

IDAHO ADMINISTRATIVE BULLETIN

September 7, 2022 – Vol. 22-9

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator



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

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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, Division of Financial Management, 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 **19-1** refers to the first Bulletin issued in calendar year **2019**; Bulletin **20-1** refers to the first Bulletin issued in calendar year **2020**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **19-1** refers to January 2019; Volume No. **20-2** refers to February 2020; and so forth. Example: The Bulletin published in January 2019 is cited as Volume **19-1**. The December 2019 Bulletin is cited as Volume **19-12**.

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 Bulletin publication. 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 sections to which a two-digit “TITLE” number is assigned. There are “CHAPTER” numbers assigned within the Title and the rule text is divided among major sections that are further subdivided into subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.200.02.c.ii.

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

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

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

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

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

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

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

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

DOCKET NUMBERING SYSTEM

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

“DOCKET NO. 38-0501-1901”

“**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**).

“**1901**” 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 2019**. A subsequent rulemaking on this same rule chapter in calendar year 2019 would be designated as “**1902**”. The docket number in this scenario would be 38-0501-**1902**.

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 2022

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
22-1	January 2022	November 15, 2022	*November 29, 2021	January 5, 2022	January 26, 2022
22-2	February 2022	December 23, 2022	January 7, 2022	February 2, 2022	February 23, 2022
22-3	March 2022	January 28, 2022	February 11, 2022	March 2, 2022	March 23, 2022
22-4	April 2022	February 25, 2022	March 11, 2022	April 6, 2022	April 27, 2022
22-5	May 2022	March 25, 2022	April 8, 2022	May 4, 2022	May 25, 2022
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22-9	September 2022	July 22, 2022	August 5, 2022	September 7, 2022	September 28, 2022
22-10	October 2022	August 19, 2022	**September 2, 2022	October 5, 2022	October 26, 2022
22-11	November 2022	September 23, 2022	October 7, 2022	November 2, 2022	November 23, 2022
22-12	December 2022	October 28, 2022	November 10, 2022	December 7, 2022	December 28, 2022

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2023

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
23-1	January 2023	November 14, 2022	*November 28, 2022	January 4, 2023	January 25, 2023
23-2	February 2023	December 23, 2022	January 6, 2023	February 1, 2023	February 22, 2023
23-3	March 2023	January 27, 2023	February 10, 2023	March 1, 2023	March 22, 2023
23-4	April 2023	February 24, 2023	March 10, 2023	April 5, 2023	April 26, 2023
23-5	May 2023	March 24, 2023	April 7, 2023	May 3, 2023	May 24, 2023
23-6	June 2023	April 21, 2023	May 5, 2023	June 7, 2023	June 28, 2023
23-7	July 2023	May 26, 2023	June 9, 2023	July 5, 2023	July 26, 2023
23-8	August 2023	June 23, 2023	July 7, 2023	August 2, 2023	August 23, 2023
23-9	September 2023	July 21, 2023	August 4, 2023	September 6, 2023	September 27, 2023
23-10	October 2023	August 18, 2023	**September 1, 2023	October 4, 2023	October 25, 2023
23-11	November 2023	September 22, 2023	October 6, 2023	November 1, 2023	November 22, 2023
23-12	December 2023	October 27, 2023	November 9, 2023	December 6, 2023	December 27, 2023

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

****Last day to submit a proposed rule to remain on course for rulemaking to be completed and submitted for review by upcoming legislature.**

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IDAPA 11 – IDAHO STATE POLICE

11.07.02 – RULES GOVERNING SAFETY GLAZING MATERIAL

DOCKET NO. 11-0702-2201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2901(4) Idaho Code, and Section 49.901, Idaho Code, reference the standards and specifications set for in 49 C.F.R. Sections 571.1 through 571.500, revised as of June 3, 2019.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

ISP is proposing to repeal IDAPA 11.07.02 in its entirety.

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

No fees are associated with IDAPA 11.07.02.

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it is a simple repeal of IDAPA 11.07.02.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Captain Matt Smith, Phone (208) 884-7022, Fax: (208) 884-7290, email Matt.Smith@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this August 5, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian ID 83642
(208) 884-7004
Bill.Gardiner@isp.idaho.gov

IDAPA 11.07.02 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 13 – IDAHO FISH AND GAME COMMISSION
ESTABLISHING SEASONS AND LIMITS FOR HUNTING, FISHING, AND TRAPPING IN IDAHO
DOCKET NO. 13-0000-2200P5
NOTICE OF ADOPTION / AMENDED PROCLAMATION FOR CALENDAR YEAR 2022

AUTHORITY: As authorized by Section 36-104, Idaho Code, and in compliance with Section 36-105(3), Idaho Code, the Commission adopts proclamations establishing seasons and limits for hunting, fishing, and trapping in Idaho.

AVAILABILITY OF OFFICIAL PROCLAMATIONS: Hunters, anglers, and trappers are advised to consult the text of the Commission's official proclamation before hunting, fishing, or trapping. All proclamations are available on-line at <https://idfg.idaho.gov/rules>, with print versions available at Idaho Department of Fish and Game offices and license vendors.

