects the participant's current functioning. The Department, or its contractor, will administer a functional assessment for use in initial eligibility determination of developmental disability eligibility. Annually, a new functional assessment may be required if the assessor determines that additional documentation is necessary to determine the participant's level of care criteria and must be completed sixty (60) calendar days before the expiration of the current plan of service. ()

c. Medical, social, and developmental *assessment (MSDA)* summary. ()

02. Determination for Children's DD HCBS State Plan Option. The Department, or its contractor, will determine if a child meets the established criteria necessary to receive children's DD HCBS state plan option services by verifying: ()

a. The participant is birth through seventeen (17) years of age; and ()

b. The participant has a developmental disability as defined under Sections 500, 501, and 503 these rules and Section 66-402, Idaho Code, and has a demonstrated need for Children's DD HCBS state plan option services; and ()

c. The participant qualifies for Medicaid under an eligibility group who meets the needs-based criteria of the 1915(i) benefit for children with developmental disabilities and falls within the income requirements as specified in Attachment 2.2-A of the Idaho State Plan under Title XIX. ()

03. Individualized Budget Methodology.

The following four (4) categories are used when determining individualized budgets for children with developmental disabilities. ()

a. Children's DD - Level I. Children meeting developmental disabilities criteria. ()

b. Children's DD - Level II. ()

i. Children who qualify based on functional limitations when their composite full-scale standard score of less than fifty (50); or ()

ii. Children who have an overall standard score up to fifty-three (53) when combined with a maladaptive behavior score of greater than one (1) to less than two (2) standard deviations from the mean. ()

c. Children's DD - Level III. ()

i. Children who qualify based on functional limitations when their composite full-scale standard score is less than fifty (50); and ()

ii. Have an autism spectrum disorder diagnosis. ()

d. Children's DD - Level IV. Children who qualify based on maladaptive behaviors when their maladaptive behavior score is two (2) standard deviations or greater from the mean. ()

04. Participant Notification of Budget Amount. The Department, or its contractor, *will notify* each participant of his set budget amount as part of the eligibility determination process. The notification will include how the participant may appeal the set budget amount. ()

05. Annual Re-Evaluation. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department, or its contractor, will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category as outlined in Subsection 522.03 of this rule. ()

523. CHILDREN'S DD HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.

All children's DD HCBS must be identified on a plan of service developed by the family-centered planning team. The following services must be prior authorized and are reimbursable when provided in accordance with these rules. ()

01. Respite. Respite provides supervision to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver or in response to a family emergency or crisis. Respite may be provided by a DDA or by an independent respite provider. An independent respite provider may be a relative of the participant. Payment for respite does not include room and board. Respite may be provided in the participant's home, the private home of the independent respite provider, a DDA, or in the community. The following limitations apply: ()

a. Respite must not be provided on a continuous, long-term basis as a daily service that would enable an unpaid caregiver to work. ()

- b.** Respite must only be offered to participants living with an unpaid caregiver who requires relief. ()
- c.** Respite cannot exceed fourteen (14) consecutive days. ()
- d.** Respite must not be provided at the same time other Medicaid services are being provided with the exception of when an unpaid caregiver is receiving family education. ()
- e.** The respite provider must not use restraints on participants, other than physical restraints in the case of an emergency. Physical restraints may be used in an emergency to prevent injury to the participant or others and must be documented in the participant's record. ()
- f.** When respite is provided as group respite, the following applies: ()

 - i.** When group respite is center-based, there must be a minimum of one (1) qualified staff providing direct services to every two (2) to six (6) participants. As the number and severity of the participants with functional impairments or behavioral needs increase, the participant ratio must be adjusted accordingly. ()
 - ii.** When group respite is community-based, there must be a minimum of one (1) qualified staff providing direct services to two (2) or three (3) participants. As the number and severity of the participants with functional impairments or behavioral needs increase, the participant ratio *in the group* must be adjusted *from three (3) to two (2)*. ()
- g.** Respite cannot be provided as center-based by an independent respite provider. An independent respite provider may only provide group respite when the following are met: ()

 - i.** The independent respite provider is a relative; ()
 - ii.** The independent respite provider is delivering respite to no more than three (3) eligible siblings; ()
 - iii.** The service is delivered in the home of the participants or the independent respite provider. ()
- 02. Community-Based Supports.** Community-based supports provides assistance to a participant by facilitating the participant's independence and integration into the community. This service provides an opportunity for participants to explore their interests, practice skills learned in other therapeutic environments, and learn through interactions in typical community activities. Integration into the community enables participants to expand their skills related to activities of daily living and reinforces skills to achieve or maintain mobility, sensory-motor, communication, socialization, personal care, relationship building, and participation in leisure and community activities. Community-based supports must: ()

 - a.** Not supplant services provided in school or therapy, or supplant the role of the primary caregiver; ()
 - b.** Ensure the participant is involved in age-appropriate activities in environments typical peers access according to the ability of the participant; and ()
 - c.** Have a minimum of one (1) qualified staff providing direct services to two (2) or three (3) participants when provided as group community-based supports. As the number and severity of the participants with functional impairments or behavioral needs increase, the staff participant ratio must be adjusted accordingly. ()
- 03. Family Education.** Family education is professional assistance to family members, or others, who participate in caring for the eligible participant to help them better meet the needs of the participant *by providing an orientation to developmental disabilities and to educate families on generalized strategies for behavioral modification and intervention techniques specific to the participant's diagnosis*. It offers education that is specific to the needs of the family and participant as identified on the plan of service. ()

a. Family education providers must maintain documentation of the training in the participant's record including the provision of activities outlined in the plan of service. ()

b. Family education may be provided in a group setting not to exceed five (5) participants' families. ()

04. Family-Directed Community Supports (FDCS). Families of participants eligible for the children's *DD HCBS* state plan option may choose to direct their individualized budget rather than receive the traditional services described in Subsections 523.01 through 523.04 of this rule when the participant lives at home with *their* parent or legal guardian. All services provided under FDCS option must be delivered on a one-to-one basis, must be identified on a plan of service developed by the family-centered planning team, and must be prior authorized. *Additional* requirements for this option are outlined in Sections 520 through 522, Subsections 523.05-06 524.01-03, 524.07-10, and 525.01, and Section 528, of these rules, and IDAPA 16.03.13, "Consumer-Directed Services." ()

05. Limitations. ()

a. *Children's DD HCBS* state plan option services are limited by the participant's individualized budget amount. ()

b. Services offered in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," may not be authorized under these rules. ()

c. Duplication of services cannot be provided. Services are considered duplicate when: ()

i. An adaptive equipment and support service address the same goal; ()

ii. Multiple adaptive equipment items address the same goal; ()

iii. Goals are not separate and unique to each service provided; or ()

iv. When more than one (1) service is provided at the same time, unless otherwise authorized. ()

d. For the children's *DD HCBS* state plan option listed in Subsections 523.01, 523.02, and 523.03 of this rule, the following are excluded for Medicaid payment: ()

i. Vocational services; ()

ii. Educational services; and ()

iii. Recreational services. ()

06. HCBS Compliance. Providers of children's *DD HCBS* are responsible for ensuring that they meet the setting quality requirements described in Section 313 of these rules, as applicable, and must comply with associated Department quality assurance activities. The Department may take enforcement actions as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, if the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation. ()

524. CHILDREN'S DD HCBS STATE PLAN OPTION: PLAN OF SERVICE PROCESS.

In collaboration with the participant, the Department must ensure that the participant has one (1) plan of service. This plan of service is developed within the individualized participant budget referred to in Section 522 of these rules and must identify all services. The plan of service must identify services and supports if available outside of Medicaid-funded services that can help the participant meet desired goals. Paid plan development must be provided by the Department, or its contractor, in accordance with Section 316 of these rules. ()

01. History and Physical. Prior to the development of the plan of service, the plan developer must obtain a current history and physical completed by a practitioner of the healing arts. This is required at least annually

or more frequently as determined by the practitioner. For participants in Healthy Connections, the Healthy Connections physician may conduct the history and physical and refer the participant for other evaluations. ()

02. Plan of Service Development. The plan of service must be developed with the child participant, the participant's decision-making authority, and facilitated by the Department, or its designee. If the participant is unable to attend the family-centered planning meeting, the plan of service must contain documentation to justify the participant's absence. With the decision-making authority's consent, the family-centered planning team may include other family members or participants who are significant to the participant. ()

03. Requirements for Collaboration. Providers of *children's DD HCBS* must coordinate with the family-centered planning team as specified on the plan of service. ()

04. Plan Monitoring. The family-centered planning team must identify the frequency of monitoring, which must be at least every six (6) months and document the plan monitor's name along with the monitoring frequency on the plan. The plan developer is considered the plan monitor and must meet face-to-face with the participant and the participant's decision-making authority at least annually. Plan monitoring includes reviewing the plan of service with the participant and the participant's decision-making authority to identify the current status of *services*, any barriers to services, and *any necessary* changes to the plan of service. ()

05. Provider Status Reviews. The service providers identified in Section 526 of these rules must report the participant's progress toward goals to the plan monitor. The provider must complete a six (6) month and annual provider status review. The six (6) month status review must be submitted thirty (30) days prior to the six (6) month date listed on the plan of service. *The annual* provider status review must be submitted to the plan monitor forty-five (45) calendar days prior to the expiration of the existing plan of service. ()

06. Addendum to the Plan of Service. A plan of service may be adjusted during the year with an addendum to the plan and these adjustments must be based on changes in a participant's need and requested by the parent or legal guardian. Adjustment of the plan of service requires the decision-making authority's signature and prior authorization by the Department. The Department will distribute the addendum to the providers involved in the addendum's implementation. Upon receipt by the provider, the addendum must be reviewed, signed, and returned to the Department, with a copy maintained in the participant's record. ()

07. Annual Reauthorization of Services. A participant's plan of service must be reauthorized annually. The Department must review and authorize the new plan of service prior to the expiration of the current plan. ()

08. Annual Eligibility Determination Results. An annual determination must be completed in accordance with Section 522 of these rules. ()

09. Adjustments to the Annual Budget and Services. The annual budget may be adjusted when there are documented changes that may support placement in a different budget category as identified in Section 522 of these rules. Services may be adjusted at any time during the plan year. ()

10. Reapplication After a Lapse in Service. For participants who are re-applying for service, the assessor must evaluate whether assessments are current and accurately describe the status of the participant. ()

525. CHILDREN'S DD HCBS STATE PLAN OPTION: PROCEDURAL REQUIREMENTS.

01. Requirements for Prior Authorization. Prior authorization is to ensure the provision of the right care, in the right place, at the right price, and with the right outcomes in order to enhance health and safety, and to promote participants' rights, self-determination, and independence. Prior authorization is intended to help ensure the provision of necessary and appropriate services and supports. Services are reimbursable if they are identified on the authorized plan of service and are consistent with rules for HCBS as described in Sections 310 through 313 and 316 and 317 of these rules, and for the specific services included on the plan. Delivery of each service identified on the plan of service cannot be initiated until the plan has been signed by the parent or participant's decision-making authority, the provider responsible for service provision, and has been authorized by the Department. ()

02. Requirements for Supervision. All children's DD HCBS provided by a DDA or independent provider must be supervised. The supervisor must meet the *intervention specialist or professional* qualifications as outlined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 575, "Children's Habilitation Intervention Services." The observation and review of the direct services *must be* performed by all staff on at least a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services as defined in this rule set. ()

03. Requirements for Quality Assurance. Providers of DD HCBS state plan option must demonstrate high quality of services through an internal quality assurance review process. ()

04. General Requirements for Program Documentation. The provider must maintain records for each participant served. Program documentation must be maintained by the independent provider or DDA in accordance with IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct," Section 101. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. For each participant, the following program documentation is required: ()

- a. Date and time of visit; ()
- b. Support services provided during the visit; ()
- c. A summary of session or services provided; ()
- d. Length of visit, including time in and time out; ()
- e. Location of service; and ()
- f. Signature of the individual providing the service and date signed. ()

05. Community-Based Supports Documentation. In addition to the general requirements listed in Subsection 525.04 of this rule, the supervisor must complete at a minimum, six (6) month and annual provider status reviews for community-based support services provided. These provider status reviews must be completed more frequently when required on the plan of service and must: ()

- a. Be submitted to the plan monitor; and ()
- b. Be submitted on Department-approved forms. ()

06. Family Education Documentation. In addition to the general requirements listed in Subsection 525.04 of this rule, the DDA or independent provider must survey the parent or legal guardian's satisfaction of the service immediately following a family education session. ()

526. CHILDREN'S DD HCBS STATE PLAN OPTION: PROVIDER QUALIFICATIONS AND DUTIES. All providers of children's DD HCBS state plan option must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. ()

01. Respite. Respite may be provided by an agency that is certified as a DDA or by an independent respite provider. An independent respite provider is an individual who has entered into a provider agreement with the Department. Providers of respite must meet the following minimum qualifications: ()

- a. Be at least sixteen (16) years of age when employed by a DDA; or ()
- b. Be at least eighteen (18) years of age and be a high school graduate, or have a GED, to act as an independent respite provider; and ()
- c. Have received instructions in the needs of the participant who will be provided the service; ()

- d. Demonstrate the ability to provide services according to a plan of service; ()
- e. Satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks,"; and ()
- f. When employed by a DDA, be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." Independent respite providers must be certified in CPR and first aid prior to delivering services and must maintain current certification thereafter. ()

02. Community-Based Support. Community-based supports *may* be provided by a DDA or an independent provider. An independent provider is an individual who has entered into a provider agreement with the Department. Providers of community-based supports must meet the following minimum qualifications: ()

- a. Be at least eighteen (18) years of age; ()
- b. Have received instructions in the needs of the participant who will be provided the service; ()
- c. Demonstrate the ability to provide services according to a plan of service; ()
- d. Have six (6) months supervised experience working with children with developmental disabilities. This can be achieved in the following ways: ()
 - i. Have previous work experience gained through paid employment, university practicum experience, or internship; or ()
 - ii. Have on-the-job supervised experience gained through employment with increased supervision. Experience is gained by completing at least six (6) hours of job shadowing prior to the delivery of direct support services, and a minimum of weekly face-to-face supervision with the supervisor for a period of six (6) months while delivering services. ()
 - iii. For individuals providing community-based supports to children birth to age three (3), the six (6) months of documented experience must be with infants, toddlers, or children birth to age three (3) years of age with developmental delays or disabilities. ()
- e. Complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide community-based supports. ()
- f. Satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks,"; and ()
- g. When employed by a DDA, be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." Independent providers must be certified in CPR and first aid prior to delivering services and must maintain current certification thereafter. ()

03. Family Education. Family Education can be provided by an agency certified as a DDA or an individual who holds an independent habilitation intervention provider agreement with the Department and meets the intervention specialist or professional qualifications as outlined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits". ()

527. CHILDREN'S DD HCBS STATE PLAN OPTION: PROVIDER REIMBURSEMENT. Providers are reimbursed on a fee-for-service basis for services identified on the participant's plan of service and within the participant's individualized budget. The Department will monitor the budget setting methodology on an ongoing basis to ensure that participant needs are accurately reflected in the methodology. ()

01. Claim Forms. Provider claims for payment will be submitted on claim forms provided or approved

by the Department. Billing instructions will be provided by the Department. ()

02. Rates. The reimbursement rates calculated for children's HCBS include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. ()

528. CHILDREN'S DD HCBS STATE PLAN OPTION: DEPARTMENT'S QUALITY ASSURANCE AND IMPROVEMENT PROCESSES.

Quality assurance activities will include the observation of service delivery with participants, review of participant records, and complete satisfaction interviews. All providers of support services must grant the Department immediate access to all information required to review compliance with these rules. ()

01. Quality Assurance. The Department will conduct quality assurance by collaborating with providers to complete audits and reviews to ensure compliance with the Department's rules and regulations. These findings may lead to quality improvement activities to enhance provider processes and outcomes for the child. If problems are identified that impact health and safety or are not resolved through quality improvement activities, implementation of a corrective action process may occur. ()

02. Quality Improvement. Quality improvement consists of the Department working with the provider to resolve identified issues and enhance services provided. Quality improvement activities must include: ()

a. Consultation; ()

b. Technical assistance and recommendations; or ()

c. Corrective Action. ()

03. Corrective Action. Corrective action is a formal process used by the Department to address significant, ongoing, or unresolved deficient practice identified during the review process as provided in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, and includes: ()

a. Issuance of a corrective action plan; ()

b. Referral to Medicaid Program Integrity Unit; or ()

c. Action against a provider agreement. ()

(BREAK IN CONTINUITY OF SECTIONS)

658. -- 699. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.18 – MEDICAID COST-SHARING

DOCKET NO. 16-0318-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE AND TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2020. The pending rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-253 and 56-257, Idaho Code, and Title XIX and Title XXI of the Social Security Act.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule. No changes have been made to the pending rule that differs from the proposed rule text.

This rulemaking aligns the Personal Needs Allowance (PNA) for all HCBS participants regardless of marital status. This alignment also allows the Department to reduce the PNA table from six (6) categories of eligibility down to two (2). The final determination of this rule change will align the PNA for all participants without a rent or mortgage expense to 100% of the Federal SSI benefit.

Additionally, we need to add a subsection that details that Native Americans and Medicaid Workers with Disabilities (MWD) are exempt from this share of cost requirement. 42 CFR 447.56 prohibits states from collecting share of cost from Tribal participants and MWD participants. This update is necessary to help align this chapter with other rule chapters, CFR, and clarify existing practice. While this is an addition to this rule, it also provides a clarification to this chapter that has been a source of confusion for participants and providers of HCBS services.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. There are no changes to the pending rule and it is being adopted as originally proposed. The original text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 159 through 162](#).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b) Compliance with deadlines in amendments to governing law or federal programs, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The Centers for Medicare and Medicaid Services (CMS) identified that Idaho is not in compliance with the reasonableness requirements described at 42 CFR 435.726(c)(i).

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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:

Aligning the Personal Needs allowance (PNA) to 100% of SSI Federal benefit results in a net impact of an ongoing savings of \$46,606.20 (approximately \$32,624.34 Federal dollars and \$13,981.86 State dollars) per year due to a reduction in Medicaid claims expenditures. The change will result in Share of Cost increasing for a small number of participants (191 members in State Fiscal Year 2018 and approximately 30 members as of August 5, 2019) receiving Home and Community Based Services, which will decrease the amount of dollars paid in Medicaid claims.

Funding sources: Aligning the PNA to 100% of SSI Federal benefit results in a net impact of an ongoing savings of \$46,606.20 (approximately \$32,624.34 Federal dollars and \$13,981.86 State dollars per year due to a reduction in Medicaid claims expenditures.

Automated Systems: There is no fiscal impact associated with changes to automated systems, the Idaho Benefit Eligibility System (IBES). Necessary changes will be incorporated into routine business operations and required annual updates will be made.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule or temporary rule, contact Jennifer Pinkerton, (208) 287-1171.

Dated this 14th day of November, 2019.

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DOCKET NO. 16-0318-1901 - ADOPTION OF PENDING AND TEMPORARY RULE

Pursuant to Section 67-5226, Idaho Code, the temporary rule is being published in this Bulletin.

**Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.**

025. PARTICIPANTS EXEMPT FROM COST-SHARING.

Native American and Alaskan Native participants are exempt from the cost-sharing provisions of Sections 200, 205, 215, 320, and 400 of these rules. The participant must declare his race to the Department to receive this exemption. **Participants in the Medicaid Workers with Disabilities (MWD) program are exempt from the cost-sharing provisions of Sections 200, 205, 207, and 400 of these rules.** (1-1-20)T

(BREAK IN CONTINUITY OF SECTIONS)

215. PREMIUMS FOR PARTICIPATION IN MEDICAID ENHANCED PLAN.

01. Workers with Disabilities. A participant in the Medicaid for Workers with Disabilities coverage group must share in the cost of Medicaid coverage, if required. Countable income is determined under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." A participant's premium for his share of Medicaid costs under this coverage group is determined in Subsections 215.02 through 215.04 of this rule. (3-19-07)

a. A participant who has countable income at or below one hundred thirty-three percent (133%) of the current federal poverty guideline is not required to pay a premium for Medicaid. (1-1-20)T

b. A participant who has countable income above one hundred thirty-three percent (133%) to two hundred fifty percent (250%) of the current federal poverty guideline is required to pay a monthly premium of ten dollars (\$10) to the Department. (1-1-20)T

c. A participant who has countable income in excess of two hundred fifty percent (250%) of the current federal poverty guideline is required to pay a monthly premium to the Department. The amount due is the greater of ten dollars (\$10); or seven and one-half percent (7.5%) of the participant's income above two hundred fifty percent (250%) of the current federal poverty guideline. (1-1-20)T

02. Recomputed Premium Amount. Premium amounts are recomputed when changes to a participant's countable income result in a different percentage premium calculation as determined in Subsections 215.02 through 215.04 of this rule, and at the annual re-determination. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

400. PARTICIPATION IN THE COST OF HOME AND COMMUNITY-BASED WAIVER SERVICES. Medicaid participants required to participate in the cost of Home and Community-Based Waiver (HCBS) services as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," must have their share of cost determined as described in Subsections 400.01 through 400.10 of this rule. (3-19-07)

01. Excluded Income. Income excluded under the provisions of IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Sections 723 and 725, is excluded in determining participation. (3-19-07)

02. Base Participation. Base participation is income available for participation after subtracting all allowable deductions, except for the incurred medical expense deduction in Subsection 400.07 of this rule. Base participation is calculated by the participant's Self Reliance Specialist. The incurred medical expense deduction is calculated by the **Division of Welfare**. (1-1-20)T

03. Community Spouse. Except for the elderly or physically disabled participant's personal needs allowance, base participation for a participant with a community spouse is calculated under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 725. A community spouse is the spouse of an HCBS participant who is not an HCBS participant and is not institutionalized. The HCBS personal needs allowance for a participant living in adult residential care equals the federal Supplemental Security Income (SSI) benefit rate for an individual living independently. (3-19-07)

04. Home and Community Based Services (HCBS) Spouse. Except for the elderly or physically disabled participant's personal needs allowance (PNA), base participation for a participant with an HCBS spouse is calculated and specified under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 723. An HCBS spouse is the spouse of a participant who also receives HCBS. (3-19-07)

05. Personal Needs Allowance. The participant's personal needs allowance depends on **whether the participant has a** legal obligation to pay rent or mortgage. The participant's personal needs allowance is deducted from **any countable** income after income exclusions and before other allowable deductions. To determine the amount of the personal needs allowance, use Table 400.05 of this rule:

TABLE 400.05 - PERSONAL NEEDS ALLOWANCE	
Amount of Personal Needs Allowance (PNA) for Participation	
Not Responsible for Rent or Mortgage	Responsible for Rent or Mortgage
One hundred percent (100%) of the federal SSI benefit for a person with no spouse	One hundred and eighty percent (180%) of the Federal SSI benefit for a person with no spouse

(1-1-20)T

06. Developmentally Disabled Participants. These allowances are specified in IDAPA 16.03.05, “Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD).” The HCBS personal needs allowance for adult participants receiving waiver services under the Developmentally Disabled Waiver is three (3) times the federal SSI benefit amount to an individual in his own home. (3-19-07)

07. Incurred Medical Expenses. Amounts for certain limited medical or remedial services not covered by the Idaho Medicaid Plan and not paid by a third party may be deducted from the base participation amount. The Department must determine whether a participant’s incurred expenses for such limited services meet the criteria for deduction. The participant must report such expenses and provide verification in order for an expense to be considered for deduction. Costs for over-the-counter medications are included in the personal needs allowance and will not be considered a medical expense. Deductions for necessary medical or remedial expenses approved by the Department will be deducted at application, and changed, as necessary, based on changes reported to the Department by the participant. (3-19-07)

08. Remainder After Calculation. Any remainder after the calculation in Subsection 400.05 of this rule is the maximum participation to be deducted from the participant's provider payments to offset the cost of services. The participation amount will be collected from the participant by the provider. The provider and the participant will be notified by the Department of the amount to be collected. (3-19-07)

09. Recalculation of Participation. The participant’s participation amount must be recalculated annually at redetermination or whenever a change in income or deductions becomes known to the Department. (3-19-07)

10. Adjustment of Participation Overpayment or Underpayment Amounts. The participant’s participation amount is reduced or increased the month following the month the participant overpaid or underpaid the provider. (3-19-07)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.19 – RULES GOVERNING CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2020, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1005 and 39-3505, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019, Idaho Administrative Bulletin, [Vol. 19-9, pages 201 through 204](#).

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

There is no 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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Millward, (208) 334-0706.

Dated this 14th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0319-1901**

**This rulemaking is being republished in its entirety.
Previously made amendments are shown in red plain text (non-italicized).**

001. TITLE, SCOPE, AND EXCEPTIONS.

- 01. Title.** These rules are titled IDAPA 16.03.19, “Certified Family Homes.” ()
- 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, be fingerprinted, and not have any designated crimes listed in IDAPA 16.05.06, “Criminal History and Background Checks.” ()

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, be fingerprinted, and 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. ()

04. Minor Child Turns Eighteen. A minor child turning eighteen (18) and living in the home must complete a self-declaration form, be fingerprinted, and 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. ()

05. Substitute Caregiver. A substitute caregiver must complete a self-declaration form, be fingerprinted, and 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. ()

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 compliance with these rules. ()

01. Additional Causes For Denial. Additional causes for denial of an application for a certificate include the following: ()

a. The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; ()

b. The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation; ()

c. 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; ()

d. The applicant or provider has been denied or has had revoked any child care (including foster home) or health facility license, residential care or assisted living facility license, or certified family home certificate; ()

e. 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; ()

f. 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; ()

g. The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; or ()

h. The applicant or provider is directly under the control or influence of any person who is described in Subsection 113.01 of this rule. ()

02. Notice of Denial. 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. ()

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 – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2020, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-3305, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This pending rule is necessary to strengthen certain requirements that impact resident health and safety and clarifies, eliminates and relaxes other requirements pursuant to the Governor's Red Tape Reduction Act.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The text of the proposed rule was published in the September 4, 2019, Idaho Administrative Bulletin, [Vol. 19-9, pages 205 through 290](#).

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:

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tamara Prisock, (208) 364-1959.

Dated this 14th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0322-1901**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Sections 39-3305 *and 39-3358*, Idaho Code, to adopt and enforce rules to protect the health, safety, and individual rights for residents in residential assisted living facilities. ()

001. TITLE, SCOPE, AND RESPONSIBILITIES.

01. Title. The title of this chapter of rules is IDAPA 16.03.22, "Residential Assisted Living Facilities." ()

02. Scope. The purpose of a residential assisted living facility 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. ()

03. General Provider Responsibilities. The facility must *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. ()

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 *ensure* compliance with statute and these rules. This responsibility includes licensing facilities and monitoring the condition of *facilities*. ()

05. Exemptions. The provisions of these rules do not apply to any of the following: (3-30-06)

a. 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. ()

b. 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. ()

c. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the *caregiver* is paid for the care through a state or federal program, in which case the *caregiver* relative and the care setting must meet all applicable requirements. ()

002. WRITTEN INTERPRETATIONS.

This agency *has* written statements *which* pertain to the interpretations of the rules of this chapter *or to the documentation of compliance with the rules of this chapter*. The document *is* available for public inspection *on the program website www.assistedliving.dhw.idaho.gov*. ()

003. ADMINISTRATIVE APPEALS, CONTESTED CASES, AND INFORMAL DISPUTE RESOLUTION.

01. Administrative Appeals and Contested Cases. Administrative appeals and contested cases are governed by IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

02. Informal Dispute Resolution Meeting. If a facility disagrees with a **finding** of a core issue, it may request an informal dispute resolution meeting **with** the **Residential Assisted Living Facilities Program**. The policy and procedure for requesting informal dispute resolution is posted on the **Residential Assisted Living Facilities Program** website at <http://www.assistedliving.dhw.idaho.gov>. ()

004. INCORPORATION BY REFERENCE.

The documents referenced in **this** rule 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. ()

01. National Fire Protection Association (NFPA) Documents.

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. The manual is available from the Idaho **Academy of Nutrition & Dietetics, Eleventh** Edition, 2015, online at <http://eatrightidaho.org>. ()

03. Idaho Food Code. IDAPA 16.02.19, “**Idaho Food Code.**” These rules are available online at <http://adminrules.idaho.gov/rules/current/16/160219.pdf>. ()

04. Americans with Disabilities Act Accessibility Guidelines. 28 CFR Part 36, Appendix A. This code is available online at <http://www.ada.gov/1991standards/adastd94-archive.pdf>. ()

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. International Building Code. IDAPA 07.03.01, “**Rules of Building Safety.**” These rules are available online at <https://adminrules.idaho.gov/rules/current/07/070301.pdf>. ()

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 **of** the Idaho Department of Health and Welfare **is** P.O. Box 83720, Boise, Idaho 83720-0036. ()

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 **street address** of the Idaho Department of Health and Welfare **is** 450 West State Street, Boise, ()

Idaho 83702. ()

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. ()

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>. ()

b. The Residential Assisted Living Facilities Program internet website is <http://www.assistedliving.dhw.idaho.gov>. ()

c. The Public Portal internet website is <https://www.flareslive.com/portal/searchfacility.aspx>. ()

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 are subject to disclosure, unless otherwise exempted by state or federal law. ()

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. ()

04. Public Availability of Survey Documents. In accordance with Section 39-3355(6), Idaho Code, survey findings are posted on the Public Portal at <https://www.flareslive.com/portal/searchfacility.aspx>. The related survey documents are available to the public upon written request to the Department. ()

(BREAK IN CONTINUITY OF SECTIONS)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. A residential assisted living facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2005, who have direct resident access to residents in the residential 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. ()

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 **resident** access individual hired or contracted with on or after October 1, 2005, must self-disclose all arrests and convictions before having access to residents. ()

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 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 until the criminal history and background check is completed and the results are obtained by the facility, unless:** ()

i. The individual has completed an alternative criminal history and background check that includes a search of the record sources listed in Subsection 009.02 **except for Subsection 009.02.a. in this rule;** ()

ii. The facility determines there is no potential danger to residents; **and** ()

iii. 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 based on the completed fingerprint-based background check.** ()

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 **their** date of hire. ()

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. **The individual's** last criminal history and background check was completed more than three (3) years prior to **their** date of hire. ()

06. Use of Previous Criminal History and Background Check. Any employer **is allowed to** use a previous criminal history and background check **that meets the criteria in this rule if:** ()

a. The individual has received a criminal history and background check within three (3) years of **their** date of hire; ()

b. **Prior to the individual being granted unsupervised direct resident access, the employer obtains and retains the individual's previous criminal history and background check results;** ()

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, **within thirty (30) days after obtaining the previous criminal history and background check results; and** ()

d. No disqualifying crimes are found. ()

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 **their** date of hire. ()

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

01. Abuse. A non-accidental act of sexual, physical, or mental mistreatment or injury of a resident through the action or inaction of another individual. ()

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. **Self-care actions necessary to sustain** an individual in daily living, including bathing, dressing, toileting, grooming, eating, communicating, **and managing medications.** ()

05. Administrator. An individual licensed by the **Idaho** Bureau of Occupational **Licenses as a Residential Care Facility Administrator.** ()

06. Administrator's Designee. A person authorized **in writing** to act in the absence of the administrator 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. ()

07. Adult. A person who has **reached** eighteen (18) years **of age.** ()

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, **related** to the provision of medical care when the individual is unable to communicate. ()

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. **Information gathered that** identifies resident strengths, weaknesses, risks, and needs, to include functional, **social**, medical, and behavioral needs. ()

12. Authentication. **The process or action of proving or showing authorship to be true, genuine, or valid.** ()

13. Authorized Provider. An individual who is a nurse practitioner, clinical nurse specialist, or physician assistant. (3-30-06)

14. Behavior Plan. A written plan **that** decreases the frequency, **duration**, or intensity of maladaptive behaviors, **and** increases the frequency of adaptive behaviors. ()

15. 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 **in** the resident's living quarters, **in** common areas, **during** medical treatments, **while receiving** other services, **in** written and telephonic communications, or in visits with family, friends, advocates, and resident groups. ()

16. 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)

17. Cognitive Impairment. When a person experiences loss of short or long-term memory, orientation to person, place, or time, safety awareness, or the ability to make decisions that affect everyday life. ()

18. 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. ()

19. 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.** ()

20. Core Issue. A core issue is any one (1) of the following: ()

a. Abuse; ()

b. Neglect; ()

c. Exploitation; ()

d. Inadequate care; ()

e. A situation in which the facility has operated for more than thirty (30) days without a licensed administrator *overseeing* the day-to-day operations of the facility; ()

f. Inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or ()

g. Surveyors denied access to records, residents, or facilities. ()

21. Criminal Offense. Any crime as defined in Section 18-111, Idaho Code, 18 U.S.C. Section 4B1.2(a), and 18 U.S.C. Sections 1001 through 1027. ()

22. Deficiency. A determination of non-compliance with a specific rule or part of a rule. (3-30-06)

23. Dementia. A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living. ()

24. Department. The Idaho Department of Health and Welfare. (3-30-06)

25. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before twenty-two (22) years of age and: ()

a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism, or other conditions found to be closely related or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; ()

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 ()

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. ()

26. Direct Resident Access. In person access with any resident who resides at the facility, or any access to the residents' personal belongings or information. ()

27. **Director.** The Director of the Idaho Department of Health and Welfare *or their designee*. ()
28. **Electronic 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. ()
29. **Elopement.** When a resident who is cognitively, physically, mentally, emotionally, or chemically impaired, physically leaves the facility premises or the secured unit or yard without personnel's knowledge. ()
30. **Exit Conference.** A meeting with the facility administrator or designee to: (1) provide review, discussion, and written documentation of non-core issues, and (2) to provide preliminary findings of core issues. ()
31. **Exploitation.** The misuse of a resident's funds, property, resources, identity, or person for profit or advantage. 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. ()
- 011. DEFINITIONS AND ABBREVIATIONS F THROUGH 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. **Governmental Unit.** The state, any county, *any city*, or any department, division, board, or other agency. ()
03. **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. ()
04. **Immediate Danger.** Any resident is subject to an imminent or substantial danger. (3-30-06)
05. **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, engages in violations of resident rights, or takes residents who have been admitted in violation of the provisions of Section 152 of these rules. ()
06. **Incident.** An event that can cause a resident injury. (3-30-06)
07. **Independent Mobility.** A *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. ()
08. **Legal Guardian or Conservator.** A court-appointed individual *designated* to manage the affairs or finances of another *person* who has been found to be incapable of handling *their* own affairs. ()
09. **License.** A permit to operate a *residential assisted living* facility. ()
10. **Licensing Agency.** The *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 assisted living facilities and issues licenses based on compliance with this chapter of rules in which “Residential Assisted Living Facilities Program” and “Licensing Agency” are synonymous. ()
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. ()
12. **Medication.** Any substance 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. ()

13. Medication Administration. The process where a prescribed medication is given by a licensed nurse to a resident through one (1) of several routes. ()

14. 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. See IDAPA 23.01.01, "Rules of the Idaho State Board of Nursing," Section 010. ()

15. Mental Disorders. Health conditions that are characterized by alterations in thinking, mood, behavior, or some combination thereof, that are all mediated by the brain and associated with distress or impaired functioning. ()

16. Mental Illness. Refers collectively to all diagnosable mental disorders. (3-30-06)

17. Neglect. Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. (3-30-06)

18. Negotiated Service Agreement. The plan reached by the resident or their representative and the facility which outlines services to be provided and the obligations of the facility and the resident. ()

19. Non-Core Issue. Any finding of deficient practice that is not a core issue. ()

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. ()

02. Owner. Any person or entity having legal ownership of the facility as an operating business, regardless of who owns the real property. ()

03. Personal Assistance. The provision by the staff of the facility of one (1) or more of the following services: ()

a. Assisting the resident with activities of daily living; ()

b. Arranging for outside services; ()

c. Being aware of the resident's general whereabouts; or ()

d. Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being. ()

04. Personnel. Paid individuals assigned the responsibility of providing care, supervision, and services to the facility and its residents. In this chapter of rules, "personnel" and "staff" are synonymous. ()

05. 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. ()

06. 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 such as heating pads, heated mattress pads, and electric blankets, which require a physician or authorized provider's order. ()

07. PRN. Indicates that a medication or treatment prescribed by a medical professional to an individual

may be given as needed. (3-30-06)

08. Pressure Injury. Any lesion caused by unrelieved pressure that results in damage to the underlying tissue(s). ()

09. 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)

10. Publicly-Funded Program. Any program funded in whole, or in part, by an appropriation of the U.S. Congress, the Idaho Legislature, or other governmental body. ()

11. Punishment. The use of an adverse consequence with a resident, the administration of any noxious or unpleasant stimulus, or deprivation of a resident's rights or freedom. ()

12. Relative. A person related by birth, adoption, or marriage. ()

13. Repeat Deficiency. A deficiency found on a licensure survey, complaint investigation, or follow-up survey that was also found on the previous survey. ()

14. Reportable Incident. A situation when a facility is required to report information to the Residential 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. (i.e., 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. ()

15. Resident. An adult, other than the owner, administrator, their immediate families, or employees, who lives in a residential assisted living facility. ()

16. Residential 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. ()

17. Room and Board. Lodging, meals, and utilities. (3-30-06)

18. 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. ()

20. Story. A level of rooms in a building. ()

- 21. Substantial Compliance.** The status of a facility that has no core issue deficiencies. ()
- 22. Substantial Evening Meal.** An offering of three (3) or more menu items at one time, one (1) of which 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. ()
- 23. 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)
- 24. 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. ()
- 25. Surveyor.** A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. (3-30-06)
- 26. Therapeutic Diet.** A diet ordered by a physician or authorized provider as part of treatment for a clinical condition or disease, to eliminate or decrease specific nutrients in the diet (e.g. sodium), 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). ()
- 27. Toxic Chemical.** A substance that is hazardous to health if inhaled, ingested, or absorbed through skin. ()
- 28. 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. The term applies to open or closed-head injuries resulting in impairments in one (1) or more areas. ()
- 29. Unlicensed Assistive Personnel (UAP).** Staff, with or without formal credentials, employed to perform nursing care services under the direction and supervision of licensed nurses. ()
- 30. Variance.** Permission by the Department to do something contrary to rule. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

050. VARIANCES.

The Licensing Agency may grant a variance provided the following criteria are met. ()

01. Written Request. A written request for a variance must be sent to the Licensing Agency. The request must include the following: ()

a. Reference to the rule for which the variance is requested; ()

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 ensures residents' health and safety will not be jeopardized if a variance is granted. ()

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 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 Agency in writing. ()

04. 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)

05. Revocation of Variance. The Licensing Agency may revoke a variance if circumstances identify a risk to resident health and safety. ()

(BREAK IN CONTINUITY OF SECTIONS)

100. LICENSING REQUIREMENTS.

01. Current License. No person, firm, partnership, association, corporation, or governmental unit can operate, establish, manage, conduct, or maintain a residential 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 assisted living facility without a license is subject to Section 39-3352, Idaho Code. ()

02. Issuance of License. Upon completion of the application process requirements, the Department will issue a residential assisted living license. ()

03. Distinctive Business Name. Every facility must use a distinctive name, which is registered with the Idaho Secretary of State. If a facility decides to change its name, it will only be changed upon written notification to the Licensing Agency confirming the registration of the name change with the Idaho Secretary of State. This notification needs to be received by the Licensing Agency at least thirty (30) calendar days prior to the date the proposed name change is to be effective. ()

04. Administrator. Each facility must have an administrator. ()

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 assisted living facility, which does not alter the overall ownership or operation of the business, that change must be communicated to the Licensing Agency within (60) days of the effective date of change. ()

07. Licensee Responsibility. The licensee of the facility is responsible for the operation of the residential assisted living facility, even when a separate administrator is employed. ()

(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 Agency at least ninety (90) days prior to the proposed date of change. ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

110. FACILITY LICENSE APPLICATION.

01. License Application. License application forms are available online at the Licensing Agency’s website at <http://www.assistedliving.dhw.idaho.gov>. The applicant must provide the following information: ()

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, “Residential Assisted Living Facilities,” and is prepared to comply with both; ()

b. 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; ()

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 this rule; ()

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; ()

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; ()

j. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings. See Sections 250 through 260, 400 through 410, and 430 of these rules. ()

k. A copy of the Purchase Agreement, Lease Agreement, or Deed; and ()

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

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. ()

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 **a copy of the administrator's license and criminal history background check, and the current address for the primary residence of the administrator.** ()

05. Failure to Complete Application Process. Failure of the applicant to complete the Licensing 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 **new** licensing **application** process. ()

(BREAK IN CONTINUITY OF SECTIONS)

115. EXPIRATION AND RENEWAL OF LICENSE.

01. Application for License Renewal. The facility must submit **to the** Licensing Agency **an annual report and** application for renewal of a license at least thirty (30) days prior to the expiration of the existing license. ()

02. Existing License. The existing license, unless suspended, surrendered, or revoked, remains in force and effect until the Licensing Agency has acted upon the application renewal, when such application for renewal has been filed. ()

116. -- 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. INSPECTION OF FACILITIES.

01. Surveys of Facilities. **As described in Section 39-3355, Idaho Code,** the Licensing Agency will **conduct inspections and investigations** at specified intervals to determine compliance with this chapter **of rules and Title 39, Chapter 33, Idaho Code.** The intervals **for surveys are as follows:** ()

a. Initial surveys will be conducted within ninety (90) days **of licensure,** followed by a **licensure** survey within fifteen (15) months. ()

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. For facilities **with core issue deficiencies during any survey, surveys will be conducted at the discretion of the Licensing Agency, at least every twelve (12) months.** ()

c. Complaint investigation surveys will occur based on the potential severity of the complaint. ()

02. Unannounced Inspections. **Licensure, follow-up, and complaint investigation** surveys are made

unannounced and without prior notice. ()

03. Inspection or Survey Services. The Department may **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.** ()

04. Access and Authority to Entire Facility. A surveyor must have full access and authority to examine: ()

a. Quality of care; ()

b. Service delivery; ()

c. Resident records; ()

d. Facility records, including any records or documents pertaining to any financial transactions between residents and the facility or any of its employees; ()

e. Resident accounts; ()

f. *The physical premises, including buildings, grounds, equipment, food service, water supply, and housekeeping; and* ()

g. Any other areas necessary to determine compliance with applicable statute, rules, and standards. ()

05. Interview Authority. A surveyor has the authority to interview any individual associated with the facility or the provision of care, including the licensee, administrator, staff, residents, residents' families, **outside** service providers, **and** authorized providers or physicians. Interviews are confidential and conducted privately unless otherwise specified by the interviewee. ()

06. Access to Staff Living Quarters. A surveyor has full authority to inspect the facility, including personal living quarters of **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. ()

07. Written Report of Deficiencies. The Licensing Agency will provide **the facility** a written report to support any deficiencies **identified.** ()

a. *The Licensing Agency will provide the facility a written report specifying the non-core issue deficiencies at the time of the exit conference.* ()

b. *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.* ()

c. *If any deficiencies pose an immediate danger to the residents, the Department requires immediate correction of the deficient practice.* ()

08. Plan of Correction for Core Issues. The facility must develop and **submit** an acceptable plan of correction to the Licensing Agency within ten (10) calendar days of receipt of the **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: ()

a. A plan to **ensure** correction of each deficient practice and ongoing compliance; ()

b. A **description of** how, and **at what** frequency, corrective actions will be monitored to **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 ()

c. The completion date for correcting each deficiency. No correction date may be more than **forty-five (45) days** from the exit date printed on the **written report except in unusual circumstances and only with the written approval of the Licensing Agency.** ()

09. Correction of Non-Core Issues. The facility must **correct** non-core issues within thirty (30) calendar days of the exit conference. 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 Agency approval within thirty (30) days of the exit conference. The request must contain the following information: ()

- 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 **ensuring** the safety of the residents until resolution. ()

10. Follow-Up Surveys. The Licensing Agency will conduct follow-up surveys to ascertain corrections to issues that are made according to the time frames established in the plan of correction 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. ()

131. -- 149. (RESERVED)

150. POLICIES AND PROCEDURES.

The facility must develop a written, **dated** set of policies and procedures that are specific to the population served in the facility and are available to all staff at all times 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. ()

151. ACTIVITY REQUIREMENTS.

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. *The facility must provide opportunities for the following activities;* ()

01. Socialization. Socialization through group discussion, conversation, recreation, visiting, arts and crafts, and music; ()

02. Physical Activities. Physical activities such as games, sports, and exercises which develop and maintain strength, coordination, and range of motion; and ()

03. Education. Education through special classes or events; and ()

04. Facility. The facility will utilize community resources to promote resident participation in integrated activities of their choice both in and away from the facility. ()

152. ADMISSION REQUIREMENTS.

01. Admissions Policies. Each facility must develop and implement written admission policies and procedures, which must include: ()

- a. The purpose, quantity and characteristics of available services; (3-30-06)

- b.** Limitations concerning delivery of routine personal care by persons of the opposite gender; ()
- c.** Notification to potential and existing residents and responsible parties if the facility accepts any residents who are on the sexual offender registry. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html; and ()
- d.** Notification to potential and existing residents if non-resident adults or children reside in the facility. ()
- 02. 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)
- 03. 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; ()
 - 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.** The facility *has* the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services. ()
 - 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) shunt, 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 IV therapy; ()
 - iii.** A resident who requires physical restraints, including bed rails; ()
 - 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 thirty (30) days; ()
 - 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 requires the use of a syringe to receive liquid or pureed nourishment directly into the mouth; ()
 - viii.** A resident with open, draining wounds for which the drainage cannot be contained; (3-30-06)
 - ix.** A resident with a Stage 3 or 4 pressure injury or a pressure injury that is unstageable; ()
 - x.** A resident with any type of pressure injury or open wound that is not improving bi-weekly; ()
 - xi.** For any resident who is assessed to require nursing care, the facility must ensure a licensed nurse is available to meet the needs of the resident. ()
 - xii.** A resident who has physical, emotional, or social needs that are not compatible with the other

- residents in the facility; ()
- xiii.* A resident **who** is violent or a danger to **themselves** or others; ()
 - xvi.* Any resident requiring assistance in ambulation must reside on the first story **as described in** Sections **402** through **404** of these rules; ()
 - xv.* Residents who are not capable of self evacuation must not be admitted or retained by a facility which does not comply with NFPA Standard 101 **as referenced in Section 004** of these rules. ()

153. FINANCIAL REQUIREMENTS.

Each facility must develop and implement financial policies and procedures that include: ()

- 01. Statement.** A statement specifying *if* 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. ()

154. 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 **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 **ensure** protection. ()
- 02. Response of Staff to Emergencies.** How staff are to respond to emergency situations, **including:** ()
 - 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. **Ensuring** each individual's rights; ()
- 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. Intervention Procedures to Ensure Safety of Residents and Staff. How to intervene to **ensure** resident and staff safety in unsafe situations **that are** physically or behaviorally caused. ()

06. Behavior Management for Residents. The facility must have policies and procedures to **ensure staff are trained and complete** timely assessment, plan development, **and documentation as described in Section 330 of these rules.** ()

07. 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. ()

08. Hazardous Materials. **The** handling of hazardous materials. ()

09. Mechanical Equipment. **The** handling of potentially dangerous mechanical equipment. ()

155. EMERGENCY PREPAREDNESS 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. Relocation Agreements. 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 *agreements* annually. ()

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. Each person's responsibilities; (3-30-06)
- b. Where and how residents are to be evacuated; and (3-30-06)
- c. 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). ()

156. HOURLY ADULT CARE REQUIREMENTS.

Facilities offering hourly adult care must develop and implement written policies and procedures which include the following: ()

01. Services Offered. A description of hourly adult care services, including transportation services (if offered), meals, activities, and supervision. ()

02. Individuals Accepted. Types of individuals who may or may not be accepted for hourly adult care, *See Section 152 of these rules.* ()

03. Cost of Hourly Adult Care. Details of the cost of hourly adult care for the person receiving services. ()

04. Hours for Care. The specific time periods of hourly adult care not to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period. ()

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. ()

157. -- 160. (RESERVED)

161. SMOKING 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. Combustible Supplies and Flammable Items. Smoking is prohibited in areas where combustible supplies or materials, flammable liquids, gases, or oxidizers are in use or stored; ()

02. Smoking in Bed. Smoking in bed is prohibited. ()

03. Unsupervised Smoking. Unsupervised smoking by residents classified as not mentally or physically responsible, sedated by medication, or taking oxygen is prohibited. ()

04. Designated Smoking Areas. 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. ()

162. -- 214. (RESERVED)

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.