DESCRIPTIVE SUMMARY AND PUBLIC MEETING SCHEDULE: The Commission meeting schedule and meeting agendas are available on-line at <https://idfg.idaho.gov/about/commission/schedule>, with opportunities for public comment generally scheduled at its January, March, May, July, and November meetings.

Information for Commission proclamations for calendar year 2022 was initially published in the Administrative Bulletin, January 5, 2022, Bulletin [Volume 22-1, pages 23-24](#).

At a July 28, 2022, meeting the Commission took the following proclamation actions:

1. Adopted a proclamation setting 2022 sage-grouse hunting season and tag limits;
2. Amending all proclamations to open the Myrtle Creek Preserve to hunting, fishing, and trapping in accordance with Section 36-1905, Idaho Code; and
3. Amended its 2022-2023 migratory bird season proclamation adding a second application period for drawing swan controlled hunt tags.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning proclamations, contact Owen Moroney at (208) 334-3715.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2203

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 28, 2022.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 34-104, 36-105, and 36-408, Idaho Code.

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

This temporary rule confers a benefit to outfitting businesses in Idaho, and supports implementation of statute, by providing a logical method for determining tag use history for 2023 tag allocation for outfitted hunters in general elk and deer hunts in which tags are limited for nonresidents and unlimited for residents. The Commission makes the 2023 outfitted hunter tag allocation before 2023 general hunt tags go on sale to nonresidents on December 1, 2022 to provide certainty for outfitting businesses marketing outfitted hunts to nonresidents.

The purpose of this temporary rulemaking is to bridge the transition from outfitter reporting of client use of elk and deer tags through the Idaho Outfitters and Guides Licensing Board to a system of reporting through verification of tag sales recorded via the Idaho Department of Fish and Game licensing system, consistent with 2020 amendments to Section 36-408, Idaho Code. The amended Section 36-408 authorizes the Commission to allocate deer and elk tags for outfitted hunters based on the highest number of tag use in a two-year period. As of December 1, 2022, only one complete year (2021) of tag sales data will be recorded via the Department's licensing system. This temporary rule authorizes the Commission to determine 2023 tag allocation for general hunts limited only for nonresidents by considering the higher of the 2020 outfitted hunter use data reported to the Board and 2021 use data recorded via the Department's licensing system in accordance with Section 36-408, Idaho Code.

The proposed rule adopted concurrently with this temporary rule will authorize the Commission's consideration of two years of verified outfitted hunter tag use data, recorded via the Department's licensing system, in determining tag allocation in 2024 and subsequent years.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226 (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because it confers a benefit (as described in the preceding section).

FEE SUMMARY: Not applicable. This temporary rule does not impose new fees or charges.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions about the temporary rule, contact Amber Christofferson at (208) 334-2920.

DATED this 4th day of August 2022.

Amber Christofferson Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 13-0104-2203
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. Allocated Tag. Game tag allocated under Section 36-408, Idaho Code. (7-28-22)T

042. **Authorized Corporate Representative.** Any shareholder in a corporation, designated in writing by the corporation as the eligible applicant, who is in actual physical control of the eligible property. (3-31-22)

023. **Blind Person.** A blind person has a medically documented loss or impairment of vision and includes any person whose visual acuity with correcting lens does not exceed twenty/two hundred (20/200) in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees. (3-31-22)

034. **Domicile.** The place where an individual has his true, fixed, permanent home and to which place he has the intention of returning whenever he is absent. An individual can have several dwelling places, but only one (1) domicile. Factors to consider establishing domicile include, but are not limited to: (3-31-22)

a. What address does the person use on tax returns and where does the person file a state resident income tax return? (3-31-22)

b. Where is the person registered to vote? (3-31-22)

c. Where do the person and his immediate family live? (3-31-22)

d. Where does the person have his mail sent or forwarded to? (3-31-22)

e. Where does he register his automobiles? (3-31-22)

f. Where has the person claimed a homeowner exemption on a personal residence? (3-31-22)

g. Where does he have a driver's license? (3-31-22)

045. **Disabled.** A disabled person is defined as a person meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code. (3-31-22)

056. **Eligible Property.** At least three hundred twenty (320) acres of land, excluding any government lands, in one (1) controlled hunt area determined by the Department to be valuable for habitat or propagation purposes for deer, elk, pronghorn, and/or black bear, whether owned by one (1) or more persons, a partnership, or corporation. (3-31-22)

067. **Landowner.** Any person or corporation whose name appears on a deed as the owner of eligible property or whose name appears on a contract for sale of eligible property as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability corporations wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership or corporation. (3-31-22)

08. Non-Allocated Tag. Game tag other than an allocated tag. (7-28-22)T

09. Outfitted Hunter. Person who obtains hunting services (excluding meat pack-out) under written agreement with an outfitter licensed under Chapter 21, Title 36, Idaho Code, for the species and area for which the applicable game tag is valid. (7-28-22)T

~~07~~**10. Permanent Disability.** A medically determinable physical impairment, which a physician has certified that the condition has no expectation for a fundamental or marked change at any time in the future. (3-31-22)

~~08~~**11. Physician.** A person licensed to practice medicine pursuant to the Idaho Medical Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority if the person is not licensed to practice in Idaho. (3-31-22)

~~09~~**12. Resident.** “Resident” is defined in Section 36-202(s), Idaho Code. (3-31-22)

13. Two-Year Outfitter Verified Use History. Tag use by outfitted hunters, as verified and recorded in accordance with Section 36-408, Idaho Code, for each of the two (2) calendar years immediately preceding the date on which the Commission determines tag allocation for a hunt area. (7-28-22)T

(BREAK IN CONTINUITY OF SECTIONS)

506. DEER AND ELK TAG ALLOCATION IN GENERAL HUNTS LIMITED FOR NONRESIDENTS ONLY.

For general hunts first limited for nonresidents in 2021, the Commission will determine outfitted hunter tag allocation for 2023 based on the higher tag number for the hunt area as between outfitted hunter tag use for 2020 reported to the Board and incorporating Board-approved adjustments as of April 29, 2022, and outfitted hunter tag use verified and recorded for 2021 in accordance with Section 36-408, Idaho Code. (7-28-22)T

~~506~~7. DEER AND ELK OUTFITTER ALLOCATED TAG.****

01. Distribution of Outfitter Allocated Tags. Allocated tags will be sold by the Department, as designated by Section 36-2107, Idaho Code, and IDAPA 24.35.01.057, “Rules of Idaho Outfitters and Guides Licensing Board,” to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold and in outfitter allocated controlled hunts. Application for the purchase of allocated tags will be made by the outfitter for the hunter on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the hunter has a signed agreement to hunt with the outfitter making application. (3-31-22)

02. Designated Buyers. Purchasers of allocated tags who return their unused tag and a notarized affidavit stating that the tag buyer has not hunted may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. (3-31-22)

03. Unsold Tags. Any allocation tags not sold by August 1 of each year will be sold by the Department on a first-come, first-served basis. (3-31-22)

~~507~~8. – 549. (RESERVED)****

**IDAPA 15.10 – OFFICE OF THE GOVERNOR
IDAHO STATE LIQUOR DIVISION**

15.10.01 – RULES OF THE IDAHO STATE LIQUOR DIVISION

DOCKET NO. 15-1001-2201 (ZBR CHAPTER REWRITE)

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 2023 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 31-4801 and 31-4815, 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:

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 July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 96-108](#).

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 23-206(b), Idaho Code.

This rulemaking does not impose a new fee or charge, or increase an existing fee or charge, beyond what has been previously submitted for review in the prior rules. IDAPA 15.10.01, Section 022 allows the following fees to be charged by the Division:

01. Cost Reimbursement. The Division may seek cost reimbursement, as determined by the Division, from Supplier Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a Supplier Representative.

02. Maximum Fee for Samples. There will be a maximum fee of twenty-five dollars (\$25) per case charged to Supplier Representatives for Samples.

03. Maximum Fee for Annual Supplier Representative Permit. There will be a maximum fee of fifty dollars (\$50) charged to Supplier Representatives each year for an annual 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: There is no fiscal impact anticipated as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tony Eldeen, Rules Review Officer/Business Analyst, at 208-947-9456.

DATED this 3rd day of August, 2022.

Jeffrey R. Anderson, Director
Idaho State Liquor Division
1349 E. Beechcraft Ct.
Boise, ID, 83716
208-947-9400

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.02.01 – IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL
DOCKET NO. 16-0201-2201 (ZBR CHAPTER REWRITE, FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-1028, Idaho Code.

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

Virtual Public Hearing via WebEx
Wednesday, September 14, 2022 10:00 a.m. to 11:00 a.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mcd8a20e3247caf4c2f80d082a7be70de
Join by meeting number: Meeting number (access code): 2763 084 9654 Meeting password: xjBWsjb5w74 (95297525 from phones and video systems)
Tap to join from a mobile device (attendees only): +1-415-527-5035,,27630849654#95297525# United States Toll +1-303-498-7536,,27630849654#95297525# United States Toll (Denver) Some mobile devices may ask attendees to enter a numeric password.
Join by phone: +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)
Join from a video system or application: Dial 27630849654@idhw.webex.com
Join using Microsoft Lync or Microsoft Skype for Business: Dial 27630849654.idhw@lync.webex.com

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

Applicants applying for a TSE designation must submit the appropriate designation fees with their application for initial designation and renewal. The designation fees are for a three (3) year designation and payable on an annual basis. There are three (3) sets of fees in this chapter:

- Trauma Designation and TSE On-Site Survey Fees
- Stroke Designation and TSE On-Site Survey Fees
- STEMI (Heart Attack) Designation and TSE On-Site Survey Fees

None of the fees in this chapter of rules are being changed.