Under Section 39-3321, Idaho Code, each facility must 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 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. ()

01. Administrator Responsibility. The administrator is responsible for ensuring that policies and procedures are developed and implemented to fulfill the requirements in Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Residential Assisted Living Facilities." ()

02. Availability of Administrator. The facility's administrator must be on-site sufficiently to ensure safe and adequate care of the residents. The facility's administrator or their designee must be available to be on-site at the facility within two (2) hours. The facility must continuously employ an administrator. ()

03. Lapse of Administrator. If the facility operates for more than thirty (30) days without a licensed administrator, it will result in a core issue deficiency. ()

04. Representation of Residents. The owner or administrator, their relatives, 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. ()

05. Responsibility for Acceptable Admissions. The administrator must ensure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and Section 152 of these rules. ()

06. Sexual Offender. The administrator must ensure that a non-resident on the sexual offender registry is not allowed to live or work in the facility. ()

07. Notification of Adult Protection and Law Enforcement. The administrator must ensure that adult protection and law enforcement are notified in accordance with Sections 39-5303 and 39-5310, Idaho Code. ()

08. Procedures for Investigations. The administrator must ensure the facility procedures for investigation of complaints, incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to ensure resident safety. Procedures must include: ()

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. 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. ()

10. Ability to Reach Administrator or Designee. The administrator or their designee must be reachable and available at all times. ()

11. Minimum Age of Personnel. The administrator will 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. ()

12. Notification to Licensing Agency. The facility must notify the Licensing Agency, in writing, within three (3) business days of a change of administrator. ()

216. REQUIREMENTS FOR ADMISSION AGREEMENTS.

01. Initial Resident Assessment and Care Plan. Prior to admission, each resident must be assessed by the facility to ensure the resident is appropriate for placement in their residential assisted living facility. The facility must develop an interim care plan to guide services until the facility can complete the resident assessment process. The result of the assessment will determine the need for specific services and supports. ()

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 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 NSA in Section 320 of these rules and the admission agreement are met. Admission agreements must include all items described under this rule. ()

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 include the items specified in Section 430 of these rules. ()

b. The resident's monthly charges, including a specific description of the services that are included in the basic services rate and the charged rate. ()

c. All prices, formulas, and calculations used to determine the resident's basic services rate including: ()

- 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.** 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. ()
- e.** Services or rates that are impacted by an updated assessment of the resident, the assessment tool, the assessor, and the frequency of the assessment, when the facility uses this assessment to determine rate changes. ()
- f.** The facility may charge residents for the use of personal furnishings, equipment, and supplies provided by the facility **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. ()
- 04. Staffing.** The **agreement** must identify staffing patterns and qualifications of staff on-duty during a normal day. ()
- 05. Notification of Liability Insurance Coverage.** The administrator of a residential 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. ()
- 06. Medication Responsibilities.** The **agreement must identify the** facility's and resident's roles and responsibilities relating to assistance with medications including the reporting of missed **medications** or those taken on a PRN basis. ()
- 07. Resident Personal Fund Responsibilities.** **The agreement must identify who** is responsible for the resident's personal funds. ()
- 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** ()
 - 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. ()

11. Resident Permission to Transfer Information. The agreement must specify permission for the facility to transfer information from the resident's records to any facility to which the resident transfers. ()

12. Resident Responsibilities. The agreement must specify resident responsibilities. ()

13. Restrictions on Choice of Care or Service Providers. The agreement must specify any restriction on choice of care or service providers, such as home health agency, hospice agency, or personal care services. ()

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 Directive, a copy must be immediately available for staff and emergency personnel. ()

15. Notification of Payee Requirements. The agreement must identify if the facility requires as a condition of admission that the facility be named as payee. ()

16. Contested Charges. The facility must provide the methods by which a resident may contest charges or rate increases including contacting the ombudsman for the elderly. ()

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. Smoking Policy. The admission agreement must include a copy of the facility's smoking policy. ()

217. 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: ()

a. Giving the other party thirty (30) calendar days written notice; ()

b. The resident's death; (3-30-06)

c. Emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm; ()

d. The resident's mental or medical condition deteriorates to a level requiring care as described in Section 39-3307, Idaho Code, and Section 152 of these rules; ()

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. ()

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 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. ()

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. ()

a. Before a facility discharges a resident, the facility must notify the resident and *their* representative of the discharge and the **cause**. ()

b. This notice must be in writing and in a language and manner the resident or **their** representative can understand. ()

04. Written Notice of Discharge. The written notice of discharge must include the following: (3-30-06)

a. The **specific** reason for the discharge; ()

b. **The** effective date of the discharge; ()

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 **Residential Assisted Living Facilities website**, where the appeal must be submitted; ()

e. The name, address, and telephone number of the local ombudsman; ()

f. The name, address, and telephone number of Disability Rights Idaho ()

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** ()

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)

218. -- 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 Assisted Living Facilities. Where there are conflicts between the requirements in the codes, the most restrictive condition must apply. ()

01. Construction Changes. 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 must install audible and visual notification devices for fire alarm systems in all common areas and resident rooms no matter the size of facility. ()

02. Plans and Specifications. Plans must be prepared, *signed stamped, and dated* by an architect or engineer licensed in the state of Idaho. A variance of this requirement may be granted by the Licensing Agency when the size of the project does not necessitate involvement of an architect or engineer. **This must include the following:** ()

a. Plans and specifications must be submitted to the Licensing Agency to **ensure** compliance with applicable construction standards, codes, and regulations; ()

- b.** Plans must be drawn to scale, but no less than a scale of one-eighth (1/8) inch to one (1) foot; ()
- c.** Plans must be submitted electronically; ()
- d.** A physical address approved by the city; ()
- e.** Life safety plans; ()
- f.** Fire alarm shop drawings; and ()
- g.** Fire sprinkler system drawings and calculations. ()
- 03. Approval.** All buildings, additions, and remodeling are subject to approval by the Licensing Agency and must meet applicable requirements. ()
- 04. 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)
- 05. Toilets 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; ()
 - 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)
- 06. Accessibility for Persons with Mobility and Sensory Impairments.** For residents 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: ()

 - a.** Ramps for residents who require assistance with ambulation must comply with the requirements of the ADAAG 4.8; ()
 - 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. A 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. ()
- 07. Lighting.** The facility must provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (3-30-06)
- 08. Ventilation.** The facility must be ventilated, and precautions taken to prevent offensive odors. ()
- 09. 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 Fahrenheit (105°F) and one hundred twenty degrees Fahrenheit (120°F). (3-30-06)
- 10. Heating, Ventilation, and Air-Conditioning (HVAC).** Equipment must be furnished, installed, and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes. An HVAC system must be provided for the facility that is capable of maintaining a minimum temperature of seventy degrees Fahrenheit (70°F) and a maximum temperature of seventy-eight degrees Fahrenheit (78°F) during the day, and a minimum of sixty-two degrees Fahrenheit (62°F) and a maximum temperature of seventy-five degrees Fahrenheit (75°F) during the night. Wood stoves, gas fireplaces, or solid burning fireplaces are not permitted as the sole source of heat, and the thermostat for the primary source of heat must be remotely located away from any of these sources. ()
- 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. ()
- 11. 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. ()
- 12. Resident Sleeping Rooms.** The facility must ensure that: ()
- 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, 1991, 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); ()

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. ()

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; ()

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)

13. 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 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. ()

14. Call System. The facility must have a call system available for each resident to call for assistance and still be ensured a resident's right to privacy at the facility, including 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. ()

15. 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. ()

(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)

(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. ()

a. The water supply must be from an approved private, public, or municipal water supply; ()

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. ()

03. Garbage and Refuse Disposal. Garbage and refuse disposal must be provided to ensure that: ()

a. The premises and all buildings must be kept free from the accumulation of weeds, trash, and rubbish; ()

b. Material not directly related to the maintenance and operation of the facility must not be stored on the premises; ()

c. All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material, and must not leak. Containers must be provided with tight fitting lids unless stored in a vermin-proof room or enclosure; and ()

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. ()

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 stained; ()

c. Linens must be handled, processed, and stored in an appropriate manner that prevents contamination; ()

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; ()

f. The laundry area must be well-lighted, ventilated, adequate in size for the needs of the facility, maintained in a sanitary manner, and kept in good repair; ()

g. Care must be taken to ensure soiled linen and clothing are properly handled to prevent contamination. Clean linen and clothing received from a laundry service must be stored in a proper manner to prevent contamination; and ()

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). ()

06. Housekeeping Services and 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. ()

07. Toxic Chemicals. All toxic chemicals must be properly labeled. Toxic chemicals cannot be stored where food is stored, prepared, or served, where medications are stored, and where residents with cognitive impairment 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 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 sufficient nursing personnel to meet the requirements in this rule. ()

01. Licensed Registered Nurse (RN). A licensed registered nurse (RN) must visit the facility at least once every ninety (90) days 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 nursing functions, according to IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." ()

02. Licensed Nurse. The licensed nurse must be available to address changes in a resident's health or mental status, review and implement new orders, and notify the physician or authorized provider when a resident repeatedly refuses to follow physician orders. ()

(BREAK IN CONTINUITY OF SECTIONS)

305. REQUIREMENTS FOR THE LICENSED REGISTERED NURSING ASSESSMENT.

For each resident the licensed registered nurse must assess and document, including date and signature, the following: ()

01. Resident Medications and Therapies. 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 ensuring the resident's physician or authorized provider is notified of any identified concerns with medications and therapies. ()

02. Current Medication Orders and Treatment Orders. Each resident's medications and treatment orders are current and verified for the following: ()

a. The medication listed on the medication distribution container, including over-the-counter medications are consistent with physician or authorized provider orders; ()

b. The physician or authorized provider orders related to therapeutic diets, treatments, and medications for each resident are followed; and (7-1-15) ()

c. A copy of the actual written, signed, and dated orders are present in each resident's care record. ()

03. Resident Health Status. The health status of each resident by **conducting a physical assessment** and identifying symptoms of illness, or any changes in mental or physical health status. ()

04. Recommendations. Recommendations to the administrator regarding any medication needs, other health needs requiring follow-up, or changes needed to the **NSA. The nurse must notify the physician or authorized provider of recommendations for medical care and services that are needed.** ()

05. Progress of Previous Recommendations. The progress of previous recommendations regarding any medication needs or other health needs that require follow-up. ()

06. Self-Administered Medication. Each resident participating in a self-administered medication program **at the following times:** ()

a. Before the resident can self-administer medication to **ensure** resident safety; and ()

b. **Every ninety (90) days** to evaluate the continued validity of the assessment to **ensure** the resident is still capable to safely self-administer medication(s). ()

07. Resident and Facility Staff Education. 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

310. REQUIREMENTS FOR MEDICATION. Facility policies and procedures must specify how medications will be **handled.** ()

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. **The facility's** licensed nurse may fill medi-sets, blister packs, or other Licensing Agency approved systems as **described** in Section 39-3326, Idaho Code. ()

a. All medications **must** be kept in a locked area such as a locked box or room; ()

b. Poisons, toxic chemicals, and cleaning agents **must not** be stored **with** medications; ()

c. Biologicals and other medications requiring cold storage **must be maintained at thirty-eight degrees Fahrenheit to forty-five degrees Fahrenheit (38°F-45°F), and the temperature monitored and documented daily.** ()

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; ()

- f. Each resident must be observed taking the medication; *and* ()
- g. *Each prescribed PRN must be available in the facility.* ()

02. Discontinued and Expired Prescriptions. 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 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 for proper disposition. A written record of all drug disposals must be maintained in the facility and include: ()

- a. A description of the drug, including the amount; (3-30-06)
- b. Name of the resident for whom the medication is prescribed; ()
- 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, including the amount received, the date, a daily count, reconciliation of the number given or disposed, and the number remaining. ()

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 must monitor the resident to determine continued need for the medication based on the resident's demonstrated behaviors. ()

d. The facility must monitor the resident for any side effects that could impact the resident's health and safety. ()

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 use, and possible reduction, of the psychotropic or behavior modifying medication. ()

311. -- 318. (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 assisted living facility. The remainder of the comprehensive assessment must be completed within fourteen (14) days of admission. Comprehensive assessment information must 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. *Date of birth;* ()
 - b. *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); and* ()
 - g. *Names and contact information of representatives and emergency contacts.* ()
- 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. Resident Preferences.** *Resident preferences and historical information that includes:* ()
- a. *Religion and church attendance, including preferred church contact information;* ()
 - b. *Historical information including significant life events and family, work, and education; and* ()
 - c. *Hobbies or preferred activities.* ()
- 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. NEGOTIATED SERVICE AGREEMENT (NSA) REQUIREMENTS.

Under Section 39-3309, Idaho Code, each resident must enter into an NSA completed, signed, and implemented no

later than fourteen (14) calendar days from the date of admission. An interim plan must be developed and used while the NSA is being completed as described in Section 330 of these rules. ()

01. Use of NSA. The 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. ()

02. Key Elements of the NSA. A resident's NSA must be based on the comprehensive assessment information described in Section 319 of these rules. NSAs must incorporate information from the resident's care record, described in Section 330 of these rules. ()

03. Signature, Date, and Approval of Agreement. The administrator, resident, and any legal representative must sign and date the NSA upon its completion. ()

04. Review Date. The NSA must include the next scheduled date of review. ()

05. Development of the NSA. The resident, and other relevant persons as identified by the resident, must be included in the development of the NSA. Licensed and professional staff must be involved in the development of the NSA as applicable. ()

06. 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, no later than fourteen (14) calendar days from admission. ()

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 NSA must be reviewed when there is a change in a diagnosis for a resident or other change in condition requiring different, additional, or replacement services, or at least every twelve (12) months. ()

(BREAK IN CONTINUITY OF SECTIONS)

330. REQUIREMENTS FOR FACILITY RECORDS.

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. ()

01. Paper Records. All paper records must be recorded legibly in ink. ()

02. Electronic Records. Electronic records policies and procedures must be developed and implemented that specify which records will be maintained electronically. Policy development and implementation must ensure: ()

a. The facility must print and provide paper copies of electronic records upon the request of the resident, their legal guardian or conservator, advocacy and protection agencies, and 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. Record Confidentiality. The facility must safeguard confidential information against loss, destruction, and unauthorized use. ()

04. Resident Care Records. An individual care record must be maintained for each resident with all entries kept current and completed by the person providing the care. ()

a. Entries must include the date, time, 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 *Section 320 of these rules*, 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 *and any other delegated nursing tasks*. 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; *and* ()

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. Admission Records. As described in Section 39-3315, Idaho Code, resident admission documentation must include: ()

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 or 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, or 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 *or* 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. Behavior Documentation. For residents who exhibit maladaptive behaviors, behavior management records must be maintained in the resident record, including: ()

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. *Interventions must be the least restrictive possible; and* ()

ii. *Each intervention must be reviewed 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 individual records 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 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; *and* ()
- k. Copies of contracts with outside service providers and contract staff. ()

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 ensuring that 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: ()

01. Staff with an Infectious Disease. Staff with an infectious disease must not work until the infectious stage 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. ()

02. 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)

03. Reporting of Individual 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," must be reported immediately to the local health district authority with appropriate infection control procedures immediately implemented as directed by that local health authority. ()

336. -- 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 assisted living facilities for fire and life safety standards. *Facilities' evacuation capability is considered "impractical" as defined by NFPA Standard 101.* ()

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 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, *Small Facilities.* ()

402. FIRE AND LIFE SAFETY STANDARDS FOR NEW BUILDINGS HOUSING SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS.

A newly constructed facility, change of ownership, or a building converted to a residential 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 32, *Large Facilities.* ()

403. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR THREE THROUGH SIXTEEN RESIDENTS.

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, *Small Facilities.* Existing buildings that are not sprinklered may continue to operate, except when Section 401 of these rules apply. ()

404. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS.

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 33, *Large Facilities.* ()

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 *in NFPA, Standard 101, Mandatory References.* ()

a. Extension cords and multi-plug adapters are prohibited; ()

b. Relocatable Power Taps (RPTs) must be Underwriter Laboratories (U/L) approved with the following requirements: ()

i. RPTs directly connected to a wall outlet; and ()

ii. Have a built-in surge protector. ()

02. Prohibited Applications. *The following are prohibited uses of an RPT.* ()

a. Medical equipment; ()

b. Daisy chain *or* 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, *Chapter 11, Performance, Maintenance, and Testing* as referenced in Section 004 of these rules. ()

04. Fuel-Fired Heating. Fuel-fired heating devices and systems must be inspected, serviced, and cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems. ()

05. 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)

16. 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)

(BREAK IN CONTINUITY OF SECTIONS)

410. REQUIREMENTS FOR EMERGENCY ACTIONS AND FIRE DRILLS.

Fire drills must be conducted not less than six (6) times a year on a bimonthly basis, with not less than two (2) conducted during the night when residents are sleeping. Records must be maintained on file at the facility and contain a description, date and time of the drill, response of the personnel and residents, problems encountered, and recommendations for improvement. ()

01. Report of Fire. A separate report on each fire incident occurring within the facility must be submitted to the Licensing Agency within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," issued by the Licensing 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. ()

02. 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. -- 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, comfortable chairs, or sofas. All items must be in good repair, clean, safe, and provided at no additional cost to the resident. ()

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 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. ()

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 **their** own. ()

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 **their** own. The facility may charge the resident for personal supplies the facility provides and must itemize each item being charged to the resident. ()

08. Resident Supplies and Furnishings. If a resident chooses to provide **their** own supplies or furnishings, the facility must **ensure** that the resident's supplies or furnishings meet the minimum standards as identified in this rule. ()

(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, "**Idaho Food Code**," as incorporated in Section 004 of these rules. The facility must also implement operational policies **for providing proper nutritional care for each resident, which includes procedures to follow if the resident refuses food or to follow a prescribed diet.** ()

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 **any** resident. The planned menu must meet nutritional standards. ()
- a. Menus will provide a sufficient variety of foods in adequate amounts at each meal; ()
 - b. Food selections must include foods that are served in the community **and** in season. **Food selections and textures should account for** residents' preferences, food habits, and physical abilities. ()
 - c. The **current weekly** menu must be **posted in a facility common area; and** ()
 - d. The facility must serve the planned menu. **If** substitutions are made, the menu must be **modified** to reflect the substitutions. ()
- 02. 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. ()
- a. The therapeutic diet planned menu, must meet nutritional standards; ()
 - 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)
- 03. 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. ()
- 04. 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 Diet Manual.** ()

(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** planned menus **during that time.** ()

(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:** ()
 - a. **To** provide residents at least three (3) meals daily, at regular times comparable to normal mealtimes

in the community; ()

b. *To ensure no* more than fourteen (14) hours between a substantial evening meal and breakfast; ()

c. *Ensure* that residents who are not in the facility for the noon meal are offered a substantial evening meal; and ()

d. Offer snacks *and fluids between meals and at bedtime.* ()

03. Food Preparation Area. Any areas used for food preparation must be maintained as follows: ()

and a. No live animals or fowl will be kept or maintained in the food service preparation or service area; ()

b. Food preparation *and* service areas *cannot* be used as living quarters for staff. ()

04. Disposable Items. The facility will not use single use items except in unusual circumstances for a short period of time or for *special events.* ()

461. -- 509. (RESERVED)

510. REQUIREMENTS TO PROTECT RESIDENTS FROM ABUSE.

The administrator must *ensure* that policies and procedures are *developed and* implemented to *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.* ()

(BREAK IN CONTINUITY OF SECTIONS)

515. REQUIREMENTS TO PROTECT RESIDENTS FROM EXPLOITATION.

The administrator must *ensure* that policies and procedures are *developed and* implemented to *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.* ()

(BREAK IN CONTINUITY OF SECTIONS)

520. REQUIREMENTS TO PROTECT RESIDENTS FROM INADEQUATE CARE.

The administrator must *ensure* that policies and procedures are *developed and* implemented to *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.* ()

(BREAK IN CONTINUITY OF SECTIONS)

525. REQUIREMENTS TO PROTECT RESIDENTS FROM NEGLECT.

The administrator must *ensure* that policies and procedures are *developed and* implemented to *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.*

request. ()

(BREAK IN CONTINUITY OF SECTIONS)

550. REQUIREMENTS FOR RESIDENTS' RIGHTS.

The administrator must ensure that policies and procedures are developed and implemented to ensure that residents' rights are observed, promoted, and protected. ()

01. Resident Records. Upon request, a resident or others authorized by law, must be provided immediate access to information in 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. ()

02. Privacy. Each resident must be ensured the right to privacy with accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups. ()

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 ensure the resident's right of confidentiality, if the resident desires. ()

04. Personal Possessions. Each resident has the right to: (3-30-06)

a. Wear their own clothing; ()

b. Determine their own dress or hair style; ()

c. Retain and use their own personal property in their own living area so as to maintain individuality and personal dignity; and (3-30-06)

d. Be provided a separate storage area in their own living area and at least one (1) locked cabinet or drawer for keeping personal property. ()

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. ()

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 **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 **the** account. The facility must maintain any other personal funds in a non-interest-bearing account or petty cash fund; ()

b. The facility must **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 ()

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 **local** ombudsman for the elderly or **their** designees, or by the resident's physician **or authorized provider**; ()

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, **significant other, or representative**; ()

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. ()

11. Freedom of Religion. Each resident must have the right to practice the religion of **their** choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others. ()

12. Control and Receipt of Health-Related Services. Each resident must have the right to control **heir** receipt of health related services, including: ()

a. The right to retain the services of **their** own personal physician, dentist, and other health care professionals; ()

b. The right to select the pharmacy or pharmacist of **their** choice so long as it meets the statute and rules governing residential assisted living and the policies and procedures of the residential assisted living facility; ()

c. The right to confidentiality and privacy concerning **their** medical or dental condition and treatment; and ()

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 **their** legal guardian have been informed of the consequences of the refusal; and ()

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, or fails to be furnished, without **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. ()

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 **Agency** with respect to the facility and any plan of correction in effect. ()

17. Access by Advocates and Representatives. A residential 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: ()

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; ()

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; ()

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 assisted living facility must permit advocates and representatives of the protection and advocacy system designated by the governor under **29 U.S.C. 794c**, 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. ()

19. Access by the Long-Term Care Ombudsman. A residential 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. ()

20. Transfer or Discharge. Each resident must have the right to be transferred or discharged only for medical reasons, for **their** welfare or that of other residents, or for nonpayment for **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. ()

21. Citizenship Rights. Each resident has **the** right to be encouraged and assisted to exercise rights as a citizen, including the right to be informed and to vote. ()

22. Advance 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. ()

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 **or** the resident's legal guardian or conservator written notice within five (5) days of any fee change taking place; ()

b. The resident **and** the resident's legal guardian, or conservator must be given the opportunity to agree to an amended **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. ()

(BREAK IN CONTINUITY OF SECTIONS)

560. NOTICE OF RESIDENTS' RIGHTS.

Each facility must: ()

01. Inform Residents Orally and in Writing. Inform each resident, orally and in writing at the time of admission to the facility, of **their** legal rights during the stay at the facility. ()

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. **Ensure** the written description of legal rights **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, neglect, and misappropriation of resident property in the facility. ()

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 Up and Awake During Residents' Sleeping Hours. Qualified and trained staff must be up and awake, and immediately available in the facility during resident sleeping hours. ()

02. 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 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 this rule. The Licensing Agency will consider a variance based on the facility's written submitted plan of operation. ()

03. Personnel Management. The administrator is responsible for the management of all personnel to include contract personnel. ()

04. Sufficient Personnel. As described in Section 39-3322, Idaho Code, the facility will employ and the administrator will schedule sufficient personnel to: ()

a. Provide care and supervision, during all hours, as required in each resident's NSA, to ensure residents' health, safety, and comfort, and to ensure the interior and exterior of the facility is maintained in a safe and clean manner; and ()

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. ()

(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 assisted living and how it guides care giving; ()

b. Resident rights; ()

c. Cultural awareness; (3-30-06)

- d. Providing **personal** assistance; ()
- e. How to respond to emergencies; (3-30-06)
- f. **Reporting and documentation requirements for resident care records, incidents, accidents, complaints, and allegations of abuse, neglect, and exploitation;** ()
- g. Identifying and reporting changes in residents' health **or** mental condition; ()
- h. Advance Directives and do not resuscitate (DNR) orders; (3-30-06)
- i. Relevant policies and procedures; (3-30-06)
- j. The role of the **NSA**; and (3-30-06)
- k. All staff employed by the facility, including housekeeping personnel **and** contract personnel, must be trained in infection control procedures for universal precautions. ()

(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:

- 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;** ()
 - 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;** ()

- 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; ()
 - 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; ()
 - 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. CONTINUED TRAINING REQUIREMENTS.

Each employee must receive a minimum of eight (8) hours of job-related continued training per year. ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

645. ASSISTANCE WITH MEDICATIONS.

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 *nurse* must delegate *and document* assistance with medications and other nursing tasks. 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. -- 899. (RESERVED)

900. ENFORCEMENT ACTIONS.

Enforcement actions, as described in Sections 901 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 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. ()

901. **ENFORCEMENT ACTION OF SUMMARY SUSPENSION.**

When the Department finds that the facility's deficient practice(s) immediately place the health or safety of any residents in danger, the Department may take immediate action through *summary suspension of the facility's license*, the imposition of temporary management, a limit on admissions, and transfer the residents. ()

902. -- 909. (RESERVED)

910. **ENFORCEMENT ACTION OF CONSULTANT.**

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

920. ENFORCEMENT ACTION OF LIMIT ON ADMISSIONS.

01. **Reasons for Limit on Admissions.** The Department may limit admissions for the following reasons: ()

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. Notification of Limit on Admissions. The Department 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

925. ENFORCEMENT ACTION OF CIVIL MONETARY PENALTIES.

01. Civil Monetary Penalties. 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. ()

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. 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

b. 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

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 ACTION OF TEMPORARY MANAGEMENT.

01. Need for Temporary Management. The Department may impose the **action** of temporary management in situations where there is a need to oversee operation of the facility and to **ensure** the health and safety of the facility's residents: ()

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 **financial interest in** the facility to be managed; ()

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 ()

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, **and to hire** and discharge 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. ()

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; ()

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 ACTION OF PROVISIONAL LICENSE.
A provisional license may be issued when a facility has one (1) or more core issues, when non-core issues have not been corrected, 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

940. ENFORCEMENT 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, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation; ()
 - 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 Sections 130 and 550 of these rules; ()
 - h.** The licensee has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility, residential assisted living facility, or certified family home; ()
 - i.** The licensee is actively affected in **their** performance by alcohol or the use of drugs classified as controlled substances; ()
 - 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 assisted living facility, or certified family home; ()
 - m.** The licensee has previously operated any health facility or residential assisted living facility without a license or certified family home without a certificate; ()
 - n.** The licensee is directly under the control or influence of any person who has been the subject of proceedings as described in **this** rule; ()
 - 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;* ()
 - r.** The licensee fails to take sufficient corrective action as described in Section **130** of these rules; or ()
 - s.** 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
16.05.04 – RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE
AND VICTIM ASSISTANCE GRANT FUNDING

DOCKET NO. 16-0504-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-5209, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Council on Domestic Violence and Victim Assistance is revising its chapter of rules to remove obsolete language and update its language to reflect current best practices.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 163 to 173](#).

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

There is no anticipated fiscal impact to the state general fund or any other funds related to this rulemaking. Programs affiliated with the ICDVVA provide fees independently.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nicole Fitzgerald at (208) 332-1542 or Nicole.Fitzgerald@icdv.idaho.gov.

Dated this 14th day of November, 2019.

Tamara Prisock
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0504-1901**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

000. LEGAL AUTHORITY.

Under Section 39-5209, Idaho Code, the Idaho Council on Domestic Violence and Victim Assistance (ICDVVA) is authorized to promulgate, adopt, and amend rules to implement the provisions of the Domestic Violence Project Grants Act, as contained in Title 39, Chapter 52, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.05.04, “Grant Funding for the Idaho Council on Domestic Violence and Victim Assistance.” ()

02. Scope. These rules define the application process, eligibility determination, and other requirements for the grants administered by the (ICDVVA). ()

03. Relationship to the Department of Health and Welfare. The (ICDVVA) is attached to the Department of Health and Welfare for fiscal and administrative purposes, and any grant awards, disbursement of funds, and other procedural matters must be in compliance with Department requirements. Programmatically, the Council is independent of the Department. ()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. Documents Incorporated by Reference. In accordance with Section 67-5229, Idaho Code, the following documents are incorporated by reference into this chapter of rules: (7-1-14)

a. “Service Standards for ICDVVA-Funded Programs,” Edition 2014-1, published by the (ICDVVA), effective July 1, 2014. ()

b. “Minimum Standards for Domestic Violence Offender Intervention Programs,” published by the (ICDVVA), edition 2019-1, effective July 1, 2019. ()

02. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available: (7-1-14)

a. At the Idaho Council on Domestic Violence and Victim Assistance, 304 North 8th Street, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0036. (7-1-14)

b. On the internet at: <http://www.icdv.idaho.gov>. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT REQUESTS.

01. Confidentiality of Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

02. Public Records Act. The Department will comply with Title, 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

For the purpose of these rules, the following definitions apply: ()

01. Conflict of Interest. No member of the Council may vote on any matter before the Council in which they have any substantial ownership, or fiduciary, contractual, consultative, creditor, or directly competitive relationship, and any such relationship be made publicly known. ()

a. Appearance. In the use of grantor agency project funds, officials or employees of state or local units of government and nongovernmental grantees/subgrantees must avoid any action that might result in, or create the appearance of: ()

i. Using his official position for private gain; (3-12-90)

ii. Giving preferential treatment to any person; (3-12-90)

iii. Losing complete independence or impartiality; (3-12-90)

iv. Making an official decision outside official channels; or (3-12-90)

v. Adversely affecting the confidence of the public in the integrity of government or the program. (3-12-90)

b. Fiduciary. Exercising a position of trust on behalf of an organization or entity, including any trustee, member of the Board of Directors, officer, legal counsel, or any other person with a legal obligation to act in the best interest of such an organization or entity. (3-12-90)

02. Contract. The grant contract between the program and the Council that results from a Council grant award. ()

03. Council. The Idaho Council on Domestic Violence and Victim Assistance (ICDVVA) as outlined in Section 39-5201, et seq., Idaho Code. ()

04. Department. The Idaho Department of Health and Welfare. ()

05. Domestic Violence. Crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Idaho, or a family or household member. This definition also includes criminal or non-criminal acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, financial abuse, harassment, tormenting behavior, distributing or alarming behavior, and additional acts. This definition applies to individuals and relationships as set forth in 45 CFR 1370.2. ()

06. Victim. A person who suffers direct or threatened physical, sexual, emotional, psychological, or financial harm as a result of an act by someone else, which is a crime. ()

011. -- 014. (RESERVED)

015. GRANTS.

01. Family Violence Grant. Money awarded to a program **under** the Family Violence Prevention and Services Act, Title III of the Child Abuse Amendments of 1984 P.L. 98-457,42 U.S.C. 10401, and any applicable rules and regulations. ()

02. State Domestic Violence Grant. Money awarded to a program **under** Sections 39-5201 through 39-5213, Idaho Code (domestic violence project grants), and any applicable rules and regulations. ()

03. VOCA Grant. Money awarded to a program **under** Victims of Crime Act of 1984, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. and any applicable rules and regulations. ()

04. Regions. The seven (7) regions of the Department of Health and Welfare are as follows: (3-12-90)

a. REGION I -- Benewah County, Bonner County, Boundary County, Kootenai County, Shoshone County. (3-12-90)

b. REGION II -- Clearwater County, Idaho County, Latah County, Lewis County, Nez Perce County. (3-12-90)

c. REGION III -- Adams County, Canyon County, Gem County, Owyhee County, Payette County, Washington County. (3-12-90)

d. REGION IV -- Ada County, Boise County, Elmore County, Valley County. (3-12-90)

e. REGION V -- Blaine County, Camas County, Cassia County, Gooding County, Jerome County, Lincoln County, Minidoka County, Twin Falls County. (3-12-90)

f. REGION VI -- Bannock County, Bear Lake County, Bingham County, Caribou County, Franklin County, Oneida County, Power County. (3-12-90)

g. REGION VII -- Bonneville County, Butte County, Clark County, Custer County, Fremont County, Jefferson County, Lemhi County, Madison County, Teton County. (3-12-90)

05. Grant Applications. Applications for grant funding **that** are obtained from the Council. These will have eligibility, legal, and paperwork requirements for the grants administered by the Council. ()

016. COUNCIL DUTIES.

01. Membership. **Under** Section 39-5204, Idaho Code, consist of seven (7) members appointed by the Governor of Idaho. At least one (1) member **must** reside in one (1) of the seven (7) Department of Health and Welfare regions. Members **must** be representative of persons who have been victims of domestic violence, care providers, law enforcement officials, medical and mental health personnel, counselors, and interested and concerned members of the general public. ()

02. Purpose. Be the advisory body for programs and services affecting victims of crime. For budgetary purposes and for administrative support purposes, the Council is assigned by the Governor to the Department. (3-12-90)

03. Grants Awards Process. Award available state and federal grant money to eligible victims' services programs within the state of Idaho. The current available grants are: (3-12-90)

a. State domestic violence; (3-12-90)

b. Federal family violence; (5-3-03)

c. Federal VOCA; and (5-3-03)

d. State **offender intervention** program grants. ()

04. Other Grants. The Council may establish other state or federal grants authorized under Executive Orders and **under** Section 39-5208(2), Idaho Code. ()

017. ELIGIBILITY.

01. State Domestic Violence Grants. To be eligible for a state domestic violence grant, a program must comply with the applicable requirements of Title 39, Chapter 52, Idaho Code, as specified in Appendix A, these rules, **and** any additional requirements in the grant applications, or **from the** Council. ()

02. Federal Family Violence Grant. To be eligible for a federal family violence grant, a program must comply with all the applicable sections of the Family Violence and Services Act, other federal rules and regulations, and **any additional requirements in the grant applications or from the Council.** ()

03. Federal VOCA Grant. To be eligible for a federal VOCA grant, a program must comply with all the applicable sections of the Victims of Crime Act, any other federal rules and regulations **that** apply, these rules and any additional requirements listed in the grant applications, or **from** the Council. ()

04. Tribes. All federally acknowledged tribes in the state of Idaho are eligible for ICDVVA funding. ()

05. Application Process. The application process for grants, including time frames for both submission and disposition of applications and the form and contents of applications for annual or supplemental funding, is described in Section 018 **of these rules.** ()

018. TIME FRAMES.

01. Grant Applications for Annual Grants from the Council. (5-3-03)

a. No less than once a year, the Department will publish a “Grant Applications” (GA) at least two (2) times (once a week for two (2) consecutive weeks, on the same day of the week) in a major daily newspaper in each service area. The GA will specify the deadline for submission of proposals. In no event will the deadline be less than sixty (60) days from the date of first publication of the GA. (3-12-90)

b. A copy of each GA will also be sent to current grantees and to persons and organizations who have requested timely notification. Requests for advance notification of the solicitation of grant proposals should be directed to the Executive Director of the **Idaho** Council on Domestic Violence and Victim Assistance, P.O. Box. 83720, Boise, Idaho 83720 - 0036, or **info@icdv.idaho.gov.** ()

c. Applications for annual grants must be postmarked, hand-delivered, **e-mailed, or electronically delivered as specified in the ICDVVA application RFP,** no later than the date designated in the “Grant Applications.” ()

02. Proposals or Supplemental Grants. Applications for supplemental grants may be submitted for consideration at any time during the effective period of a grant. (5-3-03)

019. DISPOSITION OF APPLICATIONS.

The Council **will** deny or grant funding as specified below, and all applicants will be notified in writing as to the disposition of their application. ()

01. Applications. The Council **will** deny or grant funding for an annual application within ninety (90) days of the GA deadline. ()

02. Supplemental Applications. Allocation of supplemental funding **is** made based upon the availability of funds. ()

03. Late Applications. An application for annual funding received after the deadline specified in any GA will be acted upon at a regularly-scheduled meeting of the Council, following consideration of all timely initial and renewal applications for the service area. (5-3-03)

020. EVALUATION OF APPLICATIONS.

Applications from each region **are** be evaluated according to the following criteria: ()

01. Threshold Factors. Before an application is evaluated and ranked, an affirmative determination must be made that: (3-12-90)

a. The applicant meets eligibility requirements as specified in Section 017 **of these rules**; and ()

b. The applicant has the administrative capacity, or has adequately described how provisions for that capacity will be made if not present at the time of application, to administer a grant including having, contracting for, or obtaining staff and expertise to: (3-12-90)

i. Provide proper management and maintain the proper records; ()

ii. Assure fiscal control and efficient disbursement of grant funds; ()

iii. Fulfill grant requirements, including meeting reporting requirements; and (3-12-90)

iv. Provide the proposed services. (3-12-90)

02. Conflict of Interest. Under the following circumstances, a Council member **must** declare a conflict of interest in writing to the Executive Director and subsequently refrain from evaluating or ranking, or casting a vote to award a grant to **an applicant who**: ()

a. **Serves on a** board of directors or advisory board **with** the Council member, or a member of **the Council member's** immediate family; ()

b. **Has been, or would be, directly involved in the project as an advisory board member, a consultant, collaborator, or trainer whose expenses would be paid from the subgrant, etc.;** ()

c. **Is from the same institution or organization as the Council member, or was employed by that organization within the past year;** ()

d. **Has collaborated recently on work related to the current application or other proposal;** ()

e. **May consider the Council member for a position at the applicant's organization or institution;** ()

f. **Has an organization in which the Council member has served in an official or unofficial capacity within the past year;** ()

g. **Has an organization in which the Council member has employees, or closely affiliated officials, who serve as board members or in other official capacities for the applicant;** ()

h. **Has a family relationship with the Council member;** ()

i. **Is known to be close friends or open antagonists with the Council member; or** ()

j. **Is currently directly involved in a closely associated project with the Council member.** ()

- 03. Evaluation Criteria.** The Council uses the following criteria to evaluate applications: ()
- a.** Assessment of existing victim services in the community and demonstrated need for proposed services in the area. (3-12-90)
 - b.** Scope of services or number of eligible activities to be provided. (3-12-90)
 - c.** Estimated number of clients to be served and expansion potential, if any. (3-12-90)
 - d.** Knowledge and use of other available funding sources or fund-raising activities. (3-12-90)
 - e.** Involvement and coordination with community resources including identification of sources of victim access. (3-12-90)
 - f.** Recruitment efforts for volunteers to meet the specific needs of the program and the community. (3-12-90)
 - g.** Performance record of past activities, if any, including: (3-12-90)
 - i.** Creative use of volunteers; (3-12-90)
 - ii.** Training of volunteers; (3-12-90)
 - iii.** Fund-raising activities; (3-12-90)
 - iv.** Administrative performance; (3-12-90)
 - v.** Degree of incorporation of self-help activities into program; and (3-12-90)
 - vi.** Education service to community. (3-12-90)
 - h.** Cooperation with other area domestic violence and victim assistance programs to insure services to all areas and victims without duplicating services. (3-12-90)

(BREAK IN CONTINUITY OF SECTIONS)

022. DOMESTIC VIOLENCE GRANT DISTRIBUTION.
Domestic violence project grants will be awarded in the following manner: (3-12-90)

01. Distribution of Domestic Violence Grants to Regions. Following determination by the Council of the total funds available for domestic violence grant awards for the following fiscal year, the Council will establish and announce the base level of funding available for each region. ()

a. In accordance with Section 39-5212, Idaho Code, not less than fifty-one percent (51%) of available grant funds will be allocated to programs within the seven (7) regions in the proportion that marriage licenses are filed in each region, based on statistics compiled by the state registrar of Vital Statistics. (3-12-90)

b. The allocation of the remaining percentage of available grant funds must be established and announced annually in varying percentages based on consideration of the following and in the order of priority shown below: ()

i. Identification of critical needs and evidence of relative distribution of victim population within the state. (3-12-90)

ii. Calculation of a population/area factor, using current U.S. census data and employing the following formula: (3-12-90)

and (1) Multiply the population of a region by two (2) and divide the product by the total state population; (3-12-90)

(2) Divide the square miles for a region by the total square miles for the state and add the resulting figure to the figure determined by calculating the amount as set out in Subsection 022.01.b.i.(1) of this rule. ()

(3) Divide the sum by three (3), yielding a percentage figure that represents the population/area factor for the region. ()

iii. Identification of programs with statewide applicability. (3-12-90)

c. The Council must solicit qualified new or supplemental proposals from the region and will hold the funds available for the region for a period of six (6) months, in the event of any of the following: ()

i. The proposals received from eligible applicants within a given region are insufficient or inadequate, or both; ()

ii. A grant awarded is not accepted or grant agreement finalized on a timely basis; or ()

iii. A grant is terminated prior to the completion date. ()

d. Any domestic violence grant funds not obligated or expended during any award period will be apportioned by the Council at its discretion. (3-12-90)

02. Distribution of Domestic Violence Grants Within the Regions. (3-12-90)

a. Programs are selected through a comparative application process; ()

b. Applicants are compared only with other applicants from the same region; and ()

c. The Council is not obligated to select or approve any proposal received. (5-3-03)

03. Timing and Duration of Grant Awards. Grant awards under the domestic violence grants project are made for a period not to exceed one (1) year unless revoked. Actual funds are distributed in accordance with the schedule of payments established for each grant. ()

023. VICTIM ASSISTANCE GRANT DISTRIBUTION. Victim assistance grants are awarded in the following manner: ()

01. Distribution of Victim Assistance Grants to Priority Categories and Regions. Following the Council's receipt of an award letter from the U.S. Justice Department announcing the amount available for victim assistance grants for the following fiscal year, the Council will establish and announce the base level of funding available for the priority categories and for each region. Determination of the actual percentage and amount of funds to be allocated for the priority and other categories for the regions, and for statewide projects will be based on data available to the Council. ()

a. Allocations for Priority and Other Categories. The Council allocates the federal crime victim assistance funds awarded to Idaho to programs by complying with regulations of the Victims of Crime Act of 1989, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. ()

b. Allocations for Service Areas. (3-12-90)

i. The Council allocates the victim assistance funds by region based on a population/area factor, as outlined in Subsection 022.01.b.ii of these rules. ()

ii. At its discretion, the Council may reserve a portion of the victim assistance grant funds for

programs with statewide applicability. (3-12-90)

c. Any victim assistance grant funds not obligated or expended during any award period **are** apportioned by the Council at its discretion, within the established federal limits governing use of the funds. ()

02. Distribution of Victim Assistance Grants Within Priority Categories and Regions. Grants **are** awarded through comparison and consideration of applications within a region according to the category of victim services being proposed. The Council is not obligated to select or approve any proposal received. ()

03. Timing and Duration of Grant Awards. Grant awards made under the victim assistance grants project **are** made for a period not to exceed **three (3) years**, unless revoked. Actual funds **are** distributed in accordance with the schedule of payments established for each grant. ()

024. FAMILY VIOLENCE GRANT DISTRIBUTION.

Family violence grants **are** awarded annually, following receipt of an award letter from the United States Department of Health and Human Services, announcing the amount available for family violence grants for the following fiscal year. The Council **establishes** and **announces** the funding available for each region based upon the following allocation. ()

01. Allocation. If all seven (7) regions have qualified and eligible applicants, the amount available **is** divided by seven (7). If not all regions have qualified and eligible applicants, the amount available **is** divided by the number of regions that have qualified and eligible applicants. The Council is not obliged to accept or approve any proposal received. ()

02. Timing and Duration of Grant Awards. Grant awards made under the family violence grant project will be made for a period not to exceed **two (2) years**, unless revoked by the Council. Actual funds **are** distributed in accordance with the payment scheduled for each grant. ()

025. -- 030. (RESERVED)

031. AWARDING OF GRANTS.

Notification of grant awards **is** accomplished through preparation and issuance of a contract specifying, at a minimum, the eligible activities for which the grant is to be awarded, including the beginning and termination dates of the grant, the amount of the grant award, the schedule of payments, and any terms and conditions additional to these rules which are agreed to by the parties. ()

01. Acceptance of Grant Award by Grantee. Acceptance of the grant award is to be accomplished by returning two (2) copies of the contract bearing the original, signature of the duly authorized representative of the grantee. The copies of the signed contract are to be returned to the Council within fifteen (15) days of the date of the letter transmitting the agreement to the grantee. (5-3-03)

02. Approval or Grant Agreement. The agreement will be deemed approved and the grant effective upon the effective date specified in the agreement when signed by the authorized official for the Council. If more than sixty (60) days have elapsed between the stated effective date and the date the agreement is signed for the Council: (5-3-03)

a. There will be no penalty or reduction of funding if the delay was attributable to the Council. (5-3-03)

b. The program may face a reduction in funding and renegotiation of the agreement if the delay was attributable to the program. (3-12-90)

032. DENIAL, SUSPENSION, OR TERMINATION OF GRANT.

01. Compliance Issues. A grant may be suspended pending investigation to determine compliance with these rules. An application for a grant may be denied or a grant terminated if the program is not in compliance with these rules. (3-12-90)

02. Disincorporation. If a legal entity that is the recipient of a grant disincorporates, the Council must be informed in writing within twenty (20) days and the grant terminated. Grant funds for all but the portion of the fiscal year during which services required under the grant were performed must be recovered by the Council. Reallocation of remaining grant funds will be in accordance with applicable law. ()

03. Internal Take-Over. If the governing board of one (1) of an agency's programs takes over the agency, with the program's board actually becoming the new board of the agency, the Council must be notified in writing within twenty (20) days. The grant may continue in effect without interruption. (3-12-90)

(BREAK IN CONTINUITY OF SECTIONS)

035. STATE AND FEDERAL DOMESTIC VIOLENCE GRANT -- RECORD KEEPING REQUIREMENTS.

Each program receiving a grant(s) from the Department must maintain accurate, current, and complete client, administrative, and fiscal records, including accurate records of the receipt, obligation, and disbursement of funds. Records must be accessible to authorized state officials during normal operating hours for purposes of inspection or audit, or both, with or without prior notification, under Section 39-108, Idaho Code. The fiscal and program record requirements required for each grant are in the contract. ()

036. AUDITS.

01. Projects Subject to Audit. Projects selected for funding by the Council are subject to audit. Under U.S. Office of Management and Budget (OMB) Circular A-128, "Audits of State and Local Governments," grantees have the responsibility to provide for an audit of their activities. These audits must be conducted annually. Grantees as well as their contractors or other organizations under cooperative agreements or purchase of service contracts are to arrange for examination in the form of independent audits in conformance with OMB Circular A-128. ()

02. Audit Requirement. These audits must be performed by an independent auditor in accordance with generally accepted governmental auditing standards governing financial and compliance audits. The audits are to be performed on an organization-wide basis. The audit must include: ()

a. A report on financial statements of the recipient's organization and a schedule of financial assistance showing the total expenditures for each assistance program; ()

b. A report on compliance containing: ()

i. A positive assurance that items were tested for compliance with laws and regulations pertaining to financial reports and claims for advances and reimbursements; ()

ii. A negative assurance of those items not tested and a summary of all instances of noncompliance; and (3-12-90)

iii. The study and evaluation of internal control systems, which must identify accounting controls, and those controls designed to provide reasonable assurance that federal programs are being managed in compliance with applicable laws and regulations. It must also identify the controls that were not evaluated, and the material weaknesses identified by that identification. ()

037. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 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.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The additional changes for this rulemaking include an enhanced clearance requirement for Citizen Review Panel Members, clarifications of back ground clearance for Behavioral Health Programs, and changes due to FBI requirements.

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 is necessary 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.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 4, 2019, Idaho Administrative Bulletin, [Vol. 19-9, pages 291 through 295](#).

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

The 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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Fernando Castro at (208) 332-7999.