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the February 2, 2022, Idaho Administrative Bulletin, [Vol. 22-2, pages 36-37](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the Time Sensitive Emergency Standards Manual, Edition 2023-1 is being incorporated by reference into these rules to give it the force and effect of law. This will replace the currently incorporated document, Edition 2020-1. The document is not being published in this chapter of rules due to its length and format. If approved by the 2023 Legislature, after Sine Die, 2023, the TSE Standards Manual, Edition 2023-1, will be available at: <https://publicdocuments.dhw.idaho.gov/WebLink/browse.aspx?id=16512&dbid=0&repo=PUBLIC-DOCUMENTS>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Melissa Ball at (208) 334-2124.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0201-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

16.02.01 – IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

000. LEGAL AUTHORITY.

The Idaho Time Sensitive Emergency (TSE) System Council is authorized under Section 56-1028, Idaho Code, to promulgate rules for the purpose of establishing standards and for the administration of a voluntary time sensitive emergency system of care. Sections 56-1024 through 56-1030, Idaho Code, provide requirements for the TSE Council, its membership, duties, regional TSE committees, standards criteria, and the designation of centers. The Department is authorized to charge and collect fees established by rule under Section 56-1007, Idaho Code, and to establish and collect data for the Idaho (TSE) Registry under Section 57-2003, Idaho Code. ()

001. SCOPE, AND INTENT.

01. Scope. These rules provide for the administration and establishment of standards for a voluntary statewide TSE system of care that includes procedures and requirements for designation of trauma, stroke, and heart attack centers including data reporting, fees, appeal process and enforcement procedures, determination of regions to provide an effective access to the TSE System within the state, and operational procedures for regional TSE committees. ()

02. Intent. With the maturation of the TSE system, the intent is for the state to have the ability to designate TSE centers without reliance on national accreditation bodies. ()

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The Time Sensitive Emergency Standards Manual, Edition 2023-1, hereafter referred to as the TSE Standards Manual, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at <https://tse.idaho.gov/>. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter, the following terms and definitions apply. ()

01. Department. The Idaho Department of Health and Welfare. ()

02. 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. ()

03. Facility. A health care organization that is voluntarily seeking designation from the Idaho TSE Council. A facility may be any of the following: ()

a. Center as designated by the Idaho TSE Council. ()

b. Freestanding emergency department: ()

i. Owned by a hospital with a dedicated emergency department; ()

ii. Located within thirty-five (35) miles of the hospital that owns or controls it; ()

- iii. Provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis; ()
- iv. Physically separate from a hospital; and ()
- v. Meets the staffing and service requirements in IDAPA 16.03.14, "Hospitals." ()
- c. Hospital as defined in Section 39-1301, Idaho Code. ()
- d. Rural Clinic. A health care clinic in a rural area that is located more than thirty-five (35) miles from a hospital via maintained roads and is capable of providing emergency care to patients. ()
- 04. Heart Attack.** STEMI, a common name for ST-elevation myocardial infarction, is a more precise definition for a type of heart attack caused by a prolonged period of blocked blood supply that affects a large area of the heart and has a substantial risk of death or disability calling for a quick response. ()
- 05. Idaho Time Sensitive Emergency (TSE) System Council.** The Idaho TSE System Council established in Section 56-1027, Idaho Code. ()
- 06. National Accrediting Body.** An organization whose standards criteria is recognized by the Idaho TSE System Council and verifies compliance with those standards. ()
- 07. Regional Time Sensitive Emergency (TSE) Committee.** An Idaho regional TSE committee established under Section 56-1030, Idaho Code. ()
- 08. STEMI.** STEMI is an ST segment elevation myocardial infarction that is a particular type of heart attack, or MI (myocardial infarction), that is caused by a prolonged period of blocked blood supply. It affects a large area of the heart muscle, and so causes changes on the ECG as well as in blood levels of key chemical markers. This is considered a major heart attack and is referred to in medical shorthand as a STEMI. ()
- 09. Stroke.** An interruption of blood flow to the brain causing paralysis, slurred speech, or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic stroke). ()
- 10. Time Sensitive Emergency (TSE).** Time sensitive emergencies specifically for this chapter of rules are trauma, stroke, and heart attack. ()
- 11. Trauma.** The result of an act or event that damages, harms, or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy, or from the absence of such essentials as heat or oxygen. ()
- 12. TSE-Designated Center.** A facility that has voluntarily applied for TSE designation, has met designation criteria, remains in compliance with the designation criteria and standards of these rules, and that the TSE Council has designated as one (1) or more of the following: ()
 - a. Level I Trauma Center; ()
 - b. Level II Trauma Center; ()
 - c. Level III Trauma Center; ()
 - d. Level IV Trauma Center; ()
 - e. Level V Trauma Center; ()
 - f. Pediatric Level I Trauma Center; or ()

- g.** Pediatric Level II Trauma Center; ()
- h.** Level I Stroke Center (Comprehensive); ()
- i.** Level II+ Stroke Center (Thrombectomy Capable); ()
- j.** Level II Stroke Center (Primary); or ()
- k.** Level III Stroke Center (Acute Stroke Ready); ()
- l.** Level I+ STEMI Center (Cardiogenic Shock Capable); ()
- m.** Level I STEMI Center (Heart Attack Receiving); or ()
- n.** Level II STEMI Center (Heart Attack Referring). ()

13. TSE Registry. The population-based data system defined under Section 57-2003, Idaho Code. ()

14. TSE System. An organized statewide approach to treating trauma, stroke, and heart attack patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated TSE care. ()

011. -- 074. (RESERVED)

075. TSE COUNCIL.

Under Section 56-1027, Idaho Code, the TSE Council will consist of members appointed by the Governor of Idaho and the chair of each regional TSE committee and is responsible for duties described under Section 56-1028, Idaho Code. ()

076. -- 079. (RESERVED)

080. TSE REGIONS.

Under Section 56-1028, Idaho Code, the TSE Council is required to establish TSE regions that provide more effective access to the Idaho TSE system through education, but not for the purpose of promoting competition, restricting, or directing patient referrals within the region. The TSE Council has established six (6) regions in Idaho described in the TSE Standards Manual. ()

081. TSE REGIONS -- REALIGNMENT OF REGION.

The TSE Council may realign a region by initiation of the TSE Council, or at the request of a regional TSE committee, a county or local government entity within the region, a TSE-designated center, or a licensed EMS agency within the region. ()

01. Requesting Entity. The requesting entity must forward correspondence to the TSE Council specifying the reason for the realignment request. The correspondence must include: ()

- a.** Existing patient routing patterns used by both EMS agencies and health care centers; ()
- b.** Distances and transport times involved in patient routing patterns; ()
- c.** A list of all entities affected by the request; ()
- d.** A list of all other licensed health care facilities and licensed EMS agencies in the county; and ()
- e.** Documentation that all affected regional TSE committees are agreeable to the realignment. ()

02. Copies of Request for Realignment. The entity requesting the TSE Council for realignment must provide copies of the correspondence to all affected regional TSE committees, county and local governments, licensed health care facilities, and EMS agencies in the requesting entity's county. ()

03. TSE Decision for Realignment. The TSE Council will evaluate the request based on the impact to patient care and will notify all parties of the council's decision. ()

082. REGIONAL TSE COMMITTEES -- ORGANIZATION AND RESPONSIBILITIES.
The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. ()

083. -- 099. (RESERVED)

100. DESIGNATION OF TSE CENTERS -- CRITERIA.
Under Section 56-1029, Idaho Code, the TSE Council will designate a hospital as a trauma, stroke, or STEMI center when such hospital, upon proper application and verification, is found by the TSE Council to meet an applicable designation level for trauma, stroke, or STEMI designation criteria established in the TSE Standards Manual. ()

101. -- 104. (RESERVED)

105. TRAUMA DESIGNATION CENTERS.
To be an Idaho TSE-designated Level I, II, III, IV, V, or a Pediatric Level I or Level II Trauma Center, a facility must meet or exceed required standards published for state designation in the TSE Standards Manual. ()

106. -- 109. (RESERVED)

110. STROKE DESIGNATION CENTERS.
To be an Idaho TSE-designated Level I, II, II+ (Thrombectomy), or III Stroke Center, a facility must meet or exceed required standards published for state designation in the TSE Standards Manual. ()

111. -- 114. (RESERVED)

115. STEMI DESIGNATION CENTERS.
To be an Idaho TSE-designated Level I+ (Cardiogenic Shock), or II STEMI Center, a facility must meet or exceed required standards published for state designation in the TSE Standards Manual. ()

116. -- 119. (RESERVED)

120. DESIGNATION OF CENTERS -- GENERAL REQUIREMENTS.

01. Application. A facility applying for initial TSE designation must submit an application along with applicable fees for each designation it is requesting. Application process and requirements are provided in the TSE Standards Manual. ()

02. Initial Designation. Initial designation requires completion of appropriate application, submission of appropriate fees, and completion of an appropriate site survey based on the TSE Standards Manual. ()

121. -- 189. (RESERVED)

190. TSE DESIGNATION -- LENGTH OF DESIGNATION.
A TSE center will be designated for a period of three (3) years, unless the designation is rescinded by the TSE Council for non-compliance with the designation standards of these rules or adjusted to coincide with applicable external verification timetables. ()

191. RENEWAL OF TSE DESIGNATION.
A TSE center must submit its renewal application and applicable fees no later than three (3) months prior to the center's designation expiration date. Designation will not lapse due to a delay in scheduling the site survey, if the

delay is through no fault of renewing center. ()

192. -- 194. (RESERVED)

195. NOTIFICATION OF LOSS OF CERTIFICATION OR LICENSURE.

Any TSE-designated center that has a loss of certification or licensure must immediately notify the TSE Council by contacting TSE program staff. ()

196. -- 199. (RESERVED)

200. DESIGNATION AND TSE SITE SURVEY FEES.

01. Application With National Verification. An applicant applying for a TSE designation that is verified by a national accrediting body must submit the appropriate designation fees with its application for initial designation and renewal. The designation fees are for a three (3) year designation and are payable on an annual basis. TSE designation fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. ()

02. Application Without National Verification. An applicant who requires a TSE site survey prior to designation is required to pay the applicable site survey fee at the time of application. TSE designation and site survey fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. ()

03. Trauma Designation and TSE Site Survey Fees.

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE SITE SURVEY FEE (Not to exceed)
LEVEL I	\$45,000 / \$15,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL II	\$36,000 / \$12,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL III	\$24,000 / \$8,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL IV	\$12,000 / \$4,000	\$1,500 / Not applicable with national or acceptable state verification
LEVEL V	\$3,000 / \$1,000	\$1,500
PEDIATRIC LEVEL I and LEVEL II	\$36,000 / \$12,000	No fee. Must be ACS verified

()

04. Stroke Designation and TSE Site Survey Fees.

STROKE DESIGNATIONS 200.04	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE SITE SURVEY FEE (Not to exceed)
LEVEL I	\$21,000 / \$7,000	\$3,000 / Not applicable with national or acceptable state verification