Dated this 14th day of November, 2019.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0506-1901**

**This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.**

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)

Required Classes	Idaho Code and IDAPA Chapter(s)
01. Adoptive Parent Applicants	IDAPA 16.06.01, "Child and Family Services" IDAPA 16.06.02, "Child Care Licensing"
02. Behavioral Health Programs	<i>IDAPA 16.07.17, "Substance Use Disorders Services"</i> <i>IDAPA 16.07.33, "Adult Mental Health Services"</i> <i>IDAPA 16.07.37, "Children's Mental Health Services."</i> <i>IDAPA 16.07.39, "Appointment of Designated Examiners and Dispositioners."</i>
03. Certified Family Homes	Section 39-3520, Idaho Code IDAPA 16.03.19, "Certified Family Homes" IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
04. Children's Agency Facility Staff	IDAPA 16.06.02, "Child Care Licensing"
05. Children's Residential Care Facilities	Section 39-1210, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
06. Children's Therapeutic Outdoor Programs	Section 39-1208, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
07. Citizen Review Panel Members	Public health district volunteers who must comply with Section 16-1647, Idaho Code, "Citizen Review Panels - Child Protection Legislative Review Panel"
08. Contracted Non-Emergency Medical Transportation Providers	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"

Required Classes	Idaho Code and IDAPA Chapter(s)
09. Court Appointed Guardians and Conservators	Title 15, Chapter 5, Idaho Code 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
10. Designated Examiners and Dispositioners	IDAPA 16.07.39, "Appointment of Designated Examiners and Dispositioners"
11. Developmental Disabilities Agencies	IDAPA 16.03.21, "Developmental Disabilities Agencies" (DDA) IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
12. Emergency Medical Services (EMS)	IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements" IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"
13. High Risk Providers of Medicaid	IDAPA 16.03.09, "Medicaid Basic Plan Benefits" The Medicaid Provider Handbook
14. Home and Community-Based Services (HCBS)	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" IDAPA 16.04.17, "Residential Habilitation Agencies"
15. Home Health Agencies	IDAPA 16.03.07, "Home Health Agencies"
16. Idaho Behavioral Health Plan (IBHP)	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
17. Idaho Child Care Program (ICCP)	IDAPA 16.06.12, "Idaho Child Care Program"
18. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	IDAPA 16.03.11, "Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)"
19. Licensed Foster Care	Section 39-1211, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
20. Licensed Day Care	Sections 39-1105, 39-1113, and 39-1114, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
21. Mental Health Services	IDAPA 16.07.33, "Adult Mental Health Services" IDAPA 16.07.37, "Children's Mental Health Services"
22. Personal Assistance Agencies	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
23. Personal Care Service Providers	Section 39-5604, Idaho Code IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
24. Residential Assisted Living Facilities	IDAPA 16.03.22, "Residential Assisted Living Facilities"
25. Service Coordinators and Paraprofessional Providers	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
26. Skilled Nursing Facilities	IDAPA 16.03.02, "Skilled Nursing Facilities"
27. Substance Use Disorders Services	IDAPA 16.07.17, "Substance Use Disorders Services"
28. Support Brokers and Community Support Workers	IDAPA 16.03.13, "Consumer-Directed Services"

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(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.** ()

- 01. Adoptive Parent Applicants.** ()
- 02. Behavioral Health Programs.** ()
- 03. Children’s Agency Facility Staff.** ()
- 04. Children’s Residential Care Facilities.** ()
- 05. Children’s Therapeutic Outdoor Programs.** ()
- 06. Citizen Review Panel Members.** ()
- 07. Idaho Child Care Program (ICCP).** ()
- 08. Licensed Foster Care.** ()
- 09. Licensed Day Care.** ()
- 10. Mental Health Services.** ()
- 11. Substance Use Disorders Services.** ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2020, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 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.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Additional changes to this pending rule include the clarification of the FBI requirements.

1. Stakeholders have expressed a desire for the Department to clarify the following:

- a. Who is subject to the background check;
- b. Documentation record keeping requirements;
- c. When an incomplete application is no longer viable for processing; and
- d. When a new background check or state-only check is required for a rehired employee.

2. 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.

3. FBI has requested that references to the federal Nation Crime Information Center and the federal Sex Offender Registry be removed.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 4, 2019, Idaho Administrative Bulletin, [Vol. 19-9, pages 296 through 305](#).

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

There is no fiscal impact to the State General Fund 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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Fernando Castro, (208) 332-7999.

Dated this 14th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0506-1902**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

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.** 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 Sexual Offender Registry; ()
- 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** ()
- 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 010.04.a. through 010.04.d. of this rule: ()

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. ()
- 10. 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)
- 11. Employer.** An entity that hires people to work in exchange for compensation. This term is synonymous with the term agency. (7-1-12)
- 12. 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)
- 13. Exemption Review.** A review by the Department at the request of the applicant when a conditional denial has been issued. (3-26-08)
- 14. Federal Bureau of Investigation (FBI).** The federal agency where fingerprint-based criminal history and background checks are processed. (3-26-08)
- 15. Good Cause.** Substantial reason, one that affords a legal excuse. (3-4-11)
- 16. Idaho State Police Bureau of Criminal Identification.** The state agency where fingerprint-based criminal history and background checks are processed. (3-26-08)
- 17. 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.** An agency or facility **must:** ()
- a.** If acquired by another entity, the new ownership **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.** ()
- b.** If there is a change to its name or location, the employer **will** provide the new name, location, and contact information to the Department within thirty (30) calendar days of the change. ()

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 [this rule](#). ()

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. ()

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 **will** make a determination as to the ability or risk of the individual to provide care or services to children or vulnerable adults. ()

(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 [submission in the Department background check system](#) whether 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.](#) ()

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.](#) ()

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. ()

03. 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)

04. 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 **their** record as described in this rule. ()

01. Disqualifying Crimes. The disqualifying crimes, described in Subsection 210.01 of this rule, or any substantially conforming foreign criminal violation, will result in an unconditional denial being issued. ()

- 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 ()**
 - ee. 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 this rule, or any substantially conforming foreign criminal violation: ()
- 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. ()

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 ()
- 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; ()
- 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)

f. An individual with a current clearance that is *not Enhanced but is completed* 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. *An agency or employer identified in Subsections 126.07 and 126.09 of these rules may not hire an employee with a clearance obtained prior to January 1, 2020 unless the Enhanced clearance complies with the requirements found in 42 USC Section 9858.* ()

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 16 – DEPARTMENT OF HEALTH AND WELFARE
16.06.12 – RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
DOCKET NO. 16-0612-1901
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2020, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 16-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and CFR Title 45 Part 98, Child Care and Development Fund.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rulemaking is necessary to align the Idaho Child Care Program with federal regulations. The Idaho Child Care Program received federal guidance pertaining to identified sections of the rule not in compliance with the regulations. The rulemaking was needed to comply with the Red Tape Reduction Act.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 174 through 178](#).

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

The program anticipates minimal, if any, negative impact on the state general fund as a result of this rulemaking. Removal of language pertaining to co-pays and mandatory reporting requirements for activity hours may result in small positive or negative impacts, depending on individual family circumstances, but the net impact of these changes is anticipated to be less than \$10,000 in additional costs to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ericka Rupp, (208) 334-5641.

Dated this 14th day of November, 2019.

Tamara Prisock
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 16-0612-1901**

**This rulemaking is being republished in its entirety.
Previously made amendments are shown in red plain text (non-italicized).**

401. IN-HOME CARE HEALTH AND SAFETY REQUIREMENTS.

Annually each in-home care provider is responsible to ensure that health and safety requirements are met for children being cared for in the children's own home, **as defined in Section 802 of these rules.** ()

(BREAK IN CONTINUITY OF SECTIONS)

503. COPAYMENTS.

Eligible families, except TAFI families participating in non-employment TAFI activities and guardians of foster children, must pay part of their child care costs. Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs. (3-2-17)

01. Poverty Rates. Poverty rates will be one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (4-4-13)

02. Calculating Family Payment. Family income and activity for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate or billed costs, whichever is lower, less the co-payment. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

CHANGE REPORTING REQUIREMENTS FOR THOSE RECEIVING CHILD CARE BENEFITS
(Sections 600 - 699)

600. CHANGE REPORTING REQUIREMENTS.

A family who receives child care benefits must report the following permanent changes by the tenth day of the month following the month in which the change occurred. (4-4-13)

01. Change in Permanent Address. (3-28-18)

02. Change in Household Composition. (4-4-13)

03. Change in Income. When the household's total gross income for family of the same size exceeds any of the following: (4-11-19)

a. One hundred and thirty percent (130%) of the Federal Poverty Guidelines (FPG); (4-11-19)

b. Eighty-five percent (85%) of the State Median Income (SMI); or (4-11-19)

c. The graduated phase-out income limit as defined in the Idaho Child Care State Plan. (4-11-19)

04. Change in Child Care Provider. (5-1-11)

601. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

801. HEALTH AND SAFETY TRAINING.

All child care providers must complete a series of health and safety trainings during an orientation period of not more than ninety (90) days, in addition to ongoing annual training that address each of the following topics: (3-2-17)

- 01. Infectious Diseases.** The prevention and control of infectious diseases (including immunization). (3-2-17)
- 02. Sudden Infant Death Syndrome.** The prevention of sudden infant death syndrome and use of safe sleeping practices. (3-2-17)
- 03. Medication.** The administration of medication, consistent with standards for parental consent. (3-2-17)
- 04. Allergic Reactions.** The prevention of and response to emergencies due to food and allergic reactions. (3-2-17)
- 05. Environmental Safety.** Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic. (3-2-17)
- 06. Child Abuse Prevention.** Prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and recognition and reporting of child abuse and neglect. ()
- 07. Emergency Preparedness.** Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event. (3-2-17)
- 08. Hazardous Substances.** Proper handling, storage, and disposal of medicines, cleaning supplies, and other hazardous substances, including biocontaminants. (3-2-17)
- 09. Transportation.** Appropriate precautions in transporting children, including the use of child safety restraints and seat belts. (3-2-17)
- 10. Child Development.** Address major domains such as cognitive, social, emotional, physical development, and approaches to learning. ()

802. HEALTH AND SAFETY REQUIREMENTS.

All providers must comply with the health and safety requirements listed in Subsections 802.01 through 802.13 of this rule. All providers must agree to an annual, unannounced health and safety inspection, with the exception of in-home child care described in Section 401 of these rules. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other applicable law. (3-2-17)

- 01. Age of Provider.** All child care providers providing services must be eighteen (18) years old or older. Persons sixteen (16) or seventeen (17) years old may provide child care if they have direct, on-site supervision from a licensed child care provider who is at least eighteen (18) years old. (4-2-08)
- 02. Sanitary Food Preparation.** Food for use in child care facilities must be prepared and served in a sanitary manner. Utensils and food preparation surfaces must be cleaned and sanitized before using to prevent contamination. (4-2-08)

- 03. Food Storage.** All food served in child care facilities must be stored to protect it from potential contamination. (4-2-08)
- 04. Hazardous Substances.** Medicines, cleaning supplies, and other hazardous substances must be handled safely and stored out of the reach of children. Biocontaminants must be disposed of appropriately. (3-2-17)
- 05. Emergency Communication.** A telephone or some type of emergency communication system is required. (4-2-08)
- 06. Smoke Detectors, Fire Extinguishers, and Exits.** A properly installed and operational smoke detector must be on the premises where child care occurs. Adequate fire extinguishers and fire exits must be available on the premises. (4-2-08)
- 07. Hand Washing.** Each provider must wash his hands with soap and water at regular intervals, including before feeding, after diapering or assisting children with toileting, after nose wiping, and after administering first aid. (4-2-08)
- 08. CPR/First Aid.** All providers must have current certification in pediatric rescue breathing (CPR) and pediatric first aid treatment from a certified instructor. ()
- 09. Health of Provider.** Each provider must certify that he does not have a communicable disease or any physical or psychological condition that might pose a threat to the safety of a child in his care. (4-2-08)
- 10. Child Abuse.** Providers must report suspected child abuse to the appropriate authority. (4-2-08)
- 11. Transportation.** Providers who transport children as part of their child care operations must operate safely and legally, using child safety restraints and seat belts as required by state and local statutes. (3-2-17)
- 12. Disaster and Emergency Planning.** Providers must have documented policies and procedures planning for emergencies resulting from a natural disaster, or man-caused event that include: (3-2-17)
- a.** Evacuation, relocation, shelter-in-place, and lock-down procedures, and procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions. (3-2-17)
 - b.** Procedures for staff and volunteer emergency preparedness training and practice drills. (3-2-17)
 - c.** Guidelines for the continuation of child care services in the period following the emergency or disaster. (3-2-17)
- 13. Environmental Safety.** Building and physical premises must be safe, including identification of and protection from hazards that can cause bodily injury including electrical hazards, bodies of water, and vehicular traffic. (3-2-17)
- 14. Safe Sleep.** Providers must place newborn infants to twelve (12) months in a safe sleep environment. Safe sleep practices include, alone, on their backs, and in a Consumer Product Safety Commission (CPSC) certified crib. (3-28-18)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.04.08 – INDIVIDUAL DISABILITY AND GROUP SUPPLEMENTAL DISABILITY INSURANCE MINIMUM STANDARDS RULE

DOCKET NO. 18-0408-1901 (CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 18-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-4207, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule provides standards for various individual disability and group supplemental disability policies. This rulemaking seeks to fix confusing pre-existing condition language, remove medical expense coverage types, make other clarifications and restructure sections in order to clarify which standards apply to which type of coverage.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 180-207](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler at weston.trexler@doi.idaho.gov, or (208) 334-4214.

Dated this 13th day of December, 2019.

Dean L. Cameron
Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 18-0408-1901

This rulemaking is being republished in its entirety.

Previously made amendments are shown in **red plain text (non-italicized)**.

Amendments made to the proposed rule are published in this pending rule in **red italicized text**.

18.04.08 – INDIVIDUAL AND GROUP SUPPLEMENTARY DISABILITY
INSURANCE MINIMUM STANDARDS RULE

000. LEGAL AUTHORITY.

Title 41, **Chapters 2 and 42**, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.08, “Individual and Group **Supplementary** Disability Insurance Minimum Standards Rule.” ()

02. Purpose. The purpose of this **chapter** is to implement Title 41, **Chapters 21, 22, 34, and 42**, Idaho Code, to standardize and simplify the terms and coverages of individual **and group supplementary** disability insurance, to facilitate public understanding and comparison of coverage, to eliminate provisions that may be misleading or confusing in connection with the purchase of the coverages or with the settlement of claims, and to provide for full disclosure in the marketing and sale of **such** insurance. ()

03. Applicability and Scope. This **chapter** applies to all individual and group policies and certificates **providing hospital confinement indemnity, disability income protection, accident only, specified disease, specified accident, or limited benefit health coverage, referred to collectively in this chapter as “supplementary disability insurance,” offered, delivered, issued for delivery, or renewed in this state or to a resident of this state, unless specifically exempted.** ()

a. This **chapter applies to** dental plans and vision plans only as specified. ()

b. This **chapter applies to group supplementary plans whether issued to supplement a group health benefit plan, or as a supplementary plan that pays benefits regardless of other coverage.** ()

c. This **chapter** does not apply to: ()

i. Individual policies or contracts issued pursuant to a conversion privilege under a **group policy or certificate.** ()

ii. Policies issued to employees or members as additions to franchise plans. ()

iii. Medicare supplement policies subject to **Title 41**, Chapter 44, Idaho Code, Medicare Supplement Insurance Minimum Standards. ()

iv. Long-term care insurance policies subject to **Title 41**, Chapter 46, Idaho Code, Long Term Care Insurance. ()

v. Civilian Health and Medical Program of the Uniformed Services, **Title 10**, Chapter 55, of the United States Code, (CHAMPUS) supplement insurance policies. ()

vi. **Individual or group major medical expense coverage, including short-term coverage.** ()

002. INCORPORATION BY REFERENCE.

01. Copies. May be obtained from the Idaho Department of Insurance. ()

02. Documents Incorporated by Reference. The following **Outlines of Coverage and notices are incorporated by reference from** the April 1999 version of the NAIC Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Act: ()

a. Hospital Confinement Indemnity Coverage. (3-30-01)

b. Disability Income Protection Coverage. (3-30-01)

c. Accident Only Coverage. (3-30-01)

d. Specified Disease. ()

e. **Specified Accident.** ()

f. Limited Benefit Health Coverage. (3-30-01)

g. Dental Plans. (3-30-01)

h. Vision Plans. (3-30-01)

i. Notice to Applicant Regarding Replacement of Accident and Sickness Insurance (direct sales). (3-30-01)

j. Notice to Applicant Regarding Placement of Accident and Sickness Insurance (other than direct sales). (3-30-01)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accident Only Coverage. “Accident Only Coverage” means a policy or certificate that provides coverage, singly or in combination, for death, dismemberment, disability or hospital and medical care caused by an accident, and does not provide coverage for non-accidents. ()

02. Dental Coverage. “Dental Coverage” means a policy or certificate that primarily provides benefits for dental expenses. ()

03. Disability Income Protection Coverage. “Disability Income Protection Coverage” means a policy or certificate that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination of both. ()

04. Hospital Confinement Indemnity Coverage. “Hospital Confinement Indemnity Coverage” means a policy or certificate of accident and sickness insurance that provides daily benefits for hospital confinement on an indemnity basis, meaning the benefit is a fixed dollar amount per day of confinement, regardless of the expenses incurred. ()

05. Limited Benefit Health Coverage. “Limited Benefit Health Coverage” means a policy or certificate that provides benefits that are less than the minimum standards under Sections 035 through 039 of this

chapter. ()

06. Major Medical Expense Coverage. “Major Medical Expense Coverage” means a policy of accident and sickness insurance that provides hospital, medical and surgical expense coverage. ()

07. Specified Accident Coverage. “Specified Accident Coverage” means a policy or certificate that provides coverage for a specifically identified kind of accident (or accidents) for each person insured under the coverage for accidental death or accidental death and dismemberment combined. ()

08. Specified Disease Coverage. “Specified Disease Coverage” means a policy or certificate that pays benefits only after the diagnosis of a specifically named disease or diseases. ()

09. Vision Coverage. “Vision Coverage” means a policy or certificate that primarily provides benefits for vision expenses. ()

011. POLICY DEFINITIONS AND TERMS.

Except as provided in this chapter, an insurance policy or certificate to which this chapter applies *will not include* definitions *more restrictive than* the following: ()

01. Accident. “Accident,” “accidental injury,” and “accidental” *is* to employ “result” language and *does not include* words that establish an accidental means test or use words such as “external, violent, visible wounds” or similar words of description or characterization. ()

a. “Injury” or “injuries” means accidental bodily injury sustained by the insured person that is the direct cause of the condition for which benefits are provided, independent of disease or bodily infirmity or any other cause, and that occurs while the insurance is in force. ()

b. It may *exclude* injuries for which benefits are provided: ()

i. Under workers’ compensation, employers’ liability, or similar law; or (3-30-01)

ii. Under a motor vehicle no-fault plan, unless *the motor vehicle no-fault plan provides for coordination of benefits*; or ()

iii. *For* injuries occurring while the insured person is engaged in any activity pertaining to a trade, business, employment or occupation for wage or profit. ()

02. Convalescent Nursing Home. “Convalescent nursing home,” “extended care facility,” or “skilled nursing facility” *is to* be defined in relation to its status, facility and available services. ()

a. *Such* home or facility *is to*: ()

i. Be operated pursuant to law; (3-30-01)

ii. Be approved for payment of Medicare benefits or be qualified to receive approval for payment of Medicare benefits, if so requested; (3-30-01)

iii. Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician; (3-30-01)

iv. Provide continuous twenty-four (24) hours per day nursing service by or under the supervision of a registered nurse; and (3-30-01)

v. Maintain a daily medical record of each patient. (3-30-01)

b. The definition of the home or facility may provide that the term *will not be inclusive of*: ()

- i. A home, facility or part of a home or facility used primarily for rest; (3-30-01)
- ii. A home or facility for the aged or for the care of drug addicts or alcoholics; or (3-30-01)
- iii. A home or facility primarily used for the care and treatment of mental diseases or disorders, or for custodial or educational care. (3-30-01)

03. Home Health Care Agency. “Home health care agency” means an agency approved under Medicare, or that is licensed to provide home health care under applicable state law, or that meets all of the following requirements: ()

- a. It is primarily engaged in providing home health care services; ()
- b. Its policies are established by a group of professional personnel (including at least one (1) physician and one (1) registered nurse); ()
- c. A physician or a registered nurse provides supervision of home health care services; ()
- d. It maintains clinical records on all patients; and ()
- e. It has a full-time administrator. ()

04. Hospice. “Hospice” means a facility licensed, certified or registered in accordance with state law that provides a formal program of care that is: ()

- a. For terminally ill patients whose life expectancy is less than six (6) months; ()
- b. Provided on an inpatient or outpatient basis; and ()
- c. Directed by a physician. ()

05. Hospital. “Hospital” is to be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Healthcare Organizations, **Accreditation of Rehabilitation Facilities or by Medicare.** ()

- a. The hospital **may**: ()
 - i. Be an institution licensed to operate as a hospital pursuant to law; (3-30-01)
 - ii. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an in-patient basis for which a charge is made; and (3-30-01)
 - iii. Provide twenty-four (24) hour nursing service by or under the supervision of registered nurses. (3-30-01)
- b. The term **will** not be inclusive of the following, unless the facility otherwise meets the qualifications set forth at **Paragraph 011.05.a.** of this **Section**: ()
 - i. Convalescent homes or, convalescent, rest, or nursing facilities; (3-30-01)
 - ii. Facilities affording primarily custodial, educational, or rehabilitary care; (3-30-01)
 - iii. Facilities for the aged, drug addicts, or alcoholics; or (3-30-01)
 - iv. A military or veterans’ hospital, a soldiers’ home or a hospital contracted for or operated by any

national government or government agency for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability for the patient exists for charges made to the individual for the services. (3-30-01)

06. Mental Disorders or Nervous Disorders. “Mental disorders” or “nervous disorders” includes neurosis, psychoneurosis, psychosis, or mental or emotional disease or disorder of any kind. ()

07. Nurse. “Nurse” may be restricted to a type of nurse, such as registered nurse, a licensed practical nurse, or a licensed vocational nurse. If the words “nurse,” “trained nurse” or “registered nurse” are used without specific instruction, then the use of these terms *necessitates* the insurer to recognize the services of any individual who qualifies under the terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state of Idaho. ()

08. One Period of Confinement. “One (1) period of confinement” means consecutive days of in-hospital service received as an in-patient, or successive confinements when discharge from and readmission to the hospital occurs within a period of time not more than ninety (90) days or three (3) times the maximum number of days of in-hospital coverage provided by the policy to a maximum of one hundred eighty (180) days. ()

09. Partial Disability. “Partial disability” is in relation to the individual’s inability to perform one or more but not all of the “major,” “important” or “essential” duties of employment or occupation, or may be related to a percentage of time worked or to a specified number of hours or to compensation. ()

10. Preexisting Condition. “Preexisting condition” is: ()

a. A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage; (3-30-01)

b. A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or (3-30-01)

c. A pregnancy existing on the effective date of coverage. (3-30-01)

11. Provider. “Provider” means a person or entity that, *as necessary*, is licensed to provide health care or related services. ()

12. Residual Disability. “Residual disability” is in relation to the individual’s reduction in earnings and may be related either to the inability to perform some part of the “major,” “important,” or “essential duties” of employment or occupation, or to the inability to perform all usual business duties for as long as is usually *necessary*. A policy that provides for residual disability benefits may *impose* a qualification period, during which the insured *needs to* be continuously totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination period for total disability. In lieu of the term “residual disability,” the insurer may use “proportionate disability” or other term of similar import that in the opinion of the Director adequately and fairly describes the benefit. ()

13. Sickness or Illness. “Sickness or illness” means sickness or disease of an insured person that **presents** itself after the effective date of insurance and while the insurance is in force. **It** may exclude sickness or disease for which benefits are provided under a worker’s compensation, occupational disease, employers’ liability or similar law.” ()

14. Total Disability. “Total disability” is in accordance with the following limitations: ()

a. The individual who is totally disabled not be engaged in any employment or occupation for which he or she is or becomes qualified by reason of education, training or experience, and is not in fact engaged in any employment or occupation for wage or profit. ()

b. Total disability may be defined in relation to the inability of the person to perform duties but **is not to** be based solely upon an individual’s inability to: ()

- i. Perform “any occupation whatsoever,” “any occupational duty,” or “any and every duty of his occupation”; or (3-30-01)
- ii. Engage in a training or rehabilitation program. (3-30-01)
- c. An insurer may *stipulate* the complete inability of the person to perform all of the substantial and material duties of his or her regular occupation or words of similar import. An insurer may *stipulate* care by a physician other than the insured or a member of the insured’s immediate family. ()

012. -- 019. (RESERVED)

020. BANNED POLICY PROVISIONS.

01. Probationary or Waiting Period. Except as provided in Subsection 011.10 pertaining to the definition of a preexisting condition or Paragraph 038.02.e. of this chapter regarding specified disease coverage, a policy or certificate will not contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy or certificate. Accident policies will not contain probationary or waiting periods. ()

02. Additional Coverage as Dividend. A policy or rider for additional coverage will not be issued as a dividend unless an equivalent cash payment is offered as an alternative to the dividend policy or rider. A dividend policy or rider for additional coverage will not be issued for an initial term of less than six (6) months. ()

a. The initial renewal subsequent to the issuance of a policy or rider as a dividend will clearly disclose that the policyholder is renewing the coverage that was provided as a dividend for the previous term and that the renewal is optional. ()

03. Return of Premium or Cash Value Benefit. A disability income policy, accident only policy, limited benefit policy, specified disease policy or hospital confinement indemnity policy may contain a “return of premium” or “cash value benefit” so long as the return of premium or cash value benefit is not reduced by an amount greater than the aggregate of claims paid under the policy, and the insurer demonstrates that the reserve basis for the policies is adequate. No other policy subject to this chapter is to provide a return of premium or cash value benefit, except return of unearned premium upon termination or suspension of coverage, retroactive waiver of premium paid during disability, payment of dividends on participating policies, or experience rating refunds. ()

04. Exclusions. A policy or certificate will not limit or exclude coverage by type of illness, accident, treatment or medical condition, except that a policy or certificate may include one (1) or more of the following limitations or exclusions: ()

- a. Preexisting conditions or diseases, except for congenital anomalies of a covered dependent child; (3-30-01)
- b. Mental or emotional disorders, alcoholism and drug addiction; (3-30-01)
- c. Pregnancy, except for complications of pregnancy; (3-30-01)
- d. Illness, treatment or medical condition arising out of: (3-30-01)
 - i. War or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary to it; (3-30-01)
 - ii. Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; (3-30-01)
 - iii. Professional aviation for wage or profit; and ()
 - iv. With respect to disability income protection policies, incarceration. (3-30-01)

e. Cosmetic surgery, except that “cosmetic surgery” **will** not include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part; reconstructive surgery because of congenital disease or anomaly of a covered dependent child; **or involuntary complications or complications related to a cosmetic procedure;** ()

f. Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet; (3-30-01)

g. Care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects of it, where the interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column; (3-30-01)

h. Benefits **in excess of Medicare eligible expense, if enrolled in** Medicare or other governmental program (except Medicaid), **or benefits provided under** a state or federal worker’s compensation law, employers liability or occupational disease law, or motor vehicle no-fault law **unless the motor vehicle no-fault plan provides for coordination of benefits;** services performed by a member of the covered person’s immediate family; and services for which no charge is normally made in the absence of insurance; ()

i. Dental care or treatment; (3-30-01)

j. Eye glasses and **the** examination for the prescription, or fitting of them; ()

k. Rest cures, custodial care, transportation, and routine physical examinations; (4-11-19)

l. Territorial limitations; ()

m. Hearing aids, auditory osseointegrated (bone conduction) devices, cochlear implants and examination for or fitting of them, except for congenital or acquired hearing loss that without intervention may result in cognitive or speech development deficits of a covered dependent child, covering not less than one (1) device every thirty-six (36) months per ear with loss and not less than forty-five (45) language/speech therapy visits during the first twelve (12) months after delivery of the covered device. (4-11-19)

n. Missed or canceled appointments; completion of claim forms or records copying; failure to vacate a room on or before the facility’s established discharge hour; educational and training services except as provided by the policy or certificate; over the counter medical supplies, consumable or disposable supplies, including but not limited to elastic stockings, ace bandages, gauze, alcohol swabs or dressings; ()

o. Treatment, services or supplies not prescribed by or upon the direction of a licensed provider, acting within the scope of his or her license; ()

p. Services rendered prior to the effective date of coverage or after termination of coverage, except as provided by an extension of benefits provision, and; ()

q. The reversal of an elective sterilization procedure, including but not limited to vasovasostomies or salpingoplasties. ()

05. Preexisting Conditions. ()

a. Except as provided in this subsection, a policy will not deny, exclude or limit benefits for covered expenses incurred more than twelve (12) months following the effective date of the coverage due to a preexisting condition. ()

b. For policies other than disability income or specified disease, an individual carrier will not modify a policy with respect to an individual or dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for specifically named preexisting diseases or conditions otherwise covered by the policy. ()

021. -- 029. (RESERVED)

030. MINIMUM STANDARDS FOR BENEFITS.

01. Minimum Standards. The following minimum standards for benefits are prescribed for the categories of coverage noted in Sections 035 through 040 of this chapter. Such an insurance policy or certificate will not be offered, delivered, issued for delivery, or renewed in this state or to a resident of this state unless it meets the minimum standards for the specified categories or the Director finds that the policies or contracts are allowable as limited benefit health insurance, and the outline of coverage complies with the applicable model outline of coverage for each category of coverage. An insurer will deliver an outline of coverage to an applicant or enrollee with the sale.

()

02. Renewability. A “noncancellable,” “guaranteed renewable,” or “noncancellable and guaranteed renewable” policy or certificate will not provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. In addition, the policy will provide that in the event of the insured’s death, the spouse of the insured, if covered under the policy, will become the insured.

()

a. The terms “noncancellable,” “guaranteed renewable,” or “noncancellable and guaranteed renewable” will not be used without further explanatory language in accordance with the disclosure requirements of Section 101 of this chapter.

()

b. The terms “noncancellable” or “noncancellable and guaranteed renewable” may be used only in a policy that the insured has the right to continue in force by the timely payment of premiums set forth in the policy, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force.

()

c. An individual accident and sickness or individual accident-only policy that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age sixty (60) if, at age sixty (60), the insured has the right to continue the policy in force at least to age sixty-five (65) while actively and regularly employed.

(3-30-01)

d. Except as provided in Subsection 030.02 of this chapter, (the term “guaranteed renewable” may be used only in a policy that the insured has the right to continue in force by the timely payment of premiums and, until the age of sixty-five (65) or until eligibility for Medicare and to the extent not in conflict with the federal Health Insurance Portability and Accountability Act (HIPAA), during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force, except where the insurer is able to show good cause for changing the policy provisions and obtains prior written approval from the Director. The insurer may make changes in premium rates by classes.

()

03. Age and Durational Requirements. In a policy covering both husband and wife, the age of the younger spouse will be used as the basis for meeting the age and durational requirements of the definitions of “noncancellable” or “guaranteed renewable.” However, this provision will not mandate termination of coverage of the older spouse upon attainment of the stated age so long as the policy may be continued in force as to the younger spouse as the insured to the age or for the durational period as specified in the policy.

()

04. Accidental Death and Dismemberment Coverage. When accidental death and dismemberment coverage is part of the policy coverage offered under the contract, the insured will have the option to include all insureds under the coverage.

()

05. Military Service Limitations. If a policy contains a status-type military service exclusion or a provision that suspends coverage during military service, the policy will provide, upon receipt of written request, for refund of premiums as applicable to the person on a pro rata basis.

()

06. Pregnancy Benefit Extension. In the event the insurer cancels or refuses to renew, policies

providing pregnancy benefits **will** provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force. ()

07. Convalescent or Extended Care Benefits. Policies providing convalescent or extended care benefits following hospitalization **will** not condition the benefits upon admission to the convalescent or extended care facility within a period of less than fourteen (14) days after discharge from the hospital. ()

08. Coverage of Dependents. A policy's coverage **will** continue for a dependent child who is incapable of self-sustaining employment due to **intellectual disability** or physical **disability** on the date that the child's coverage would otherwise terminate under the policy due to the attainment of a specified age for children and who is chiefly dependent on the insured for support and maintenance. The policy may **stipulate** that the company receives due proof of the incapacity **within thirty-one (31) days of the date** in order for the insured to elect to continue the policy in force with respect to the child, or that a separate converted policy be issued at the option of the insured or policyholder. Provisions relating to coverage of dependents with **intellectual disabilities** or physical **disabilities need** meet the requirements of Sections 41-2139 and 41-2203, Idaho Code. ()

09. Expenses of Live Donor. A policy providing coverage for the recipient in a transplant operation **will** also provide reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy or certificate, after benefits for the recipient's own expenses have been paid. ()

10. Recurrent Disabilities. A policy may contain a provision relating to recurrent disabilities, but a provision relating to recurrent disabilities **will** not specify that a recurrent disability be separated by a period greater than six (6) months. ()

11. Accidental Death and Dismemberment. Accidental death and dismemberment benefits **will** be payable if the loss occurs within ninety (90) days from the date of the accident, irrespective of total disability. Disability income benefits, if provided, **will** not require the loss to commence less than thirty (30) days after the date of accident, nor **will** any policy that the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the coverage was in force. ()

12. Specific Dismemberment Benefits. Specific dismemberment benefits **will** not be in lieu of other benefits unless the specific benefit equals or exceeds the other benefits. ()

13. Extension of Benefits. Termination of the policy **will** be without prejudice to a continuous loss that commenced while the policy or certificate was in force. **Such** extension of benefits beyond the period **during which** the policy was in force **may be conditioned upon the continuous total disability of the insured**, limited to the duration of the **policy** benefit period, if any, or payment of the maximum benefits. ()

14. Fractures or Dislocations. A policy providing coverage for fractures or dislocations **will** not provide benefits only for "full or complete" fractures or dislocations. ()

031. -- 034. (RESERVED)

035. HOSPITAL CONFINEMENT INDEMNITY COVERAGE.

01. Minimum Standards for Benefits. The following minimum standards apply: ()

a. Provides daily benefits for hospital confinement on an indemnity basis in an amount not less than forty dollars (\$40) per day; and ()

b. Provides benefits for not less than thirty-one (31) days during each period of confinement for each person insured under the policy. ()

c. Benefits **will** be paid regardless of other coverage. ()

02. Banned Policy or Certificate Provisions. ()

a. Policies may contain a “return of premium” or “cash value benefit” so long as the return of premium or cash value benefit is not reduced by an amount greater than the aggregate of claims paid under the policy or certificate, and the insurer demonstrates that the reserve basis for the policies is adequate. ()

b. Policies providing hospital confinement indemnity coverage will not contain provisions excluding coverage because of confinement in a hospital operated by the federal government. ()

c. Policies or certificates which include additional indemnity coverage on a basis other than per day of confinement will not be considered hospital confinement coverage. ()

03. Disclosure Provisions. ()

a. All hospital confinement indemnity policies and certificates will display prominently on the first page of the policy or certificate, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections in the policy or certificate the following: “Notice to Buyer: This is a hospital confinement indemnity (policy) (certificate). This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses.” ()

b. Outlines of coverage delivered in connection with “Hospital Confinement Indemnity Coverage” to persons eligible for Medicare by reason of age *will* contain the following language in boldface type on the first page of the outline of coverage: “THIS IS NOT A MEDICARE SUPPLEMENT POLICY. If you are eligible for Medicare, review the ‘Guide to Health Insurance for People with Medicare’ available from the company.” ()

c. An insurer will deliver to persons eligible for Medicare any notice *prescribed* under IDAPA 18.04.10, “Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.” ()

036. DISABILITY INCOME PROTECTION COVERAGE.

01. Minimum Standards for Benefits. The following minimum standards apply to disability income protection coverage: ()

a. Provides that periodic payments that are payable at ages after sixty-two (62) and reduced solely on the basis of age are at least fifty percent (50%) of amounts payable immediately prior to sixty-two (62); ()

b. Contains an elimination period no greater than: ()

i. Ninety (90) days in the case of a coverage providing a benefit of one year (1) or less; (3-30-01)

ii. One hundred and eighty (180) days in the case of coverage providing a benefit of more than one (1) year but not greater than two (2) years; or (3-30-01)

iii. Three hundred sixty-five (365) days in all other cases during the continuance of disability resulting from sickness or injury; (3-30-01)

c. Has a maximum period of time for which it is payable during disability of at least six (6) months. No reduction in benefits *is* put into effect because of an increase in Social Security or similar benefits during a benefit period. ()

02. Banned Policy Provisions. ()

a. Where a policy provides total disability benefits and partial disability benefits, only one (1) elimination period may be *applied*. ()

b. A disability income policy may contain a “return of premium” or “cash value benefit” so long as the return of premium or cash value benefit is not reduced by an amount greater than the aggregate of claims paid under the policy, and the insurer demonstrates that the reserve basis for the policies is adequate. ()

c. Disability income benefits will not require the loss to commence less than thirty (30) days after the date of accident, nor will any policy that the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the coverage was in force. ()

d. No reduction in benefits will be put into effect because of an increase in Social Security or similar benefits during a benefit period. ()

e. No policy or certificate may use activities of daily living to define partial or total disability. ()

03. Disclosure Provisions. All disability income protection policies will display prominently on the first page of the policy, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections in the policy the following: "Notice to Buyer: This is a disability income protection policy." ()

037. ACCIDENT ONLY COVERAGE.

01. Minimum Standards for Benefits. The following minimum standards apply to accident only coverage: ()

a. Accidental death and double dismemberment amounts under the policy or certificate are at least one thousand dollars (\$1,000); ()

b. A single dismemberment amount is at least five hundred dollars (\$500); and ()

c. Benefits for disability, hospital or medical care will be as defined in the policy or certificate. ()

02. Banned Policy Provisions. Accident only policies or certificates will not contain probationary or waiting periods. ()

03. Disclosure Provisions. ()

a. All accident-only policies and certificates will contain a prominent statement on the first page of the policy or certificate, in either contrasting color or in boldface type at least equal to the size of type used for headings or captions of sections in the policy or certificate, a prominent statement as follows: "Notice to Buyer: This is an accident-only (policy) (certificate) and it does not pay benefits for loss from sickness. Review your (policy) (certificate) carefully." ()

b. An accident-only policy or certificate providing benefits that vary according to the type of accidental cause will prominently set forth in the outline of coverage the circumstances under which benefits are payable that are less than the maximum amount payable under the policy or certificate. ()

c. Accident-only policies or certificates that provide coverage for hospital or medical care will contain the following statement in addition to the Notice to Buyer: "This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses." ()

038. SPECIFIED DISEASE COVERAGE.

01. Minimum Standards for Benefits. The following minimum standards apply to specified disease coverage: ()

a. Coverage for cancer only or cancer in conjunction with other conditions or diseases needs to meet the standards of Paragraphs 01.e., 01.f., or 01.g. of this section. ()

b. Coverage for specified diseases other than cancer meets the standards of Paragraphs 01.c., 01.d., or 01.g. of this section. ()

c. Non-cancer Coverages with Deductible. Coverage for each insured person for a specifically named disease (or diseases) with a deductible amount not in excess of two hundred fifty dollars (\$250) and an overall aggregate benefit limit of not less than ten thousand dollars (\$10,000) and a benefit period of not less than two (2) years for at least the following incurred expenses: ()

- i. Hospital room and board and any other hospital furnished medical services or supplies; ()
- ii. Treatment by a legally qualified physician or surgeon; ()
- iii. Private duty services of a registered nurse (R.N.); ()
- iv. X-ray, radium and other therapy procedures used in diagnosis and treatment; ()
- v. Professional ambulance for local service to or from a local hospital; ()
- vi. Blood transfusions, including expense incurred for blood donors; ()
- vii. Drugs and medicines prescribed by a physician; ()
- viii. The rental of an iron lung or similar mechanical apparatus; ()
- ix. Braces, crutches, and wheel chairs deemed necessary by the attending physician for the treatment of the disease; ()
- x. Emergency transportation if in the opinion of the attending physician it is necessary to transport the insured to another locality for treatment of the disease; and ()
- xi. May include coverage of any other expenses necessarily incurred in the treatment of the disease. ()

d. Non-cancer Coverages without Deductible. Coverage for each insured person for a specifically named disease (or diseases) with no deductible amount, and an overall aggregate benefit limit of not less than twenty five thousand dollars (\$25,000) payable at the rate of not less than fifty dollars (\$50) a day while confined in a hospital and a benefit period of not less than five hundred (500) days. ()

e. Cancer-only or Combination Expense Policies. Coverage for each insured person for cancer-only coverage or in combination with one (1) or more other specified diseases on an expense incurred basis for services, supplies, care, and treatment of cancer, in amounts not in excess of the usual and customary charges, with a deductible amount not in excess of two hundred fifty dollars (\$250), and an overall aggregate benefit limit of not less than ten thousand dollars (\$10,000) and a benefit period of not less than three (3) years for at least the following minimum provisions: ()

- i. Treatment by, or under the direction of, a legally qualified physician or surgeon; ()
- ii. X-ray, radium, chemotherapy and other therapy procedures used in diagnosis and treatment; ()
- iii. Hospital room and board and any other hospital furnished medical services or supplies; ()
- iv. Blood transfusions and their administration, including expense incurred for blood donors; ()
- v. Drugs and medicines prescribed by a physician; ()
- vi. Professional ambulance for local service to or from a local hospital; ()
- vii. Private duty services of a registered nurse provided in a hospital; ()
- viii. Braces, crutches, and wheelchairs deemed necessary by the attending physician for the treatment of the disease; ()

ix. Emergency transportation if in the opinion of the attending physician it is necessary to transport the insured to another locality for treatment of the disease; and ()

x. Home health care that is necessary care and treatment provided at the insured person's residence by a home health care agency or by others under arrangements made with a home health care agency. The program of treatment will be prescribed in writing by the insured person's attending physician, who *will* approve the program prior to its start. The physician certifies that hospital confinement would be otherwise *necessary*. Home health care includes, but is not limited to: ()

(1) Part-time or intermittent skilled nursing services provided by a registered nurse or a licensed practical nurse; ()

(2) Part-time or intermittent home health aide services that provide supportive services in the home under the supervision of a registered nurse or a physical, speech, or hearing occupational therapists; ()

(3) Physical, occupational, or speech and hearing therapy; ()

(4) Medical supplies, drugs, and medicines prescribed by a physician and related pharmaceutical services, and laboratory services to the extent the charges or costs would have been covered if the insured person had remained in the hospital; ()

xi. Therapy, including physical, speech, hearing, and occupational therapy; ()

xii. Special equipment including hospital bed, toilette, pulleys, wheelchairs, aspirator, chux, oxygen, surgical dressings, rubber shields, colostomy, and ileostomy appliances; ()

xiii. Prosthetic devices including wigs and artificial breasts; ()

xiv. Nursing home care for non-custodial services; and ()

xv. Reconstructive surgery when deemed necessary by the attending physician. ()

f. Per Diem Cancer Coverages. Cancer coverages on a per diem indemnity basis includes: ()

i. A fixed-sum payment of at least one hundred dollars (\$100) for each day of hospital confinement for at least three hundred sixty-five (365) days; ()

ii. A fixed-sum payment equal to one-half (1/2) the hospital inpatient benefit for each day of hospital or nonhospital outpatient surgery, chemotherapy and radiation therapy, for at least three hundred sixty-five (365) days of treatment; and ()

iii. A fixed-sum payment of at least fifty dollars (\$50) per day for blood and plasma, which includes their administration whether received as an inpatient or outpatient for at least three hundred sixty-five (365) days of treatment. ()

g. Lump Sum Indemnity Coverage. Lump sum indemnity coverage for any specified disease will be payable as a fixed, one-time payment made within thirty (30) days of submission to the insurer of proof of diagnosis of the specified disease. ()

i. Dollar benefits may only be in increments of one thousand dollars (\$1,000). ()

ii. Where coverage is advertised or otherwise represented to offer generic coverage of a disease or diseases, the same dollar amounts will be payable regardless of the particular subtype of the disease with one exception. In the case of clearly identifiable subtypes with significantly lower treatments costs, lesser amounts may be payable so long as the policy or certificate clearly differentiates that subtype and its benefits. ()

h. Hospice Care. Hospice care is optional and does not cover non-terminally ill patients. If offered, it will provide: ()

i. Eligibility for payment of benefits when the attending physician of the insured provides a written statement that the insured person has a life expectancy of six (6) months or less; ()

ii. A fixed-sum payment of at least fifty dollars (\$50) per day; and ()

iii. A lifetime maximum benefit limit of at least ten thousand dollars (\$10,000). ()

i. Nursing Home Care. Benefits for skilled nursing home confinement or the receipt of home health care are optional. If offered, it will provide: ()

i. A fixed-sum payment equal to one-fourth (1/4) the hospital in-patient benefit for each day of skilled nursing home confinement for at least one hundred (100) days, but no more restrictive than under Medicare; ()

ii. A fixed-sum payment equal to one-fourth (1/4) the hospital in-patient benefit for each day of home health care for at least one hundred (100) days, but no more restrictive than under Medicare; and ()

iii. Benefit payments begin with the first day of care or confinement after the effective date of coverage if the care or confinement is for a covered disease even though the diagnosis of a covered disease is made at some later date (but not retroactive more than thirty (30) days from the date of diagnosis) if the initial care or confinement was for diagnosis or treatment of the covered disease. ()

02. Banned Policy or Certificate Provisions. Except for cancer coverage provided on an expense-incurred basis, either as cancer-only coverage or in combination with one or more other specified diseases, the following rules apply to specified disease coverages in addition to all other requirements imposed by this chapter. In cases of conflict the following govern: ()

a. Policies covering a single specified disease or combination of specified diseases are not to be sold or offered for sale other than as specified disease coverage under this Section. ()

b. Any policy issued pursuant to this Section that conditions payment upon pathological diagnosis of a covered disease will also provide that if the pathological diagnosis is medically inappropriate, a clinical diagnosis will be accepted instead. ()

c. Notwithstanding any other provision of this chapter, specified disease policies will provide benefits to any covered person not only for the specified diseases but also for any other conditions or diseases, directly caused or aggravated by the specified diseases or the treatment of the specified disease. ()

d. Individual accident and sickness policies containing specified disease coverage will be guaranteed renewable. ()

e. No policy issued pursuant to this Section contains a waiting or probationary period greater than thirty (30) days. A specified disease policy may contain a waiting or probationary period following the issue or reinstatement date of the policy or certificate in respect to a particular covered person before the coverage becomes effective as to that covered person. ()

f. Except for lump sum indemnity coverage, payments may be conditioned upon an insured person's receiving medically necessary care, given in a medically appropriate location, under a medically accepted course of diagnosis or treatment. ()

g. Benefits will be paid regardless of other coverage. ()

h. After the effective date of the coverage (or applicable waiting period, if any) benefits begins with the first day of care or confinement if the care or confinement is for a covered disease even though the diagnosis is

made at some later date. The retroactive application of the coverage **is not to** be less than ninety (90) days prior to the diagnosis. ()

i. Policies providing expense benefits **will** not use the term “actual” when the policy only pays up to a limited amount of expenses. Instead, the term “charge” or substantially similar language should be used that does not have the misleading or deceptive effect of the phrase “actual charges.” ()

j. Preexisting condition **will** not be defined to be more restrictive than the following: “Preexisting condition means a condition for which medical advice, diagnosis, care or treatment was recommended or received from a physician within the six (6) month period preceding the effective date of coverage of an insured person.” ()

k. Coverage for specified diseases will not be excluded due to a preexisting condition for a period greater than twelve (12) months following the effective date of coverage of an insured person unless the preexisting condition is specifically excluded. (3-30-01) ()

03. Disclosure Provisions. ()

a. An application or enrollment form for specified disease coverage will contain a statement above the signature of the applicant or enrollee that a person to be covered for specified disease is not also covered by any Title XIX program (Medicaid, or any similar name). The statement may be combined with any other statement for which the insurer may *request* the applicant’s or enrollee’s signature. ()

b. All specified disease policies and certificates will contain on the first page in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections in the policy or certificate a prominent statement as follows: “Notice to Buyer: This is a specified disease (policy) (certificate). This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses. Read your (policy) (certificate) carefully with the outline of coverage.” ()

c. Outlines of coverage delivered in connection with “Specified Disease” to persons eligible for Medicare by reason of age will contain the following language in boldface type on the first page of the outline of coverage: “THIS IS NOT A MEDICARE SUPPLEMENT POLICY. If you are eligible for Medicare, review the ‘Guide to Health Insurance for People with Medicare’ available from the company.” ()

d. An insurer will deliver to persons eligible for Medicare any notice *prescribed* under IDAPA 18.04.10, “Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.” ()

039. SPECIFIED ACCIDENT COVERAGE.

01. Minimum Standards for Benefits. The following minimum standards apply to specified accident coverage: ()

a. A benefit amount not less than one thousand dollars (\$1,000) for **accidental death**; ()

b. A benefit amount not less than one thousand dollars (\$1,000) for double dismemberment; and ()

c. A benefit amount not less than five hundred dollars (\$500) for single dismemberment. ()

02. Banned Policy or Certificate Provisions. Specified accident policies will not contain probationary or waiting periods. ()

03. Disclosure Provisions. ()

a. Specified accident policies or certificates that provide coverage for hospital or medical care will contain the following statement in addition to the Notice to Buyer: “This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses.” ()

b. All specified accident policies and certificates will contain a prominent statement on the first page of the policy or certificate, in either contrasting color or in boldface type at least equal to the size of type used for headings or captions of sections in the policy or certificate, a prominent statement as follows: “Notice to Buyer: This is an accident-only (policy) (certificate) and it does not pay benefits for loss from sickness. Review your (policy) (certificate) carefully.” ()

040. LIMITED BENEFIT HEALTH COVERAGE.

01. Minimum Standards. ()

a. Limited Benefit Health Coverage will not be *offered*, delivered, issued for delivery, *or renewed* in this state *or to a resident of this state* unless approved by the Director prior to use. ()

b. A policy covering a single specified disease or combination of diseases *will* not be offered for sale as “limited benefit” coverage. ()

c. Section 040 does not apply to policies designed to provide coverage for long-term care or to Medicare supplement insurance, as defined in Title 41, Chapter 46, Idaho Code, “Long-Term Care Insurance” and Title 41, Chapter 44, Idaho Code, “Medicare Supplement Insurance Minimum Standards.” ()

02. Disclosure Provisions. ()

a. All limited benefit health policies and certificates will display prominently on the first page of the policy or certificate, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections in the policy or certificate the following: “Notice to Buyer: This is a limited benefit health (policy) (certificate). This (policy) (certificate) provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses.” ()

b. An insurer will deliver to persons eligible for Medicare any notice *prescribed* under IDAPA 18.04.10, “Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.” ()

041. DENTAL COVERAGE.

01. Disclosure Provisions. Dental coverage will include the following disclosures; ()

a. All applications will contain a prominent statement in either contrasting color or in boldface type at least equal to the size type used for the headings or captions of sections of the application and in close conjunction with the applicant’s signature block on the application as follows: “The (policy) (certificate) provides dental benefits only. Review your (policy) (certificate) carefully.” ()

b. All dental plan policies and certificates will display prominently on the first page of the policy or certificate, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections in the policy or certificate the following: “Notice to Buyer: This (policy) (certificate) provides dental benefits only.” ()

042. VISION COVERAGE.

01. Disclosure Provisions. Vision coverage will include the following disclosures; ()

a. All applications will contain a prominent statement in either contrasting color or in boldface type at least equal to the size type used for the headings or captions of sections of the application and in close conjunction with the applicant’s signature block on the application as follows: “The (policy) (certificate) provides vision benefits only. Review your (policy) (certificate) carefully.” ()

b. All vision plan policies and certificates will display prominently on the first page of the policy or certificate in either contrasting color or in boldface type at least equal to the size type used for headings or captions of

sections in the policy or certificate the following: “Notice to Buyer: This (policy) (certificate) provides vision benefits only.” ()

043. -- 100. (RESERVED)

101. DISCLOSURE PROVISIONS.

01. General Rules for Disclosure Provisions. ()

a. All applications for coverages specified in Sections 035 through 040 will contain a prominent statement in either contrasting color or in boldface type at least equal to the size type used for the headings or captions of sections of the application and in close conjunction with the applicant’s signature block on the application as follows: “The (policy) (certificate) provides limited benefits. Review your (policy) (certificate) carefully.” ()

b. Each policy or certificate subject to this chapter will include a renewal, continuation or nonrenewal provision. The language or specification of the provision needs to be consistent with the type of contract to be issued. The provision will be appropriately captioned, will appear on the first page of the policy or certificate, and will clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. ()

c. Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy will necessitate signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a commensurable increase in premium during the policy term is to be agreed to in writing signed by the policyholder, except if the increased benefits or coverage is prescribed by law. The signature requirements in this paragraph apply to group supplemental health insurance certificates only where the certificate holder also pays the insurance premium. ()

d. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge will be set forth in the policy or certificate. ()

g. A policy or certificate that provides for the payment of benefits based on standards described as “usual and customary,” “reasonable and customary,” or words of similar import will include a definition of the terms and an explanation of the terms in its accompanying outline of coverage. ()

h. If a policy or certificate contains any limitations with respect to preexisting conditions, the limitations will appear as a separate paragraph of the policy or certificate and be labeled as “Preexisting Condition Limitations.” ()

g. All policies and certificates, will have a notice prominently printed on the first page of the policy or certificate stating in substance that the policyholder or certificate holder will have the right to return the policy or certificate within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the policyholder or certificate holder is not satisfied for any reason. ()

h. If age is to be used as a determining factor for reducing the maximum aggregate benefits made available in the policy or certificate as originally issued, that fact will be prominently set forth in the outline of coverage. ()

i. If a policy or certificate contains a conversion privilege, it will comply, in substance, with the following: ()

i. The caption of the provision will be “Conversion Privilege” or words of similar import. ()

ii. The provision will indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person by whom the conversion privilege may be exercised; and ()

iii. The provision **will** specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose. ()

02. Outline of Coverage Requirements. Outlines of coverage *prescribed* under this chapter will conform to the model outlines of coverage **incorporated herein in Section 002 of this chapter, and** set forth at the Idaho Department of Insurance website. ()

a. An insurer **will** deliver an outline of coverage to an applicant or enrollee in the sale of individual accident and sickness insurance, group supplemental health insurance, dental plans and vision plans as *prescribed* by Section 41-4205, Idaho Code. **If an application is made by electronic means, an insurer will deliver an outline of coverage on the next working day the completed application is received, and delivery may be made by the following methods regardless of the form of application:** ()

- i. E-mail; ()
- ii. Website link; ()
- iii. Facsimile; ()
- iv. First class mail; or ()
- v. Any other method permitted by the Director. ()

b. If an outline of coverage was delivered at the time of application or enrollment and the policy or certificate is issued on a basis which would *necessitate* revision of the outline, a substitute outline of coverage properly describing the policy or certificate **will** accompany the policy or certificate when it is delivered and contain the following statement in no less than twelve (12) **boldface** point type, immediately above the company name: “NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon (application) (enrollment), and the coverage originally applied for has not been issued.” ()

c. In any case where the prescribed outline of coverage is inappropriate for the coverage provided by the policy or certificate, an alternate outline of coverage **will** be **filed with** the Director. ()

102. -- 200. (RESERVED)

201. REQUIREMENTS FOR REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE.

01. Application Form. An application form **will** include a question designed to elicit information as to whether the insurance to be issued is intended to replace any other accident and sickness insurance presently in force. A supplementary application or other form to be signed by the applicant containing the question may be used. ()

02. Prescribed Notice. Notices *prescribed* under this chapter will conform to the model outlines of coverage **incorporated herein in Section 002 of this chapter, and set forth at the Idaho Department of Insurance website.** Upon determining that a sale will involve replacement, an insurer, or its agent **will** furnish the applicant, prior to issuance or delivery of the policy, the “Notice To Applicant Regarding Replacement Of Accident And Sickness Insurance,” taking into consideration the requirement for direct response or other than direct response. A direct response insurer **will** deliver to the applicant upon issuance of the policy, the notice described in **this** section. ()

202. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.04.16 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE

DOCKET NO. 18-0416-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 41-4207, 41-5211, Idaho Code, and House Bill 275.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

House Bill 275 passed the legislature and was signed into law by the Governor amending Sections 41-5203, 41-5207, Chapter 52, Title 41. It added a new section of Idaho Code to define and provide for the purchase of enhanced short-term health insurance plans. Enhanced short-term plans will have an initial period of less than twelve (12) months. This rule will offer choices to consumers for individual health insurance and define the consumer protections required to offer such plans.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 209-214](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler at weston.trexler@doi.idaho.gov, or (208) 334-4214.