STROKE DESIGNATIONS 200.04	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE SITE SURVEY FEE (Not to exceed)
LEVEL II and LEVEL II+	\$12,000 / \$4,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL III	\$1,500 / \$500	\$1,500/ Not applicable with national or acceptable state verification

()

05. STEMI Designation and TSE Site Survey Fees.

STEMI DESIGNATIONS 200.05	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE SITE SURVEY FEE (Not to exceed)
LEVEL I and LEVEL I+	\$21,000 / \$7,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL II	\$1,500 / \$500	\$1,500 / Not applicable with national or acceptable state verification

()

06. Designation Fee Payment. After completion of the TSE site survey, the TSE Council will notify the applicant facility of the designation determination by letter. The applicant facility must then pay either the annual designation fee or the entire three (3) year designation fee. After designation notification and upon the Department's receipt of the designation fee, designation is effective. The TSE Council will send a certificate of designation and confirmation of the designation period. Annual designation fees for those facilities paying yearly are due to the Department within thirty (30) days of the date of the invoice in order to maintain designation. Failure to meet this deadline will result in suspension or revocation of designation as provided in Section 285 of these rules. ()

201. -- 249. (RESERVED)

250. TSE SITE SURVEY.

The TSE Council will conduct an on-site survey of each TSE-designated center at least once every three (3) years, unless the center has been verified by a national accrediting body to meet or exceed the standards set in these rules. The TSE Council will schedule the on-site survey with the designated center in a timely manner. ()

251. TSE SITE SURVEY -- GENERAL REQUIREMENTS.

The TSE site survey will consist of and consider each facility's application and compliance with the TSE Standards Manual for the specific type of designation being requested. The general requirements in Subsections 251.01 through 251.06 of this rule apply: ()

01. Survey Team Member Requirements. Survey team members will meet the following inclusion criteria: ()

a. A physician surveyor must: ()

i. Be certified by the American Board of Medical Specialties or the American Board of Osteopathic Medicine; ()

- ii. Be board-certified in the specialty area being represented on the review team; ()
- iii. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; ()
- iv. Have no conflict of interest with the facility under review; and ()
- v. Be from outside the region of the center being verified. ()
- b.** A nurse surveyor or program manager must: ()
 - i. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; ()
 - ii. Have no conflict of interest with the facility under review; and ()
 - iii. Be from outside the region of the center being verified. ()

02. Communication Between Surveyors and Facilities. In order to standardize ethical practice, all communication between surveyors and facilities prior to the survey must be facilitated by TSE program staff. ()

03. Survey Team Member Notification of Potential Conflict of Interest. Upon being assigned to a site survey team, a potential team member must notify the TSE Council of any potential conflict of interest regarding any financial, professional, or personal bias that may affect the survey of the applicant's facility. ()

04. Notification to Applicant of Survey Team Members. The TSE Council will provide the applicant with the names of the site survey team once they have been selected and at least thirty (30) calendar days prior to the scheduled survey. ()

05. Facility Notification to TSE Council of Potential Conflict of Interest. If the applicant believes that a potential surveyor has a financial, professional, or personal bias that may affect the survey, the applicant must notify the TSE Council in writing no later than seven (7) calendar days after the applicant receives the TSE Council's notification of the proposed survey team. ()

06. Notification of Decision for Conflict of Interest. The TSE Council will consider the conflict of interest notice and make a decision concerning replacement of the survey team member in question. No person who has a substantial conflict of interest in the operation of any facility under review will participate in the site survey of the applicant. ()

252. SITE SURVEY -- SURVEY TEAM COMPOSITION.

The TSE Council will select an site survey team based on the applicant's designation application and specifications provided in these rules and the standards published in the TSE Standards Manual. ()

253. SITE SURVEY -- ADDITIONAL SURVEYS.

The TSE Council may conduct additional, announced or unannounced, site reviews of TSE designated centers or applicants when there is reason to believe that the center is not in compliance with the designation criteria standards of these rules. ()

254. -- 259. (RESERVED)

260. DESIGNATION DECISION.

01. Summary Report. The survey team will present a verbal summary of the survey results to the applicant. The survey team will submit in writing to the TSE Council its recommendation on the center's designation at the completion of the site survey. ()

02. Written Report. The TSE Council will consider all evidence and notify the applicant in writing of

its decision within thirty (30) calendar days of receiving the survey team’s recommendation. ()

03. Final Determination. The TSE Council's final determination regarding each application will be based upon consideration of: ()

a. The application; ()

b. The evaluation and recommendations of the site survey team; ()

c. The best interests of patients; and ()

d. Any unique attributes or circumstances that make the facility capable of meeting special community needs. ()

04. Provisional Designation. The TSE Council may grant a provisional designation to a facility with deficiencies it deems correctable. A facility receiving a provisional designation must: ()

a. Resolve the deficiencies within the time period specified by the TSE Council; ()

b. Submit documentation that the deficiency has been resolved; and ()

c. If necessary, submit to an additional focused site survey and pay the applicable survey fees. ()

05. Denial. If the TSE Council denies an applicant a designation, the provisions of IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings,” will apply. ()