Dated this 13th day of December, 2019.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720, Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 18-0416-1901

This rulemaking is being republished in its entirety.

Amendments made to the proposed rule are published in this pending rule in *red italicized text*.

18.04.15 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE

000. LEGAL AUTHORITY.

Title 41, Chapters 2, 21, 42, and 52, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.15, “Rules Governing Short-Term Health Insurance Coverage.” ()

02. Purpose and Scope. Implement Title 41, Chapters 21, 42, and 52, Idaho Code, regarding short-term, limited-duration insurance by defining *rules* for enhanced short-term plans and nonrenewable short-term coverage, including minimum standards for benefits, rating rules, enrollment, renewability, and disclosure provisions. ()

03. Applicability. This rule applies to all enhanced short-term plans and nonrenewable short-term coverage that provide medical expense coverage. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the applicable definitions in Chapters 21, 42, and 52, Idaho Code, the following definitions apply: ()

01. Benchmark Medical Plan. The health benefit plan identified by the U.S. Department of Health and Human Services to be applicable in establishing *minimum* benefit coverages by Qualified Health Plans within Idaho, excluding any supplements for pediatric dental or vision. ()

02. Exchange. Has the meaning set forth in Section 41-6103, Idaho Code. ()

03. Nonrenewable Short-term Coverage. Short-term, limited-duration insurance that is not renewable, has a duration of six (6) months or less in total, and is not an Enhanced Short-term Plan under Section 41-5203(11), Idaho Code, and this rule. ()

04. Preexisting Condition. ()

a. A condition for which an ordinarily prudent person would seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage; ()

b. A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or ()

c. A pregnancy existing on the effective date of coverage. ()

05. Qualified Health Plan or QHP. A health plan certified as such by the Exchange. ()

06. Reissuance or Replace. The practice of issuing a short-term, limited-duration insurance policy covering at least one individual having short-term, limited-duration insurance coverage within sixty-three (63) days of the policy’s effective date. ()

07. Short-term, Limited-duration Insurance. Health insurance coverage pursuant to a contract that has a specified expiration date less than twelve (12) months after the original effective date of the contract and, including renewals or extensions, has a total duration of no longer than thirty-six (36) months. ()

011. GENERAL RULES FOR ENHANCED SHORT-TERM PLANS.

01. Application of Requirements. Any short-term, limited-duration insurance that, including renewals, reissuance or extensions, has a total duration of longer than six (6) months is subject to the requirements applicable to enhanced short-term plans. ()

02. Guaranteed Issue. Enhanced short-term plans are only to be offered on a guaranteed issue basis. ()

03. Portability. Enhanced short-term plan coverage is qualifying previous coverage under Title 41, Chapter 52, Idaho Code. Preexisting condition exclusions *are to* be waived for the period of time an individual was previously covered by an enhanced short-term plan or other qualifying previous coverage. ()

04. Requirement to Offer Exchange Plans. To offer an enhanced short-term plan, a carrier *is to* offer individual QHPs through the Exchange in the same service area. ()

012. GENERAL RULES FOR NONRENEWABLE SHORT-TERM COVERAGE.
Nonrenewable short-term coverage is subject to the provisions of IDAPA 18.04.13, Sections 081, 082, and 101. ()

013. -- 019. (RESERVED)

020. ENROLLMENT.

01. Enhanced Short-term Plans. There are two exclusive options for enhanced short-term plan enrollment. ()

a. Year-round Enrollment. If a carrier allows year-round enrollment in enhanced short-term plans, the following provisions apply: ()

i. A preexisting condition exclusion period, as defined at Subsection 010.04, may be applied, subject to Section 41-5208, Idaho Code. ()

ii. The policy *is to* be offered on a plan year basis, not a calendar year basis. ()

b. Annual Open Enrollment Period. If a carrier restricts enrollment in enhanced short-term plans to an annual open enrollment period, the following apply: ()

i. No preexisting condition exclusion period may be applied. ()

ii. The beginning and ending dates of the open enrollment period are identical to those for enrollment in QHPs, unless the Director allows an extension of the open enrollment period for enhanced short-term plans after determining it is in the public interest. ()

iii. Special enrollment periods *are to* be allowed to the same extent as QHP enrollment. ()

02. Nonrenewable Short-term Coverage. Nonrenewable short-term coverage is to be offered on a year-round basis. ()

021. RENEWAL AND REISSUANCE.

01. Enhanced Short-term Plans Renewals. ()

a. A policy *is to* be renewable at the option of the enrollee, consistent with Section 41-5207, Idaho Code. ()

b. No new application or questions concerning the health or medical condition of the covered individuals may be requested to effectuate the renewal. ()

c. A policy is not to be renewable beyond thirty-six (36) consecutive months. ()

d. Upon exhaustion of a policy's renewability due to duration or age, the policyholder is eligible for enrollment into fully renewable coverage, including all of the current carrier's QHPs, when an enhanced short-term policy has been in effect for at least eleven (11) months. Timely notification of eligibility *is to* be provided to the policyholder plus the notification of any offer of reissuance. ()

02. Enhanced Short-term Plans Reissuances. Upon exhausting renewability due to duration or age, the following provisions apply to reissuance: ()

a. No new application or questions concerning the health or medical condition of the covered individuals may be requested for reissuance. ()

b. The reissuance premium rate is a change in premium rate subject to IDAPA 18.04.13.036.17. ()

03. Nonrenewable Coverage. Carriers *are not to* renew nonrenewable short-term coverage and *are not to* reissue or replace nonrenewable short-term coverage issued by the same or another carrier. ()

022. RATING REQUIREMENTS.

01. Enhanced Short-term Plans. In addition to the requirements applicable to individual health benefit plans, the following rating requirements apply: ()

a. Premium rates *do not* vary by gender. ()

b. Geographic rating areas *are* identical to those used for Exchange-offered QHPs. ()

c. Medical underwriting criteria may be used to ascertain the risk characteristics of an applicant, if the criteria are limited to those in the Universal Health Statement Addendum and available claims data. ()

d. Enhanced short-term plans comprise a single risk pool with the carrier's other actively marketed individual health benefit plans subject to Title 41, Chapter 52, Idaho Code. ()

e. The rating period is on a calendar year basis, whereby the rates filed apply to all enrollees uniformly during a given calendar year and premium rate changes occur at the start of a new calendar year. ()

02. Nonrenewable Short-term Coverage. The following rating requirements apply: ()

a. The rates cannot utilize case characteristics other than age, individual tobacco use, and geography but may vary by the duration of coverage requested. ()

b. Case characteristics are applied uniformly, without regard to the risk characteristics of an eligible individual. ()

c. The premium rate is not affected by an applicant's risk characteristics or health status. ()

d. The premium rate remains the same for the duration of the policy. ()

023. -- 029. (RESERVED)

030. MINIMUM STANDARDS FOR BENEFITS.

01. Minimum Covered Benefits. ()

a. Daily hospital room and board expenses subject only to limitations based on average daily cost of

the semiprivate room rate in the area where the insured resides; ()

b. Miscellaneous hospital services; ()

c. Surgical services; ()

d. Anesthesia services; ()

e. In-hospital medical services; and ()

f. Out-of-hospital care, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, diagnostic x-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician. ()

02. Minimum Additional Benefits. A separate premium corresponding to additional benefits offered through a rider *is to* be filed and actuarially justified. A policy *is to* provide not fewer than three (3) of the following additional benefits: ()

a. In-hospital private duty registered nurse services; ()

b. Convalescent nursing home care; ()

c. Diagnosis and treatment by a radiologist or physiotherapist; ()

d. Rental of special medical equipment, as defined by the insurer in the policy; ()

e. Artificial limbs or eyes, casts, splints, trusses or braces; ()

f. Treatment for functional nervous disorders, and mental and emotional disorders; or ()

g. Out-of-hospital prescription drugs and medications. ()

03. Enhanced Short-term Plans Covered Benefits. The following covered benefits and limitations *are to* be provided consistent with the Benchmark Medical Plan, including: ()

a. Ambulatory (outpatient) patient services; ()

b. Emergency services; ()

c. Hospitalization; ()

d. Maternity and newborn care; ()

e. Mental health and substance use disorder services, including behavioral health treatment; ()

f. Prescription drugs; ()

g. Rehabilitative and habilitative services and devices; ()

h. Laboratory services; and ()

i. Preventive and wellness services and chronic disease management. ()

04. Prescription Drug Formulary. If a prescription drug coverage formulary is applied, the applicable formulary drug list *is to*: ()

a. Include at least one drug in every United States Pharmacopeia (USP) category and class; ()

b. Cover a range of drugs across a broad distribution of therapeutic categories and classes and recommended drug treatment regimens that treat all covered disease states, and does not discourage enrollment by any group of enrollees; and ()

c. Provide appropriate access to drugs included in broadly accepted treatment guidelines and indicative of then-current general best practices. ()

05. Cost Sharing. ()

a. Except for out-of-network benefits offered as part of a managed care plan, a coinsurance percentage *is not to* exceed fifty percent (50%) of covered charges. A coinsurance percentage for out-of-network benefits offered as part of a managed care plan *is not to* exceed sixty percent (60%) of covered charges. ()

b. The maximum out-of-pocket *is to* be stated in the policy and in aggregate *is not to* exceed four percent (4%) of the aggregate annual limit under the policy for each covered person. All deductibles, copayments, coinsurance and any other cost-sharing are applicable to the maximum out-of-pocket. Within the aggregate maximum, the policy may include separate out-of-pocket limits applicable to particular services. ()

c. The annual limit is no less than one million dollars (\$1,000,000) for each covered person. ()

d. Enhanced short-term plans *are to* provide coverage for and not impose any cost sharing requirements for preventive and wellness services consistent with QHP requirements. ()

06. Applicability of Mental Health Parity. Enhanced short-term plans *are to* meet the requirements of Section 2726 of the Public Health Service Act (Mental Health Parity and Addiction Equity Act) in the same manner and extent as QHPs. ()

07. Benefit Requirements. The minimum benefits *imposed* by Subsections 030.01, 030.02, and 030.03 may be subject to all applicable deductibles, coinsurance and general policy exceptions and limitations. Except as *disallowed* by Subsections 030.03, 030.05, and 030.06, a policy may also have special or internal limitations for nursing facilities, transplants, experimental treatments, services covered under Subsection 030.02, and other special or internal limitations authorized by the Director. Except as authorized by this Subsection through the application of special or internal limitations, a policy *will* cover, after any deductibles or coinsurance provisions are met, the usual, customary and reasonable charges, as determined consistently by the carrier and as subject to prior written approval by the Director or another rate agreed to between the insurer and provider, for covered services up to the annual limit. ()

031. -- 039. (RESERVED)

040. DISCLOSURE PROVISIONS.

Policies subject to this chapter *will* include in the application for coverage, any application materials, and the insurance contract, the following language in at least 14-point type:

“This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage.” ()

041. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.06.06 – SURPLUS LINE RULES

DOCKET NO. 18-0606-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the (year) Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 18-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1232, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule combines parts of three former rules regarding surplus lines into one rule following the Governor's [Executive Order 19-02](#), the Red Tape Reduction Act. This rule provides updated procedures for the placement of surplus lines insurance in the state of Idaho.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 216-219](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nathan Faragher at nathan.faragher@doi.idaho.gov, or (208) 334-4314.

Dated this 13th day of December, 2019.

Dean L. Cameron
Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 18-0606-1901

This chapter is being republished in its entirety.

Previously made amendments are shown in **red plain text (non-italicized)**.

Amendments made to the proposed rule are published in this pending rule in **red italicized text**.

18.06.06 – SURPLUS LINE **RULES**

000. LEGAL AUTHORITY.

Title 41, Chapter 12, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. IDAPA 18.06.06, “Surplus Line **Rules**.” ()

02. Scope. Provide procedures for the placement of surplus line insurance. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Section 41-1213, Idaho Code, the following definitions also apply: ()

01. Open Lines for Export. “Open Lines for Export” is defined as the class or classes of business which the Director has declared eligible for export in accordance with Section 41-1216, Idaho Code. ()

02. Lines Other Than Open Lines for Export. “Lines Other Than Open Lines for Export” is defined as the class or classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with **Title 41, Chapter 12**, Idaho Code. ()

03. Diligent Search. A Broker has exercised their obligations under Section 41-1214(2), Idaho Code, if the **Broker** or the referring insurance producer submits a risk to at least **one (1)** authorized company engaged in writing in Idaho the type of coverage sought, or if there are no companies engaged in writing such coverage, the risk is submitted to at least **one (1)** company that, in the **Broker’s** or producer’s professional judgment, is the most likely to accept the risk. ()

04. Delegated Contractor. Any contractor to whom activities have been delegated by the Director under Section 41-1232, Idaho Code. ()

011. BIENNIAL LICENSE.

The Idaho license of a resident or non-resident Broker is to be renewed every two (2) years. The original license fee and the renewal fee are prescribed in IDAPA 18.01.02. A broker will not solicit surplus line business before being licensed as a Broker. A broker will notify the Licensing Division of the Department if not renewing the license prior to the license renewal date. The Director may allow the continuation of a non-renewed license if, within one (1) year after the renewal date, the licensee submits a renewal request and a continuation fee twice the amount prescribed by Section 41-1008(3), Idaho Code. ()

012. ANNUAL REPORT.

Each Broker **will** file an annual report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year on **an approved** form. ()

013. PAYMENT OF STATE TAX.

01. Tax Due March 1. On or before March 1st of each year, **each licensed** Broker **will** pay **premium tax** to the Department on business written during the preceding calendar year, **which tax will be collected** from the insured, in addition to the stamping fee. ()

02. Tax Summary. By February 1st of each year the **delegated contractor** will provide to each Broker a summary of records showing the state tax due the Department for the preceding year **and this amount will be paid** to the Department **by the Broker**. A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount **will** be paid to the Department. ()

014. PAYMENT OF STAMPING FEES.

01. Application. A stamping fee **is** charged on all premiums and policy fees written on Idaho business at a rate established by the **delegated contractor** and approved by the Department. This rate **may** be adjusted to obtain the objectives of the **delegated contractor**. The stamping fee cannot be refunded except **in the case of** extenuating circumstances approved by the **delegated contractor**. ()

02. Summary. Within ten (10) days following the month during which the surplus line insurance was handled through the **delegated contractor**, the **delegated contractor** will submit an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission processed **to each Broker**. ()

03. Payable on Receipt. The Stamping Fee is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. ()

015. COLLECTION OF TAXES.

01. Idaho Premium Taxes. Idaho Premium Tax **will** be collected from the insured. Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes **will** be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. ()

02. Purchasing Groups. Purchasing groups that obtain insurance from an unauthorized or authorized surplus lines insurer **will** use an **Idaho-licensed** Broker. The Broker is responsible to collect and submit all taxes and fees **as prescribed by this chapter**. ()

016. REPORTING TAXES AND STAMPING FEES.

Brokers **are to** report premium taxes and stamping fees in increments of not less than one year. A Broker **who** collects quarterly or monthly payments of premiums from the insured **will provide** reports **of** the premium tax and stamping fee in the initial submission or renewal for a full year. ()

017. PLACEMENT AND COMMISSIONS.

01. Basic Requirement. All surplus line business **is to** be placed through a licensed Broker. Each producer of surplus line business **will** hold an **Idaho** resident or non-resident producer license. ()

02. Idaho Producer. When a producer requests placement by a licensed Broker, the commission received and paid **will** be based on the mutual written agreement of the parties. ()

018. SUBMISSION TIME PERIODS.

All affidavits, submissions, certificates, endorsements and other documents for insurance written for Open Lines for Export and Other Than Open Lines for Export **are to** be received **by** the **delegated contractor** within thirty (30) days of receipt by the broker of the certificate, endorsement or other policy document. If the complete submission cannot be made within this time period, the information with submission form and affidavit, if applicable, will be forwarded. The **Broker** is responsible for meeting this requirement. ()

019. OPEN LINES FOR EXPORT.

Pursuant to Section 41-1216, the Director will publish a list of approved classes of insurance coverage or risks. If a risk does not appear on this list, then the Broker will file the normal submission forms and documents and execute the broker's affidavit. ()

020. BROKER RECORDS.

A full and true record of each surplus line coverage procured by each Broker is to be maintained by the Broker. Reports of all documents processed by the delegated contractor will be provided on a monthly basis to the Broker. These reports, in addition to the broker's copy of policies and endorsements, are to be kept for a period of five (5) years and are subject to examination by the Director. ()

021. APPROVED LIST OF INSURERS.

Pursuant to Section 41-1217, Idaho Code, the Director compiles or approves a list of unauthorized insurers, whether foreign or alien, eligible to write surplus line business in Idaho. Brokers may only place surplus line business with companies on the current list. The delegated contractor will inform Brokers of additions and changes to the list. ()

022. -- 999. (RESERVED)

IDAPA 22 – BOARD OF MEDICINE

22.01.07 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS

DOCKET NO. 22-0107-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1806(2) and 54-5105(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

During the 2019 Legislative Session, the Legislature passed a law authorizing licensure of 4-year post-graduate educated Naturopathic Medical Doctors. Eligible Naturopathic Medical Doctors will be licensed beginning July 1, 2020, under the Board of Medicine. The Naturopathic Medical Board, a board formed under the Board of Medicine on July 1, 2019, proposes a rule that, in concert with the Naturopathic Medicine Licensing statute, will govern the licensure, scope of practice, and discipline of the Naturopathic Medical Doctors.

Changes to the pending rule were adopted by the Idaho State Board of Medicine on November 8, 2019, and include:

- Deletion of subsection 021.03 regarding a possible waiver of the requirement to take the national pharmacology exam as a prerequisite for licensure in Idaho; and
- Deletion of subsection 032.10 regarding discipline for failure to be lawfully present in the United States, to be consistent with all other Board of Medicine rules.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the November 6, 2019 Idaho Administrative Bulletin, [Vol. 19-11, pages 306-309](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-5106, Idaho Code.

This rule includes licensure of Naturopathic Medical Doctors, for which the agency will charge a fee not to exceed \$600 per initial license application and \$300 per annual license renewal, increasing the Board's annual income by approximately \$30,000 in the first year.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 29th day of November, 2019.

Anne K. Lawler, JD, RN, Executive Director
Ph: (208) 327-7000 / Fax: (208) 327-7005
E-mail: anne.lawler@bom.idaho.gov

Idaho State Board of Medicine
345 W. Bobwhite Court, Suite 150
Boise, Idaho 83706

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 22-0107-1901**

(Only those sections that have changed from the proposed rule are printed in this Bulletin)

[Subsection 021.03 has been deleted; this section is reprinted in its entirety.]

021. APPLICATION FOR LICENSURE.

01. Application. Each applicant for licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the nonrefundable application fee. ()

02. Licensing Examinations. Each applicant must provide certification of passing the following four (4) NPLEX exams: ()

a. Part I Biomedical Science; ()

b. Part II Core Clinical Science; ()

c. Part II Clinical Elective Minor Surgery; and ()

d. Part II Clinical Elective Pharmacology. ()

[Subsection 032.10 has been deleted; this section is reprinted in its entirety.]

032. GROUNDS FOR DISCIPLINE OR DENIAL OF A LICENSE.

In addition to statutory grounds for discipline set forth in Section 54-5109, Idaho Code, every person licensed as a naturopathic medical doctor is subject to discipline by the Board under the following grounds: ()

01. Ability to Practice. Demonstrating a manifest incapacity to carry out the functions of the licensee's ability to practice naturopathic medicine or deemed unfit by the Board to practice naturopathic medicine; ()

02. Controlled Substance or Alcohol Abuse. Using any controlled substance or alcohol in a manner which has or may have a direct and adverse bearing on the licensee's ability to practice naturopathic medicine with reasonable skill and safety; ()

03. Education or Experience. Misrepresenting educational or experience attainments; ()

04. Medical Records. Failing to maintain adequate naturopathic medical records. Adequate naturopathic medical records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; ()

05. Untrained Practice. Practicing in an area of naturopathic medicine for which the licensee is not trained; ()

06. Sexual Misconduct. Committing any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient or related to the licensee's practice of naturopathic medicine; ()

a. Consent of the patient shall not be a defense. ()

b. Subsection 032.06 does not apply to sexual contact between a naturopathic medical doctor and the naturopathic medical doctor's spouse or a person in a domestic relationship who is also a patient. ()

c. A former patient includes a patient for whom the naturopathic medical doctor has provided naturopathic medical services within the last twelve (12) months. Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the naturopathic medical doctor uses or exploits the trust, knowledge, emotions, or influence derived from the prior professional relationship with the patient. ()

07. Failure to Report. Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; ()

08. Interfering with or Influencing Disciplinary Outcome. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient, Board or naturopathic medical board, Board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation or other legal action; ()

09. Failure to Obey Laws and Rules. Failing to obey federal and local laws and rules governing the practice of naturopathic medicine; or ()

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.20 – RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-1901

NOTICE OF RULEMAKING – VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 67-4210, 67-4223, 67-4249, and 67-7115 through 67-7118, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

This proposed rulemaking is being vacated due to the timing of the publication of the omnibus reauthorization of the rules of the Department of Parks and Recreation, which procedurally affected the promulgation of this rulemaking.

The Department of Parks and Recreation plans to repromulgate this rulemaking and address the specific changes proposed in this rulemaking during the summer of 2020. It is the agency's intention that these changes become effective on November 1, 2020.

The proposed rule published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 230 through 251](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Anna Canning, (208) 514-2252.

Dated this 17th day of December, 2019.

Anna Canning
Management Services Administrator
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065
(208) 514-2252

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.36 – RULES GOVERNING THE WINTER RECREATIONAL PARKING PERMIT PROGRAM

DOCKET NO. 26-0136-1901

NOTICE OF RULEMAKING – VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 67-4210, 67-4223, 67-4249, and 67-7115 through 67-7118, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

This proposed rulemaking is being vacated due to the timing of the publication of the omnibus reauthorization of the rules of the Department of Parks and Recreation, which procedurally affected the promulgation of this rulemaking.

The Department of Parks and Recreation plans to repromulgate this rulemaking and address the specific changes proposed in this rulemaking during the summer of 2020. It is the agency's intention that these changes become effective on November 1, 2020.

The proposed rule published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages page 252](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Anna Canning, (208) 514-2252.

Dated this 17th day of December, 2019.

Anna Canning
Management Services Administrator
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065
(208) 514-2252

IDAPA 34 – SECRETARY OF STATE

**34.07.01 – RULES GOVERNING NOTARIAL ACTS PERFORMED FOR
REMOTELY LOCATED INDIVIDUALS**

DOCKET NO. 34-0701-2001 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 2, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 51-127 and 51-114A, Idaho Code.

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

This temporary rulemaking will govern the performance of notarial acts for remotely located individuals by use of communication technology and describe specifications for the use of tamper-evident technologies that are required for notarial acts performed with respect to electronic records.

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

This temporary rule is necessary to provide the guidance needed for the implementation of changes made during the 2019 legislative session that take effect as of January 1, 2019 with regards to notarizations performed for a remotely located individual through the means of communication technology, as per Idaho Code Title 51, Chapter 1.

FEE SUMMARY: No fee associated with this temporary rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Chief Deputy Chad Houck at (208) 332-2862.

Dated this 25th day of November, 2019.

Chad Houck
Chief Deputy
Secretary of State, Administrative Office
700 W. Jefferson, Room E205
P.O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2862
Fax: (208) 334-2282

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0102-1401
(Only Those Sections With Amendments Are Shown.)

34.07.01 – RULES GOVERNING NOTARIAL ACTS PERFORMED
FOR REMOTELY LOCATED INDIVIDUALS

000. LEGAL AUTHORITY.

In accordance with Sections 51-127 and 51-114A, Idaho Code, the Secretary of State has authority to promulgate administrative rules in order for notaries public to perform notarial acts for remotely located individuals by use of communication technology not inconsistent with the Revised Uniform Law on Notarial Acts (2018) enacted as Title 51, Chapter 1, Idaho Code. (1-2-20)T

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 34.07.01, “Rules Governing Notarial Acts Performed for Remotely Located Individuals.” (1-2-20)T

02. Scope. These rules will govern the performance of notarial acts for remotely located individuals by use of communication technology under Title 51, Chapter 1, Idaho Code. Only notaries public who have been authorized to perform notarial acts with respect to electronic records and by the Secretary of State under this chapter for remotely located individuals are governed by this chapter. Additional specifications for the use of tamper-evident technologies are required for notarial acts performed with respect to electronic records as described in Title 51, Chapter 1, Idaho Code. (1-2-20)T

002. -- 009. (RESERVED)

010. DEFINITIONS.

For all terms used here but not otherwise defined, the meaning will be the same as in Sections 51-102 and 51-114A, Idaho Code.

01. Knowledge-Based Authentication. An identity assessment used by a notary public to identify an individual that is based on a set of questions formulated from public or private data sources that does not contain a question for which the individual provided a prior answer to the person doing the assessment. (1-2-20)T

011. REQUIRED NOTIFICATION TO SECRETARY OF STATE.

01. Qualification Requirements. An individual qualifies to perform notarial acts for remotely located individuals by: (1-2-20)T

- a.** Being duly commissioned as a notary public under Section 51-121, Idaho Code; (1-2-20)T
- b.** Being authorized by the Secretary of State to perform electronic notarizations; and (1-2-20)T
- c.** Providing notice by application to the Secretary of State that the notary public will be performing notarial acts facilitated by communication technology that meets the requirements of this chapter. (1-2-20)T

02. Notification Form. The notification required under this section must be on a form as prescribed by the Secretary of State. (1-2-20)T

03. Submission of Notification. The notification must be submitted to the Secretary of State in writing or as otherwise provided by information posted on the Secretary of State’s website. (1-2-20)T

04. Renewal of Commission. The renewal of the commission of a notary public who has previously qualified to perform notarial acts for remotely located individuals under this section constitutes renewal of the notary public's qualification without the necessity of submission of another notification under this section. (1-2-20)T

05. Updated Technology. This section does not prohibit a notary public from receiving, installing, or using a hardware or software update to the technologies that the notary public identified under Subsection 011.02 of this chapter if the hardware or software update does not result in technologies that are materially different from the technologies that the notary public identified. (1-2-20)T

012. USE OF ELECTRONIC RECORDS.

01. Tamper-Evident Technology Required. A notary shall select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to use a technology that the notary public has not selected. (1-2-20)T

02. Digital Certificate. Tamper-evident technology shall consist of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology. A notary public shall attach or logically associate the notary public's electronic signature and official stamp to an electronic record that is the subject of a notarial act by use of a digital certificate. A notary public may not perform a notarial act with respect to an electronic record if the digital certificate: (1-2-20)T

- a. Has expired; (1-2-20)T
- b. Has been revoked or terminated by the issuing or registering authority; (1-2-20)T
- c. Is invalid; or (1-2-20)T
- d. Is incapable of authentication. (1-2-20)T

013. IDENTITY PROOFING.

If a notary public does not have satisfactory evidence of the identity of a remotely located individual under Section 014 of this chapter, the notary public must reasonably verify the individual's identity through two (2) different types of identity proofing consisting of a multi-factor authentication procedure as provided in this section. The procedure shall analyze the individual's identity credential against trusted third-person data sources, bind the individual's identity to the individual following successful knowledge-based authentication, and permit the notary public visually to compare the identity credential and the individual. The analysis of the identity credential and the knowledge-based authentication shall conform to the following requirements: (1-2-20)T

01. Credential Analysis. The analysis of an identity credential must use public or private data sources to confirm the validity of the identity credential presented by a remotely located individual and, at a minimum: (1-2-20)T

- a. Use automated software processes to aid the notary public in verifying the identity of each remotely located individual; (1-2-20)T
- b. Require that the identity credential passes an authenticity test, consistent with sound commercial practices that use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identity credential is not fraudulent or inappropriately modified; (1-2-20)T
- c. Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identity credential details; and (1-2-20)T
- d. Enable the notary public visually to compare for consistency the information and photograph on the identity credential and the remotely located individual as viewed by the notary public in real time through communication technology. (1-2-20)T

02. Knowledge-Based Authentication. A knowledge-based authentication is successful if it meets the following requirements: (1-2-20)T

a. The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources; (1-2-20)T

b. Each question must have a minimum of five (5) possible answer choices; (1-2-20)T

c. At least eighty percent (80%) of the questions must be answered correctly; (1-2-20)T

d. All questions must be answered within two (2) minutes; (1-2-20)T

e. If the remotely located individual fails the first attempt, the individual may retake the quiz one (1) time within twenty-four (24) hours; (1-2-20)T

f. During a retake of the quiz, a minimum of forty percent (40%) of the prior questions must be replaced; (1-2-20)T

g. If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same notary public within twenty-four (24) hours of the second failed attempt; and (1-2-20)T

h. The notary public must not be able to see or record the questions or answers. (1-2-20)T

014. OTHER METHODS OF IDENTITY PROOFING.

A notary public has satisfactory evidence of the identity of a remotely located individual if the notary public has personal knowledge of the identity of the individual or if the notary public has satisfactory evidence of the identity of the individual by oath or affirmation of a credible witness appearing before the notary as provided in Section 51-107, Idaho Code. A credible witness may be a remotely located individual if the notary public, credible witness, and individual whose statement or signature is the subject of the notarial act can communicate by using communication technology. A remotely located credible witness must meet the same requirements for identity proofing found in Section 013 of this chapter, or the notary public must have personal knowledge of the identity of the remotely located credible witness. (1-2-20)T

015. COMMUNICATION TECHNOLOGY.

01. Audio-Video Feeds. Communication technology shall: (1-2-20)T

a. Provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other; and (1-20-20)T

b. Provide a means for the notary public reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature. (1-2-20)T

02. Security Measures. Communication technology shall provide reasonable security measures to prevent unauthorized access to the live transmission of the audio-visual feeds, the methods used to perform the identity proofing process under Sections 013 or 014 of this chapter, and the electronic record that is the subject of the notarial act. (1-2-20)T

03. Workflow. If a remotely located individual must exit the workflow, the remotely located individual must restart the identity proofing process under Sections 013 or 014 of this chapter from the beginning. (1-2-20)T

016. RECORD RETENTION AND REPOSITORIES.

01. Optional Journal. A notary public may maintain one or more journals in which the notary public chronicles all notarial acts that the notary public performs with respect to remotely located individuals. A journal may be created on a tangible medium or in an electronic format using an industry-standard data file format. If the journal

is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. An entry in a journal must be made contemporaneously with the performance of the notarial act. (1-2-20)T

02. Retention Requirements. A notary public shall retain an audio-visual recording required under Section 51-114A, Idaho Code, in a computer or other electronic storage device that protects the audio-visual recording against unauthorized access by password or cryptographic process. The recording must be created in an industry-standard audio-visual file format and not include images of any record in which a remotely located individual made a statement or on which the remotely located individual executed a signature. The recording must be retained for at least ten (10) years after the recording is made. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of a recording shall: (1-2-20)T

- a. Comply with the retention requirements of this subsection; (1-2-20)T
- b. Transmit the recording to one or more repositories under Subsection 016.03 of this chapter; or (1-2-20)T
- c. Transmit the recording in an industry-standard readable data storage device to the Secretary of State. (1-2-20)T

03. Repositories. A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public may, by written contract, engage a third person to act as a repository to provide the storage required by Subsection 016.02 of this chapter. A third person under contract under this Subsection shall be deemed a repository under Section 51-114A, Idaho Code. The contract shall: (1-2-20)T

- a. Enable the notary public, the guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public to comply with the retention requirements of Subsection 016.02 of this chapter even if the contract is terminated; or (1-2-20)T
- b. Provide that the information will be transferred to the notary public, the guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public if the contract is terminated. (1-2-20)T

017. FEES AND EXPENSES.

Third-Person Expenses: Section 51-133, Idaho Code, shall not be construed to prevent a third person who provides technologies or storage capabilities to aid the notary public in the performance of a notarial act or in the fulfillment of duties under this chapter from separately charging and collecting any additional fee for the services provided. (1-2-20)T

018. CERTIFICATE OF NOTARIAL ACT.

Additional Language for Use of Communication Technology: As per Section 51-114A, Idaho Code, a certificate for a notarial act for a remotely located individual, whether in standard or short form, will include additional language to indicate that the notarial act was performed using communication technology and will be sufficient if it is substantially as follows: "This notarial act involved the use of communication technology." (1-2-20)T

019. -- 999. (RESERVED)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes to this rule tells taxpayers how to report repatriated dividend income received from foreign entities on the Idaho return

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2019 Idaho Administrative Bulletin, [Vol. 19-8, page 98](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian at (208) 334-7670.

Dated this 4th day of December, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0101-1902**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

645. WATER'S EDGE: TREATMENT OF DIVIDENDS (RULE 645).
Section 63-3027C, Idaho Code

01. Dividends Received from Payors Incorporated Outside the United States. ()

a. Dividends received from payors who are incorporated outside the fifty (50) states and District of Columbia but are not included in the combined report are treated as business income. ()

b. As provided in Section 63-3027C(e)(1), Idaho Code, amounts included in income under sections 951 and 951A of the Internal Revenue Code are treated as dividends from payors outside the fifty (50) states and District of Columbia. ()

c. In order to avoid taxing income that had previously been included in Idaho apportionable income in a prior tax year, the remaining portion of the dividend that was not excluded from Idaho apportionable income under Section 63-3027C(c)(3), Idaho Code, is excluded from Idaho apportionable income if the taxpayer can prove that the income was previously included in Idaho apportionable income in a prior tax year. ()

02. Dividends Received from Payors Incorporated in the United States. Dividends received from payors who are incorporated within the fifty (50) states and District of Columbia but not included in the combined return are presumed to be business income of the water's edge combined group. (3-20-97)

03. Deemed Dividends from Possession Corporations. The income of a possession corporation, excluded in Section 63-3027B(a), Idaho Code, shall be included in business income as a deemed dividend received from a payor incorporated outside the fifty (50) states and District of Columbia. The income of a possession corporation means taxable income greater than zero (0). Losses from possession corporations may not offset income of other possession corporations in determining the amount of deemed dividends. ()

04. Dividends from Foreign Sales Corporations. (4-5-00)

a. As provided in Section 63-3027C(d)(1), Idaho Code, dividends received from a Foreign Sales Corporation (FSC) shall be eliminated in the proportion that FSC federal taxable income for the year during which the dividend was paid bears to the total FSC income before taxes for that year. For purposes of computing the dividend elimination, total FSC income before taxes means book income before the deduction of federal income taxes. (4-5-00)

b. For example, a FSC paid one million dollars (\$1,000,000) in dividends during the taxable year. For that same taxable year, the FSC had federal taxable income totaling ten million dollars (\$10,000,000) and total FSC income before taxes of twenty million dollars (\$20,000,000). The dividends eliminated would be five hundred thousand dollars (\$500,000) computed as follows: $((\$10,000,000 \text{ federal taxable income} / \$20,000,000 \text{ total FSC income before taxes}) \times \$1,000,000 \text{ FSC dividend paid} = \$500,000 \text{ dividend elimination})$. (4-5-00)

05. Interest Expense Offset. The interest expense offset provided in Section 63-3022M, Idaho Code, does not apply to any dividends subject to the eighty-five percent (85%) or eighty percent (80%) exclusion provided in Section 63-3027C or 63-3027E, Idaho Code. (4-5-00)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1903

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2019 Idaho Administrative Bulletin, [Vol.19-7, page 246](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian at (208) 334-7670.

Dated this 4th day of December, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0101-1903**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized).**

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).

Section 63-3024, Idaho Code

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate for the latest five (5) years are identified in Subsection 075.03 of this rule. The Idaho income tax brackets are adjusted for inflation. The maximum tax rate as listed for the applicable taxable year in Subsection 075.03 of this rule applies in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-7-11)

02. Tax Computation. (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household is twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (4-7-11)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax is computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount is multiplied by two (2). (4-7-11)

03. Tables Identifying the Idaho Tax Rates and Income Tax Brackets. (3-20-04)

a. For taxable years beginning in 2015:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,452	\$0	+	1.6% of taxable income
\$1,452	\$2,904	\$23.23	+	3.6% of the amount over \$1,452
\$2,904	\$4,356	\$75.50	+	4.1% of the amount over \$2,904
\$4,356	\$5,808	\$135.03	+	5.1% of the amount over \$4,356
\$5,808	\$7,260	\$209.08	+	6.1% of the amount over \$5,808
\$7,260	\$10,890	\$297.65	+	7.1% of the amount over \$7,260
\$10,890 or more		\$555.38	+	7.4% of the amount over \$10,890

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.

(3-25-16)

b. For taxable years beginning in 2016:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,454	\$0	+	1.6% of taxable income
\$1,454	\$2,908	\$23.26	+	3.6% of the amount over \$1,454

\$2,908	\$4,362	\$75.60	+	4.1% of the amount over \$2,908
\$4,362	\$5,816	\$135.21	+	5.1% of the amount over \$4,362
\$5,816	\$7,270	\$209.36	+	6.1% of the amount over \$5,816
\$7,270	\$10,905	\$298.05	+	7.1% of the amount over \$7,270
\$10,905 or more		\$556.14	+	7.4% of the amount over \$10,905
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2016.				

(3-29-17)

c. For taxable years beginning in 2017:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,472	\$0	+	1.6% of taxable income
\$1,472	\$2,945	\$23.56	+	3.6% of the amount over \$1,472
\$2,945	\$4,417	\$76.57	+	4.1% of the amount over \$2,945
\$4,417	\$5,890	\$136.94	+	5.1% of the amount over \$4,417
\$5,890	\$7,362	\$212.03	+	6.1% of the amount over \$5,890
\$7,362	\$11,043	\$301.85	+	7.1% of the amount over \$7,362
\$11,043 or more		\$563.21	+	7.4% of the amount over \$11,043
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2017.				

(3-28-18)

d. For taxable years beginning in 2018:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,504	\$0	+	1.125% of taxable income
\$1,504	\$3,008	\$16.92	+	3.125% of the amount over \$1,504
\$3,008	\$4,511	\$63.91	+	3.625% of the amount over \$3,008
\$4,511	\$6,015	\$118.42	+	4.625% of the amount over \$4,511
\$6,015	\$7,519	\$187.97	+	5.625% of the amount over \$6,015
\$7,519	\$11,279	\$272.56	+	6.625% of the amount over \$7,519
\$11,279 or more		\$521.63	+	6.925% of the amount over \$11,279
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2018.				

(3-26-19)

e. For taxable years beginning in 2019:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,541	\$0	+	1.125% of taxable income
\$1,541	\$3,081	\$17.33	+	3.125% of the amount over \$1,541
\$3,081	\$4,622	\$65.47	+	3.625% of the amount over \$3,081
\$4,622	\$6,162	\$121.32	+	4.625% of the amount over \$4,622
\$6,162	\$7,703	\$192.57	+	5.625% of the amount over \$6,162
\$7,703	\$11,554	\$279.22	+	6.625% of the amount over \$7,703
\$11,554 or more		\$534.37	+	6.925% of the amount over \$11,554
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2019.				

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(BREAK IN CONTINUITY OF SECTIONS)

263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).

Section 63-3026A(3), Idaho Code

01. In General. The taxable amount of a shareholder’s pro rata share or a partner’s distributive share of business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. (3-20-97)

02. Nonbusiness Income. Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. (3-20-97)

03. Pass-Through Items. Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: (3-20-97)

- a. Ordinary income or loss from trade or business activities; (3-20-97)
- b. Net income or loss from rental real estate activities; (3-20-97)
- c. Net income or loss from other rental activities; (3-20-97)
- d. Interest income; (3-20-97)
- e. Dividends; (3-20-97)
- f. Royalties; (3-20-97)
- g. Capital gain or loss; (3-20-97)
- h. Other portfolio income or loss; (3-20-97)

i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. (3-20-97)

04. Guaranteed Payments Treated As Compensation. (3-20-14)

a. Guaranteed payments to an individual partner up to the amount shown in paragraph 263.04.b. in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. (3-20-14)

b. The amount of guaranteed payments that are sourced as compensation for services is as follows:

TAX YEAR	AMOUNT
2019	\$269,500
2018	\$263,000
2017	\$257,500
2016	\$254,250
2015	\$254,000
2014	\$250,000
2013	\$250,000

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05. Distributions. (2-27-12)

a. Partnerships. The amount of distributions received by a partner that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 731, Internal Revenue Code, by the Idaho apportionment factor of the partnership. (2-27-12)

b. S Corporations. The amount of distributions received by a shareholder that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 1368, Internal Revenue Code, by the Idaho apportionment factor of the S corporation. (2-27-12)

c. The Idaho apportionment factor for purposes of Paragraphs 263.05.a. and 263.05.b. of this rule is determined pursuant to Section 63-3027, Idaho Code, and related rules. (2-27-12)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1904

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 18-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes to this rule add the statutory requirement to increase the monthly and annual threshold amounts when the cost of living adjustments cumulatively equal or exceeds \$5,000.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2019 Idaho Administrative Bulletin, [Vol. 19-8, page 100](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian at (208) 334-7670.

Dated this 4th day of December, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0101-1904**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872).
Sections 63-3035 and 63-3036, Idaho Code

01. Payment of State Income Tax Withheld. (4-6-05)

a. In General. An employer must remit monthly any state income tax withheld. These monthly payments are due on or before the 20th day of the following month. However, employers who owe seven hundred fifty dollars (\$750) or less per calendar quarter may, at the discretion of the Tax Commission, be allowed to remit the tax withheld on or before the last day of the month following the end of the quarter. Employers who owe less than seven hundred fifty dollars (\$750) annually may be allowed to remit the tax withheld annually on or before January 31. When a filing cycle is changed, the change will take effect on January 1 of the following year. (3-20-14)

b. Semimonthly Filers. (4-11-15)

i. An employer who withholds state income taxes that meet or exceed the monthly or annual threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subparagraph 872.01.b.ii., of this rule, will remit the tax withheld based on semimonthly withholding periods. The first semimonthly withholding period begins on the first day of the month and ends on the 15th day of the same month with payment made no later than the 20th day of the same month. The second period begins on the 16th day of the month and ends on the last day of the same month with payment made no later than the fifth day of the following month. (4-11-15)

ii. Threshold amounts:

Withholding Periods Beginning	Monthly Threshold Amounts	Annual Threshold Amounts
On or After July 1, 2005	\$20,000	\$240,000
On or After July 1, 2019	\$25,000	\$300,000

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iii. An employer who meets the threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subparagraph 872.01.b.ii. of this rule, but only has one (1) monthly pay period, may request approval by the Tax Commission to pay and report monthly. The request should include verification of monthly payroll. (3-29-17)

c. Farmer-Employers. Generally an employer who is a farmer will remit state income tax withheld on or before the last day of January. However, an employer who is a farmer will remit the state income tax withheld on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Commerce and Labor. (3-20-14)

02. Filing of Annual Reconciliation Returns. (4-6-05)

a. In General. An employer must file an annual reconciliation return for any calendar year in which the employer had an active Idaho withholding account or withheld Idaho income taxes. Such return will: (3-20-14)

i. Report payroll paid during the preceding calendar year; and (4-6-05)

ii. Reconcile the state income tax withheld during the preceding calendar year with the tax remitted for the preceding calendar year. (4-6-05)

b. Due Date of Reconciliation Returns. The annual reconciliation return must be filed with the Forms W-2 on or before such date as required for filing of the W-2. See Rule 874 of these rules. The Tax Commission may require a shorter filing period and due date. (3-20-14)

c. Zero Tax Returns. For reporting periods in which the employer had no payroll or withheld no tax, the annual reconciliation return must be completed and filed by the due date. (3-20-14)

03. Extension of Time to Pay or File Returns. The Tax Commission may allow a one (1) month extension of time to make a monthly or quarterly payment or to file the annual reconciliation return. (4-6-05)

a. The employer must file a written request by the due date of the payment or annual reconciliation return that identifies the reason for the extension and includes the required minimum payment. The minimum payment must be at least ninety percent (90%) of the tax withheld for the period or one hundred percent (100%) of the tax withheld for the same period of the prior year. (3-20-14)

b. The employer must file the annual reconciliation return within one (1) month of the due date. The tax paid with the extension request must be shown on the payment line of the return. Interest from the due date applies to any additional tax due. (3-20-14)

04. Valid Returns. All withholding returns and other documents required to be filed pursuant to Sections 63-3035 and 63-3036, Idaho Code, and this rule will be filed using the proper forms as prescribed by the Tax Commission. The forms will include the taxpayer's name, signature, withholding account number, and federal employer identification number. Returns that fail to meet these requirements are invalid and may be returned to the taxpayer to be refiled. Failure to file a valid return by the due date may cause interest and penalties to be imposed. (3-20-14)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1903

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Minor housekeeping edits were made to clarify and simplify existing language and reduce or eliminate restrictive words.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 7, 2019 Idaho Administrative Bulletin, [Vol. 19-8, pages 107-110](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tom Shaner at (208) 334-7518.

Dated this 4th day of December, 2019.

Tom Shaner, Tax Policy Manager
State Tax Commission
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tom.shaner@tax.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 35-0102-1903

**This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.**

043. SALES PRICE OR PURCHASE PRICE DEFINED (RULE 043).

Sections 63-3612 and 63-3613, Idaho Code

01. Sales Price and Purchase Price. The term sales price and purchase price may be used interchangeably. Both mean the price paid by the customer or user to the seller including: (7-1-93)

- a. The cost of transporting goods to the seller. See Rule 061 of these rules. (3-20-04)
- b. Manufacturer's or importer's excise tax. See Rule 060 of these rules. (3-20-04)
- c. Services agreed to be rendered as part of the sale. (7-1-97)
- d. Separately stated labor charges to produce or fabricate made to order goods. See Rule 029 of these rules. (3-20-04)

02. Services Agreed to Be Rendered as a Part of the Sale. The sales and use tax is computed on the sales price of a transaction. The term "sales price" is defined by Section 63-3613, Idaho Code, to include "services agreed to be rendered as a part of the sale." The following items are among those that are part of the sales price and, therefore, may not be deducted before computation of the sales price. This is not intended to be an exclusive list of such items: (4-4-13)

a. Any charges for any services to bring the subject of a sale to its finished state ready for delivery and in the condition specified by the buyer, including charges for assembly, fabrication, alteration, lubrication, engraving, monogramming, cleaning, or any other servicing, customizing or dealer preparation **except those exempted in Section 63-3622OO, Idaho Code.** ()

b. Any charge based on the amount or frequency of a purchase, such as a small order charge or the nature of the item sold, such as a slow-moving charge for an item not frequently sold. (3-20-04)

c. Any commission or other form of compensation for the services of an agent, consultant, broker, or similar person. (3-20-04)

d. Any charges for warranties, service agreements, insurance coverage, or other services required by the vendor to be taken as a condition of the sale. If the sale could be consummated without the payment of these charges, the charges are not part of the sales price if separately stated. Also, see Rule 049 of these rules. (3-20-04)

e. Any fuel surcharges except those charges which the vendor can document are related only to delivery of the property to the end customer. (4-4-13)

f. Any environmental or disposal fee except those fees directly imposed by a governmental agency. (4-4-13)

03. Charges Not Included. Sales price does not include charges for interest, carrying charges, amounts charged for optional insurance on the property sold, or any financing charge. These various charges may be deducted from the total sales price if they are separately stated in the contract. In the absence of a separate statement, it will be presumed that the amount charged is part of the total sales price. (3-20-04)

04. Gratuities. When a gratuity is paid in addition to the price of a meal, no sales tax applies to the gratuity. A gratuity can be paid voluntarily by the customer or be required by the seller. A gratuity is also commonly known as a tip. (3-29-12)

a. If a gratuity does not meet all of the following requirements, the gratuity will be **taxable:** ()

i. **It is** paid to the service provider of the meal as additional income to the base wages of the service provider; ()

- ii. *It is* separately stated on the receipt or be voluntarily paid by the customer; and ()
 - iii. *It is not* used to avoid sales tax on the actual price of the meal. ()
 - b. For the purposes of Subsection 043.04 of this rule, the following definitions apply: (3-29-12)
 - i. Meal. Food or drink prepared for or provided to a customer. (3-29-12)
 - ii. Service provider. An individual directly involved in preparing or providing a meal to a customer. This includes, but is not limited to, the server, the busser, the cook and the bartender. This does not include individuals who manage or own the company if they are not directly involved in preparing and providing a meal. (3-29-12)
- 05. Service Charges.** Amounts designated as service charges, added to the price of meals or drinks, are a part of the selling price of the meals or drinks and accordingly, *are* included in the *taxable sales* price, even *if the* service charges are made in lieu of tips and paid over by the retailer to his employees. ()

(BREAK IN CONTINUITY OF SECTIONS)

046. COATINGS ON TANGIBLE PERSONAL PROPERTY (RULE 046).
Sections 63-3612, 63-3613, Idaho Code

01. Coatings Generally. A coating is a substance covering the surface of tangible personal property usually intended to improve the durability or aesthetic appeal of the tangible personal property to which it is applied. There are a variety of coatings including paint, powder coating, chrome plating, spray-on bedliners, and anodized coatings. Effective July 1, 2014, this rule applies to all types of coatings and it is intended that such coatings receive the same tax treatment. This rule does not apply to coatings applied directly to real property such as paint applied to the walls of a building. (3-20-14)

02. Coatings are Tangible Personal Property. The materials applied to tangible personal property to produce a coating are tangible personal property both before and after the application process. Therefore, unless an exemption applies, the sale of a coating is a taxable sale. (3-20-14)

03. Material Charges. Unless an exemption applies, the materials portion of a sale of a coating is taxable. If the seller is unable to measure the exact amount of material used, a reasonable method of estimation is acceptable. (3-20-14)

04. Nontaxable Labor Charges. In any of the following circumstances, the labor to apply a coating will be nontaxable labor: (3-20-14)

a. A previous coating is removed and replaced with a new coating, regardless of any differences in quality between the two (2) coatings. (3-20-14)

b. A coating is applied to used tangible personal property on top of an already existing coating. (3-20-14)

c. Example 1: A vendor applies a spray-on bedliner to an individual's truck bed. The truck bed surface is already coated with automotive paint. The materials charge is taxable, but the labor is not taxable. (3-20-14)

05. Taxable Labor Charges. In any of the following circumstances, the labor to apply a coating will be taxable labor: (3-20-14)

a. A coating is applied to new tangible personal property, regardless of whether the tangible personal property already has a coating *except those exempted in Section 63-3622OO, Idaho Code.* ()

b. A coating is applied to new or used tangible personal property that has never been previously coated. (3-20-14)

06. Separate Statement. For circumstances under which the labor portion of the transaction is exempt, both materials and labor *are to* be separately stated on the customer's billing statement. If there is no separate statement of materials and labor, the entire transaction is *taxable*. ()

07. Used Tangible Personal Property. For purposes of this rule, tangible personal property is used if the tangible personal property has been previously put to the use for which it was intended. If a contractor hires someone to apply a coating to tangible personal property that the contractor intends to incorporate into real property, the tangible personal property has not been put to the use for which it was intended and is considered new tangible personal property. (3-20-14)

a. Example 1: A contractor hires someone to apply a coating to metal ducting. The contractor intends to incorporate the metal ducts into a ventilation system in a building. Since the ducting has not yet been put to the use for which it was intended, it is not used tangible personal property and all labor and material charges will be taxable. (3-20-14)

b. Example 2: A person buys a piece of furniture for use in the home. The person uses the drawers for a year before hiring someone to apply a stain to the drawers. At that point, the drawers are used tangible personal property. If the drawers had a previous coating of any kind, the labor to apply the stain will be nontaxable. If the drawers had no previous coating, the labor to apply the stain will be taxable. (3-20-14)

c. Example 3: A company buys equipment from a supplier. Before the equipment is ever put to the use for which it was intended, the company takes the equipment to be coated by a different supplier. Since the equipment has not yet been put to the use for which it was intended, it is new tangible personal property. Regardless of whether the equipment already has a coating, both the materials and labor to apply the new coating are taxable. (3-20-14)

08. Tangible Personal Property Held for Resale. For new or used tangible personal property held by a seller as part of its inventory, any labor costs incurred to apply a coating to the tangible personal property and charged to the end consumer are taxable services agreed to be rendered as part of the sale of the tangible personal property. The labor charges are exempt only if the sale of the tangible personal property is exempt *or if the labor is exempted by Section 63-3622OO, Idaho Code*. However, if the seller pays a third party to apply a coating to tangible personal property in its inventory, the seller may claim a resale exemption on the transaction. ()

a. Example 1: A dealership has a used truck in its inventory. A customer will purchase the truck on the condition that the dealership will apply a spray-on bedliner. The dealership hires another company to apply the spray-on bedliner and pays three hundred dollars (\$300) for the job (split evenly between materials and labor). The dealership fills out a resale exemption certificate for the spray-on bedliner company. No tax should be charged on this transaction. The dealership then charges its customer five hundred dollars (\$500) (split evenly between materials and labor) and separately states these charges from the sales price of the truck. The materials charge is a taxable sale of tangible personal property. The labor charge is a taxable service agreed to be rendered as part of the sale of the truck. The dealership charges tax on the entire five hundred dollars (\$500). ()

09. Exemptions. Like any sale of tangible personal property, if the customer provides a valid exemption certificate to the seller claiming an exemption that applies to the transaction, the seller has no obligation to collect sales tax on the transaction. The seller maintains a copy of the exemption certificate on file. See Rule 128 of these rules for additional information. ()

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2019 Idaho Administrative Bulletin, [Vol.19-8, page 115](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest at (208) 334-7742.

Dated this 4th day of December, 2019.

Alan Dornfest
Property Tax Policy Bureau Chief
State Tax Commission
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0103-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized).**

006. INCORPORATION BY REFERENCE (RULE 006).

Unless provided otherwise, any reference in these rules to any document identified in Rule 006 of these rules constitutes the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards, or rules adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-3-03)

01. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available at the main office of the State Tax Commission as listed in Rule 005 of these rules or can be electronically accessed as noted in Subsection 006.02 of this rule. (5-8-09)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-3-03)

a. “Standard on Ratio Studies” published in 2013, “Standard on Digital Cadastral Maps and Parcel Identifiers” published in 2015, “Standard on Mass Appraisal of Real Property” published in 2012, “Standard on Verification and Adjustment of Sales” published in 2010, all published by the International Association of Assessing Officers. These documents can be electronically accessed at http://www.iaao.org/wcm/Resources/Publications_access/Technical_Standards/wcm/Resources_Content/Pubs/Technical_Standards.aspx?hkey=9c330567-135b-4adc-a772-00008232ab90 which was last accessed and verified on July 18, 2019. ()

b. “Forest Habitat Types of Northern Idaho: A Second Approximation” published by the Government Printing Office for the U. S. Forest Service in 1991, General Technical Report INT-236, written by Cooper, Stephen V., Neiman, Kenneth E., Rev, David W., and Roberts, Kenneth E. (4-6-05)

c. “Forest Habitat Types of Central Idaho” published by the Government Printing Office for the Intermountain Forest and Range Experimentation Station of the U. S. Forest Service in 1981, General Technical Report INT-114, written by Kittams, Jay A., Pfister, Robert D., Ryker, Russell A., and Steele, Robert. (5-3-03)

d. “Yield of Even-Aged Stands of Ponderosa Pine” published by the Government Printing Office for the U. S. Department of Agriculture in 1938, Technical Bulletin No. 630. (5-3-03)

e. “Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type” published by the Government Printing Office for the U. S. Department of Agriculture in 1932, Technical Bulletin No. 323. (5-3-03)

f. “Manual of Surveying Instructions” published by the Federal Bureau of Land Management and the Public Land Survey System Foundation in 2009. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

411. PRIVATE CAR REPORTING BY RAILROAD COMPANIES (RULE 411).

Section 63-411, Idaho Code. The president or other officer of each railroad company whose railroad tracks run through, in or into Idaho shall, by April 15 of each year file a report with the State Tax Commission that includes the following: (5-3-03)

01. Name of Reporting Railroad Company. Report the name of the railroad company making the report. (5-3-03)

02. Name of Private Railcar Fleet. Report the name of each private railcar fleet, defined under Sections 63-201(14) and 63-411, Idaho Code, having traveled on the reporting railroad company’s track. (5-3-03)

03. Private Railcar Fleet's Address. Report the business address of each reported private railcar fleet. (5-3-03)

- 04. Car Type.** Report the type of cars by **identifying** symbol. ()
- 05. Marks.** Report the car marks. (5-3-03)
- 06. Miles Traveled.** Report the total number of miles traveled on the reporting railroad's track, including main line, branches, sidings, spurs, and warehouse or industrial track in Idaho during the year ending December 31 of the preceding year. (5-3-03)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The definition of taxable value for agricultural land has been clarified to be consistent with the valuation methodology found in Rule 617.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 256-261](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest at (208) 334-7742.

Dated this 4th day of December, 2019.

Alan Dornfest
Property Tax Policy Bureau Chief
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0103-1902**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

130. DESCRIPTION OF PRIMARY CATEGORIES USED TO TEST FOR EQUALIZATION (RULE 130).

Sections 63-109 and 63-315, Idaho Code. The State Tax Commission establishes the primary categories listed herein for the purpose of testing values in each county and each school district for equalization by the Tax Commission under Section 63-109, Idaho Code. ()

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Primary Category. Primary category means the *six (6)* categories established and described in Subsections 130.02 through 130.07 of this rule, *except for the use of secondary categories described in Subsection 130.07 of this rule and Paragraphs 131.02.b. and 131.05.b. of Rule 131*, and used by the Tax Commission to test for equalization under Section 63-109, Idaho Code. ()

b. Secondary Category. Secondary category means the categories established and described in Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. ()

02. Vacant Residential Land Category. Vacant residential land is all vacant land used for residential purposes. The assessor listed this land in secondary categories 12, 15, 18, or 20, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. ()

03. Improved Residential Property Category. Improved residential property is all improvements used for residential purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 10 and 31, 46, or 48, 12 and 34, 46, or 48, 15 and 37, 46, or 48, 18 and 40, 20 and 41, 46, or 48, 26, 46, 48, or 50 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rules 510 and 511 of these rules, for the purposes of listing property on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. ()

04. Vacant Commercial or Industrial Land Category. Vacant commercial or industrial land is all vacant land used for commercial or industrial purposes. The assessor listed this property in secondary categories 11, 13, 14, 16, 17, 21, or 22, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. ()

05. Improved Commercial or Industrial Property Category. Improved commercial or industrial property is all improvements used for commercial or industrial purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 11 and 33, 13 and 35, 14 and 36, 16 and 38, 17 and 39, 21 and 42, 22 and 43, 27, or 51, as described in Rules 510 and 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho

Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. ()

06. Manufactured Homes on Leased Land Category. Manufactured homes on leased land are all manufactured homes on leased land that the assessor listed in secondary categories 49 or 65 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rule 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. ()

07. Agricultural Land Category. Agricultural land is all land that the assessor listed in secondary categories 1 through 5 as described in Rule 510 of these rules. For agricultural land, secondary, rather than primary, category values are to be tested if significant in any county as defined in Rule 131 of these rules. ()

08. Conversion Table: Secondary Categories to Primary Categories.

Conversion Table: Secondary Categories to Primary Categories	
Secondary Categories	Primary Categories
12, 15, 18, or 20	Vacant Residential Land
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51	Improved Commercial or Industrial Property
47, 49, or 65	Manufactured Housing on Leased Land
1-5	Agricultural Land

()

09. Cross Reference. For clarification of responsibilities relating to listing values on the valuation assessment notices or reporting values on the abstracts, see Rules 114, 115, 509, 510, 511, and 512 of these rules. For descriptions of secondary categories used to list land values on the valuation assessment notices and report land values on the abstracts, see Rule 510 of these rules, used to list improvement values on the valuation assessment notices and report improvement values on the abstracts, see Rule 511 of these rules, and used to list values for all property other than land or improvements on the valuation assessment notices and report these values on the abstracts, see Rule 512 of these rules. (3-30-07)

131. USE OF RATIO STUDY OR OTHER METHOD TO TEST FOR EQUALIZATION IN COUNTIES (RULE 131).

Section 63-109, Idaho Code

01. Equalization Ratio Study - Primary Categories Other than Agricultural Land. Each year the State Tax Commission will conduct a ratio study to assist in the equalization of assessments of property within and among the primary categories, other than agricultural land, established in Rule 130 of these rules. The ratio study will be conducted in accordance with the “Standard on Ratio Studies” and the “Standard on Verification and Adjustment of Sales” both referenced in Rule 006 of these rules. The annual ratio study will test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The Tax Commission may use sales from extended time periods and may add

appraisals when data is lacking. Equalization ratio studies must consist of at least five (5) sales and/or appraisals. The Tax Commission may delete sales when necessary to improve representativeness. Sales should be considered as potentially valid if a financial institution is the seller, provided that: ()

- a. Such sales comprise more than twenty percent (20%) of the sales in any primary category or other category tested for equalization; (4-4-13)
- b. Such sales are validated to account for changes in property characteristics; and (4-4-13)
- c. Any properties that have been vandalized are excluded. (4-4-13)
- d. The study **will** be completed in February following the end of the period studied. **Timing and notification of county officials is described in the “Timing and Notification Table” as provided in Subsection 131.03 of this rule. For non-agricultural categories, the appropriate ratio study statistical measure of level is the median. For agricultural land categories, level of assessment is to be determined as described in Paragraph 131.02.b. of this rule.** ()

02. Equalization Study – Agricultural Land. Each year the Tax Commission will conduct a study to assist in the equalization of assessments of agricultural land. Any such study will analyze agricultural land values throughout each significant secondary agricultural land category using valuation methods found in Section 63-602K, Idaho Code and Rule 617 of these rules. ()

- a. Notice of results and compliance will be provided to county officials according to the timing shown in Subsection 131.03 of this rule. ()
- b. Agricultural land secondary categories considered significant, as defined in Paragraph 131.02.c. of this rule, in any county will be subject to preliminary and follow-up studies of assessment level. Both studies will be based on valuation methodology described in Rule 617 of these rules, *the results of which are considered the taxable value for the agricultural land*. The preliminary study will be in comparison to prior year’s assessed values. The follow-up studies will test current year’s assessed values and will only be required when preliminary studies indicate level of assessment less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Assessed values for any agricultural land secondary category with an indicated level determined to be within this range and those categories not considered significant in a county will be considered in compliance. Note: For the purpose of this analysis, “level” means the ratio of the median per acre assessed value and the median per acre value for the secondary category determined by the Tax Commission using the valuation methodology found in Rule 617 of these rules. ()
- c. A secondary agricultural land category will be considered significant provided the category includes at least 10% of the acreage and at least 5% of the value of the primary agricultural land category. ()
- d. Agricultural land categories may also be subject to follow-up studies if the Tax Commission has received information indicating that county boards of equalization have changed values in such a way as to produce likely non-compliance. Notice for such follow-up studies will comport, to the extent possible, with the procedures found in Subsection 131.06 of this rule. The time table for completing preliminary and follow-up studies and providing notice is shown in the “Timing and Notification Table” found in Subsection 131.03 of this rule. ()

03. Timing and Notification Table.

Date	Activity
April – 1st Monday	The Tax Commission will notify assessors of preliminary ratio and agricultural land study results.
April – 3rd Monday	The Tax Commission will notify the board of county commissioners (BOCC) of non-compliant primary ratio study categories and agricultural land secondary categories.

Date	Activity
May – 1st Monday	On request by the county assessor, the Tax Commission will conduct additional studies for non-compliant categories using current year assessments.
May – 2nd Monday	The Tax Commission will notify county assessors and commissioners of results of additional studies.
July – 3rd Monday	The Tax Commission will conduct final follow-up studies for originally non-complying categories using county equalized values. Additional studies may be conducted if there is indication that county boards of equalization have taken actions that may have resulted in non-compliance for previously complying primary or secondary categories. Assessors and county commissioners will be notified of results and compliance status by the 4th Monday in July, except that this deadline and the 3rd Monday in July deadline are to be extended if an extension has been granted to the county board of equalization. In that case, the final or additional studies will be finalized and notice provided within one week of the conclusion of the county board of equalization.

()

04. Tested for Equalization. Except as provided in Subsection 131.05 of this rule, categories, other than agricultural land to be tested for equalization purposes are the primary categories, described in Subsections 130.02 through 130.06 of these rules, provided adequate samples can be obtained. Agricultural land is to be tested as provided in Subsection 131.02 of this rule. ()

05. Follow-Up Ratio Study. When indicated, based on criteria in Paragraph 131.05.a. and 131.05.b. of this rule, a follow-up ratio study will be conducted to test the assessments for January 1 of the year following the year tested by the preliminary agricultural study or annual ratio study and if a ratio study is to be done, it will be based on property sales occurring during the calendar year immediately preceding that date. A follow-up ratio study will be indicated whenever: ()

a. The annual ratio study, provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule; or (4-2-08)

b. The Tax Commission is informed after the county board of equalization adjourns and before the state board of equalization adjourns of the implementation of assessment changes likely to result in a finding that a category found in compliance with equalization standards following the agricultural land study or annual ratio study would be found out of compliance with these standards for the current year’s assessments. The follow-up agricultural land study or ratio study authorized under this option will be conducted for the primary category likely to be out of compliance with equalization standards and for any secondary categories comprising the primary category, provided adequate samples can be obtained. ()

06. Notice of Follow-Up Ratio Study. The Tax Commission will notify the county assessor of the reason for and results of the follow-up ratio study. If the follow-up ratio study is conducted as provided in Paragraph 131.05.b. or 131.02.d. of this rule, the notice will be sent to the county commissioners or board of equalization and county assessor and will describe the assessment changes that resulted in the need for the follow-up ratio study. The notice will indicate whether any adjustments will be considered by the Tax Commission at its next equalization meeting in August based on either the annual, or any follow-up ratio study, and the reason for the proposed adjustments. ()

07. Use of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study will be one (1) source of information upon which the Tax Commission may rely when testing assessments for equalization purposes under Section 63-109, Idaho Code. When the results of any ratio study on any primary, or, if applicable under the provisions of Subsection 131.02 or Paragraph 131.05.b. of this rule, secondary category, described in Subsections 130.02 through 130.09 of these rules, show, with reasonable statistical certainty as defined in Subsection 131.11 of this rule, that the appropriate measure of level of the category studied is less than ninety percent (90%) or

greater than one hundred ten percent (110%), the assessment of property within that category may be considered not equalized. When this occurs, the Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in the category or any portion of the category included in the analysis conducted in an amount the Tax Commission finds necessary to accomplish equalization of assessments of property. Within any primary category, except as provided in Subsections 131.02 or 131.08 of this rule, adjustment will not be considered for any secondary category, described in Rule 510, 511, or 512 of these rules, that does not have at least one (1) observation in the ratio study conducted for that primary category. ()

08. Exception from Requirement for at Least One (1) Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment **will** be applied to any assessed value in secondary category 10, provided there is at least one observation (sale) of property identified in either secondary category 12 or 15. Such adjustment **will** also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. ()

09. Use of Alternate Ratio Study. When the follow-up ratio study required by Subsection 131.05 of this rule does not measure the true assessment level, the Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the Tax Commission has reason to question the representativeness of the sample used in an annual or follow-up ratio study conducted on any primary category, the Tax Commission may delay implementation of any order to adjust property values until two (2) successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%). ()

10. Submission of Additional Information. Any party may petition the Tax Commission to consider any information or studies relevant to equalization. The petition **will** include a description of the information to be presented and the petitioner's conclusions drawn from the information. ()

11. Reasonable Statistical Certainty. For the purposes of Rule 131 and equalization pursuant to Section 63-109, Idaho Code, "reasonable statistical certainty" that any primary category is not equalized **will** mean that the appropriate measure of level determined by the ratio study for any category tested for equalization must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Such a determination **will** occur if: ()

a. The appropriate measure of level for the category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or (4-7-11)

b. The appropriate measure of level for the category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). No ratio study completed prior to August 31, 2007 will be considered as one of the most recent previous two (2) ratio studies. (4-7-11)

12. Cross References. The primary categories are described in Subsections 130.02 through 130.07 of these rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. ()

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1903

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Statutory authority was added to Subsection 225.07.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 375-379](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest at (208) 334-7742.

Dated this 4th day of December, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0103-1903**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in *red plain text (non-italicized)*.

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)

or (2) References to cardinal directions, government survey distances, and section or aliquot part corners; (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. *Notification required pursuant to Section 63-215, Idaho Code, will be sent to affected*

taxing districts, urban renewal agencies, and to any auditor(s) and assessor(s) of the involved county(ies). ()

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 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1904

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol.19-10, page 262](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest at (208) 334-7742.

Dated this 4th day of December, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0103-1904**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (RULE 317).

Section 63-317, Idaho Code

01. Property Subject to Occupancy Tax. Excluding additions to existing improvements, the occupancy tax shall apply to improvements upon real property, whether under the same or different ownership. The occupancy tax shall also apply to new manufactured housing, as defined in Section 63-317, Idaho Code, excluding additions to existing manufactured housing. (4-6-05)

02. Prorated Market Value. The market value for occupancy tax purposes shall be the full market value on January 1 and shall be prorated at least monthly from the occupancy date to the end of the year. (3-29-10)

03. Notice of Appraisal. When notifying each owner of the appraisal, the county assessor shall include at a minimum the full market value before any exemptions and before any prorating of the value, the length of time subject to the occupancy tax, and the prorated value. (5-3-03)

04. Examples for Calculation of Value Less Homestead Exemption (HO). The following examples show the procedure for the calculation of the taxable value subject to the occupancy tax less the homestead exemption (HO): (3-30-07)

a. Example for prorated market value exceeding maximum amount of the homestead exemption for improvements subject to the occupancy tax beginning July 1, 2016.

Full Market Value of Home - \$300,000
Prorated Market Value for 11 Month Occupancy - $\$300,000 \times 11/12 = \$275,000$
Taxable Value - $\$275,000 - \$100,000 \text{ (HO)} = \$175,000$

(3-29-17)

b. Example for prorated market value resulting in less than the maximum amount of the homestead exemption.

Full Market Value of Home - \$120,000
Prorated Market Value for 3 Month Occupancy - $\$120,000 \times 3/12 = \$30,000$
Taxable Value - $\$30,000 - \$15,000 \text{ (HO)} = \$15,000$

(3-30-07)

05. Market Value. The market value for occupancy tax purposes shall be entered on an occupancy tax valuation roll. Occupancy tax valuation shall not be included in the assessed value of any taxing district, but occupancy tax must be declared in the certified budget. (3-30-07)

06. Allocation to Urban Renewal Agencies. Occupancy tax revenue shall be distributed to urban renewal agencies in the same manner as property taxes, **except as provided in Paragraphs 317.06.a. and 06.b. of this rule.** ()

a. The portion of the occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules must be distributed to the taxing districts levying property taxes for those funds and, therefore, must not be distributed to the urban renewal agency. (5-8-09)

b. For parcels within a newly formed revenue allocation area or within an area newly annexed to an existing revenue allocation area, occupancy tax for the tax year during which the formation or annexation took effect **is not** distributed to the urban renewal agency. ()

07. Property Qualifying for the Homestead Exemption on Occupancy Value. When property is subject to occupancy tax, only the improvements shall be eligible for the homestead exemption found in Section 63-602G, Idaho Code. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

804. TAX LEVY - CERTIFICATION - URBAN RENEWAL DISTRICTS (RULE 804).

Sections 50-2908, 50-2033, 50-1903, 50-2903A, 50-2905A, 50-2913, 63-803, and 63-811, Idaho Code

01. Definitions. (4-5-00)

a. “Urban renewal district.” An urban renewal district, as referred to in Section 63-215, Idaho Code, shall mean an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts. (4-5-00)

b. “Revenue allocation area (RAA).” A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, shall be the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. A new urban renewal plan is required when an urban renewal agency establishes a new RAA. Revenue allocation areas (RAAs) are not taxing districts. (3-29-17)

c. “Current base value.” Current base value does not include value found on the occupancy roll. **Current base value includes the previous year’s non-prorated value of current taxable property subject to assessment under Sections 63-602Y and 63-313, Idaho Code during the year the initial base value was established.** ()

d. “Initial base value.” The initial base value for each parcel is the sum of the taxable value of each category of property in the parcel for the year the RAA is established. In the case of annexation to an RAA, initial base value of each annexed parcel shall be the value of that parcel as of January 1 of the year in which the annexation takes place. **The initial base value includes any prorated value added for property subject to Sections 63-602Y and 63-313, Idaho Code.** ()

e. “Increment value.” The increment value is the difference between the current equalized value of each parcel of taxable property in the RAA and that parcel’s current base value, provided such difference is a positive value. **Newly constructed improvements with value listed on the occupancy roll within a newly formed RAA or within an area newly annexed to an existing RAA will be added as increment value in the year following the year of formation or annexation.** ()

f. “Revenue allocation financing provision.” A revenue allocation area (RAA) shall be considered to be a revenue allocation financing provision. (3-29-17)

02. Establishing and Adjusting Base and Increment Values. (4-5-00)

a. Establishing initial base value. If a parcel’s legal description has changed prior to computing initial base year value, the value that best reflects the prior year’s taxable value of the parcel’s current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the taxable value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable property, as defined in Section 50-2903, Idaho Code. Initial base value does not include value found on the occupancy roll. (4-5-00)

b. Adjustments to base value - general value changes. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less

than the most recent base value for such parcel. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments shall be made by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property shall establish new base values from which future adjustments may be made. In the following examples the parcel's initial base value is one hundred thousand dollars (\$100,000), including Category 21 value of twenty thousand dollars (\$20,000) and Category 42 value of eighty thousand dollars (\$80,000). (4-5-00)

i. Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar (\$1,000) decrease in value in Category 21 and a one thousand dollar (\$1,000) increase in Category 42 value. There is no change in the base value for the parcel. (4-5-00)

ii. Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars (\$3,000) decrease in value in Category 21 and a one thousand dollars (\$1,000) increase in Category 42 value. The base value decreases two thousand dollars (\$2,000) to ninety-eight thousand dollars (\$98,000). (4-5-00)

iii. Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety-eight thousand dollars (\$98,000), the value of the parcel increases by five thousand dollars (\$5,000) which is the net of category changes. The base value remains at ninety-eight thousand dollars (\$98,000). (4-5-00)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel's legal description. This adjustment shall be calculated as described in the following subsections. (4-5-00)

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value. Proportions used to determine the amount of base value assigned to each of the new parcels shall be based on the value of the new parcels had they existed in the year preceding the year for which the value of the new parcels is first established. (4-11-15)

ii. When a parcel has been combined with another parcel, the most recent base year values are added together. (4-5-00)

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split shall be calculated as set forth in Subparagraph 804.02.c.i. and then the value of the combination will be calculated as set forth in Subparagraph 804.02.c.ii. (4-5-00)

d. Adjustments to base values when exempt parcels become taxable. Base values shall be adjusted as described in the following subsections. (4-5-00)

i. Fully exempt parcels at time of RAA establishment. When a parcel that was exempt at the time the RAA was established becomes taxable, the base value is to be adjusted upwards to reflect the estimated value of the formerly exempt parcel as it existed at the time the RAA was established. (3-26-19)

ii. Partially exempt parcels losing the speculative value exemption. When a partially exempt parcel with a speculative value exemption that applies to farmland within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the taxable value of the parcel for the year in which the exemption is lost and the taxable value of the parcel included in the base value of the RAA. For example, assume a parcel of farmland within an RAA had a taxable value of five hundred dollars (\$500) in the year the RAA base value was established. Assume also that this parcel had a speculative value exemption of two thousand dollars (\$2,000) at that time. Two (2) years later the parcel is reclassified as industrial land, loses the speculative value exemption, and has a current taxable value of fifty thousand dollars (\$50,000). The base value within the RAA would be adjusted upwards by forty-nine thousand five hundred dollars (\$49,500), the difference between fifty thousand dollars (\$50,000) and five hundred (\$500). The preceding example applies only in cases of loss of the speculative value exemption that applies to land actively devoted to agriculture and does not apply to timberland. Site improvements,

such as roads and utilities, that become taxable after the loss of the speculative value exemption are not to be added to the base value. For example, if, in addition to the fifty thousand dollars (\$50,000) current taxable value of the undeveloped land, site improvements valued at twenty-five thousand dollars (\$25,000) are added, the amount reflected in the base value remains fifty thousand dollars (\$50,000), and the additional twenty-five thousand dollars (\$25,000) is added to the increment value. In addition, this example applies only to land that loses the speculative value exemption as a result of changes occurring in 2010 or later and first affecting taxable values in 2011 or later. Parcels that lost speculative value exemptions prior to 2010 had base value adjustments as described in Subparagraph 804.02.d.iii. of this rule. (3-29-12)

iii. Partially exempt parcels other than those losing the speculative value exemption. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a partially exempt parcel, other than one subject to the speculative value exemption that applies to farmland, within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA was established and the taxable value of the parcel included in the base value of the RAA. For example, assume a residential parcel within an RAA had a market value of one hundred thousand dollars (\$100,000), a homeowner's exemption of fifty thousand dollars (\$50,000), and a taxable value of fifty thousand dollars (\$50,000) in the year the RAA base value was established. After five (5) years, this parcel is no longer used for owner-occupied residential purposes and loses its partial exemption. At that time the parcel has a taxable value of one hundred eighty thousand dollars (\$180,000). The base value within the RAA would be adjusted upwards by fifty thousand dollars (\$50,000) to one hundred thousand (\$100,000) to reflect the loss of the homeowner's exemption, but not any other value increases. (3-26-19)

iv. Partially exempt properties for which the amount of the partial exemption changes. For partially exempt properties that do not lose an exemption, but for which the amount of the exemption changes, there shall be no adjustment to the base value, unless the current taxable value is less than the most recent base value for the property. For example, assume a home has a market value of two hundred thousand dollars (\$200,000) and a homeowner's exemption of one hundred thousand dollars (\$100,000), leaving a taxable value of one hundred thousand dollars (\$100,000), all of which is base value. The following year the homeowner's exemption limit changes to ninety thousand dollars (\$90,000), so the property's taxable value increases to one hundred ten thousand dollars (\$110,000). The base value remains at one hundred thousand dollars (\$100,000). Alternatively, assume the property in the preceding example increases in market value to two hundred twenty thousand dollars (\$220,000) and the homeowner's exemption drops to ninety thousand dollars (\$90,000) because of the change in the maximum amount of this exemption. The base value remains at one hundred thousand dollars (\$100,000). Finally, assume the property decreases in value to one hundred eighty-eight thousand dollars (\$188,000) at the same time the homeowner's exemption limit changes to ninety thousand dollars (\$90,000). The property now has a taxable value of ninety-eight thousand dollars (\$98,000), requiring an adjustment in the base value to match this amount, since it is lower than the original base value of one hundred thousand dollars (\$100,000). (3-29-12)

v. Change of exempt status. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a parcel that is taxable and included in the base value at the time the RAA is established subsequently becomes exempt, the base value is reduced by the most current value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is to be adjusted upward by the same amount that was originally subtracted. For example, assume a land parcel had a base value of twenty thousand dollars (\$20,000). One (1) year later the parcel has a value of nineteen thousand dollars (\$19,000), so the base value is reduced to nineteen thousand dollars (\$19,000). Three (3) years later, an improvement valued at one hundred thousand dollars (\$100,000) was added. The land at this later date had a value of thirty thousand dollars (\$30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by nineteen thousand dollars (\$19,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by nineteen thousand dollars (\$19,000). (3-26-19)

vi. Special case for exemption provided in Section 63-602NN, Idaho Code. Upon loss of the exemption, any newly taxable value in excess of the taxable value of the property in the year immediately preceding the first year of the exemption is to be added to the increment value provided the property was within an RAA when the exemption was granted and remains within the RAA at the time the exemption expires. If the parcel was annexed to an RAA during the period of the exemption, the value that would have been added to the base value at the time of annexation had the property not received the exemption would be added to the base at the time the exemption expires, while any remaining taxable value would be added to the increment. If the exemption has been granted in part, the

adjustments provided in this subparagraph shall only apply to the portion of the property granted the exemption. (3-26-19)

e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property shall be considered removed only under the conditions described in the following subsections. (4-5-00)

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0). (4-5-00)

ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA or any of the personal property associated with a parcel becomes exempt. In the case of exemption applying to personal property, the downward adjustment will first be applied to the increment value and then, if the remaining taxable value of the parcel is less than the most current base value, to the base value. Assume, for example that a parcel consists entirely of personal property with a base value of twenty thousand dollars (\$20,000) and an increment value of ninety thousand dollars (\$90,000). The next year the property receives a one hundred thousand (\$100,000) personal property exemption. The increment value is reduced to zero and the base value is reduced to ten thousand dollars (\$10,000). (4-11-15)

iii. For operating property, any of the property under a given ownership is removed from the RAA. (4-5-00)

f. Adjustments to base value for annexation. When property is annexed into an RAA, the base value in the RAA shall be adjusted upwards to reflect the value of the annexed property as of January 1 of the year in which the annexation takes effect. As an example, assume that parcels with current taxable value of one million dollars (\$1,000,000) are annexed into an RAA with an existing base value of two million dollars (\$2,000,000). The base value of the RAA is adjusted upwards to three million dollars (\$3,000,000). (4-11-15)

g. Adjustments to increment values. In addition to the adjustment illustrated in Subparagraph 804.02.e.ii. of this rule, decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars (\$100,000) decreases in value to ninety-five thousand dollars (\$95,000), but later increases to ninety-eight thousand dollars (\$98,000), an increment value of three thousand dollars (\$3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars (\$102,000) after the decrease to ninety-five thousand dollars (\$95,000), the increment value would be seven thousand dollars (\$7,000). (4-11-15)

h. Apportioning operating property values. For operating property, the original base value shall be apportioned to the RAA on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value shall be adjusted as required under Section 50-2903, Idaho Code. (4-5-00)

03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts. Beginning in 2008, levies shall be computed in one (1) of two (2) ways as follows: (5-8-09)

a. For taxing district or taxing unit funds other than those meeting the criteria listed in Subsection 804.05 of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district or unit is one hundred million dollars (\$100,000,000) but fifteen million dollars (\$15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's or unit's budget by eighty-five million dollars (\$85,000,000). (5-8-09)

b. For taxing district or taxing unit funds meeting the criteria listed in Subsections 804.05 and 804.07

of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. Given the values in the example in Paragraph 804.03.a. of this rule, the levy would be computed by dividing the property tax portion of the fund by one hundred million dollars (\$100,000,000). (3-28-18)

04. Modification of an Urban Renewal Plan. Except when inapplicable as described in Paragraphs 804.04.a, b, or c, of this rule, when an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision, for the tax year immediately following the year in which the modification occurs, the base value of property in the RAA shall be reset by being adjusted to reflect the current taxable value of the property. All modifications to boundaries of RAAs must comply with the provisions of Rule 225 of these rules. (3-29-17)

a. Modification by consolidation of RAAs. If such modification involves combination or consolidation of two (2) or more RAAs, the base value shall be determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current taxable value of property in an area not previously included in any RAA shall be added to determine the total current base value for the consolidated RAA. (4-5-00)

b. Modification by annexation. (5-8-09)

i. If an RAA is modified by annexation, the current taxable value of property in the area annexed shall be added to the most current base value determined for the RAA prior to the annexation. (5-8-09)

ii. For levies described in Paragraphs 804.05.b., c., or d. of this rule approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. The example below shows the value to be used for setting levies for various funds within an urban renewal district “A” that annexes area “B” within a school district. Area (B) was annexed after December 31, 2007. Therefore, the Area (B) increment was added back to the base for all funds shown except the tort fund. The Area (A) increment value was added back to the base for the bond and override funds which were certified or passed after December 31, 2007.

2009 Value Table	School District (base only)	\$500 Million
	RAA (A) increment	\$40 Million
	RAA annexation (B) increment	\$10 Million

<p style="text-align: center;">School District Area \$500 M base</p> <div style="border: 1px solid black; padding: 5px; margin: 5px auto; width: 80%;"> <p style="text-align: center;">2008 RAA Annexation (B) \$10 M Increment</p> </div> <div style="border: 1px solid black; padding: 5px; margin: 5px auto; width: 80%;"> <p style="text-align: center;">Pre 2008 RAA (A) Boundaries \$40 M Increment</p> </div>	2009 School Levies	
	Fund	Value for Setting Levies \$ Millions
	Tort	500
	2001 Plant	510
	2008 Bond (Passed and first levied in 2008)	550
2009 Supplemental	550	

(3-29-17)

iii. An annexation permitted pursuant to section 50-2033, Idaho Code, to an RAA in existence prior to July 1, 2016 shall not change the status of the urban renewal agency or the RAA and its related plan regarding inapplicability of the base reset or attestation provisions found in section 50-2903A, Idaho Code. (3-29-17)

c. Other modifications – attestation requirements. Modification resulting in adjustment of base value to reflect the current taxable value of the property within the RAA shall not be deemed to have occurred when the urban renewal agency attests to having made no modifications to a plan or is not required to attest to plan modifications. Certain urban renewal agencies are required to attest annually to having made or not made plan modifications. These include: (3-29-17)

i. Urban renewal agencies that establish new RAAs on or after July 1, 2016, provided however that such agencies are only required to attest to having made or not made modifications with regard to any new RAA. (3-29-17)

ii. Urban renewal agencies that enact new plans including an RAA on or after July 1, 2016. (3-29-17)

d. Modifications when there is outstanding indebtedness. When any urban renewal agency attests to having had a plan modification that is not an exception identified in Paragraphs 804.04.a. or b. or c. of this rule or fails to provide the required attestation, the base value will be determined without regard to the modification, provided that the agency certifies to the State Tax Commission by June 30 of the tax year that there is outstanding indebtedness as defined in Section 50-2903A(2), Idaho Code. In this case, the allocation of revenue to the urban renewal agency shall be limited to the amount certified as necessary to pay the indebtedness. Any additional revenue shall be distributed to each taxing district or unit in the same manner as property taxes. Such revenue shall be treated as property tax revenue for the purpose of the limitations in Section 63-802, Idaho Code. The county clerk will notify the Tax Commission of the amount so distributed for each year beginning July 1 of the prior year and ending June 30 of the current tax year. (3-28-18)

e. Failure to submit attestation regarding plan modification. For any urban renewal agency subject to the requirements of Section 50-2903A, Idaho Code, attestation of plan modification or attestation that there has been no plan modification is required to be made to the State Tax Commission by the first Monday of June each year. Except as provided in Paragraph 804.04.d. of this rule, if such agency fails to provide the required attestation, the State Tax Commission will proceed to reset the base value or limit allocation of property tax to the urban renewal agency as otherwise required in Section 50-2903A, Idaho Code. Provided there is no new plan, an urban renewal agency with a plan including one or more revenue allocation financing provisions (RAAs) in existence prior to July 1, 2016 shall only be required to provide this attestation or be subject to base resetting or other limitations for failure to submit this attestation with respect to new RAAs formed on or after July 1, 2016. If such an agency develops a new plan, on or after July 1, 2016, or provides for a new RAA under an existing plan, the agency shall be subject to the

attestation requirements and other provisions of Section 50-2903A, Idaho Code, with respect to any RAAs formed July 1, 2016 or later. (3-28-18)

f. Notice of actions related to base reset or revenue allocation limitations. (3-29-17)

i. The Tax Commission will notify any urban renewal agency within thirty (30) days of the time the Tax Commission receives an attestation that an urban renewal plan has been modified, or by July 30 in any year in which an attestation is required but none is received, of the Tax Commission's intent to initiate the process to reset the base value in the following tax year. Said notice will be provided to affected county commissioners and city officials. ()

ii. In the case of base reset due to failure to attest to a modification or to having made no modification in an urban renewal plan, despite being required to provide this attestation, the agency and county and city officials will be so notified and will be given an opportunity to provide the necessary attestation. This further notice will provide that, if the Tax Commission has not received the attestation by December 31 of the tax year, the base will be reset in the immediate following year. ()

iii. In the case of a revenue allocation limitation pursuant to Section 50-2913, Idaho Code, notice will be provided to the agency, county, and city officials including the county assessor and county clerk, within thirty (30) days of the due date of the plan or plan update. (3-29-17)

iv. In the case of a revenue allocation limitation due to a plan modification but outstanding indebtedness, notice will be provided to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of receipt by the Tax Commission of the certification of the amount needed to repay the indebtedness. ()

v. Once decisions about base reset or revenue allocation limitations are final, additional notice will be sent to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of any such final decision. Said notice will include an identification of the year in which the reset or revenue allocation limitation will take effect and the amount of any revenue allocation limitation. (3-29-17)

05. Criteria for Determining Whether Levies for Funds Are to Be Computed Using Base Value or Market Value for Assessment Purposes. Beginning in 2008, levies to be certified for taxing district or unit funds meeting the following criteria or used for any of the following purposes will be computed as described in Paragraph 804.03.b. of this rule. (5-8-09)

a. Refunds or credits pursuant to Section 63-1305, Idaho Code, and any school district judgment pursuant to Section 33-802(1), Idaho Code, provided the refunds, credits, or judgments were pursuant to actions taken no earlier than January 1, 2008; (5-8-09)

b. Voter approved overrides of the limits provided in Section 63-802, Idaho Code, provided such overrides are for a period not to exceed two (2) years and were passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

c. Voter approved bonds and plant facilities reserve funds passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

d. Voter approved school or charter school district temporary supplemental maintenance and operation levies passed after December 31, 2007; or (3-29-10)

e. Levies described in Paragraphs 804.05.b., c., or d. approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007; (3-29-10)

f. Levies authorized by Section 33-317A, Idaho Code, known as the cooperative service agency school plant facility levy. (3-29-10)

- g.** Levies authorized by Section 33-909, Idaho Code, known as the state-authorized plant facility levy. (4-11-15)
- h.** Levies authorized by Section 33-805, Idaho Code, known as school emergency fund levy. (3-29-17)

06. Setting Levies When There is a De-annexation From an RAA. In any de-annexation from an RAA, levies will be set using the base value and, as indicated in Subsection 804.05 of this rule, the appropriate amount of increment value associated with the parcels and operating property remaining in the RAA after the de-annexation, provided that the de-annexation is in effect no later than September 1 of the current tax year and provided further that the de-annexation is approved by the Tax Commission in accordance with Section 225 of these rules. ()

07. Setting Levies When There is a Refinancing of Bonded Indebtedness. Refinancing of bonded indebtedness in existence as of December 31, 2007 does not create new bonded indebtedness for any taxing district with respect to the levy setting criteria in Subsection 804.05 of this rule. (3-28-18)

08. Cross Reference. The county auditor shall certify the full market value by taxing district as specified in Rule 995 of these rules. See also Rule 802 of these rules for calculation of new construction given de-annexation from an RAA and see Rule 805 of these rules for penalties for failure to submit plans. (3-29-17)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1905

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Minor grammatical edits were made and names of outside government agencies were corrected.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 272-279](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest at (208) 334-7742.

Dated this 4th day of December, 2019.