261. -- 269. (RESERVED)

270. WAIVERS.

01. Granting a Waiver. The TSE Council may grant a waiver from one (1) or more designation criteria for a center applying for TSE designation. ()

02. Waiver Application. A center requesting a waiver must submit a completed TSE Waiver Application Form. The TSE Council may require the applicant to provide additional information, and the application will not be considered complete until all required information is provided. ()

03. Post Notice. A center requesting a waiver must post a notice of the waiver application at all public entrances to the center and in at least one (1) area that is commonly used by the patients. The notice must: ()

a. Include a meaningful description of the reason for the waiver; ()

b. Be posted on the date the waiver application is submitted; ()

c. Remain posted for a minimum of thirty (30) calendar days; and ()

d. Describe where and to whom comments may be submitted during the thirty (30) calendar days. ()

04. Notice Distribution. When the notice is posted, the center must also distribute copies of the notice to prehospital emergency medical service agencies active in the community served by the center. ()

05. Waiver Application Submission. The completed waiver application must be submitted to the TSE Council at least thirty (30) calendar days before a TSE Council meeting in order to be placed on the agenda. Applications submitted less than thirty (30) calendar days in advance of a TSE Council meeting will be placed on the next agenda. ()

06. Waiver Application Distribution. The TSE Council will make available the public notice of the TSE Council meeting regarding the waiver application to all TSE-designated centers. ()

07. Waiver Application Review. The regional TSE committee must review the request and make recommendations to the TSE Council. The TSE Council must make a decision and notify the facility administrator in writing within thirty (30) calendar days of the TSE Council meeting during which the waiver decision is made. ()

08. Waiver Conditions. When a waiver is granted, the TSE Council must: ()

a. Specify the terms and conditions of the waiver; ()

b. Specify the duration of the waiver; duration will not exceed the designation period for that center or three (3) years, whichever is shorter; and ()

c. Require the submission of progress reports from the center that was granted a waiver. ()

09. Waiver Renewal. A center that plans to maintain a waiver beyond its expiration must submit a new waiver application to the TSE Council no less than three (3) months prior to the expiration of the waiver. ()

10. Waiver Revocation. The TSE Council may revoke or suspend a waiver when it determines: ()

a. That continuation of the waiver jeopardizes the health, safety, or welfare of the patients; ()

b. The applicant has provided false or misleading information in the waiver application; ()

c. The applicant has failed to comply with conditions of the waiver; or ()

d. That a change in federal or state law prohibits continuation of the waiver. ()

11. Notification and Appeal. When the TSE Council denies, revokes, or suspends a waiver, the TSE Council must provide the center with a written notification of the action and the basis for the action. The notice will inform the facility of the right to appeal and the appellate procedure under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Notification will be made in writing within thirty (30) calendar days of the TSE Council meeting during which the appeal decision is made. ()

271. -- 279. (RESERVED)

280. DENIAL AND MODIFICATION.

01. Denial. The TSE Council may deny an initial or renewal application for a center's designation when a center: ()

a. Does not meet the criteria for designation required in these rules; ()

b. Application or accompanying documents contain false statements of material facts; ()

c. Refuses to allow any part of a site survey; ()

d. Fails to comply with or to successfully complete a plan of correction, or ()

e. Is substantially out of compliance with any TSE rules. ()

02. Modification. When a center fails to meet the criteria at the level of designation for which it applied or opts to surrender its designation, the TSE Council may recommend a designation at a lesser level described in Section 290 of these rules, or a complete revocation of state designation. This action, unless agreed to by the

applicant, will represent a denial of the application. ()

03. Notification and Appeal. When the TSE Council denies an application for designation, the TSE Council must provide the center with a written notification of the denial and the basis for the denial. The notice will inform the facility of the right to appeal and the appellate procedure under IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

281. -- 284. (RESERVED)

285. REVOCATION AND SUSPENSION.

01. Revocation. The TSE Council may revoke the designation of a center or a waiver when an owner, officer, director, manager, or other employee: ()

- a.** Fails or refuses to comply with the provisions of these rules; ()
- b.** Fails to make annual designation fee payment for those facilities paying yearly; ()
- c.** Makes a false statement of material fact about the center’s capabilities or other pertinent circumstances in any record or matter under investigation for any purposes connected with these rules; ()
- d.** Prevents, interferes with, or attempts to impede in any way, the work of a representative of the TSE Council in implementing or enforcing these rules; ()
- e.** Falsely advertises, or in any way misrepresents the facility’s ability to care for patients based on its designation status; ()
- f.** Is substantially out of compliance with these rules and has not rectified such noncompliance; ()
- g.** Fails to provide reports required by the Idaho TSE Registry or the Department in a timely and complete fashion; or ()
- h.** Fails to comply with or complete a plan of correction in the time or manner specified. ()

02. Suspension. The TSE Council may suspend a center’s designation or waiver when it finds, after investigation, that the center has engaged in a deliberate and willful violation of these rules, or that the public’s health, safety, or welfare is endangered. ()

03. Notification and Appeal. When the TSE Council revokes or suspends a center’s designation or waiver, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the appellate procedure under IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

286. -- 289. (RESERVED)

290. DESIGNATION AT A LESSER LEVEL.

01. Inability to Meet Criteria. The TSE Council may opt to redesignate a center at a lesser level due to the center’s inability to meet current designation criteria, without regard to any waiver previously granted. ()

02. Notification and Appeal. When the TSE Council decides to redesignate a center, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the appellate procedure under IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

291. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.19 – IDAHO FOOD CODE

DOCKET NO. 16-0219-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-121, 39-1603, Idaho Code.