Alan Dornfest
Property Tax Policy Bureau Chief
State Tax Commission
11321 Chinden Blvd., Bldg. 2
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0103-1905**

**This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.**

613.-- 614. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

616. (RESERVED)

617. AGRICULTURAL LAND VALUATION DEFINITIONS AND GUIDELINES.
Section 63-602K, Idaho Code

01. Definitions. ()

a. Actual Use Value of Agricultural Land. The actual use value of agricultural land will be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-602K, Idaho Code, plus a component for the local tax rate. The Actual Use Value will be considered market value for assessment purposes. ()

b. Economic Rent. Economic rent is the average gross income per acre received by a landlord from either a cash rent or crop share rental agreement. Only the rent solely attributable to the agricultural land is included in economic rent. ()

c. Net Income (Rent). Net income is determined by deducting the landlord's share of all typical current expenses from economic rent per acre. ()

d. Agricultural Area. An identifiable geographical area of similar agricultural land. ()

02. Determination of Average Crop Rental Rates. ()

a. Determine the average per acre gross income from individual crop cash rents, whole farm cash rents, or crop share typical to the Agricultural Area over the immediate past five (5) growing seasons as reported by local farmers. ()

b. If data from local farmers is insufficient, data typical to the Agricultural Area from third party providers, such as the United States Department of Agriculture (USDA), University of Idaho Crop Enterprise Budgets, or similar sources, may be used. ()

c. The choice to use cash rent or crop share analysis in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available when developing a supportable value conclusion. ()

03. Determination of Farm Credit Services Capitalization Rate. ()

a. The State Tax Commission will gather the interest rate data from the Spokane office of the Farm Credit Services and average the rate over the immediate past five (5) years and distribute the rate annually to

assessors by the second Monday in September. ()

b. The local tax rate component is the rate most applicable to the Agricultural Area. ()

c. The local tax rate will be added to the *Farm Credit Services* capitalization rate to develop the overall capitalization rate. ()

04. Calculation of Net Income from a Cash Rent Analysis. Net Income from cash rent for land secondary categories 1 and 3 is calculated in the following manner: ()

a. Crops Grown. Determine the crops typically grown in the area. ()

b. Economic Rent. Determine the average per acre gross income from individual crop rents or whole farm cash rents typical to the Agricultural Area over the immediate past five (5) years. ()

c. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. ()

d. Landlord's Net Income. Subtract the landlord's share of all typical expenses from the average gross income per acre for the immediately preceding year to determine net income. ()

05. Calculation of Net Income from a Crop Share Analysis. Net income from crop share rent for secondary land categories 1 and 3 is calculated in the following manner: ()

a. Crops Grown. Determine the crops typically grown in the Agricultural Area. ()

b. Average Crop Production. Determine the most recent five (5) year average production for typical crops grown in the Agricultural Area. ()

c. Average Commodity Prices. The Tax Commission will publish five (5) year average crop prices by surveying publicly available data from various sources, including the annual crop summary published by the *USDA National Agricultural Statistics Service (NASS)*. Average crop prices determined in this manner by the Tax Commission should be considered guidelines when determining net income, subject to modification based on local market data. ()

d. Gross Income. Multiply average crop production per acre by the average commodity price to determine gross income per acre. ()

e. Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the Agricultural Area. ()

f. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. ()

g. Net Income. Subtract the landlord's share of all typical expenses from the landlord's share of gross income to determine net income. ()

06. Calculation of Grazing and Meadow Land Net Income. Net income from grazing and meadow rent for land secondary categories 2, 4, and 5 is calculated in the following manner: ()

a. Animal Unit Month (AUM) *Defined*. An AUM consists of the *amount* feed for a one thousand (1,000) pound cow-calf pair or other animal equivalent *for one month*. ()

b. Determine the gross yearly income of an AUM by multiplying the five (5) year average of locally reported rent per AUM or third-party provider equivalent by the average number of months of the grazing season. ()

- c.** Divide the total acres grazed by the total number of cow-calf pairs, or other animal equivalent, to determine the number of acres making up an AUM. ()
- d.** Divide the income per AUM by the number of acres per AUM to determine a gross annual income per acre. ()
- e.** Subtract landlord's typical expenses from the immediately preceding year to determine net income per acre. ()
- 07. Calculation of Value Estimate per Acre to be used for Categories 1-5.** Divide the Net Operating Income by the overall capitalization rate to calculate a value estimate per acre. ()
- 08. Cross Reference.** For eligibility criteria, see Rule 645; for compliance standards, see Rule 131. ()

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1906

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

We added the word “disabled” to specify the veteran must be disabled to be eligible to apply.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 380-383](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest at (208) 334-7742.

Dated this 4th day of December, 2019.

Alan Dornfest
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State Tax Commission
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0103-1906**

**This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.**

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 *disabled* 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 – IDAHO STATE TAX COMMISSION
35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1901
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol.19-9, page 384](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams at (208) 334-7855.

Dated this 4th day of December, 2019.

Don Williams
Excise Tax Specialist – Tax Policy
State Tax Commission
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don.williams@tax.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 35-0105-1901

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized)**.

110. CALCULATION OF MOTOR FUELS TAX ON GASEOUS SPECIAL FUELS (RULE 110).
Section 63-2424, Idaho Code

01. Gaseous Special Fuel. 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. ()

02. Selling Gaseous Special Fuel. A gaseous special fuel may be sold at volumes or weights other than those listed in this section. **Distributors and consumers paying tax or claiming refunds must use** the volumes and weights **required by the Commission when reporting.** ()

03. Computing Gaseous Special Fuel Tax Equivalents. **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.

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	5.66 lbs.	100%
Liquefied Natural Gas (LNG)	138,400 per DGE	6.06 lbs.	108.98%
Hydrogen	127,000 per GGE	1 kg.	100%

()

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol.19-9, page 281](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian at (208) 334-7670.

Dated this 4th day of December, 2019.

Cynthia Adrian, Income Tax Policy Specialist
State Tax Commission
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 35-0201-1901

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized)**.

310. INTEREST RATES (RULE 310).

Sections 63-3045 and 63-3073, Idaho Code

01. In General. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year is determined in accordance with Section 63-3045, Idaho Code. The rates starting with the rate applicable at July 1, 1981, and the Internal Revenue Service Revenue Rulings, if applicable for the calculation of the rate, are listed in Subsection 310.02 of this rule. These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code.

(4-6-05)

02. Idaho Interest Rates and Applicable Revenue Rulings.

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
July 1, 1981, through December 31, 1993	12% simple interest	Not Applicable
Calendar Year 1994	7% simple interest	Revenue Ruling 93-64
Calendar Year 1995	9% simple interest	Revenue Ruling 94-61
Calendar Year 1996	8% simple interest	Revenue Ruling 95-67
Calendar Year 1997	9% simple interest	Revenue Ruling 96-49
Calendar Year 1998	8% simple interest	Revenue Ruling 97-41
Calendar Year 1999	7% simple interest	Revenue Ruling 98-50
Calendar Year 2000	8% simple interest	Revenue Ruling 99-41
Calendar Year 2001	8% simple interest	Revenue Ruling 2000-45
Calendar Year 2002	7% simple interest	Revenue Ruling 2001-49
Calendar Year 2003	5% simple interest	Revenue Ruling 2002-61
Calendar Year 2004	6% simple interest	Revenue Ruling 2003-107
Calendar Year 2005	6% simple interest	Revenue Ruling 2004-69
Calendar Year 2006	6% simple interest	Revenue Ruling 2005-57
Calendar Year 2007	7% simple interest	Revenue Ruling 2006-44
Calendar Year 2008	7% simple interest	Revenue Ruling 2007-57
Calendar Year 2009	5% simple interest	Revenue Ruling 2008-46
Calendar Year 2010	5% simple interest	Revenue Ruling 2009-29
Calendar Year 2011	4% simple interest	Revenue Ruling 2010-20
Calendar Year 2012	4% simple interest	Revenue Ruling 2011-20
Calendar Year 2013	3% simple interest	Revenue Ruling 2012-24
Calendar Year 2014	4% simple interest	Revenue Ruling 2013-18
Calendar Year 2015	4% simple interest	Revenue Ruling 2014-22
Calendar Year 2016	4% simple interest	Revenue Ruling 2015-19

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
Calendar Year 2017	3% simple interest	Revenue Ruling 2016-20
Calendar Year 2018	4% simple interest	Revenue Ruling 2017-17
Calendar Year 2019	5% simple interest	Revenue Ruling 2018-23
Calendar Year 2020	4% simple interest	Revenue Ruling 2019-20

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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.03 – RULES GOVERNING VEHICLE DEALER’S PRINCIPAL PLACE OF BUSINESS

DOCKET NO. 39-0203-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Sections 49-1608B and 49-1608F(9), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change clarifies the appropriate procedures for the Idaho Consumer Asset Recovery (ICAR) Board and Department staff when tasked with determining the outcome of claims brought forth for payout from the ICAR fund. It also defines “actual loss,” an undefined term which serves as the basis in determining payout amounts which are referenced in section 49-1608E, Idaho Code, and describes appeal procedures and judicial review.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 284-287](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Project Manager
Idaho Transportation Department
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0203-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

001. TITLE AND SCOPE.

01. Title. This rule **will be** titled IDAPA 39.02.03, "Rules Governing Vehicle Dealer's Principal Place of Business **and Claims to the Idaho Consumer Asset Recovery Fund.**" ()

02. Scope. This rule clarifies terms used in the definition of "principal place of business" and provisions regarding these terms **and payment of claims from the Idaho Consumer Asset Recovery Fund.** ()

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL PROVISIONS.

01. Physical or Electronic Records System Inspection. A vehicle dealer shall make available all books, records and files maintained at the dealership location for immediate inspection for cause or complaint, or within three (3) business days if records are stored at an approved off-site location for random compliance review by a peace officer or authorized agent of the Department. (3-29-12)

02. Title Fee Disclosure. A dealer may reflect the payment of a state-required title fee as specified by Section 49-202(2)(b), Idaho Code, however: (7-2-92)

a. The fee must be clearly identified as a "TITLE FEE"; (7-2-92)

b. The fee must be shown as the exact amount required by law; (7-2-92)

c. Any documentation fees charged must be clearly listed separately from other fees and identified to the customer as dealer document preparation fees that are subject to sales tax as part of the purchase price of the vehicle. (7-2-92)

03. Surety Bond. A valid bond in the amount required by Section 49-1608D, Idaho Code, for three (3) years after initially licensed, unless otherwise provided by code; (4-11-15)

04. Idaho Consumer Asset Recovery (ICAR) Fund. (4-11-15)

a. All licensed dealers **will** pay the annual fee as set by the Idaho Consumer Asset Recovery (ICAR) Board as required by Section 49-1608C, Idaho Code, unless otherwise provided by code. ()

b. The ICAR fund fee **will** be set by the ICAR Board annually to be effective the following January 1. Such fee shall be posted on the Department web site and all applicable forms for dealer licensing. ()

05. Liability Insurance. A valid liability insurance policy as required by Section 49-1608A, Idaho Code. (4-11-15)

06. Declared Business Hours. All licensed dealers shall declare in writing to the Department the regular business hours that their dealerships are open and when they are available to be contacted by the Department or their customers. All wholesale dealers shall declare in writing to the department the regular hours that their dealerships are open and when they are available to be contacted by the department or their customers. (3-25-16)

07. Vehicle Dealer License Suspension. Any dealer not meeting the requirements of the Vehicle Dealer Act shall be subject to suspension of an existing dealer license or refusal by the Department to issue a new dealer license. (7-2-92)

- a.** The Department's agent will give written notice of deficiencies to the dealer or applicant. (12-26-90)
- b.** At its discretion the Department may give the licensed dealership a reasonable amount of time to comply. (12-26-90)
- c.** Upon compliance, the license will be reinstated or issued. ()

101. -- 199. (RESERVED)

200. IDAHO CONSUMER ASSET RECOVERY FUND CONTROL BOARD ADMINISTRATION.

01. Quorum. A majority of the members of the Idaho Consumer Asset Recovery Control (ICAR) Board established pursuant to Section 49-1608C, Idaho Code, constitutes a quorum. A quorum is required for voting on any ICAR claims. The ICAR Board chairman presides over ICAR Board meetings. The ICAR Board operates in compliance with Idaho open meeting laws. ()

02. Voting. All members of the ICAR Board constituting the quorum are entitled to vote in consideration of any payment of a claim pursuant to Section 49-1608F, Idaho Code. ()

03. Actual Loss or Damages. As provided for in Section 49-1608E, Idaho Code, "actual loss or damages", means: The total cost to the purchaser, as set forth in a final judgement, of the loss directly resulting in a violation, by a dealer, of the provisions of Title 48, Chapter 5 or Title 49, Chapter 5 or Section 49-1418, Idaho Code; including such things as repairs, inspections and loss of resale value. The term includes the attorney fees and costs in bringing suit against the dealer, and includes pre-judgement, but not post-judgement interest. "Actual Loss or Damages" shall not include such things as treble damages, expectation damages nor consequential damages resulting from dealer fraud. ()

04. Complete and Complaint Claims. All ICAR claims will be initiated by filing the complete claim with the Idaho Transportation Department DMV Administrator. When a proper ICAR claim has been received, staff will review the claim for completeness and compliance with these rules and the provisions of Title 49, Chapter 16, Idaho Code. If the claim is complete and in compliance with statute and these rules, the ICAR Board will send notification per Section 49-1608F(5), Idaho Code, to the subject vehicle dealer with a demand that the dealer satisfy the judgement within thirty (30) days. ()

a. Should the dealer fail to satisfy the judgment within thirty (30) days of notice from the ICAR Board, staff will provide the ICAR Board and the claimant a staff-recommended amount of the claim. If the claimant agrees with the staff-recommended payment amount, the ICAR Board will issue a final order either adopting or rejecting the staff recommended claim payment amount. ()

b. Should the claimant disagree with the proposed amount to be paid on the claim, the claimant may request an administrative hearing under the provisions of Title 67, Chapter 52, Idaho Code, within 10 business days of receipt of notification. The department will appoint a qualified hearing officer to hear the claim, take testimony and review evidence; and issue findings of fact, conclusions of law and provide a recommended order. ()

c. Upon receipt of the recommended order from the hearing officer, the ICAR Board will issue a final order either adopting or rejecting the hearing officer's recommendation of the claim payment amount. ()

d. Final orders of the ICAR Board may be subject to judicial review under the provision of Title 67, Chapter 52, Idaho Code. ()

201. -- 299. (RESERVED)

300. PENALTIES.

A dealer violating this rule is subject to license suspension for a period not to exceed six (6) months. ()

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.22 – RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Sections 49-434 and 49-439, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change will clarify and update installment payment arrangements for commercial vehicle customers registering in Idaho. It also provides online methods for obtaining commercial vehicle registrations from the Department. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 288-292](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Project Manager
Idaho Transportation Department
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0222-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

010. DEFINITIONS.

- 01. Combination of Vehicles.** A tractor or truck tractor and one (1) or more trailers and/or semitrailers. (11-20-91)
- 02. Customer.** The individual or entity that is registering/permitting the vehicle. The following terms; customer, individual, company or registrant are interchangeable in this rule. (3-19-07)
- 03. Insufficient Funds (ISF).** ISF will be the abbreviation as it pertains to checks written on personal and/or business checking accounts without sufficient funds to cover the check, for payment to the department. (3-19-07)
- 04. Non-Reducible Load.** Defined in IDAPA 39.03.01, Rules Governing Definitions **Regarding Special Permits.** ()
- 05. Probable Cause.** Information sufficient to create a reasonable belief that the registrant of a motor vehicle(s) has either not paid fees due or has under reported miles traveled or has underpaid fees due. (3-19-07)
- 06. Quarterly Report.** The form for registrants to report the laden miles traveled on Idaho highways during the preceding three (3) months when transporting non-reducible vehicles/loads under annual overweight/oversize permits. (3-19-07)
- 07. Revocation of Registration.** The termination of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the Department and Idaho Code. (3-19-07)
- 08. Registrant.** A person, firm, or corporation in whose name a vehicle or vehicles are registered, with an Idaho account number assigned by the department. (3-19-07)
- 09. Road Use Fee.** The fee per mile paid for non-reducible vehicles or combinations of vehicles hauling non-reducible loads. The fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight, in addition to the registration fee. (3-19-07)
- 10. Suspension of Registration.** The temporary withdrawal of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the department and Idaho Code. (3-19-07)
- 11. Third-Party Checks.** Checks payable to one entity, and endorsed over to another entity for payment. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

101. QUARTERLY ROAD USE FEE REPORTING.

01. Quarterly Reporting Forms Issued. The department will generate an online quarterly report form for each valid annual overweight/oversize permit issued to them. Customers can choose to opt-in and receive a printed form via mail. ()

02. Use of Quarterly Reporting Form. The customer is required to report each quarter's information on the form provided online or on a Department printed copy that will be mailed on or before the due date specified on the quarterly report form, even when reporting zero (0) miles traveled. ()

a. If the customer does not receive a quarterly report form or report their information online, it is the customer's responsibility to notify the department allowing adequate time to submit the report before the due date. ()

b. Any report transmitted through the US Postal Service shall be considered filed and received by the department on the date shown by the post office cancellation mark stamped on the envelope or wrapper containing the report. A postage meter cancellation shall not be considered as a post office cancellation mark. (3-19-07)

c. If the quarterly report form due date falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next business day. (3-25-16)

d. Quarterly reports not submitted will result in the account being suspended. (3-25-16)

03. Information Required on the Quarterly Report Form. Customers must report the following: (3-19-07)

a. The number of laden miles traveled on Idaho highways when operating under an annual overweight/oversize permit with non-reducible vehicles and/or load that exceed eighty thousand (80,000) pounds and/or legal axle weights for the appropriate weight category for the quarter specified on the quarterly report form, rounded to the next full mile; and the road use fee due; and penalty, if the report is filed after the due date. (3-25-16)

b. Total amount due. (11-20-91)

c. Signature and title of company official, and date of report. All reports filed with the department must be signed by an authorized representative of the company/individual in order to be considered a valid report even if zero (0) miles are being reported. (3-25-16)

d. Address change, if different from quarterly report form. (11-20-91)

e. Customer telephone number (3-19-07)

102. -- 199. (RESERVED)

200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION. The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. (3-19-07)

01. Requirements to Participate in Installment Payments. (3-19-07)

a. Participant must sign participation contract agreement. (3-19-07)

b. Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees shall not be included. (3-19-07)

c. Only full annual registration fees shall be included in payment plan. Registrations for less than one full year shall not be included. (3-19-07)

d. Vehicles not registered within thirty (30) days after the previous year registration has expired shall

not be eligible for the installment payment option. Submitted applications for registration that have been invoiced, but not paid for, by the **last day of the registration effective month** shall not be eligible for the installment payment option. ()

e. Installment contract requirements do not provide opportunity for registrant to opt out of any remaining installment payments. The balance of the payment plan shall continue to be paid even if the truck is not being operated. (3-19-07)

f. If registrant meets the criteria in Section 300 of this rule, the prorated portion of the Idaho fee shall be credited toward the installment plan or refunded if the plan has been paid in full. (3-29-10)

g. Registrant shall not participate in installment payment plan if the registrant's account has previously been suspended as stated in Subsection 200.06 of this rule. (3-29-10)

h. The contract shall stipulate the payment periods and the installment **payment vouchers** shall stipulate the due dates of each subsequent payment. ()

i. An installment payment plan fee of fifty dollars (\$50) shall be required and collected at the time of setup for each installment payment plan created. (3-29-10)

02. Billings, Payments and Due Dates of Installment Plan. (3-19-07)

a. The department shall upon acceptance of the contract by the registrant, receive one-quarter of the annual registration fee along with the installment payment plan fee, and then shall bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are due by the end of the third, sixth, and ninth months after the effective date of the registration. (3-29-10)

b. Installment payment vouchers will be provided with the initial invoice. ()

c. US Postal Service postmark shall be used to determine if payment is received on time. If the envelope is postmarked on or before the last day of the month, the payment shall be considered "on time." (3-19-07)

d. If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date. (3-19-07)

e. **Failure to retain provided payment vouchers** does not relieve the burden of the registrant to pay the installment amount by the due date. ()

03. Failure to Pay Installment Payment by Due Date. (3-19-07)

a. The department shall send out courtesy pre-suspension notices approximately five (5) days after the due date to registrants who have failed to remit payment by the due date printed on the quarterly billing. (3-29-10)

b. The pre-suspension letter shall contain a late penalty fee of ten percent (10%) of the amount due and an additional one percent (1%) for each month or portion of a month that the payment is past due. (3-19-07)

c. Registrant shall pay installment amount portion that is due, plus assessed penalties and interest. (3-19-07)

04. Suspension of Registrant's Account Due to Non-Payment of Payment Plan. Approximately two (2) weeks after pre-suspension notices are mailed to the registrant, the department shall suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. (3-19-07)

05. Reinstatement Fee for Payment Plan Registration. (3-19-07)

a. A forty dollar (\$40) reinstatement fee shall be applied to all payment plan accounts that have been suspended. (3-19-07)

b. Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension shall be cleared from account. (3-19-07)

06. Repetitive Suspensions Result. (3-29-10)

a. After the registrant's account has been suspended for delinquent installment payments two (2) or more times, the registrant shall not be allowed to participate in future payment plan programs unless; (3-29-10)

i. Customer has twelve (12) consecutive months of no suspensions related to the account starting from the month the account is cleared; and (3-29-10)

ii. Customer requests in writing to the department to participate in future installment payment plans and will be allowed to do so. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

602. CREDIT CARD PAYMENTS.

The department will accept only Visa, Discover, American Express, or Mastercard for any fees due to or purchases from the department. ()

(BREAK IN CONTINUITY OF SECTIONS)

900. APPEAL PROCEDURE.

01. Filing of Appeal. A registrant wishing to contest a penalty or suspension of a registration or an account may file an appeal within ten (10) days of receipt of the notice. (3-19-07)

02. Delivery of Appeal. The appeal must be either hand delivered or mailed to Compliance Manager, Idaho Transportation Department, P.O. Box 7129, Boise, Idaho 83707-1129. ()

03. Delivery of Decision. A copy of the final decision in response to the request will be sent to the registrant. (3-19-07)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.42 – TEMPORARY VEHICLE REGISTRATION WHEN PROOF OF OWNERSHIP IS INSUFFICIENT

DOCKET NO. 39-0242-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change removes a requirement to sign an affidavit in the presence of the county assessor/deputy assessor. The change allows a second type of title (conditional title) to be issued when an applicant cannot meet standard titling requirements. It also removes redundant and outdated sections/language. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 293-295](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Chris Fisher, DMV Program Specialist, at (208) 334-8167.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez
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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0242-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Sections 49-501, 49-507 and 49-523, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.

01. Title. This rule is cited as IDAPA 39.02.42, *Rules Governing Conditional* Vehicle Registration When Proof of Ownership is Insufficient. ()

02. Scope. The purpose of this rule establishes conditional vehicle registration when the applicant does not have sufficient proof of ownership. This rule provides operating privileges for a specific time period and does not apply to Idaho licensed dealers, non-residents of Idaho; or owners and/or operators of non-Idaho based commercial vehicles operated in interstate commerce under the various proportional registration plans or agreements with other states of which Idaho is a participant. ()

002. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter are governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

003. -- 099. (RESERVED)

100. GENERAL PROVISIONS FOR INSUFFICIENT PROOF OF OWNERSHIP INCLUDES.

01. Vehicle Record. The vehicle for which record of ownership is unavailable; (12-26-90)

02. Title. The applicant does not have the title from the previous owner; (12-26-90)

03. Release of Interest. The previous owner of record has not released interest in the title; (12-26-90)

04. Bill of Sale. The possessor has the unreleased title but does not have a bill of sale to support transfer of ownership; (12-26-90)

05. Vehicle Identification Number. The title vehicle identification number (VIN) and the VIN on the vehicle do not match (except for obvious typographical errors); or (12-26-90)

06. Documentation for Component Part. Component parts of a homemade, reconstructed or specially constructed vehicle cannot be documented. (12-26-90)

101. -- 199. (RESERVED)

200. PROCEDURE.

01. Conditional Registration. "Registration Only" (conditional registration until titling requirements are met) may be processed for a one (1) year period without benefit of title. "Registration Only" will not be issued on vehicles with altered VINs, vehicles confirmed as stolen or vehicles where there is a recorded and unpaid lien. ()

02. Conditional Registration Procedure. “Registration Only” procedure is as follows: (12-26-90)

a. VIN Inspection: The vehicle must be inspected by an agent of the county assessor’s office or a city, county or state peace officer. The inspecting officer will verify the identification number and provide the applicant with a signed inspection form containing the vehicle description, other pertinent information and recommendations. If the VIN has been altered or is missing, the officer may ask for the assistance of a motor vehicle investigator before issuing the VIN inspection. (12-26-90)

b. Indemnifying Affidavit. The “Registration Only” applicant **will** complete an indemnifying affidavit explaining how and where the vehicle came into **the applicant’s** possession, and why proper documentation is not available. The indemnifying affidavit must be signed, and fully indemnify and save harmless the department. ()

c. Registration of the Vehicle: The vehicle **may** be registered for one (1) year. The title block of the registration document will show “Reg Only” in bold letters. The applicant must obtain adequate proof of ownership prior to the **expiration** of the registration period. The one (1) year “Registration Only” period **will** not be extended. ()

d. The county **will** hold the VIN inspection and the indemnifying affidavit in file until the applicant complies with requirements in Subsection 200.04. ()

03. Applicant Responsibility. By the **expiration** of the “Registration Only” period, the applicant must present a properly executed title and bill of sale for the vehicle or apply for a bonded **or conditional** title. ()

04. Action by the County Assessor. When the applicant has complied with Subsection 200.03, the county assessor **will pull** the VIN inspection and indemnifying affidavit from **their** file; prepare an Application for Title; and submit the application form with the title, bill of sale, indemnifying affidavit and VIN inspection for title processing. ()

05. Proof of Ownership. If the applicant cannot prove ownership within the one (1) year “Registration Only” period, no further registration (permanent or temporary) will be issued until after the title requirement is met. (12-26-90)

201. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.75 – RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

DOCKET NO. 39-0275-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change modifies language in order to simplify name structure in cases of marriage and divorce and also removes a specific requirement for the order of a hyphenated last name for the purposes of issuing driver licenses and identification cards. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 296-299](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

Dated this 20th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0275-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

200. CRITERIA.

01. Legal Name. The name on the certified original birth certificate will be used unless a name changes due to: (3-29-12)

- a.** Marriage; (5-13-91)
- b.** Divorce; or (5-13-91)
- c.** Court Order. (5-13-91)

02. Stepparents' Name. An applicant is not allowed to use a stepparent's last name, except by court order or other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (7-1-96)

03. Driver's License and Identification Card Names. The name printed on the driver's license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). An applicant may not have a driver's license and an identification card in different names. An applicant may add a middle name by providing a certified original copy of the applicant's: (3-29-12)

- a.** Birth Certificate; (3-29-12)
- b.** Court Order; or (3-29-12)
- c.** Divorce Decree. (3-29-12)

04. Designations of Names. The designations of I, II, III, etc., will become first (1st), second (2nd), third (3rd), etc., and will appear after the middle name. The designators of JR and SR (no periods allowed) will be permitted and will appear after the middle name. The JR and SR designators will be permitted only if there is proof that the other individual exists, by way of an original certified copy of a birth certificate. (7-1-96)

05. Married Applicant's Name. (3-29-12)

a. A married applicant is permitted to use **to use either their birth last name or the birth last name of their spouse** as the last name or as the middle name, or may hyphenate **their current last name with their spouse's last name** to form the last name. In no case under any of these stated options shall any applicant have more than one (1) hyphen in **their** last name. ()

b. Married applicants **may** choose to use different hyphenated **last** names. ()

c. Married applicants who choose to have the same hyphenated last name may hyphenate their **last** names **in any order**. ()

- d. Married applicants who already have hyphenated last names may: (3-29-12)
 - i. Use the hyphenated name of **their spouse or retain their own hyphenated name**; or ()
 - ii. Combine part of **their own** hyphenated name and part of the hyphenated name of **their spouse**. ()
- e. An applicant who is established in department records with a hyphenated last name due to marriage and wants to drop the first part or the second part of the hyphenated name must provide, as required by the department, the following: (3-29-12)
 - i. A certified copy of a birth certificate; and/or (3-29-12)
 - ii. A certified copy of a marriage certificate; and/or (3-29-12)
 - iii. A certified copy of a divorce decree; and/or (3-29-12)
 - iv. A certified copy of a death certificate. (3-29-12)
- 06. Divorced Applicant's Name.** A divorced applicant who wants to use **their** original **birth last** name, or a surname from a previous marriage, but does not have a divorce decree indicating the new name, is allowed to submit the following documents to the County Sheriff or the Idaho Transportation Department: ()
 - a. Original certified copy of the birth certificate showing the original **last name**; or ()
 - b. Original certified copies of the marriage certificate and the divorce decree, as evidence to change the name. (3-29-12)
- 07. Applicant's First Name.** An applicant is not allowed to change **their** first name except by court order. ()
- 08. Common Law Marriage.** Common law marriages created prior to January 1, 1996 will, for the purposes of this rule, be treated as a valid marriage. An affidavit of agreement is required, which includes: (7-1-96)
 - a. The signatures of both the husband and the wife; (5-31-91)
 - b. The date they became married under common law; and (5-13-91)
 - c. Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)
- 09. Change of Name on Record.** Once a name is established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. (3-29-12)
- 10. Titles or Nicknames.** An applicant is not allowed to use titles or nicknames. (7-1-96)
- 201. -- 299. (RESERVED)**
- 300. PROCEDURES.**
 - 01. Verification of Name.** First-time applicants for a driver's license or identification card must provide the County Sheriff's issuing office with one (1) of the following in order to verify their name: (5-13-91)
 - a. Original certified copy of the birth certificate; (7-1-96)
 - b. Court order; (5-13-91)

- c. Original certified copy of the marriage license; ()
- d. Divorce decree (if applicable); ()
- e. Driver's license from another state or country that is current or if expired, has been expired for less than five (5) years; **or** ()
- f. **A valid, unexpired passport.** ()

02. Surrendering Driver's License or Identification Card. Applicants for license or identification card renewals must surrender the previous driver's license or identification card. Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

03. Surrendering Duplicate Driver's License or Identification Cards. Applicants for duplicate drivers' licenses or identification cards must surrender the previous driver's license or identification card (if applicable). Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

04. Document Approval by the Department. Other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (5-13-91)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.76 – RULES GOVERNING DRIVER'S LICENSE RENEWAL-BY-MAIL
AND ELECTRONIC RENEWAL PROCESS

DOCKET NO. 39-0276-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Sections 49-318, 49-319, 49-2444 and Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change modifies language to offer applicants the ability to apply for a renewal or replacement driver license or identification card electronically, making it easier to do business with the Department's DMV and as a result, reduces wait times and foot traffic in county driver license offices by providing a more convenient alternative. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 300-303](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

Dated this 20th day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0276-1901

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in **red plain text (non-italicized)**.

000. LEGAL AUTHORITY.

In accordance with Sections **49-201, 49-318, 49-319(10), and 49-2444**, Idaho Code, the Idaho Transportation Board adopts the following rule to establish a process that may allow Idaho residents to renew **or replace** their drivers' licenses **and identification cards** by mail or electronically. ()

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.76, "Rules Governing Driver's License **and Identification Card** Renewal-by-Mail and Electronic Renewal **and Replacement** Processes". ()

02. Scope. The purpose of this rule is to establish standards by which drivers' licenses **and identification cards** may be renewed **or replaced** by mail or electronically for those individuals whose **Idaho credentials** are about to expire **or requires replacement due to loss or mutilation**. The renewal-by-mail and electronic systems are designed to reduce the length of waiting lines at county driver's license offices. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. CDL. Commercial Driver's License. (7-1-96)

02. Class D Driver's License. A license issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in Section 49-123, Idaho Code. (7-1-96)

03. Credential. Any physical driver license or identification card issued by the department. ()

04. Expiration Date. The date a **credential** expires. ()

05. Identification Card. A card issued in accordance with Section 49-2444, Idaho Code. ()

06. Photo License. A valid Idaho **credential** displaying a color photograph of the license holder. ()

011. ELIGIBILITY FOR RENEWAL AND REPLACEMENT.

01. Eligibility. An applicant may renew a Class D driver's license or identification card by mail or electronically in lieu of **renewing or replacing these credentials** in person. Licenses **or identification cards** renewed by mail or electronically shall only be renewed once in an eight (8) year period, and have a four-year validity period.

- ()
- 02. License Renewal.** Drivers' licenses **may** not be renewed by mail or electronically for persons who: ()
- a.** Hold a driver's license with a "J" restriction (e.g. limited to a five (5) mile driving radius of residence, driving privileges limited to one (1) or two (2) counties, cannot drive without parent for a specified time period, etc.); (7-1-96)
 - b. Hold a CDL;** ()
 - c.** Have changes in the information shown on their licenses, other than address changes; (7-1-96)
 - d.** Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (7-1-96)
 - e.** Have drivers' licenses or driving privileges which are suspended, revoked, canceled, denied, refused, or disqualified; (7-1-96)
 - f.** Are operating on department or court restricted driving permits; (7-1-96)
 - g.** Are required to provide documentation proving lawful presence in the United States; (3-29-12)
 - h.** Are not lawfully present in the United States; (3-29-12)
 - i.** Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (7-1-96)
 - j.** Already have an existing extension; (7-1-96)
 - k.** Wish to add a motorcycle endorsement; (7-1-96)
 - l.** Are under twenty-one (21) years of age **for purposes of renewal;** ()
 - m.** Are seventy (70) years of age or older **for purposes of renewal; or** ()
 - n.** **Have been expired more than one (1) year.** ()
- 03. Identification Card Renewal.** Identification cards may not be renewed by mail or electronically for persons who: ()
- a.** Have changes in the information shown on their identification cards, other than address changes; ()
 - b.** Have not been expired more than one (1) year; ()
 - c.** Are required to provide documentation proving lawful presence in the United States; ()
 - d.** Are not lawfully present in the United States; or ()
 - e.** Have a canceled or surrendered status. ()
- 04. License and Identification Card Replacement.** Any driver's license, including a CDL, or identification card may be replaced by mail or electronically as long as the credential is not expired, and there are no information changes other than address changes and the status is otherwise valid. ()

012. RENEWAL OR REPLACEMENT ELECTRONICALLY OR BY MAIL PROCEDURES.

01. Application Submission. Credential renewal-by-mail or electronic renewal or replacement applications will be processed when received by mail or electronically. Eligible persons may mail or electronically submit their renewal or replacement application to the department or the driver's license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of credential, pursuant to Sections 49-306, and 49-2444, Idaho Code. ()

02. Updating Individual Records. The county driver's license office or the department will update individual records to reflect the new expiration year, if renewed, and the issue date of the new credential, within three (3) business days after receipt of the completed application form. ()

03. If Lost or Destroyed in Mail. If an individual's credential is lost or destroyed in the mail, a written statement detailing the loss or destruction may be mailed or hand-delivered to the applicant's county of residence or completed electronically. Upon receipt of the letter, the county or the department can issue a no-charge replacement credential to the applicant. ()

04. Temporarily Residing Out-of-State. Individuals temporarily residing out-of-state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. (3-29-12)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.01 – RULES GOVERNING DEFINITIONS REGARDING SPECIAL PERMITS

DOCKET NO. 39-0301-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Section 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change defines in definitions what a disabled vehicle is, what a snowplow is, and how overhang is measured. These new definitions will add clarity for Department stakeholders and customers.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 304-308](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0301-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

010. DEFINITIONS.

- 01. Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. (7-1-19)
- 02. Administrative Cost.** The government's cost of processing, issuing and enforcing a permit. (7-1-19)
- 03. Analysis.** A mathematical study of a vehicle or combination of vehicles and the stress they cause over bridges or specific sections of highways conducted by a professional engineer. (7-1-19)
- 04. Annual.** Twelve (12) consecutive months. (7-1-19)
- 05. Automobile Transporter.** See Section 49-102, Idaho Code. (7-1-19)
- 06. Base Width.** The measurement below the eaves of a manufactured home, modular building, or office trailer. (7-1-19)
- 07. Boat Transporter.** See Section 49-103, Idaho Code. (7-1-19)
- 08. Cargo Unit.** A full truck, a semi-trailer, a full trailer, or a semi-trailer converted to a full trailer by means of a dolly or a converter gear mounting a fifth wheel. A dromedary tractor equipped with conventional fifth wheel, not stinger steered, **is** excluded from the definition of a cargo unit. ()
- 09. Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. (7-1-19)
- 10. Department.** Idaho Transportation Department. (7-1-19)
- 11. Designated Agent.** An employee or relative of the farmer. (7-1-19)
- 12. Disabled Vehicle.** A vehicle unable to complete transportation under its own power. ()
- 13. Dromedary Tractor.** See Section 49-105, Idaho Code. (7-1-19)
- 14. Economic Hardship.** The loss of a substantial amount of money caused by economic changes. (7-1-19)
- 15. Emergency Movement.** A vehicle or vehicle combination hauling a load traveling to the site of an emergency for the purpose of aiding in eliminating the emergency. (7-1-19)
- 16. Escort Vehicle.** See Pilot Vehicle. (7-1-19)
- 17. Excess Weight.** Vehicle combinations hauling reducible loads operating on any highway with total

gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) per tandem, not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code, and for the front steer axle not to exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle; whichever is less. The maximum allowable load for all other vehicle tires shall not exceed six hundred (600) pounds per inch width of tire for vehicles manufactured after July 1, 1987, or not to exceed eight hundred (800) pounds per inch width of tire for vehicles manufactured prior to that date as established by Section 49-1002, Idaho Code. (7-1-19)

18. Extra-Length. Any vehicle combination in excess of the legal limits, but not more than one hundred fifteen (115') feet as established in Section 49-1010, Idaho Code, that normally haul reducible loads. (7-1-19)

19. Extra-Ordinary Hazard. Any situation where the traveling public's safety or the capacity of the highway system is endangered. (7-1-19)

20. Farm Tractor. See Section 49-107, Idaho Code. (7-1-19)

21. Gross Vehicle Weight. See Section 49-108, Idaho Code. (7-1-19)

22. Heavily Loaded. Exceeding legal weight or hauling a load that obstructs the driver's view. (7-1-19)

23. Heavy Duty Wrecker Truck. A motor vehicle designed and used primarily for towing disabled vehicles. (7-1-19)

24. Height. The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (7-1-19)

25. Implement of Husbandry. See Section 49-110, Idaho Code. (7-1-19)

26. Incidentally Operated. See Section 49-110, Idaho Code. (7-1-19)

27. Legal. In compliance with the Idaho Code on size and weight. (7-1-19)

28. Length. The total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear, exclusive of all overhang and any appurtenances listed in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

29. Light Truck. See Section 49-121, Idaho Code. (7-1-19)

30. Longer Combination Vehicle (LCV). Any combination of a truck-tractor and two (2) or more trailers or semi-trailers that operate on the National System of Interstate and Defense Highways with a gross vehicle weight (GVW) greater than thirty-six thousand two hundred eighty-eight (36,288) kilograms (eighty thousand (80,000) pounds). (7-1-19)

31. Manufactured Home. A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, that, in the traveling mode, is eight (8') body feet or more in width or is forty (40') body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term includes any structure that meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq. Similarly constructed vehicles used permanently or temporarily for offices, advertising, sales, display or promotion of merchandise or services are included in this definition. ()

- 32. Mobile Home.** A structure similar to a manufactured home, but built to a state mobile home code that existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (7-1-19)
- 33. Modular Buildings.** A facility designed as a building or building section that is constructed to standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (7-1-19)
- 34. Non-Reducible.** Any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would: (7-1-19)
- a.** Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended; (7-1-19)
 - b.** Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or (7-1-19)
 - c.** Require more than eight (8) work hours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof of establishing the number of work hours required to dismantle the load. (7-1-19)
- 35. Off-Tracking.** The difference in the path of the first inside front wheel and of the last inside rear wheel as a vehicle negotiates a curve. (7-1-19)
- 36. Office Trailer.** See definition of Manufactured Homes. (7-1-19)
- 37. Overall Combination Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s). (7-1-19)
- 38. Overall Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s) plus any load overhang. (7-1-19)
- 39. Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 40. Overhang.** The distance from the end of the vehicle to the end of its load. ()
- 41. Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 42. Overlength.** Any load non-reducible in length being hauled or towed that is in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 43. Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 44. Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of eighty thousand (80,000) pounds and/or legal axle weights. (7-1-19)
- 45. Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 46. Pilot Vehicle.** Passenger cars or trucks equipped as specified in IDAPA 39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible." (7-1-19)
- 47. Reducible Load.** A single item or multiple items for transport that could reasonably be repositioned so that the load conforms to legal size and weight dimensions. The determination of ability to reduce the

load primarily depends on the intended disposition of the contents of the load upon delivery to its destination (i.e. made into smaller pieces). (7-1-19)

48. Single Axle. An assembly of two (2) or more wheels whose centers are in one (1) transverse vertical plane or may be included between two (2) parallel transverse planes forty (40") inches apart extending across the full width of the vehicle. (7-1-19)

49. Snowplow. A device intended for the use of removing snow or ice from road surfaces. ()

50. Special Permit. A permit issued by the Idaho Transportation Department that authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002, or 49-1010, Idaho Code. (7-1-19)

51. Steering Axle. The axle or axles on the front of a motor vehicle that are activated by the operator to directly accomplish guidance or steering of the motor vehicle and/or combination of vehicles. (7-1-19)

52. Stinger-Steered. A truck-tractor semi-trailer combination where the kingpin is located five (5) feet or more to the rear of the centroid of the rear axle(s). (7-1-19)

53. Tandem Axle. Any two (2) axles whose centers are more than forty (40") inches but not more than ninety-six (96") inches apart and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

54. Tridem Axle. Any three (3) consecutive axles whose extreme centers are not more than one hundred forty-four (144") inches apart, and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

55. Variable Load Suspension Axle. See Section 49-123, Idaho Code. (7-1-19)

56. Vocational Vehicle. A vehicle specifically designed to enable the operator to perform specific tasks none of which are primarily for the purpose of transporting loads. Cranes, loaders, scrapers, motor graders, and drill rigs are examples of vocational vehicles. (7-1-19)

57. Width. The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.05 – RULES GOVERNING SPECIAL PERMITS – OVERSIZE NON-REDUCIBLE

DOCKET NO. 39-0305-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Section 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change clarifies load allowances for standard 53 foot trailers and longer trailers for oversize non-reducible loads for drivers and carriers. Without the addition of the word “multiple” to section 70.03, the law could be read to mean that a load cannot be moved on any trailer bigger than 53’ long. In practicality, that does not work, because generators, transformers, surge tanks, etc. are moved on 70’ to 100’ long trailers due the securement needs of the load.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 309-310](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0305-1901**

**This rulemaking is being republished in its entirety.
No changes have been made to the Pending rule, however, previously made
amendments are shown in red plain text (non-italicized).**

070. GENERAL OVERSIZE LIMITATIONS.

01. Maximum Dimensions Allowed. The maximum dimensions of oversize vehicles or oversize loads depends on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. ()

02. Practical Minimum Dimension of Load. Oversize loads shall be reduced to a practical minimum dimension. Except where noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, height, or length that results in them exceeding legal overhang. Additionally, permits shall not be utilized for multiple unit loads that may be re-positioned to meet legal dimensions established in Section 49-1010, Idaho Code. (7-1-19)

03. Multiple Overwidth Loads on Single or Double Trailers. Multiple non-reducible loads may be transported on double trailer combinations not exceeding seventy-five (75') feet combination length and single trailers not exceeding fifty-three (53') feet exclusive of load overhang. ()

04. Overwidth Overhang. Overwidth loads shall distribute overhang to the sides of the trailer as evenly as possible. (7-1-19)

05. Oversize. Special permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum oversize dimensions provided such permits for multiple trips can maintain the same measure of protection to highway facilities and to the traveling public as is provided by single trip permits. (7-1-19)

a. Permits for continuous operation, oversize only. (7-1-19)

i. Permits for continuous operation shall be issued to one (1) specified power unit. The permittee may tow various units with the specified power unit, either as towaway vehicles or as trailers hauling oversize loads. Oversize loads shall be nonreducible in width, length, or height. In the case of specially constructed equipment, mounted on a towed vehicle, or if the towed vehicle is only hauling an oversize but not overweight load, the permit may be issued to the towed vehicle. (7-1-19)

ii. Maximum size of loads or vehicles transported under authority of an annual oversize for black and interstate routes shall be limited to a width of sixteen (16') feet, a height of fifteen feet six inches (15'6"), and to a combination length of one hundred ten (110') feet including load overhang. Annual oversize permits for red coded routes shall be limited to a width of twelve feet six inches (12'6"). A current Pilot/Escort Vehicle and Travel Time Requirements Map shall accompany such permits for extended operations and is considered to be a part of the permit. ()

06. Passing Lane Must Be Provided. Except for short movements in urban areas, and on routes having very low Average Daily Traffic (ADT), permits will not be issued for a load of such dimension that continuous passage of opposing traffic and frequent passing of following traffic cannot be maintained. Ten (10') feet or more of travelway should be provided for passage of traffic unless there are frequent turnouts, intersections, etc., to provide relief of accumulated traffic to the rear. (7-1-19)

07. Hazardous Travel Conditions Restrictions. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.06 – RULES GOVERNING SPECIAL PERMITS FOR EXTRA-LENGTH/EXCESS WEIGHT, UP TO 129,000 POUND VEHICLE COMBINATIONS

DOCKET NO. 39-0306-1902

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Section 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change eliminates specifically referenced colors and allows the Department to create maps that are easier to read. It also decreases the number of attachments for permit holders and removes the requirement for rule to be updated each time a route color is changed. These changes will reduce confusion and make it easier for stakeholders and customers by enabling the streamlining of documents to a single source and will eliminate the need for multiple attachments for permit carriers. There was also language modified to bring clarity to the 129,000 pound route request process.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 311-314](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0306-1901**

This rulemaking is being republished in its entirety.

No changes have been made to the Pending rule, however, previously made amendments are shown in red plain text (non-italicized).

051. – 199. (RESERVED)

200. DESIGNATED ROUTES FOR EXTRA LENGTH VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS.

In addition to the requirements listed in Sections 300 and 400, vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds, must meet the following requirements: ()

01. Brakes. All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-19)

02. Designated Routes for Vehicle Lengths. All designated state approved routes for vehicle combinations to operate at designated lengths are identified on the “Designated Extra Length Excess Weight up to 129,000 Pound Map” which is available at the Idaho Transportation Department. ()

03. Designated Routes for Vehicle Weight. All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the “Designated Extra Length Excess Weight up to 129,000 Pound Map” which is available at the Idaho Transportation Department. ()

04. Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes. Routes not currently designated to operate at up to one hundred twenty-nine thousand (129,000) pounds may be added as follows: (7-1-19)

a. Request Form Submission. The request form (ITD form number 4886) will be completed and submitted to the Idaho Transportation Department Office of the Chief Engineer by the requestor. The requestor will forward the form to the adjacent local jurisdictions. (7-1-19)

b. Request Review/Analysis Process. (7-1-19)

i. Once submitted, the request will be reviewed for completeness and the department’s analysis will be completed for engineering and safety criteria. The criteria shall include assessment of pavement and bridges to allow legal tire, axle, and gross weight limits as per Section 49-1001 and 49-1002, Idaho Code, and route off-track requirements which includes road width and curvature. Additional consideration shall be given to traffic volumes and other safety factors. (7-1-19)

ii. Once the analysis is completed, the request will be submitted to the Chief Engineer, who will report to the Idaho Transportation Board Sub-committee. (7-1-19)

iii. The Idaho Transportation Board Sub-committee will make a recommendation (approve, reject, or request additional information) to the Idaho Transportation Board based upon the Department's analysis. ()

iv. If the Idaho Transportation Board recommends approval or denial, it shall instruct the Chief Engineer to issue a letter of determination. An adverse person may contest the letter of determination and request a

hearing. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. ()

v. The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. (7-1-19)

vi. The Department will notify the requestor of the Chief Engineer’s Preliminary Order and post to the Idaho Transportation Department Web site. (7-1-19)

vii. An appeal of the Preliminary Order may be made pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. The appeal shall be made to the Director of the Idaho Transportation Department. (7-1-19)

c. Local Highways Approved for Travel Up to 129,000 Pounds. Local routes will be added or removed on the “Designated Routes Up to 129,000 Pound Map” when information and approval is provided to the Department by the local jurisdiction having authority over the local route. (7-1-19)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.49 – RULES GOVERNING IGNITION INTERLOCK BREATH ALCOHOL DEVICES

DOCKET NO. 39-0349-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Sections 18-8008, 18-8010 and 19-3506, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule change is a direct result of the passage of [HB78aa,aaS](#) passed during the 2019 legislative session. This rule change requires the addition of a camera to accompany all ignition interlock devices as well as provides for a diversion program coordinated and run by county prosecuting attorneys. The prosecuting attorney, diversion program administrator or its designee were added as contacts for receiving documentation and notifications. The changes made were driven by industry stakeholders in an effort to create consistency within the industry and among other states.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 273-281](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Amy Smith, DMV Business Analyst, at (208) 334-8708.

Dated this 21st day of November, 2019.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 39-0349-1901

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in this pending rule in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized)**.

001. TITLE AND SCOPE.

The rule is titled IDAPA 39.03.49, "Rules Governing Ignition Interlock Devices," and the purpose of this rule is to establish regulations for certification, installation, repair and removal of ignition interlock breath alcohol devices. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Alcohol. The generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purpose of Ignition Interlock Devices, **all devices will be specific for ethyl alcohol.** ()

02. Breath Alcohol Concentration (BAC). The weight amount of alcohol contained in a unit volume of breath, measured in grams Ethanol/two hundred ten (210) liters of breath. (12-26-90)

03. Court (Or Originating Court). The particular Idaho state court that has required the use of an ignition interlock device by a particular individual. ()

04. Certification. The approval process required by the Idaho Transportation Department. (12-26-90)

05. Department. The Idaho Transportation Department. (7-1-96)

06. Device. An ignition interlock device. ()

07. Diversion Program Administer or Designee. The prosecuting attorney or an individual or business appointed by a prosecuting attorney of any Idaho county, to administer the diversion program established by the prosecuting attorney on their behalf. ()

08. Ignition Interlock Device. An instrument designed to measure the BrAC of an individual *equipped with a camera* and which prevents a motorized vehicle from starting when the BrAC *is greater than or equal to point zero two five (.025)*. ()

09. Independent Testing Laboratory. A laboratory facility that is not subject to the control of the manufacturer *or the manufacturer's representative*. ()

10. Interlock. The state in which a motor vehicle is prevented from starting by a device. (12-26-90)

11. Lessee. The person ordered by a court to drive only vehicles that have certified devices installed. (12-26-90)

12. Manufacturer. The person, *or organization responsible for the design, construction and production of* the device. ()

13. Manufacturer's Representative. *A company or corporation registered as a business with the Idaho*

Secretary of State who is designated by the manufacturer to sell, rent or lease a specific device in the State of Idaho and provide installation, maintenance and removal of the device through the operation of service centers. ()

14. Circumvention. *To bypass the correct operation of a device by starting the motor vehicle or operating the motor vehicle by any means without first providing a breath test. ()*

15. Tampering. *An attempt to disable, adjust, or otherwise alter the proper operation of a device or camera. "Tampering" does not include disconnecting the handset once the vehicle is turned off. ()*

16. Ignition Interlock Waiver Liability. *If a court grants a driver relief from the requirement of adding an ignition interlock device under the provisions of either Sections 18-8002A, 18-8002 or 18-8008, Idaho Code, the waiver will cover both ignition interlock requirements from the criminal charges and from the civil administrative license suspension. When the Department receives a court order granting the waiver of an ignition interlock requirement, the Department shall not be liable for complying with the court's order, and no cause of action will accrue against the Department for not enforcing the ignition interlock requirement in the civil administrative license suspension under Section 18-8002A, Idaho Code. ()*

011. -- 099. (RESERVED)

100. CERTIFICATION PROCESS.

01. Equipment Standards. *A device must be produced by a manufacturer who maintains certification to the current International Organization for Standardization (ISO) 9001 Quality Management Systems for aspects related to the design, maintenance and distribution of the device. Written documentation demonstrating compliance with this requirement shall be submitted to the Department by the manufacturer on an annual basis. Additionally, a device must meet or exceed the National Highway Traffic Safety Administration's (NHTSA) model specifications for breath alcohol ignition interlock devices (BAIDs) as published in the Federal Register/Vol. 78, No. 89/Wednesday, May 8, 2013 and are subject to subsequent standards published by NHTSA. Written documentation from an independent testing laboratory that is an International Organization for Standardization (ISO) 17025 certified testing laboratory performing the tests as specified, will be accepted as proof of meeting or exceeding the NHTSA Model Specifications for BAIDs. The documentation from the ISO 17025 certified testing laboratory shall include: the name, physical location, mailing address and phone number of the testing laboratory; a description of the tests performed; copies of the data and results of the testing procedures; and the name of the device being submitted for approval. ()*

a. *A manufacturer must report in writing to the Department a material device modification if there is a material change affecting the customer functionality, customer communication or accuracy of the device. Upon written receipt of a material device modification, the Department within thirty (30) days will determine whether written documentation from an independent testing laboratory that is ISO 17025 accredited will be required prior to implementing device usage in Idaho. ()*

b. *Devices that were certified under less stringent IDAPA rules governing BAID devices or previous model specifications as published in the Federal Register will be grandfathered for use in the state for a period no longer than one hundred eighty (180) days from the effective date of the most recent published device specifications at which time the Letter of Certification for the device will be revoked pursuant to Subsection 100.05 of these rules, and removed in accordance with Subsection 100.07 of these rules. ()*

02. Proof of Insurance. *The manufacturer shall annually provide to the Department proof of insurance with minimum liability limits of one million dollars (\$1,000,000) per occurrence, with three million dollars (\$3,000,000) aggregate total. The liability covered shall include defects in product design and materials, as well as workmanship during manufacture, calibration, installation and removal. The proof of insurance shall include a statement from the insurance carrier that thirty (30) days' notice shall be given to the Idaho Transportation Department prior to cancellation. ()*

03. Hold Harmless. *The manufacturer shall provide to the Department a notarized statement that the manufacturer will be totally responsible for product liability and will indemnify the following from any liability resulting from the device or its installation or use: ()*

- a. The state of Idaho; and (7-1-96)
- b. The court that ordered the installation of the device. (7-1-96)
- c. The county, its employees and designees administering the program. (7-1-96)

04. Manufacturer's Reporting Requirements. The manufacturer shall provide the Department a description of its installation and monitoring procedures, maintenance technician training program, and set of criteria for monitoring and reporting offenders. (7-1-96)

05. Criteria for Certification and/or Revocation. Upon receipt of *the required documentation from the Manufacturer as set forth in Subsections 100.01 through 100.04 of these rules* the Department shall issue a Letter of Certification for the device. The Letter of Certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the Department for cause. Reasons for revocation include, but are not limited to:

- ()
- a. Evidence of repeated device failures due to gross defects in design, materials and/or workmanship during manufacture, installation or calibration of the device; (12-26-90)
- b. Notice of cancellation of manufacturer's liability insurance is received; or (12-26-90)
- c. Notification that the manufacturer is no longer in business. (12-26-90)
- d. Voluntary request of the manufacturer to remove a device from the certified list; (7-1-96)
- e. Any other reasonable cause to believe the device was inaccurately represented to meet the performance standards; or (7-1-96)
- f. Failure to submit required reports to the Department. (7-1-96)

06. Notice of Revocation. Unless necessary for the immediate good and welfare of the public, revocation shall be effective *twenty-one (21)* days after manufacturer's receipt of notice, which shall be sent via certified mail, return receipt requested. A copy of each Notice of Revocation *and final outcome* shall be provided to all originating courts or their designees and lessees utilizing the revoked device with notice to contact the manufacturer for a replacement. ()

07. Removal of Revoked Devices. Upon revocation or voluntary surrender of a certified device, a manufacturer shall be responsible for removal of all like devices from lessees' vehicles. (7-1-96)

a. A manufacturer *will* be responsible for any costs connected with removal of their revoked devices from lessees' vehicles and the installation of certified replacement devices. ()

b. The manufacturer must obtain and maintain a bond in the amount of thirty-five thousand dollars (\$35,000). The bond shall inure to the benefit of the State of Idaho and shall be used to reimburse expenses related to the device services incurred by any lessee who is required to equip a vehicle with a device by the State of Idaho because a manufacturer's certification is being refused, suspended, or revoked. The bond must include the following: ()

- i. The bond must be issued by a corporate surety licensed to do business within the State of Idaho;* ()
- ii. The surety shall have the ability to cancel the bond and give notice that the bond is cancelled for any reason and shall continue to be liable under the bond until the commissioner of public safety receives notice;* ()
- iii. The bond must be executed to the State of Idaho; and()*

iv. The original bond must be filed and held in the Department's office. ()

08. Right to Appeal. Upon voluntary surrender, *written notice of* or revocation of a Letter of Certification for a manufacturer's device, manufacturers may request a review of *the* revocation. Such request shall be submitted to the Department, in writing, within twenty (20) days of *receiving the written notice of* revocation. ()

09. Repository for Letter of Certification. The Department shall maintain a file of all existing Letters of Certification. ()

101. -- 199. (RESERVED)

200. INSTALLATION STANDARDS.

01. Installer. Device must be installed by a manufacturer or *manufacturer's* representative. ()

02. Unauthorized Persons. Lessees or other unauthorized persons shall not be allowed to watch the installation *or removal* of the device. ()

03. Security. Adequate security measures must be taken to prevent unauthorized persons from accessing secured materials (tamper seals, installation instructions, etc.) (12-26-90)

04. Installation Instructions. Each manufacturer shall develop written instructions for installation of *its* device(s). ()

05. Vehicle Condition Screen. The installer must screen vehicles for acceptable mechanical and electrical condition, in accordance with the device manufacturer's instructions. (12-26-90)

06. Mandatory Vehicle Maintenance. Conditions that would interfere with the function of the device, (e.g. low battery or alternator voltage, stalling frequent enough to require additional breath tests, etc.) must be corrected to an acceptable level. (12-26-90)

07. Installation Standards. Installations must be made in a workmanlike manner, within accordance to accepted trade standards, and according to the instructions provided by the manufacturer. (12-26-90)

08. Device Removal Standards. When a device is removed, the vehicle must be reasonably restored to its original condition. All severed wires must be permanently reconnected and insulated with heat shrink tubing or its equivalent. ()

201. -- 299. (RESERVED)

300. DEVICE MAINTENANCE AND REPORTS.

01. Device Examination Schedule. Each lessee shall have the device examined by a manufacturer or *manufacturer's* representative for correct calibration and evidence of tampering every sixty (60) days, or more often as may be ordered by the originating court, or less frequently, as may be ordered by the originating court. ()

02. Report of Examination. A report on the results of each check shall be provided to the trial court administrator or designee of the originating court. The report shall reflect what adjustments, if any, were necessary in the calibration of the device, any evidence of tampering *or circumvention*, and any other available information the originating court may order. ()

03. Corrective Action Report. *Upon request of the originating court, diversion program administrator or their designee* complaints by the lessee shall be accompanied by a statement of the actions taken to correct the problem(s). Reports of the problem(s) and action(s) taken shall be submitted to the originating court or its designee within three (3) business days. ()

04. Additional Report. *Upon request, an additional report will* be provided to the Department on a quarterly basis summarizing all periodic checks ordered by the originating court and all complaints received by the manufacturer from the lessee for each model or type of certified device. These reports shall be categorized by:

- a. Customer error of operation. (12-26-90)
- b. Faulty automotive equipment other than the device. (12-26-90)
- c. Apparent misuse or attempts to circumvent the device, causing damage. (12-26-90)
- d. Device failure due to material defect, design defect, workmanship errors in construction, installation or calibration. (12-26-90)

301. DEVICE SECURITY.

01. Tampering or Circumvention Precaution. The manufacturer shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. ()

02. Device Identification. Each device shall be uniquely serial numbered. All reports to the trial court administrator or designee of an originating court concerning a particular device shall include the name and address of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)

03. Warning Label. The manufacturer shall provide a label containing a notice (at least ten (10) point boldface type) on each certified device *which is visible to the lessee at all times* reading: WARNING: ANY PERSON TAMPERING, CIRCUMVENTING, OR OTHERWISE MISUSING THIS DEVICE MAY BE SUBJECTED TO CRIMINAL SANCTIONS. (Section 18-8009, Idaho Code) ()

04. Physical Anti-Tamper Security. (7-1-96)

a. Use unique, easily identifiable wire, covering or sheathing over all wires used to install the device, which are not inside a secured enclosure. (12-26-90)

b. Make all connections to the vehicle under the dash or in an inconspicuous area of the vehicle. (12-26-90)

c. Use unique, easily identifiable tamper seal, epoxy or resin at all openings *and exposed electrical connections for the device* (except breath or exhaust ports). ()

05. Personnel Requirements. Devices must be installed, inspected, tested and maintained by a qualified manufacturer or *manufacturer's* representative. ()

a. Installers must have the training and skills necessary to install, troubleshoot and check for proper operation of the device, and to screen the vehicle for acceptable *operating* conditions. ()

b. *Installers* whose functions and duties include installing, calibrating, performing tamper *and circumventions* inspections and reporting duties, should not have been convicted of a crime substantially related to the convicted lessee's violation. This includes, persons convicted of: Driving under the influence (DUI) within the last five (5) years; more than one (1) DUI overall; probation violation; and perjury. ()

c. For the purposes of this section, "convicted" shall include entering a plea of guilty, nolo contendere, or to have been found guilty or been given a withheld judgment. (12-26-90)

302. -- 399. (RESERVED)

400. MANDATORY OPERATIONAL FEATURES.

Notwithstanding other provisions of this rule, a certified device must comply with the following: (12-26-90)

01. Device Setpoint. The setpoint of each device to interlock when the breath sample is provided *point zero two five (.025) or greater (Section 18-8008(2), Idaho Code)*. The capability to change this setting shall be made secure, by the manufacturer, to prevent unauthorized adjustment of the device. ()

02. Camera. *Every device currently installed in a vehicle must be equipped with a camera that is not located inside the handset and is mounted to the vehicle in such a way to capture a reference photo at the time of installation and a digital image of the driver sitting in the driver's compartment when a breath sample is submitted, refused, or the device is circumvented. The device must store all data, including the image, time, date, and BrAC of the accepted breath sample each time the individual attempts to use the device.* ()

a. *The device camera must function in all lighting conditions.* ()

b. *All images and data collected between calibration periods must be stored in the device's data storage system and be downloadable at the time of calibration by the device manufacturer or manufacturer's representative in order to ensure proper record maintenance.* ()

401. OTHER PROVISIONS.

Notwithstanding other provisions of this rule, each manufacturer of a certified device: (12-26-90)

01. Repair Deadline. Shall guarantee repair or replacement of a defective device within the state of Idaho within a maximum of forty-eight (48) hours of receipt of complaint. (12-26-90)

02. Statement of Charges. *The manufacturer or the manufacturer's representative will* provide the originating court, **diversion program administrator** or its designee, and the lessee a statement of *all device* charges clearly specifying warranty details, purchased cost, and/or monthly lease amount, any additional charges anticipated for routine calibration and service checks, what items (if any) are provided without charge, and under what conditions a lessee is responsible for payment for service calls and/or damage to the device. ()

03. Notice of Installation. Upon installation of each device, the manufacturer or its representative will provide the trial court administrator, **diversion program administrator** or designee of the originating court with a notice of installation that includes the name, address and telephone number of the lessee, the originating court's file number, and the unique number of the device. ()

04. Nationwide Service Center Locations. *Prior to installation, the manufacturer or manufacturer's representative will* provide *the following* to all lessees: ()

a. A list of all calibration/service locations in the continental United States. The list *will* include the business name, address and telephone number of all locations. ()

b. A twenty-four (24) hour telephone number to call for service support for those who may be traveling outside service areas. (12-26-90)

05. Statewide Service Center Locations. *Prior to installation, the manufacturer or the manufacturer's representative will* provide *the following* to all lessees: ()

a. A list of all calibration/service locations in the state of Idaho. The list *will* include the business name, address and telephone number of all locations. ()

b. *Will* notify the Department of the location, including address, phone number and contact person, of each *service center* in Idaho. ()

06. Removal of Device. *The manufacturer or manufacturer's representative will* advise the originating court, **diversion program administrator** or its designee prior to removing the device under circumstances other than: ()

a. Completion of sentence or other terms of a court order. (12-26-90)

- b. Immediate device repair needs. (12-26-90)

09. Substitute Device. Whenever a device is removed for repair and cannot immediately be reinstalled, a substitute device shall be utilized. Under no circumstances shall a lessee's vehicle be permitted to be driven without a required device. (12-26-90)

402. REMOVAL PROCEDURES.

When so notified in writing by the originating court, the manufacturer *or the manufacturer's representative* shall remove the device and return the vehicle to normal operating condition. A final report, which includes a summary of all fees paid by the lessee over the life of the contract, shall be forwarded to the originating court, **diversion program administrator** or its designee and the Department. ()

403. -- 499. (RESERVED)

500. PRIMARY RESPONSIBILITIES OF AGENCIES/OFFICES MONITORING THIS RULE.

Listed below are some of the primary responsibilities of the indicated offices/agencies, as outlined in this rule. (12-26-90)

01. Testing Lab. (12-26-90)

- a. Test devices for minimum standards. (12-26-90)
- b. Submit notarized statement and copy of the Certification Test Report to manufacturer. (7-1-96)
- c. Keep log of test results. (12-26-90)

02. Manufacturer *or Manufacturer's Representative.* ()

- a. Submit device to lab for testing. (12-26-90)
- b. Install, maintain and remove device as required by court. (12-26-90)
- c. Set interlock level as established by *Idaho Code.* ()
- d. Submit quarterly (or more frequent) maintenance reports to originating court or its designee. (7-1-96)
- e. *Upon request,* submit quarterly reports to **the** Department summarizing periodic device examinations and all complaints received. ()
- f. Provide court, **diversion program administrator or its designee, or** lessee and Department with statement of charges and/or any additional fees. ()
- g. Provide lessee with service and repair information. (12-26-90)
- h. Provide **the** Department with proof of insurance annually. ()
- i. Report any attempt to disconnect any device to originating court, **diversion program administrator** or its designee. ()
- j. Advise court, **diversion program administrator** or its designee before removing any device unless authorized or in need of immediate repair. ()

03. Idaho Transportation Department. (12-26-90)

- a. Maintain a list of known calibration/service locations in the state. (7-1-96)

- b. Issue Letter of Certification for each device model to manufacturer. ()
- c. When necessary, revoke Letter of Certification. ()
- d. Maintain file of all letters. (12-26-90)
- e. Maintain file of statement of charges (by device model). (12-26-90)
- f. Maintain proof of insurance. (12-26-90)
- 04. Court.** (12-26-90)
 - a. The judge or prosecuting attorney as the diversion program administrator or their designee will order device installation, maintenance and removal. ()
 - b. The trial court administrator, diversion program administrator or their designee of the originating court will receive maintenance reports on each device installed pursuant to court order. ()
 - c. The trial court administrator, diversion program administrator or their designee of the originating court will receive *an itemized* statement of charges. ()
 - d. The trial court administrator, diversion program administrator or their designee of the originating court will receive manufacturer's reports of attempts to disconnect any device. ()
 - e. The trial court administrator or diversion program administrator or their designee will receive reports and a declaration from the lessee's ignition interlock vendor, on a form provided or approved by the diversion program administrator or their designee, certifying that none of the following incidents occurred while the system was installed in the lessee's vehicle(s): ()
 - i. Attempt to start vehicle with a BAC of *zero point zero four (0.04)* or more; ()
 - ii. Failure of the lessee to take any random test; or ()
 - iii. Failure of the lessee to pass any random retest with a BAC of *zero point zero two five (0.025)* or lower. ()
 - iv. Failure of the lessee to appear when required at vendor's place of business for maintenance, repair, calibration, monitoring, inspection or replacement of the system. ()
- 05. Lessee.** (12-26-90)
 - a. Have device installed and maintained as ordered by court. (7-1-96)
 - b. Receive *itemized* statement of charges and remit fees as scheduled. ()
 - c. Receive and comply with guidelines regarding repairing and maintaining the vehicle in good working order. (7-1-96)
- 501. -- 999. (RESERVED)**

IDAPA 40 – IDAHO COMMISSION ON THE ARTS
40.01.01 – RULES OF THE IDAHO COMMISSION ON THE ARTS
DOCKET NO. 40-0101-1901
NOTICE OF RULEMAKING – VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 67-5605, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

This proposed rulemaking has been combined with the rulemaking in Docket No. 40-0101-1900 as the efforts of the Board of Commissioners to simplify the rules under the Red Tape Reduction Act were duplicative.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Michael Faison, Executive Director, at (208) 488-7504 or at michael.faison@arts.idaho.gov.

Dated this 15th day of November, 2019.

Michael Faison, Executive Director
Idaho Commission on the Arts
2410 Old Penitentiary Road
P.O. Box 83720 Boise, ID 83720-0008
Phone: (208) 488-7504
Fax: (208) 334-2488
Email: michael.faison@arts.idaho.gov

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

DOCKET NO. 55-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-101, 33-105, 33-107, 33-1002G, 33-1629, 33-2202, 33-2207, and 33-2211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 55, rules of the Division of Career Technical Education:

IDAPA 55

- 55.01.03, *Rules of Career Technical Schools*
- 55.01.04, *Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-up Grants*

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, [Vol. 19-6SE, pages 6683-6694](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

Tracie Bent
Chief Planning and Policy Officer
Office of the State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Phone: (208) 332-1582
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**IDAPA 55
TITLE 01
CHAPTER 03**

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL SCHOOLS

000. LEGAL AUTHORITY.

The State Board of Education is designated as the State Board for Career Technical Education and is responsible to execute the laws of the state of Idaho relative to career technical education, administer state and federal funds, and through the administrator of the State Division of Career Technical Education, coordinate all efforts in career technical education (Section 33-2202 through 33-2212, Idaho Code). (3-30-01)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 55.01.03, “Rules of Career Technical Schools.” (3-30-01)

02. Scope. These rules serve the administration of Career Technical Education in Idaho and define the duties of the State Division of Career Technical Education. (3-30-01)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules, if any, are on file at the office of the State Division of Career Technical Education. (3-30-01)

003. ADMINISTRATIVE APPEALS.

All appeals under these rules will be conducted pursuant to the procedures set forth by the State Board of Career Technical Education. (3-30-01)

004. (RESERVED)

005. DEFINITIONS.

01. Administrator. A designated school administrator, holding a career technical administrator certificate pursuant to IDAPA 08.02.02, “Rules Governing Uniformity,” Section 015, and who oversees and monitors the career technical school programs and is responsible for ensuring the school meets all applicable federal, state, and local school district regulations, rules, and policies. (3-28-18)

02. Attendance Zones. For purposes of Section 33-1002G, Idaho Code, each high school is classified as an attendance zone. The attendance zone requirement can be met by having students from at least two (2) high school zones within a district or at least two (2) high school zones in different districts participate in the career technical school. A minimum of fifteen percent (15%) of the total student body must reside in attendance zones apart from the attendance zone of the majority of students. Cooperative Service Agencies must meet the fifteen percent (15%) attendance criteria on a program-by-program basis. (3-30-01)

03. Capstone Course. A culminating course that requires students to demonstrate the knowledge and skills learned throughout their program of study. (3-28-18)

04. Career Technical Schools. Schools designed to provide high-end, state-of-the-art technical programs that foster quality technical education through intermediate and capstone courses. Programs and services are directly related to the preparation of high school students for employment in current or emerging occupations that require other than a baccalaureate or advanced degree. These schools are closely linked to postsecondary education, thereby avoiding redundancy and maintaining rigor. They are also closely linked to current business and industry standards to ensure relevance and quality. (3-28-18)

05. Field Experience. Paid or unpaid work experience such as business/industry internship, clinical

experience, supervised occupational experience, job placement, school-based enterprise, or similar work experience setting. The field experience must be of sufficient duration and depth to add to the technical competencies of the student. (3-30-01)

006. -- 099. (RESERVED)

100. STATEMENT OF PURPOSE.

The purpose of this rule is to clearly define general implementation criteria, the criteria for approval for funding, the added cost unit calculation, the procedure to follow in calculating average daily attendance (ADA), the process to follow for fund distribution, and program accountability for Idaho Career Technical Schools. (3-30-01)

101. CAREER TECHNICAL SCHOOL GENERAL APPROVAL CRITERIA.

For approval, applying career technical school's district must meet at least four (4) of the five (5) criteria listed in Section 33-1002G, Idaho Code. Approval criteria: (3-28-18)

01. High School Attendance Zones. Two (2) or more high school attendance zones. (3-30-01)

02. Dual Credit. (3-30-01)

03. Field Experience. (3-30-01)

04. Funded as a Separate School. (3-30-01)

05. Separate Site or Cooperative Service Agency. Located at a separate site or approved by the State Board of Education as a cooperative service agency. (3-30-01)

102. CAREER TECHNICAL COMPONENT CRITERIA.

01. Program Criteria. Career technical schools are intended to deliver high-end technical education programs that go beyond the scope of traditional career technical education. The lab should be appropriately designed for the type of program and the number of students enrolled. The program should have state-of-the-art equipment, current technology and strong links to business and industry. (3-30-01)

02. Career Technical School Program. Each program of a career technical school shall: (3-30-01)

a. Deliver a sequence of career technical education courses that culminate in a capstone course. (3-28-18)

b. Meet all of the required technical competency credit standards established by the state board of education. (3-28-18)

c. Develop and maintain business and industry partnerships in addition to the technical advisory committee. (3-28-18)

d. Implement instructional delivery methods that integrate advances in industry technologies. (3-28-18)

e. Employ instructors who hold career technical certification to teach the occupation and who also hold a related industry-based credential, or equivalent credential, as approved by the Division of Career Technical Education. (3-28-18)

f. Be delivered over a term of not less than five (5) semesters, or the equivalent instructional hours. Semester and trimester equivalencies will be approved by the Division of Career Technical Education. (3-28-18)

g. Enroll students from at least two (2) high schools. No single high school will comprise more than eighty-five percent (85%) of the total enrolled career technical school students. In the event a student enrolled in the career technical school is not enrolled in a high school, that student will be reported separately, based on the high

school attendance zone where the student resides. (3-28-18)

- h.** Promote the development of leadership. (3-28-18)

103. APPLICATION PROCESS.

Applications for career technical school funding must be received by the Division of Career Technical Education on or before the first Friday in July for the following fiscal year. (3-30-01)

104. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUNDING AND ELIGIBILITY.

Section 33-1002G, Idaho Code, provides school districts an opportunity to establish career technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of career technical schools. The funds are appropriated to the State Board for Career Technical Education to be expended by the Division of Career Technical Education. Funding is based on the average daily attendance (ADA) of students enrolled in the career technical school. If any approved program within a career technical school does not enroll students from more than one (1) high school during the reporting period, the enrolled students may not be counted as part of the school's average daily attendance for that reporting period. If the overall enrollment exceeds more than eighty-five percent (85%) of students from any single high school during the school year, the Division of Career Technical Education may withhold all or part of the career technical school's funding. (3-28-18)

105. CAREER TECHNICAL SCHOOL AVERAGE DAILY ATTENDANCE.

The Division of Career Technical Education shall use the enrollment and attendance submitted to the Division of Career Technical Education by the school district to calculate career technical school average daily attendance (ADA) in accordance with applicable laws and rules (Section 33-1002, Idaho Code). Students in attendance at a qualifying career technical school shall be reported as aggregate hours and/or aggregate attendance. The aggregate hours and aggregate attendance will be combined to calculate the ADA for the career technical school. (3-28-18)

01. Aggregate Hours. The daily hours of all students enrolled in approved intermediate and capstone courses who attend less than two and one-half (2.5) hours per day shall be added together and reported as weekly aggregate hours. (3-28-18)

02. Aggregate Attendance. Students enrolled in approved intermediate and capstone courses who attend more than two and one-half (2.5) hours per day are to be reported as aggregate attendance. (3-28-18)

106. CAREER TECHNICAL SCHOOL ADDED COST UNIT CALCULATION.

The Division of Career Technical Education shall use the career technical school average daily attendance (ADA) as the basis for added cost unit funding. (3-30-01)

01. State Support Unit Value. The added cost support unit value shall be based on state salary-based apportionment, state paid employee benefits (less state unemployment), base support, and safe environment distribution factors found in the Public School Support Program. (3-30-01)

02. Support Unit Divisor. Added cost support units for career technical schools shall be calculated by using the secondary support unit attendance divisor of eighteen and one-half (18.5) as shown in Section 33-1002(6), Idaho Code. (3-30-01)

03. Added Cost Support Factor. The added cost support factor for career technical schools shall be calculated by multiplying point thirty-three (.33) times the added cost support units generated in the career technical school. (3-30-01)

04. Estimated Distribution. The estimated distribution shall be calculated by multiplying the state support unit value by the added cost support factor. (3-28-18)

107. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUND DISTRIBUTION.

Once the career technical appropriation is made, the per unit value will be determined by dividing the total units into the appropriation. (3-30-01)

- 01. Payment Distribution.** Added cost support unit funds shall be distributed by the Division of

Career Technical Education in two (2) payments: (3-30-01)

a. Seventy percent (70%) of the total estimated funds for which career technical schools are eligible shall be distributed each year following receipt of first-period attendance data from the approved career technical schools. Funding will not be distributed until reports have been received and approved by the Division of Career Technical Education from each approved schools. (3-28-18)

b. Based on actual support units generated during the year, the balance shall be distributed each year by July 15th. (3-30-01)

108. ACCOUNTABILITY.

01. Assessment Process. The Division of Career Technical Education shall develop an assessment process that includes measures and standards for career technical school programs. (3-30-01)

02. Reporting. No later than October 15 of each year, career technical schools will submit a report to the Division of Career Technical Education, detailing their enrollment at the program level by high school. (3-28-18)

03. Administrator Responsibility. The administrator of each career technical school shall be responsible to provide onsite administration of the career technical school. The administrator will submit all required career technical school reports requested by the Division of Career Technical Education. (3-28-18)

04. Accreditation. Each career technical school shall be accredited following Department of Education guidelines. This accreditation shall be appropriate for the individual type of career technical school that is developed. (3-30-01)

05. School Improvement Plan. The administration, faculty and staff at each career technical school shall be responsible to develop and implement a local school improvement plan based on the assessment process developed by the Division of Career Technical Education. (3-28-18)

109. -- 999. (RESERVED)

**IDAPA 55
TITLE 01
CHAPTER 04**

**55.01.04 – RULES GOVERNING IDAHO QUALITY PROGRAM STANDARDS INCENTIVE GRANTS
AND AGRICULTURAL EDUCATION PROGRAM START-UP GRANTS**

000. LEGAL AUTHORITY.

This chapter is adopted under authority of Section 33-1629, Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 55.01.04, “Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-Up Grants.” (4-11-15)

02. Scope. These rules shall govern the standards and procedures for application to the Idaho Quality Program Standards Incentive Grants and the Agricultural Education Program Start-up Grants as administered by the Idaho Division of Career Technical Education. (4-11-15)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rule of this chapter will be made available at the Idaho Division of Career Technical Education. (4-11-15)

003. ADMINISTRATIVE APPEALS.

All appeals under these rules shall be conducted pursuant to the procedures outlined herein. (4-11-15)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (4-11-15)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Division of Career Technical Education are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (4-11-15)

02. Street Address. The offices of the Division are located at 650 W. State Street, Boise, Idaho. (4-11-15)

03. Mailing Address. The mailing address of the Division is P.O. Box 83720, Boise, ID 83720-0095. (4-11-15)

04. Telephone Number. The telephone number of the Division is (208) 334-3216. (4-11-15)

05. Facsimile. The facsimile number of the Division is (208) 334-2365. (4-11-15)

06. Website. The website of the Division is <https://cte.idaho.gov/>. (4-11-15)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-11-15)

007. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

01. Administrator. The administrator for the Division of Career Technical Education. (4-11-15)

02. Agricultural and Natural Resources Program. A program approved by the Division of Career Technical Education that is a standards-based curriculum in agriculture, food and natural resources systems delivered through an integrated model that incorporates classroom and laboratory instruction, experiential learning and student

leadership and personal development. (4-11-15)

03. Board. The State Board for Career Technical Education. (4-11-15)

04. Division. The Division of Career Technical Education. (4-11-15)

05. FTE. Full Time Equivalent employee. (4-11-15)

06. School District or District. A public school district or a charter school authorized by the Public Charter School Commission or school district. (4-11-15)

011. -- 099. (RESERVED)

100. INCENTIVE GRANT.

01. Eligibility Requirements. Eligible applicants must meet quality program and instructor requirements as approved by the board. Applicants may re-apply each year regardless of whether they have received a previous grant award. (4-11-15)

a. An agricultural and natural resources program in any grade nine (9) through twelve (12) must first meet the minimum program-specific quality program standards as approved by the board. (4-11-15)

b. Programs will be rated on a scale consisting of “non-existent,” “below basic,” “basic,” “qualified,” “distinguished,” and “exemplary.” Eligibility requires that the program must meet each of the program quality indicators at the level of “basic” or higher. Programs must also have an overall average rating of no less than “distinguished” for all program-specific quality standards. This average will be calculated using the quality indicators within each standard. Programs that do not meet the minimum quality standards requirements in one (1) year may be found eligible in subsequent year. Programs will be assessed by the division. (4-11-15)

c. Instructors must teach in an agricultural and natural resources program that meets the quality program standards and must also meet the instructor-specific quality program standard as approved by the board. (4-11-15)

d. Instructors will be rated on a scale consisting of “non-existent,” “below basic,” “basic,” “qualified,” “distinguished,” and “exemplary.” Eligibility requires that the instructor must meet each of the program quality indicators at the level of “basic” or higher. Instructors must also have an average rating of no less than “distinguished” for all instructor-specific quality indicators. Instructors that do not meet the minimum quality standards requirements in one (1) year may be found eligible in subsequent year. All instructors of agricultural and natural resources programs in grades nine (9) through twelve (12) are eligible to apply for the grant. (4-11-15)

e. Payments to districts will be adjusted according to the percent of time an instructor teaches within an approved agricultural and natural resources program. (4-11-15)

f. Should the division request additional information from a school district regarding a grant application, districts must respond to the request within the time period indicated. Failure to respond will result in the cancellation of the application and/or the forfeiture of the grant. (4-11-15)

02. Application Process. The application process consists of a formal application and assessment. (4-11-15)

a. To be considered for the grant, a school district must first complete and submit a formal application and supporting documentation on behalf of an instructor for an approved program according to the timeline established by the administrator. Applications may be submitted electronically to the division. In the event of a mailed application, applications must be postmarked no later than the timeline specified by the division. Instructors may not apply on their own behalf. (4-11-15)

b. Following the receipt of an application, the division will conduct an assessment of the program and

instructor to ensure they both meet the minimum eligibility requirements, as outlined in the quality program standards. At the administrator's discretion, the division may partner with additional subject-matter experts to assist in the evaluation. Assessments will be conducted each school year the instructor and program participate in the grant program. Districts will only be eligible to apply for the grant during the academic year the program received an assessment. Prior assessments cannot be used for subsequent grant applications. (4-11-15)

03. Selection of Grant Recipients. Grants will be awarded annually based on the availability of grant funds and the number of qualified applicants. Grants will be awarded to applicants based on ranking in accordance with the following criteria: (4-11-15)

- of:
- a. Applicants will be ranked according to their overall score. Scores will be calculated using the sum of:
 - i. The average score of the program quality indicators; and (4-11-15)
 - ii. The average score of the instructor-specific program quality indicators. (4-11-15)

04. Incentive Grant Award. (4-11-15)

a. Announcement of the grant award will be made following administrator approval through the distribution of a funding authorization letter. Prior to the distribution of the letter, the division will verify that the grant recipient continues to teach at the same school, in the same agricultural and natural resources program, and at the same FTE level as indicated on the formal application. (4-11-15)

b. The total number of recipients will vary by year in accordance with the availability of funds and the qualifications of the applicant pool. Awards will be in the amount of ten thousand dollars (\$10,000) until available funds are exhausted or all qualified recipients have been awarded the grant. In the event that funds are exhausted and a qualified teacher does not receive the grant in the year he or she applies, that teacher will receive priority consideration for the grant the following year. If the teacher(s) reapplies and continues to meet the minimum qualifications the following year, he or she will be eligible to receive the grant regardless of where he or she ranks. Once the prioritized teacher(s) has been awarded funds, the remaining teachers will be ranked and funds will be awarded until the remaining funds have been exhausted. This cycle of prioritization may continue for multiple years; once a qualified teacher receives funds, he or she automatically moves back into the pool of teachers whose applications will be ranked in the following application cycle. Grants may be less than ten thousand dollars (\$10,000) when certain conditions exist: (3-28-18)

i. Tied ranking. In the event of a tie, and in those instances where the number of qualified applicants exceeds the available funds, grants will be awarded evenly among those recipients with a tied score. (4-11-15)

ii. Less than full-time employment in an approved program. Grants will be awarded using FTE to calculate the percent of time an instructor spends teaching within an approved agricultural and natural resources program. In the event an instructor teaches in an approved program in less than a full-time capacity, grants will be pro-rated according to the percent of time the instructor spends teaching in the approved program. (4-11-15)

c. Grants are awarded on an annual basis and are not renewable or transferable. (4-11-15)

d. The use of grant funds must be in accordance with division guidelines and must be clearly linked to the agricultural and natural resources program identified on the formal application. (4-11-15)

e. Grant funds may be used to improve the agricultural and natural resources program, including but not limited to: (4-11-15)

i. Offset travel and registration fees associated with educational workshops and/or professional training on behalf of the instructor; (4-11-15)

ii. Purchase or repair equipment; or (4-11-15)

- iii. Purchase educational supplies/curricula. (4-11-15)
- f. Grant funds may not be used to: (4-11-15)
 - i. Cover the costs of either salaries or benefits, including extended contracts; (4-11-15)
 - ii. Offset expenses associated with the FFA organization or other student organizations; or (4-11-15)
 - iii. Supplant other district funding sources, e.g. routine facility maintenance or improvements. (4-11-15)

101. -- 199. (RESERVED)

200. START-UP GRANT.

01. Eligibility Requirements. A school district may apply for a start-up grant for a newly-approved agricultural and natural resources program or to re-establish an agricultural and natural resources program in any grade nine (9) through twelve (12) when specific eligibility requirements are met. Districts are eligible to apply for the grant within the first three (3) fiscal years their program is approved or re-established. If a district applies for the grant but does not receive it, the district may reapply the following year(s). However, the district may only receive the grant once and may not apply beyond the three-year window. (3-28-18)

a. To start a new program, districts are required to first complete a request for new secondary program of study form for a new agricultural and natural resources program in one (1) of the specified grades. The new agricultural and natural resources program must then be approved by the division prior to application for the grant. Expansions of existing programs, including the addition of new career pathways or additional staff, do not qualify as a new program. (4-11-15)

b. To re-start a program, districts are required to first complete a Request for New Secondary Program of Study form to re-establish an agricultural and natural resources program in any grade nine (9) through twelve (12). The re-established agricultural and natural resources program must then be approved by the division prior to application for the grant. The re-established program must have been inactive for at least two (2) academic years to qualify for the grant. (4-11-15)

02. Application Process. A school district may submit an application for a new or re-established program. Completed applications, which must be authorized by the district superintendent, must be submitted to the division according to the timeline established by the administrator. In the event of a mailed application, the application must be postmarked no later than the timeline specified in the request. (3-28-18)

a. Applications must include all required information outlined in the grant application, including specific documents detailing the district's proposed budget and long-term strategy for sustaining the program. (4-11-15)

b. Communication with state officials. Should the division request additional information from a district regarding a grant application, districts must respond to the request within the time period indicated. Failure to respond will result in the cancellation of the application and/or the forfeiture of the grant. (4-11-15)

03. Selection of Grant Recipients. Grants will be awarded annually by the division based on the availability of grant funds and the number of qualified programs. Grants will be awarded to districts based on ranking and priority that considers factors including but not limited to: the strength of the budget proposal, sustainability potential of the proposed program, and the history of prior grant awards. (4-11-15)

04. Start-up Grant Award. Announcement of the grant award will be made following administrator approval through the distribution of a funding authorization letter. The total number of recipients will not exceed four awards annually, and may vary by year in accordance with the availability of funds and the qualifications of the applicant pool. Awards will be in the amount of twenty-five thousand dollars (\$25,000) until available funds are exhausted or all qualified recipients have been awarded the grant. (4-11-15)

- a.** Grants are awarded on a one-time basis and are not renewable or transferable. If a district is awarded the grant for a new program, the program is ineligible for future awards should the program terminate and then be re-established. (4-11-15)
- b.** Use of grant funds must be in accordance with division guidelines and must be clearly linked to the agricultural and natural resources program identified on the formal application. If a district fails to spend the entire award amount, those funds may not be carried forward to the next fiscal year. (4-11-15)
- c.** Grant funds may be used to improve the agricultural and natural resources program, including but not limited to: (4-11-15)
- i.** Offset travel and registration fees associated with educational workshops and/or professional training on behalf of the instructor; (4-11-15)
 - ii.** Purchase or repair equipment; (4-11-15)
 - iii.** Purchase educational supplies/curricula; or (4-11-15)
 - iv.** Start-up costs, up to one thousand dollars (\$1,000,) associated with establishing a new chapter of FFA or other relevant student organization. (4-11-15)
- d.** Grant funds may not be used to: (4-11-15)
- i.** Cover the costs of salaries and/or benefits, including extended contracts; (4-11-15)
 - ii.** Offset ongoing expenses associated with the FFA organization or other student organizations; or (4-11-15)
 - iii.** Supplant other district funding sources, e.g. routine facility maintenance or improvements. (4-11-15)

201. -- 299. (RESERVED)

300. PAYMENTS.

Payment of grant funds will be made to the district once the final award determinations are made. For grants awarded under Section 100, funds will be made to the district on behalf of the instructor. No later than June 30 of the fiscal year the grant was received, the district must submit a detailed expenditure report to the Division. Each report is subject to review and verification by the Division and must detail that all expenditures were allowable under the grant and that all funds were spent within the fiscal year. Any unspent grant funds must be returned to the Division. (3-28-18)

301. APPEALS.

Any grant applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows. The grant applicant or recipient must appeal in writing no later than thirty (30) days following the announcement of the award, and the written statement must include the basis for the appeal. The appeal must be submitted to the administrator. The division shall acknowledge receipt of the appeal within seven (7) days. The administrator may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) agricultural and natural resources professional. (4-11-15)

01. Review. If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the administrator within fifteen (15) days from the time the subcommittee receives the appeal document. The grant applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal. (4-11-15)

02. Presentation. Following the subcommittee's decision, the administrator will present the

subcommittee's recommendation to the board at the next regularly scheduled meeting of the board. The grant applicant or recipient initiating the appeal may, at the discretion of the board, be permitted to make a presentation to the board. (4-11-15)

03. Final Decision. The decision of the board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the board. The board will inform the incentive grant applicant or recipient in writing of the decision of the board. (4-11-15)

302. -- 999. (RESERVED)

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL SCHOOLS

DOCKET NO. 55-0103-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 55-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-2202 through 33-2212, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The current process of using Average Daily Attendance to calculate the distribution for added cost funds for career technical schools does not align with the actual costs associated with delivering a program through a career technical school. Amendments to this section of rule reduce the reporting burden and data entry obligations for career technical schools and align distribution of funds with added costs based on student enrollment. The proposed amendments update the funding structure to an enrollment based approach that includes funding based on capstone enrollment, number of technical skill assessments taken, and total credit hours enrolled in intermediate, capstone, and work-based learning courses. Additional amendments further define work-based learning, clarify other required components of a career technical school and make technical corrections.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 344-348](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 27th day of November, 2019.

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

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 55-0103-1901**

**This rulemaking is being republished in its entirety.
Previously made amendments are shown in red plain text (non-italicized).**

005. DEFINITIONS.

01. Administrator. A designated school administrator, holding a career technical administrator certificate pursuant to IDAPA 08.02.02, "Rules Governing Uniformity," Section 015, and who oversees and monitors the career technical school programs and is responsible for ensuring the school meets all applicable federal, state, and local school district regulations, rules, and policies. (3-28-18)

02. Capstone Course. A culminating course that requires students to demonstrate the knowledge and skills learned throughout their program of study. (3-28-18)

03. Career Technical Schools. Schools meeting the requirements of Section 33-1002G, Idaho Code, designed to provide high-end, state-of-the-art technical programs that foster quality technical education through intermediate and capstone courses. Programs and services are directly related to the preparation of high school students for employment in current or emerging occupations that require other than a baccalaureate or advanced degree. These schools are closely linked to postsecondary education, thereby avoiding redundancy and maintaining rigor. They are also closely linked to current business and industry standards to ensure relevance and quality. ()

04. Concentrator Student. A junior or senior enrolled in the capstone course. ()

05. Credit Hours. The total number of enrolled credit hours reported to the State Department of Education for qualifying intermediate, capstone, and work-based learning courses. ()

06. EDUID. Education Unique Identifier. ()

07. Enrollment Units. The total number of individual EDUIDs that are reported as enrolled during the previous academic year in a qualifying capstone course, as determined by the division. ()

08. Field Experience. Paid or unpaid work experience such as business/industry internship, clinical experience, supervised occupational experience, job placement, school-based enterprise, or similar work experience setting. The field experience must be of sufficient duration and depth to add to the technical competencies of the student. (3-30-01)

09. Intermediate Course. A course beyond the introductory level that adds to the technical competencies of pathway students, is intended to serve as a prerequisite for a capstone course, and is offered in grades 9 through 12. ()

10. Participation Total. The total number of technical skill assessments taken by enrolled concentrator students as part of each required capstone course during the previous academic year. ()

11. Technical Skill Assessment. An assessment given at the culmination of a pathway program during the capstone course and measures a student's understanding of the technical requirements of the occupational pathway. ()

12. Work-based Learning Course. A paid or unpaid, internship, clinical, or apprenticeship that is delivered as part of a Career Technical School program of study. This course must be delivered in conjunction with or after completion of a capstone course. Work-based learning courses must be tied to the program of study, and must be

formalized through a written agreement between the school, industry partner, parent, and student. ()

006. -- 099. (RESERVED)

100. STATEMENT OF PURPOSE.

The purpose of this rule is to clearly define general implementation criteria, the criteria for approval for funding, the enrollment-based funding calculation, the process to follow for fund distribution, and program accountability for Idaho Career Technical Schools. ()

101. (RESERVED)

102. CAREER TECHNICAL COMPONENT CRITERIA.

01. Program Criteria. Career technical schools are intended to deliver high-end technical education programs that go beyond the scope of traditional career technical education. The lab should be appropriately designed for the type of program and the number of students enrolled. The program should have state-of-the-art equipment, current technology and strong links to business and industry. (3-30-01)

02. Career Technical School Program. Each program of a career technical school shall: (3-30-01)

- a.** Deliver a sequence of career technical education courses that culminate in a capstone course. (3-28-18)
- b.** Meet all of the required technical competency credit standards established by the state board of education. (3-28-18)
- c.** Develop and maintain business and industry partnerships in addition to the technical advisory committee. (3-28-18)
- d.** Integrate industry-specific, state-of-the-art equipment and technologies into classroom instruction and applied learning opportunities for students. ()
- e.** Employ instructors who hold career technical certification to teach the occupation and who also hold a related industry-based credential, or equivalent credential, as approved by the Division of Career Technical Education. (3-28-18)
- f.** Be delivered over a term of not less than five (5) semesters, or the equivalent instructional hours. Semester and trimester equivalencies will be approved by the Division of Career Technical Education. (3-28-18)
- g.** Enroll students from at least two (2) high schools. No single high school will comprise more than eighty-five percent (85%) of the total enrolled career technical school students. In the event a student enrolled in the career technical school is not enrolled in a high school, that student will be reported separately, based on the high school attendance zone where the student resides. (3-28-18)
- h.** Promote the development of leadership. (3-28-18)

103. APPLICATION PROCESS.

New and renewal applications for career technical school funding must be received by the Division of Career Technical Education on or before the fifteenth of April for the following fiscal year. ()

104. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUNDING AND ELIGIBILITY.

Section 33-1002G, Idaho Code, provides school districts an opportunity to establish career technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of career technical schools. The funds are appropriated to the State Board for Career Technical Education to be expended by the Division of Career Technical Education. Funding is based on the number of students enrolled in a capstone course during the previous academic year, the aggregate total of the students who completed the technical skill assessment for the program the student was enrolled in, and the total credit hours reported by each school for intermediate, capstone, and work-based

learning courses. If any approved program within a career technical school does not enroll students from more than one (1) high school during the **previous academic year, the program will not be included in the current year funding calculation.** If the overall enrollment **school** exceeds more than eighty-five percent (85%) of students from any single high school during **previous** the school year, the Division of Career Technical Education may withhold all or part of the career technical school's funding. ()

105. CAREER TECHNICAL SCHOOL FUNDING CALCULATION.

The distribution of individual career technical school funding will be calculated as a portion of the annual appropriation based on the following criteria: 50 percent (50%) of the annual appropriation will be divided among the total enrollment units, 25 percent (25%) will be divided by the total participation, and 25 percent (25%) will be divided among the total cumulative credit hours. Qualifying pathway enrollment will be reported to the Department of Education. The Division of Career Technical Education will gather aggregate participation total data from the independent technical skill assessment providers annually. ()

106. (RESERVED)

107. CAREER TECHNICAL SCHOOL UNIT FUND DISTRIBUTION.

Once the career technical appropriation is made, the per unit value will be determined by dividing the total units into the appropriation. **The value of each unit may vary from year to year, depending on the total appropriation and the total number of units in each of the enrollment categories.** ()

01. Payment Distribution. Added cost support unit funds shall be distributed by the Division of Career Technical Education in two (2) payments: (3-30-01)

a. Seventy percent (70%) of the total **appropriated** funds for which career technical schools are eligible shall be distributed **no later than September 30th** each year. Funding will not be distributed until **the previous year enrollment units and the Division of Career Technical Education has verified aggregate participation total data.** ()

b. The remaining funds shall be distributed no later than June 30th. ()

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD

57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD

DOCKET NO. 57-0101-1901

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 57-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 18-8314, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Board is adopting this pending rulemaking to streamline processes and create more efficiencies in the certification process.

This pending rule differs from the proposed rule in that the SOMB previously voted to remove the option of initial certification by conditional waiver as the Board believed there were sufficient paths available for practitioners to become certified without waiving any initial certification requirements. Based on provider feedback and discussions during negotiated rulemaking, the SOMB decided to keep the conditional waiver option for initial certification purposes, while still eliminating the conditional waiver option for renewal applications.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 349-358](#).

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

The Board is adopting this pending rulemaking that provides an option for certificate holders to seek a 60-day extension to submit proof of completing continuing education requirements upon renewal of certification. There will be a \$25 fee for this 60-day extension. This fee is authorized pursuant to Section 18-8314, Idaho Code.

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

There will not be any impact on the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Volle at (208) 658-2002.

Dated this 10th day of December, 2019.

Nancy Volle, Program Manager
Sexual Offender Management Board
1299 N Orchard St Ste #110
Boise, ID 83706
Phone: (208) 658-2002 / Fax: (208) 287-3322

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR
DOCKET NO. 57-0101-1901**

This rulemaking is being republished in its entirety.
Amendments made to the proposed rule are published in *red italicized text*.
Previously made amendments are shown in **red plain text (non-italicized).**

003. ADMINISTRATIVE APPEALS.

The “Idaho Rules of Administrative Procedure of the Attorney General,” **IDAPA 04.11.01**, Sections 000 through 799 apply to contested cases of the Board. ()

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (3-20-14)

01. “Bylaws and Constitution of the American Association of Police Polygraphists,” effective May, 2010, is herein incorporated by reference and is available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068, website <http://www.policepolygraph.org/>. (3-20-14)

02. “Bylaws of the American Polygraph Association,” effective **March 2018**, is herein incorporated by reference and is available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website <http://www.polygraph.org/>. ()

03. “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices,” December 2019 revision, is herein incorporated by reference and is available from the Board’s office and on the Board website, <http://somb.idaho.gov/>. ()

04. “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders,” December 2019 revision, is herein incorporated by reference and is available from the Board’s office and on the Board’s website, <http://somb.idaho.gov/>. ()

05. The Sexual Offender Management Board’s “Required Format for Juvenile Psychosexual Evaluation Reports,” December 2019 revision, is herein incorporated by reference and is available from the Board’s office and on the Board’s website, <http://somb.idaho.gov/>. ()

06. The Sexual Offender Management Board’s “Required Format for Adult Psychosexual Evaluation Reports,” December 2019 revision, is herein incorporated by reference and is available from the Board’s office and on the Board’s website, <http://somb.idaho.gov/>. ()

(BREAK IN CONTINUITY OF SECTIONS)

006. PUBLIC RECORDS ACT COMPLIANCE.

01. Administrative Rules. The rules contained herein are promulgated pursuant to Title 67, Chapter 52, Idaho Code, and are public records. (3-20-14)

02. Public Records Requests. Requests for public information are processed in compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Board.** The Sexual Offender Management Board described in Section 18-8312, Idaho Code. (3-20-14)
- 02. Central Roster.** A roster of evaluators, treatment providers and polygraph examiners, who meet the qualifications and are certified by the Board to conduct psychosexual evaluations, provide sexual offender treatment or conduct post-conviction sexual offender polygraphs. (3-20-14)
- 03. Certificate Holder.** A person who has been approved by the Board and certified as meeting qualifications to conduct or assist in the conduct of psychosexual evaluations, provide sexual offender treatment or conduct post conviction sexual offender polygraphs. (3-20-14)
- 04. Certified Evaluator.** Either a psychiatrist licensed by this state pursuant to Title 54, Chapter 18, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to Title 54, Chapters 23, 32, or 34, Idaho Code. The evaluator shall have by education, experience, and training, expertise in the assessment and treatment of sexual offenders, meet the qualifications, and be approved by the Board to perform psychosexual evaluations in this state, as described in Section 18-8314, Idaho Code. A person meeting this definition may be certified by the Board as either a senior/approved certified evaluator or an associate/supervised certified evaluator. ()
- 05. Certified Post Conviction Sex Offender Polygraph Examiner.** A polygraph examiner who has received specialized post conviction sexual offender testing training, and who is certified by the Board to conduct post conviction sexual offender polygraph examinations as ordered or required by the court, Idaho Department of Correction, or Idaho Commission for Pardons and Parole. A person meeting this definition may be certified by the Board as either a senior/approved post conviction sexual offender polygraph examiner or an associate/supervised post conviction sexual offender polygraph examiner. (3-24-17)
- 06. Certified Treatment Provider.** A person who has been certified by the Board as meeting qualifications to provide sexual offender treatment as ordered by the court, Idaho Department of Correction, Idaho Commission for Pardons and Parole, or Idaho Department of Juvenile Corrections. Such person shall be licensed by this state or another state or jurisdiction as a psychiatrist, or a master's or doctoral level mental health professional, and who has by education, experience and training, expertise in the treatment of sexual offenders. A person meeting this definition may be certified by the Board as either a senior/approved sex offender treatment provider or an associate/supervised sex offender treatment provider. (3-20-14)
- 07. Client.** An adult or juvenile receiving services from a person certified by the Board pursuant to Section 18-8314, Idaho Code. (4-11-15)
- 08. Established Standards.** The "Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices" and the "Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders" as referenced in Section 004 of these rules and established pursuant to Section 18-8314, Idaho Code. (4-11-15)
- 09. Provisional/Supervised Psychosexual Evaluator.** A person with limited clinical experience and specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to assist with the conduct of psychosexual evaluations under the clinical supervision of a senior/approved psychosexual evaluator. A person with a provisional/supervised psychosexual evaluator certificate is not considered to be a certified evaluator as defined in Section 18-8303, Idaho Code or for the purposes of conducting a psychosexual evaluation in accordance with Section 18-8316, Idaho Code. Certification approval is specific to adult or juvenile clients. (3-24-17)
- 10. Provisional/Supervised Sex Offender Treatment Provider.** A person with limited clinical experience and specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to provide sexual offender treatment under the clinical supervision of a senior/approved sex offender treatment provider. Certification approval is specific to adult or juvenile clients. (3-24-17)

11. Psychosexual Evaluation. A comprehensive evaluation and assessment specifically addressing a person's sexual development, sexual deviancy, sexual history and risk of re-offense. A psychosexual evaluation for the purpose of these rules is conducted post conviction, as ordered by the court pursuant to Section 18-8316, Idaho Code, or Title 20, Chapter 5, Idaho Code, by a person who has been certified by the Board. (4-11-15)

12. Quality Assurance. Processes established by the Board to review psychosexual evaluations and sexual offender treatment procedures to assure minimum standards and certificate holder qualifications are met. All quality assurance reviews will be conducted under the direction of the Board. (3-20-14)

13. Sexual Offender. A person adjudicated or convicted of an offense as listed in Section 18-8304, Idaho Code, or a substantially equivalent offense under the laws of another state, territory, commonwealth, or other jurisdiction of the United States including tribal courts and military courts; or who has been adjudicated or convicted of a sexual offense-related crime. (4-11-15)

14. Sexual Offender Classification Board. A board in effect from 1998 to 2011 that determined whether a sexual offender should be designated as a violent sexual predator; set certified evaluator qualifications and standards; and administered an evaluator certification process. (3-20-14)

15. Supervision. (3-20-14)

a. For purposes of clinical practice supervision for associate/supervised psychosexual evaluator or associate/supervised sex offender treatment provider certification, supervision is generally considered as face-to-face direct contact, documented teleconferencing, or interactive video conferencing with a Board-approved supervisor using a ratio of one (1) hour of clinical supervision for every twenty (20) hours of direct service provided; or (3-20-14)

b. For purposes of clinical practice supervision for provisional/supervised psychosexual evaluator or provisional/supervised treatment provider certification, supervision is considered as continual face-to-face direct contact with a Board-approved supervisor for the first two hundred fifty (250) hours of direct service provided followed by face-to-face direct contact with a Board-approved supervisor using a ratio of one (1) hour of clinical supervision for every fifteen (15) hours of direct service provided; or (3-24-17)

c. For purposes of supervision for associate/supervised post conviction sexual offender polygraph examiners, supervision is generally considered as face-to-face direct contact with a Board-approved supervisor during conduct of the supervisee's first five (5) PCSOT polygraphs followed by review by a Board-approved supervisor of one (1) PCSOT polygraph for every five (5) PCSOT polygraphs conducted by the supervisee. Such review shall include chart and report review. (3-24-17)

16. Treatment. For purposes of certification eligibility the provision of face-to-face individual, group, or family therapy with a person who has been investigated by law enforcement or child protective services for commission of a sexual offense, or who has been adjudicated or convicted of a sexual offense or sexual offense-related crime. Treatment must be directly relevant to the client's sexually offending behavior. (3-20-14)

17. Violent Sexual Predator. A person who was designated as a violent sexual predator by the Sexual Offender Classification Board where such designation has not been removed by judicial action or otherwise. (3-20-14)

011. ABBREVIATIONS.

01. APA. The American Polygraph Association. (3-24-17)

02. PCSOT. "Post conviction sexual offender testing" is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post convicted sexual offenders. (3-24-17)

03. SOCB. The Sexual Offender Classification Board. (3-20-14)

- 04.** SOMB. The Sexual Offender Management Board. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

101. CONTINUING EDUCATION FOR PSYCHOSEXUAL EVALUATORS AND SEXUAL OFFENDER TREATMENT PROVIDERS.

To maintain certification as a psychosexual evaluator or sexual offender treatment provider, a certificate holder must receive continuing education in the field of sexual abuse. (3-20-14)

01. Senior/Approved and Associate/Supervised Certification Levels. A psychosexual evaluator or sexual offender treatment provider who is certified at a senior/approved or an associate/supervised level must receive a minimum of forty (40) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training over the course of the two-year period prior to each renewal period as set forth in the established standards issued by the Board. **A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements.** ()

02. Provisional/Supervised Certification Level. A provisional/supervised psychosexual evaluator or sexual offender treatment provider must receive a minimum of twenty (20) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training annually as set forth in the established standards issued by the Board. **A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements.** ()

102. -- 149. (RESERVED)

150. REQUEST FOR CONDITIONAL WAIVER.

01. Conditional Waiver. The Board may consider an *initial* applicant's request for a time limited conditional waiver for deficiencies in experience and specialized training qualifications as set forth in the established standards issued by the Board. ()

02. Duration. A conditional waiver is limited to a period of two (2) years. Conditional waivers may not be extended or renewed after the third year. (3-20-14)

03. Frequency. A conditional waiver request shall only be considered one (1) time for *an* initial certification application for psychosexual evaluator and sexual offender treatment provider applicants at the senior/approved or associate/supervised level. ()

151. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

155. APPLICATION FOR CHANGE IN CERTIFICATION LEVEL.

Application for change in certification level shall be on a form provided by the Board and submitted with the required supporting documentation and applicable renewal application processing fee: ()

01. Advance to Senior/Approved Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of fifty dollars (\$50) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (3-20-14)

02. Advance to Associate/Supervised Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of thirty dollars (\$30) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (3-20-14)

03. Change to a Less Independent Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of fifty dollars (\$50) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

231. CONTINUING EDUCATION FOR POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINERS.

To maintain certification as a post conviction sexual offender polygraph examiner, a certificate holder must receive a minimum of thirty (30) hours of continuing education related to the field of polygraphy in the form of formal conferences, symposia, seminars, or workshops over the course of the two-year period prior to each renewal period as set forth in the established standards issued by the Board. **A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements.** ()

(BREAK IN CONTINUITY OF SECTIONS)

331. EXPIRATION AND RENEWAL OF CERTIFICATION.

No certification shall be renewed, except as follows: (3-20-14)

01. Renewal. At least thirty (30) days prior to the expiration of a certification, a certificate holder shall apply for renewal of the certification on forms provided by the Board for the applicant's area of practice and client population, if applicable, accompanied by documentation as outlined in the established standards issued by the Board and a renewal certification application fee made payable to the Board. (4-11-15)

02. Removal from the Roster. A certificate holder who has not renewed his certification shall be removed from the central roster. ()

03. Renewal After Certification Expiration. A certificate holder whose certification has expired may reapply at any time for certification as follows: (3-20-14)

a. A certificate holder whose certification has been expired for less than three hundred sixty-five (365) days may reapply following the certification renewal process as referenced in Subsection 331.01 of these rules. (3-20-14)

b. A certificate holder whose certification has been expired for three hundred sixty-five (365) days or longer may reapply for certification following the initial certification process as referenced in Section 330 of these rules. (3-20-14)

332. FEES.

The following non-refundable application processing fees are established by the Board: (3-20-14)

01. Initial Certification. Application processing fees for initial certification are: ()

a. Senior/Approved Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). (3-24-17)

b. Associate/Supervised Psychosexual Evaluator, Treatment Provide, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). (3-24-17)

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Fifty dollars (\$50). (3-20-14)

02. Renewal Certification. Application processing fees for renewal certification are: ()

a. Senior/Approved Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). (3-24-17)

b. Associate/Supervised Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). (3-24-17)

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Thirty dollars (\$30). (3-20-14)

03. Change in Certification Level. Application processing fees for a change in certification level are as referenced in Section 155 of these rules. ()

04. Continuing Education Extension. Application processing fee for a request for an extension of time to complete continuing education requirements is twenty-five dollars (\$25). ()

333. CERTIFICATION PERIOD.

Provided that the certificate holder continues to meet the criteria for certification and such certification has not been suspended, revoked, otherwise restricted or placed on voluntary inactive status, the effective period for certification is as follows: (3-20-14)

01. Senior/Approved Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder’s month of birth two (2) years following initial certification and every two (2) years thereafter. ()

02. Associate/Supervised Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder’s month of birth two (2) years following initial certification and every two (2) years thereafter. ()

03. Provisional/Supervised Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for one (1) year. Certification renewal shall typically occur during the certificate holder’s month of birth one (1) year following initial certification and annually thereafter. Certification at the provisional/supervised level is limited to a period of three (3) years, at which time the certificate holder must meet minimum requirements for upgrade to the associate/supervised level to be eligible for certification renewal. (3-20-14)

04. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder’s month of birth two (2) years following initial certification and every two (2) years. ()

05. Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner. Certification shall remain in effect for two (2) years from the certificate holder’s month of birth following initial certification. Thereafter, the certificate holder must meet minimum requirements for upgrade to the senior/approved level to be eligible for certification renewal. ()

(BREAK IN CONTINUITY OF SECTIONS)

387. DISCIPLINARY PROCESS.

The disciplinary process may be initiated as a result of a complaint received by the Board or a quality assurance review, or be based upon a review of information submitted to the Board during the certification process, monitoring process or while under formal probation. ()

388. -- 399. (RESERVED)

400. QUALITY ASSURANCE.

Policies for technical review and quality assurance of psychosexual evaluation reports and sexual offender treatment services and polygraph examinations are outlined in the established standards issued by the Board. ()

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

*THERE ARE NO PROPOSED RULES PUBLISHED
IN THE JANUARY 1, 2020, IDAHO ADMINISTRATIVE BULLETIN, VOL. 20-1.*

Please refer to the Idaho Administrative Bulletin [January 1, 2020, Volume 20-1](#), 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/

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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 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 – January 1, 2020

(PLR 2020) – Final Effective Date Is Pending Legislative Review in 2020

(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.)

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- 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
- 01-0101-1900F** *Idaho Accountancy Rules* - Notice of Omnibus Fee Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Omnibus Negotiated Rulemaking – Consolidation & Reorganization of Chapters Under the Direction of ISDA Chapters 02.02.02 through 02.06.41*)
- 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
- 02-0000-1900** *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 02-0000-1900A** *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 02-0000-1900F** *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 02-0000-1900FA** *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 02-0000-1900FA** *Rules of the Idaho Department of Agriculture* - Notice of Correction to Omnibus Pending Fee Rulemaking, Bulletin Vol. 19-12 (PLR 2020)
- 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
- 02-0616-1900** *Rules Governing Honey Standards* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 02-0701-1900F** *Rules of the Idaho Hop Growers Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 07**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 02-0701-1900F** *Rules of the Idaho Hop Growers Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 02-0801-1900F** *Rules of the Idaho Sheep and Goat Health Board* - Notice of Omnibus Fee Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 08**, 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 - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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- 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
- 02-0104-1901** Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.01.06, Rules Governing the Labeling of Hemp Receptacles

- 02-0106-2001** Adoption of Temporary Rule (New Chapter), Bulletin Vol. 20-1 (eff. 11-26-19)T

02.02.02, Idaho Department of Agriculture Controlled Atmosphere Storage Rules

- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.02.02 into new chapter 02.02.02 - see next entry)

02.02.02, Rules Governing Grading and Controlled Atmosphere Storage of Apples

- 02-0202-1901*** Proposed Rulemaking (New Chapter), Bulletin Vol. 19-11
(*Rulemaking combines previously codified chapters 02.02.02 and 02.02.04 into this new chapter)
- 02-0202-1901*** Adoption of Pending Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.02.04, Idaho Standards for Grades of Apples

- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.02.04 into new chapter 02.02.02 - see above entry)

02.02.05, Prune Standards

- 02-0205-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.02.05 into new chapter 02.02.05 - see next entry)

02.02.05, Rules Governing Stone Fruit Grades

- 02-0205-1902*** Proposed Rulemaking (New Chapter), Bulletin Vol. 19-11
(*Rulemaking combines previously codified chapters 02.02.05, 02.02.06 and 02.02.10 into this new chapter)
- 02-0205-1901*** Adoption of Pending Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.02.06, Idaho Standards for Grades of Sweet Cherries

- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.02.06 into new chapter 02.02.05 - see above entry)

02.02.07, Bulk Permit Procedure (Potatoes)

- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.02.07 into new chapter 02.02.07 - see next entry)

02.02.07, Rules Governing Bulk Permit and Retail Sale of Potatoes

- 02-0207-1901*** Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
(*Rulemaking combines previously codified chapters 02.02.07 and 02.02.09 into this new chapter)
- 02-0207-1901*** Adoption of Pending Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

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

- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.02.09 into new chapter 02.02.07 - see above entry)

02.02.10, Idaho Standards for Apricots

- 02-0100-1901OM** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.02.10 into new chapter 02.02.05)

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
- 02-0212-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

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
- 02-0301-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

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
- 02-0303-1901 Adoption of Pending Fee Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.03, Rules Governing Animal Industry

- 02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.04.03 into new chapter 02.04.03 - see next entry)

02.04.03, Rules Governing Animal Industry

- 02-0403-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
(*Rulemaking combines previously codified chapters 02.04.03 and 02.04.22 into this new chapter - no change to chapter name)
- 02-0403-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.04.05, Rules Governing Manufacture Grade Milk

- 02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.04.05 into new chapter 02.04.05 - see next entry)

02.04.05, Rules Governing Grade A Milk and Manufacture Grade Milk

- 02-0405-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
(*Rulemaking combines previously codified chapters 02.04.05, 02.04.06, 02.04.08 and 02.04.09 into this new chapter)
- 02-0405-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.04.06, Rules Governing Licensed Dairy Plants

- 02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.04.06 into new chapter 02.04.05)

02.04.08, Rules Governing Grade A Milk and Milk Products

- 02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.04.08 into new chapter 02.04.05)

02.04.09, Rules Governing Milk and Cream Procurement and Testing

- 02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.04.09 into new chapter 02.04.05)

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

02-0415-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

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02-0416-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.04.16** into new chapter **02.04.30**)

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

02-0417-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

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

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.04.18** into new chapter **02.04.30**)

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

02-0420-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

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

02-0421-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.22, Rules Governing Animal Health Emergencies

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.04.22** into new chapter **02.04.03**)

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

02-0423-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.26, Rules Governing Livestock Marketing

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.04.26** into new chapter **02.04.26** - see next entry)

02.04.26, Rules Governing the Public Exchange of Livestock

02-0426-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11

(*Rulemaking combines previously codified chapters **02.04.26** and **02.04.28** into this new chapter)

02-0426-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

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

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.04.28** into new chapter **02.04.26** - see above entry)

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

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.04.30** into new chapter **02.04.30** - see next entry)

02.04.30, Rules Governing Environmental and Nutrient Management

02-0430-1903* Proposed Rulemaking (New Chapter), Bulletin Vol. 19-11

(*Rulemaking combines previously codified chapters **02.04.16**, **02.04.18**, **02.04.30** and **02.04.31** into this new chapter)

02-0430-1903* Adoption of Pending Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

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

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.04.31** into new chapter **02.04.30** - see above entry)

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

02-0432-1901 Adoption of Pending Fee Rule, Bulletin Vol. 19-11 (PLR 2020)

02.06.01, Rules Governing the Pure Seed Law

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.06.01** into new chapter **02.06.01** - see next entry)

02.06.01, Rules Governing the Production and Distribution of Seed

02-0601-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11

(*Rulemaking combines previously codified chapters **02.06.01**, **02.06.13** and **02.06.14** into this new chapter)

02-0601-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

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

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.06.02** into new chapter **02.06.02** - see next entry)

02.06.02, Rules Governing Registrations and Licenses

02-0602-1902* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11

(*Rulemaking combines previously codified chapters **02.06.02**, **02.06.03**, **02.06.12**, **02.06.31** and **02.06.41** into this new chapter)

02-0602-1902* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.06.03, Rules Pertaining to the Idaho Nurseries and Florists Law

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.06.03** into new chapter **02.06.02** - see above entry)

02.06.04, Phytosanitary and Post-Entry Certification Rules

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.06.04** into new chapter **02.06.04** - see next entry)

02.06.04, Rules Governing Plant Exports

02-0604-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11

(*Rulemaking combines previously codified chapters **02.06.04**, **02.06.34**, and **02.06.40** into this new chapter)

02-0604-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.06.05, Rules Governing Diseases of Hops (*Humulus lupulus*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

(*Combines previously codified chapter **02.06.05** into new chapter **02.06.05** - see next entry)

02.06.05, Rules Governing Plant Disease and Quarantines

02-0605-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11

(*Rulemaking combines previously codified chapters **02.06.05**, **02.06.07**, **02.06.08**, **02.06.11**, **02.06.15**, **02.06.17**, **02.06.18**, **02.06.20**, **02.06.24**, **20.06.32** and **02.06.38** into this new chapter)

02-0605-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.06.07, Rules Governing White Rot Disease of Onion (*Sclerotium cepivorum*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.07 into new chapter 02.06.05 - see above entry)

02.06.08, Quarantine Rules Pertaining to Apples and Cherries

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.08 into new chapter 02.06.05)

02.06.09, Rules Governing Invasive Species

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.09 into new chapter 02.06.09 - see next entry)

02.06.09, Rules Governing Invasive Species and Noxious Weeds

02-0609-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
(*Rulemaking combines previously codified chapters 02.06.09, 02.06.22, and 02.06.39 into this new chapter)
02-0609-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.06.10, Rules Governing the Pale Cyst Nematode (*Globodera pallida*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.10 into new chapter 02.06.10 - see next entry)

02.06.10, Rules Governing the Growing of Potatoes

02-0610-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
(*Rulemaking combines previously codified chapters 02.06.10, 02.06.26, 02.06.27 and 02.06.31 into this new chapter)
02-0610-1901* Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

02.06.11, Rules Governing European Corn Borer (*Ostrinia nubilalis*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.11 into new chapter 02.06.05)

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
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.12 into new chapter 02.06.02)

02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.13 into new chapter 02.06.01)

02.06.14, Rules Governing Annual Bluegrass (*Poa annua*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.14 into new chapter 02.06.01)

02.06.15, Rules Governing Peach Tree Diseases

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.15 into new chapter 02.06.05)

02.06.16, Rules Governing Honey Standards

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
02-0616-1900 *Rules Governing Honey Standards* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

02.06.17, Rules Governing the Disposal of Cull Onions and Potatoes

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.17 into new chapter 02.06.05)

02.06.18, Rules Governing Mint Rootstock and Clone Production

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.18 into new chapter 02.06.05)

02.06.20, Rules Governing Grape Planting Stock

02-0620-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.20 into new chapter 02.06.05)

02.06.22, Noxious Weed Rules

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.22 into new chapter 02.06.09)

02.06.24, Rules Governing the Japanese Beetle (*Popillia japonica*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.24 into new chapter 02.06.05)

02.06.26, Rules Concerning Seed Potato Crop Management Areas

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.26 into new chapter 02.06.10)

02.06.27, Rules Governing Bacterial Ring Rot Caused By (*Clavibacter michiganensis* subsp. *sepedonicus*) of Potato

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.27 into new chapter 02.06.10)

02.06.30, Rules Under the Idaho Bee Inspection Law

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.30 into new chapter 02.06.02)

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
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.31 into new chapter 02.06.09)

02.06.32, Rules Concerning the Anthracnose Disease of Lentil (*lens culinaris medik*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.32 into new chapter 02.06.05)

02.06.34, Rules Concerning Virus-Free Certification of Nursery Stock

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.34 into new chapter 02.06.04)

02.06.38, Rules Governing Plum Curculio (*Conotrachelus nenuphar*)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.38 into new chapter 02.06.05)

02.06.39, Rules Governing Minimum Standards for Planting Uncertified Seed Potatoes in Idaho

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter 02.06.39 into new chapter 02.06.10)

02.06.40, Rules Governing Ginseng Export

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter **02.06.40** into new chapter **02.06.04**)

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

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(*Combines previously codified chapter **02.06.41** into new chapter **02.06.02**)

02.07.01, Rules of the Idaho Hop Growers' Commission

02-0701-1900F *Rules of the Idaho Hop Growers Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 07**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0701-1900F *Rules of the Idaho Hop Growers Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

02.08.01, Sheep and Goat Rules of the Idaho Board of Sheep Commissioners

02-0801-1900F *Rules of the Idaho Sheep and Goat Health Board* - Notice of Omnibus Fee Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 08**, 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 - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

04-0000-1900 *Rules of the Attorney General* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

04-0000-1900F *Rules of the Attorney General* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

05-0000-1900 *Rules of the Department of Juvenile Corrections* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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)

06.02.02, Rules Governing Establishment and Operation of a Limited Supervision Unit by

the Department of Correction, Division of Probation and Parole

06-0202-1901 Notice of Proclamation of Rulemaking, Bulletin Vol. 19-10 (eff. 11-1-19)

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 *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

07-0000-1900 *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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 *Rules of the Division of Building Safety* - Notice of Omnibus Fee Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9

07-0000-1900F *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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)

07-0101-1901* Adoption of Pending Rule (New Chapter - Rule Consolidation), Bulletin Vol. 19-12 (PLR 2020)

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 (Terminated)*

(*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)

07-0202-1901* Notice of Vacation of Proposed Fee Rulemaking, Bulletin Vol. 19-10

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

07-0203-1902 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

07.02.04, Rules Governing Plumbing Safety Inspections

07-0204-1901 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

07-0204-1901 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

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

07-0205-1901 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

07.02.07, Rules Governing Civil Penalties

07-0207-1901 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

07-0207-1901 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

07.03.01, Rules of Building Safety

- 07-0301-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
- 07-0301-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 07-0301-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 07-0501-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 07-0701-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
- 07-0701-1902 Adoption of Pending Fee Rule, Bulletin Vol. 20-1 (PLR 2020)

07.08.01, Idaho Minimum Safety Standards and Practices for Logging

- 07-0801-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
- 07-0801-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 07-0801-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

07.11.01, Rules of the Division of Building Safety

- 07-1101-1901 Proposed Rulemaking (New Chapter), Bulletin Vol. 19-9
- 07-1101-1901 Adoption of Pending Rule (New Chapter), Bulletin Vol. 19-12 (PLR 2020)

**IDAPA 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
- 08-0000-1900 **Rules of the State Board of Education and the Department of Education** - Notice of Public Hearing, Bulletin Vol. 19-8
- 08-0000-1900 **Rules of the State Board of Education and the Department of Education** - Notice of Public Hearing, Bulletin Vol. 19-10
- 08-0000-1900 **Rules of the State Board of Education and the Department of Education** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 20-1 (PLR 2020)

- 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
- 08-0000-1900F **Rules of the State Board of Education and the Department of Education** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 08-0113-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-10 (eff. 8-29-19)T
- 08-0113-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

- 08-0201-1902 Proposed Rulemaking, Bulletin Vol. 19-10
- 08-0201-1903 Notice of Adoption of Temporary Rule, Bulletin Vol. 19-12 (eff. 10-17-19)T
- 08-0201-1902 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 08-0202-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 08-0202-1903 Proposed Rulemaking, Bulletin Vol. 19-10
- 08-0202-1902 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)
- 08-0202-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
- 08-0202-1903 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 08-0203-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 08-0203-1902 Proposed Rulemaking, Bulletin Vol. 19-10
- 08-0203-1903 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)
- 08-0203-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
- 08-0203-1902 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

08.02.04, Rules Governing Public Charter Schools

- 08-0204-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
- 08-0204-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 08-0204-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

IDA PA 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
- 09-0000-1900 **Rules of the Idaho Department of Labor** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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 (*Temporary rule expired 7-1-19)*
- 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
- 09-0130-1902 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)
- 09-0130-1903 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

**IDA PA 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

10-0000-1900F *Rules of the Board of Professional Engineers and Professional Land Surveyors* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-0000-1900 *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-0000-1900F *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-0200-1900F *Rules of the Idaho State Brand Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-0400-1900 *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-0400-1900F *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-1001-1900F *Idaho Public Safety and Public Information Systems* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-1101-1900F* *Rules of the Peace Officer Standards and Training Council* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee 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)

11-1101-1900F *Rules of the Peace Officer Standards and Training Council* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 11-0200-1900F** *Rules of the Idaho State Brand Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 11-0000-1900** *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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 - SCR150, Bulletin Vol. 18-5 (eff. 10-2-17)T
- 11-0301-1801** OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule - SCR113, Bulletin Vol. 19-5 (eff. 12-14-19)T
- 11-0301-1901** Proposed Rulemaking, Bulletin Vol. 19-11
- 11-0301-1901** Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 11-0400-1900** *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 11-0400-1900F** *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 11-0000-1900** *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
- 11-0000-1900** *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

11.06.01, Rules Governing Civil Asset Forfeiture Reporting

11-0601-1901 Notice of Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 2-7-19)T (Expired 6-30-19) (See entry above)

11.08.01, Rules Governing Hemp Transportation

11-0801-2001 Adoption of Temporary Rule (New Chapter), Bulletin Vol. 20-1 (eff. 11-19-19)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

11-0000-1900 *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-0000-1900F *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

11-1001-1900F *Idaho Public Safety and Public Information Systems* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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 (Expired)

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)*

11-1101-1900F *Rules of the Peace Officer Standards and Training Council* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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 (Expired)

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

12-0000-1900 *Rules of the Department of Finance* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

12-0000-1900F *Rules of the Department of Finance* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 06, 08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

12-0000-1900F *Rules of the Department of Finance* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

12.01.08, Rules Pursuant to the Uniform Securities Act (2004)

12-0108-1901 Proposed Rulemaking, Bulletin Vol. 19-10

12-0108-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 12-0109-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 12-0109-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 12-0110-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 12-0110-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 12-0111-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 12-0111-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 13-0000-1900 **Rules of the Idaho Fish and Game Commission** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

- 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
- 13-0000-1900F **Rules of the Idaho Fish and Game Commission** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 13-0108-1903 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
- 13-0108-1904 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 13-0109-1801AP Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-10
- 13-0109-1903P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-10
- 13-0109-1902 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 13-0110-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- [13-0111-1901AP](#) Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-10
- [13-0111-1904P](#) Notice of Proclamation of Rulemaking, Bulletin Vol. 19-10
- [13-0111-1901AAP*](#) Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-11 (*2nd Amendment)
- [13-0111-1905P](#) Notice of Proclamation of Rulemaking, Bulletin Vol. 19-11
- [13-0111-1901AAAP*](#) Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-12 (*3rd Amendment)

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
- [13-0117-1901](#) Proposed Rulemaking, Bulletin Vol. 19-10
- [13-0117-1901](#) Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- Executive Order No. [2019-04](#) Idaho Medal of Achievement, Bulletin Vol. 19-11
- Executive Order No. [2019-05](#) Governor's Leadership In Nuclear Energy (LINE) Commission, Bulletin Vol. 19-11
- Executive Order No. [2019-06](#) Continuing the Board of Juvenile Corrections, as the Primary Advisory Body for the Governor and Director of the Department of Juvenile Corrections on Matters Pertaining to Juvenile Corrections, Bulletin Vol. 19-11
- Executive Order No. [2019-07](#) Idaho Broadband Task Force, Bulletin Vol. 19-11
- Executive Order No. [2019-08](#) Continuing the Workforce Development Council for Planning and Oversight of the State's Workforce Development System Amending Executive Order 2017-13, Bulletin Vol. 19-11
- Executive Order No. [2019-09](#) Combating the Opioid and Substance Use Disorder Crisis, Bulletin Vol. 19-11
- Executive Order No. [2019-10](#) Organization of the Lewis and Clark Trail Committee, Bulletin Vol. 19-11
- Executive Order No. [2019-11](#) Establishing the Governor's Commission on Service and Volunteerism, Bulletin Vol. 19-11
- Executive Order No. [2019-12](#) Reviewing the Preparation and Administration of Idaho's Plan Under the Juvenile Justice and Delinquency Act; Repealing and Replacing Executive Order 2015-11, Bulletin Vol. 19-11
- Executive Order No. [2019-13](#) Transportation of Hemp, Bulletin Vol. 20-1

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
- [15-0100-1900](#) *Rules of the Idaho Commission on Aging* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- [15-0200-1900](#) *Rules of the Idaho Commission for the Blind and Visually Impaired* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

15-0300-1900F *Rules of the Idaho Forest Products Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

15-0400-1900 *Rules of the Division of Human Resources and Personnel Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

15-0600-1900 *Rules of the Idaho Military Division* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

15-0600-1900F *Rules of the Idaho Military Division* - Notice of Omnibus Rulemaking - Adoption of Fee Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

15-1000-1900F *Rules of the Idaho State Liquor Division* - Notice of Omnibus Rulemaking - Adoption of Fee Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

16-0000-1900 *Rules of the Department of Health and Welfare* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

16-0000-1900F *Rules of the Department of Health and Welfare* - Notice of Omnibus Rulemaking - Adoption of Fee Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

16.01.02, Emergency Medical Services (EMS) - Rule Definitions

16-0102-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16-0102-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

16-0103-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 16-0107-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 16-0201-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 16-0201-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

16.02.02, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission

- 16-0202-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 16-0202-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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 (Rule Null and Void)

- 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*
- 16-0208-1901 *Notice of Rescission of Temporary Rule and Vacation of Proposed Rulemaking, Bulletin Vol. 20-1 (eff. 11-14-19)*

16.02.14, Rules Governing Construction and Operation of Public Swimming Pools in Idaho

- 16-0214-1901 *Proposed Rulemaking, Bulletin Vol. 19-10*
- 16-0214-1901 *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 20-1*

16.03.01, Eligibility for Health Care Assistance for Families and Children

- 16-0301-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-10 (eff. 1-1-20)T
- 16-0301-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 16-0309-1803 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
- 16-0309-2001 Adoption of Temporary Rule, Bulletin Vol. 20-1 (eff. 1-1-20)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
- 16-0310-1704* *Proposed Rulemaking, Bulletin Vol. 19-10*
- 16-0310-1704* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 20-01*
- 16-0310-1806 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

16.03.18, Medicaid Cost-Sharing

- 16-0318-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 16-0318-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 16-0318-1901 Adoption of Pending Rule and Adoption of Temporary Rule, Bulletin Vol. 20-1 (PLR 2020) / (eff. 1-1-20)T

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
- 16-0319-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
16-0322-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
16-0504-1901 Proposed Rulemaking, Bulletin Vol. 19-10
16-0504-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
16-0506-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
16-0506-1902 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

16.06.12, Rules Governing the Idaho Child Care Program (ICCP)

- 16-0612-1901** Proposed Rulemaking, Bulletin Vol. 19-10
16-0612-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
17-0000-1900 *Rules of the Idaho Industrial Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
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
17-0000-1900F *Rules of the Idaho Industrial Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
18-0000-1900* *Rules of the Idaho Department of Insurance* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
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
18-0000-1900F* *Rules of the Idaho Department of Insurance* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

*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
- 18-0408-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 18-0408-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 18-0416-1901 Proposed Rulemaking (New Chapter), Bulletin Vol. 19-10
- 18-0416-1901 Adoption of Pending Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

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
- 18-0606-1901 Proposed Rulemaking, Bulletin Vol. 19-10
- 18-0606-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 19-0101-1900F **Rules of the Idaho State Board of Dentistry** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 19-0101-1901 Adoption of Pending Fee Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 20-0000-1900 **Rules of the Idaho Department of Lands** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 20-0000-1900F **Rules of the Idaho Department of Lands** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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”)
- 20-0302-1901 2nd Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-10

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

20-0303-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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

20-0304-1901 Adoption of Pending Fee Rule, Bulletin Vol. 19-12 (PLR 2020)

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

21-0000-1900 *Rules of the Division of Veterans Services* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

21-0000-1900F *Rules of the Division of Veterans Services* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

22-0000-1900 *Rules of the Idaho Board of Medicine* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

22-0000-1900F *Rules of the Idaho Board of Medicine* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

22-0107-1901 Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11

22-0107-1901 Adoption of Pending Rule (New Chapter), Bulletin Vol. 20-1 (PLR 2020)

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

23-0101-1900F Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-9

23-0101-1900F *Rules of the Idaho Board of Medicine* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

23-0101-1901 Proposed Rulemaking, Bulletin Vol. 19-10

23-0101-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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
- 24-0101-1900F** *Rules of the Board of Architectural Examiners* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 24-0201-1900F*** *Rules of the State Athletic Commission* - 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)*
- 24-0201-1900F*** *Rules of the State Athletic Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-0301-1900F** *Rules of the State Board of Chiropractic Physicians* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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)*
- 24-0401-1900F*** *Rules of Procedure of the Board of Registration for Professional Geologists* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-0501-1900F** *Rules of the Board of Drinking Water and Wastewater Professionals* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-0601-1900F** *Rules for the Licensure of Occupational Therapists & Occupational Therapy Assistants* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-0701-1900F** *Rules of the Idaho State Board of Landscape Architects* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-0801-1900F** *Rules of the State Board of Morticians* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-0901-1900F** *Rules of the Board of Examiners of Nursing Home Administrators* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 24-1001-1900F** *Rules of the Board of Optometry* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1001-1900F** *Rules of the Board of Optometry* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1101-1900F** *Rules of the State Board of Podiatry* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

- 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
- 24-1201-1900F** *Rules of the State Board of Psychological Examiners* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1301-1900F** *Rules Governing the Physical Therapy Licensure Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1401-1900F** *Rules of the State Board of Social Work Examiners* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1501-1900F** *Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1601-1900F** *Rules of the State Board of Dentistry* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1701-1900F** *Rules of the State Board of Acupuncture* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1801-1900F** *Rules of the Real Estate Appraiser Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-1901-1900F** *Rules of the Board of Examiners of Residential Care Facility Administrators* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 24-2001-1900** *Rules of the Bureau of Occupational Licenses* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 20, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2001-1900** *Rules of the Bureau of Occupational Licenses* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-2101-1900F** *Rules of the Idaho State Contractors Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-2201-1900F** *Rules of the Idaho State Liquefied Petroleum Gas Safety Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

- 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
- 24-2301-1900F** *Rules of the Speech, Hearing and Communication Services Licensure Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-2401-1900F** *Rules of the Genetic Counselors Licensing Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-2501-1900F** *Rules of the Idaho Driving Businesses Licensure Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-2601-1900F** *Rules of the Idaho Board of Midwifery* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-2701-1900F** *Rules of the Idaho State Board of Massage Therapy* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 24-2801-1900F** *Rules of the Barber and Cosmetology Services Licensing Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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)*
- 24-2901-1900F*** *Rules of Procedure of the Idaho Certified Shorthand Reporters Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 25-0101-1900F** *Rules of the Outfitters and Guides Licensing Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 26-0000-1900** *Rules of the Department of Parks and Recreation* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

26-0000-1900F *Rules of the Department of Parks and Recreation* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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*

26-0120-1901* *Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-10*

26-0120-1901* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 20-1 (PLR 2020)*

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*

26-0136-1901* *Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-10*

26-0136-1901* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 20-1 (PLR 2020)*

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 IDAPA 27.01.01) -- 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

27-0000-1900F *Rules of the Idaho Board of Pharmacy* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

28-0000-1900 *Rules of the Idaho Department of Commerce* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

29-0000-1900 *Rules of the Idaho Potato Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

30-0101-1900 *Rules of the Idaho Commission for Libraries Governing the Use of Commission Services* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 31-0000-1900** *Rules of the Idaho Public Utilities Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 32-0101-1900F** *Rules of the Credit Enhancement Program for School Districts* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 33 -- REAL ESTATE COMMISSION

- 33-0000-1900F** *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
- 33-0000-1900F** *Rules of the Idaho Real Estate Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 34-0000-1900** *Rules of the Idaho Secretary of State* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 34-0000-1900F** *Rules of the Idaho Secretary of State* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

34.07.01, Rules Governing Notarial Acts Performed for Remotely Located Individuals

- 34-0701-2001** Adoption of Temporary Rule (New Chapter), Bulletin Vol. 20-1 (eff. 1-1-20)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
- 35-0000-1900** *Rules of the Idaho State Tax Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

35.01.01, Income Tax Administrative Rules

- 35-0101-1901*** *Adoption of Temporary Rule, Bulletin Vol. 19-2 (eff. 1-4-19)T (*Temporary rule expired 7-1-19)*
- 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

- 35-0101-1902 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
 35-0101-1903 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
 35-0101-1904 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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*
 35-0102-1901* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*
 35-0102-1902* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*
 35-0102-1904* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*
 35-0102-1903 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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(*Temporary rule expired 7-1-19)*
 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
 35-0103-1902 Proposed Rulemaking, Bulletin Vol. 19-10
 35-0103-1904 Proposed Rulemaking, Bulletin Vol. 19-10
 35-0103-1905 Proposed Rulemaking, Bulletin Vol. 19-10
 35-0103-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
 35-0103-1902 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
 35-0103-1903 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
 35-0103-1904 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
 35-0103-1905 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)
 35-0103-1906 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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
 35-0105-1902* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*
 35-0105-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

35.02.01, Tax Commission Administration and Enforcement Rules

35-0201-1901 Proposed Rulemaking, Bulletin Vol. 19-10

35-0201-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

36-0101-1900F *Idaho Board of Tax Appeals Rules* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

37-0000-1900 *Rules of the Idaho Department of Water Resources* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

37-0000-1900F *Rules of the Idaho Department of Water Resources* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

38-0000-1900 *Rules of the Idaho Department of Administration* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

38-0000-1900F *Rules of the Idaho Department of Administration* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39-0000-1900 *Rules of the Idaho Transportation Department* - 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

39-0000-1900 *Rules of the Idaho Transportation Department* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

39-0000-1900F *Rules of the Idaho Transportation Department* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

39.02.03, Rules Governing Vehicle Dealer's Principle Place of Business and Claims to the Idaho Consumer Asset Recovery Fund

39-0203-1901* Temporary and Proposed Rulemaking, Bulletin Vol. 19-10 (eff. 8-22-19)T

**(Rulemaking changes chapter name from: "Rules Governing Vehicle Dealer's Principle Place of Business")*

39-0203-1901* Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

39.02.22, Rules Governing Registration and Permit Fee Administration

39-0222-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39-0222-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

39-0242-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39-0242-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

39-0275-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39-0275-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

39-0276-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39-0276-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

39.03.01, Rules Governing Definitions Regarding Special Permits

39-0301-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39-0301-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

39.03.05, Rules Governing Special Permits - Oversize Non-Reducible

39-0305-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39-0305-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

39-0306-1902 Proposed Rulemaking, Bulletin Vol. 19-10

39-0306-1902 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

39.03.49, Rules Governing Ignition Interlock Breath Alcohol Devices

39-0349-1901 Proposed Rulemaking, Bulletin Vol. 19-7

39-0349-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

40-0101-1900 *Rules of the Idaho Commission on the Arts* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

40-0101-1901 *Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8*

40-0101-1901* *Proposed Rulemaking, Bulletin Vol. 19-10 (*Combined with docket no. 40-0101-1900)*

40-0101-1901* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 20-1*

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

41-0101-1900 *Rules of the Idaho Public Health Districts (Panhandle Health District #1)* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

42-0101-1900F *Rules of the Idaho Wheat Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

43-0101-1900F *Rules Governing the Idaho Oilseed Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

45-0101-1900 *Rules of the Idaho Human Rights Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 46-0101-1900F** *Rules of the Idaho Board of Veterinary Medicine* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 46-0101-1902** Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-10
- 46-0101-1902** Adoption of Fee Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

IDAPA 47 -- STATE BOARD OF EDUCATION/ DIVISION OF VOCATIONAL REHABILITATION

47.01.01, Rules Governing Vocational Rehabilitation Services

- 47-0101-1901** Adoption of Temporary Rule (New Chapter), Bulletin Vol. 19-10 (eff. 8-29-19)T

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
- 48-0101-1900F** *Rules of the Idaho Grape Growers and Wine Producers Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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
- 50-0101-1900** *Rules of the Commission of Pardons and Parole* - Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-10
- 50-0101-1900** *Rules of the Commission of Pardons and Parole* - Notice of Omnibus Rulemaking - Adoption of Pending Rule - Bulletin Vol. 19-11SE (PLR 2020)

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
- 51-0101-1900F** *Rules of the Idaho Beef Council* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

52-0000-1900F *Rules of the Idaho State Lottery Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020) (*Rulemaking consolidates IDAPA 52.01.02 into IDAPA 52.01.03)

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

53-0101-1900F *Rules of the Idaho Barley Commission* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

54-0000-1900 *Rules of the Idaho State Treasurer* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

55-0000-1900 *Rules of the Idaho Division of Career Technical Education* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

55.01.03, Rules of Career Technical Schools

55-0103-1901 Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 19-7

55-0103-1901 Proposed Rulemaking, Bulletin Vol. 19-10

55-0103-1902 Adoption of Temporary Rule, Bulletin Vol. 19-12 (eff. 10-17-19)T

55-0103-1901 Adoption of Pending Rule, Bulletin Vol. 20-1 (PLR 2020)

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

56-0101-1900F *Rules of the Idaho Rangeland and Resources Commission* - Notice of Vacation of Omnibus Proposed Rulemaking, Bulletin Vol. 19-11SE

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

57-0101-1900F *Rules of the Sexual Offender Management Board* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

57-0101-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-10

57-0101-1901 Adoption of Pending Fee Rule, Bulletin Vol. 20-1 (PLR 2020)

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
- 58-0000-1900** *Rules of the Department of Environmental Quality* - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)
- 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
- 58-0000-1900F** *Rules of the Department of Environmental Quality* - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

TMDLs:

- 58-0000-1901** Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2018 (HUC 16020309), Bulletin Vol. 19-1
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- 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
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- 58-0104-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 58-0104-1901** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-11 (**Repealed and Consolidated into 58.01.22*)

58.01.05, Rules and Standards for Hazardous Waste

- 58-0105-1901** Proposed Rulemaking, Bulletin Vol. 19-8
- 58-0105-1901** Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

58.01.06, Solid Waste Management Rules

- 58-0106-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
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- 58-0111-1901 Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
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- 58-0112-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 58-0112-1901* Proposed Rulemaking**, Bulletin Vol. 19-11 (*Consolidates 58.01.20 into this chapter)

(**Rulemaking changes chapter name to: "Rules for Administration of Wastewater and Drinking Water Loan Funds")

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

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- 58-0117-1901 Proposed Rulemaking, Bulletin Vol. 19-9
- 58-0117-1901 Adoption of Pending Rule, Bulletin Vol. 19-12 (PLR 2020)

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- 58-0120-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
- 58-0120-1901* Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-11 (*Repealed and Consolidated into 58.01.12)

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
- 58-0122-1901* Proposed Rulemaking**, Bulletin Vol. 19-11 (*Consolidates 58.01.04 into this chapter)

(**Rulemaking changes chapter name to: "Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities")

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
- 59-0000-1900 **Rules of the Idaho Public Retirement System of Idaho** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

- 60-0000-1900 **Rules of the Idaho State Soil and Water Conservation Commission** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 60-0000-1900 **Rules of the Idaho State Soil and Water Conservation Commission** - Notice of Vacation of Omnibus Proposed Rulemaking, Bulletin Vol. 19-11SE
- 60-0000-1900F **Rules of the Idaho State Soil and Water Conservation Commission** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 60-0000-1900F* **Rules of the Idaho State Soil and Water Conservation Commission** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 19-11SE (PLR 2020)
(*Consolidates IDAPA 60.05.01 and 60.05.04 into a new chapter designated 60.05.01)

60.05.01, Resource Conservation and Rangeland Development Program

60-0501-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

60-0501-1901 Proposed Rulemaking, Bulletin Vol. 19-10

60-0501-1901* Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-12

(*Consolidates IDAPA 60.05.01 and 60.05.04 into a new chapter designated 60.05.01, "Rules of the Idaho Soil and Water Conservation Commission")

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

61-0000-1900 Rules of the Idaho State Public Defense Commission - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

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

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