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

Virtual Public Hearing via WebEx
Wednesday, September 14, 2022 1:30 p.m. to 3:30 p.m. (MT)
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m242a7c198b591df61f8703f3cab44e7c</p> <p>Join by meeting number: Meeting number (access code): 2762 996 3055 Meeting password: PgKzK7YCP73 (74595792 from phones and video systems)</p> <p>Tap to join from a mobile device (attendees only): +1-415-527-5035,,27629963055#74595792# United States Toll +1-303-498-7536,,27629963055#74595792# United States Toll (Denver) Some mobile devices may ask attendees to enter a numeric password</p> <p>Join by phone: +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p> <p>Join from a video system or application: Dial 27629963055@idhw.webex.com</p>

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 65-66](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The document incorporated by reference in these rules is not being changed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jarryd Samples at (208) 334-4994.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0219-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

16.02.19 – IDAHO FOOD CODE

000. LEGAL AUTHORITY.

The Board of Health and Welfare is authorized under Sections 37-121 and 39-1603, Idaho Code, to adopt rules for the regulation of food establishments to protect public health.. ()

001. SCOPE AND APPLICABILITY.

01. Scope. These rules establish standards for the provision of safe, unadulterated and honestly presented food for consumption by the public. These rules provide requirements for licensing, inspections, review of plans, employee restriction, and license suspensions for food establishments and food processing plants. Also included are definitions and set standards for management, personnel, food operations, equipment and facilities. ()

02. These Rules Apply to Food Establishments. Food establishments as defined in Section 39-1602, Idaho Code must follow these rules. Those facilities include but are not limited to the following: ()

a. Restaurants, catering facilities, taverns, kiosks, vending facilities, commissaries, cafeterias, mobile food facilities, temporary food facilities; and ()

b. Schools, senior centers, hospitals, residential care and treatment facilities, nursing homes, correctional facilities, camps, food banks, and church facilities; and ()

c. Retail markets, meat, fish, delicatessen, bakery and supermarkets, convenience stores, health food stores, and neighborhood markets; and ()

d. Food, water and beverage processing and bottling facilities that manufacture, process and distribute food, water and beverages within the state of Idaho, and are not inspected for food safety by a federal agency. ()

04. These Rules Do Not Apply to These Establishments. These rules do not apply to the following establishments as exempted in Idaho Code. ()

a. Agricultural markets as exempted in Section 39-1602, Idaho Code. ()

b. Bed-and-breakfast operations that prepare and offer food for breakfast only to guests. The number of guest beds must not exceed ten (10) beds as defined in Section 39-1602, Idaho Code. ()

c. Day care facilities regulated by Sections 39-1101 through 39-1119, Idaho Code. ()

d. Licensed outfitters and guides regulated by Sections 36-2101 through 36-2119, Idaho Code. ()

e. Low-risk food establishments, as exempted in Section 39-1602, Idaho Code, which offer only non-time/temperature control for safety (non-TCS) foods. ()

f. Farmers market vendors and roadside stands that only offer or sell non-time/temperature control for safety (non-TCS) foods or cottage foods. ()

g. Non-profit charitable, fraternal, or benevolent organizations that do not prepare or serve food on a regular basis as exempted in Section 39-1602, Idaho Code. Food is not considered to be served on a regular basis if it is not served for more than five (5) consecutive days on no more than three (3) occasions per year for foods which are non-time/temperature control for safety (non-TCS). For all other food, it must not be served more than one (1) meal per week. ()

h. Private homes where food is prepared or served for family consumption or receives catered or home-delivered food as exempted by Section 39-1602, Idaho Code. ()

i. Cottage food operations, when the consumer is informed and must be provided contact information for the cottage food operations as follows: ()

i. By a clearly legible label on the product packaging; or a clearly visible placard at the sales or service location that also states: ()

ii. The food was prepared in a home kitchen that is not subject to regulation and inspection by the regulatory authority; and ()

iii. The food may contain allergens. ()

05. How to Use This Chapter of Rules. The rules in this chapter are modifications, additions or deletions made to the federal publication incorporated by reference in Section 002 of these rules. In order to follow these rules the publication is required. Changes to those standards are listed in this chapter of rules by listing which section of the incorporated publication is being modified at the beginning of each Section of rule. Citations to the incorporated Food Code are in the format “x-xxx.xx.” ()

002. INCORPORATION BY REFERENCE.

The Department adopted by reference the “Food Code, 2013 Recommendations of the United States Public Health Service Food and Drug Administration,” Publication PB2013-110462, hereafter referred to as the incorporated Food Code. A certified copy of this publication may be reviewed at the main office of the Department. It is also available online at <http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm>. This publication is being adopted with modifications and additions as follows: ()

01. Chapter 1, Purpose and Definitions. Additions and modifications have been made to this chapter. See Sections 100 - 199 of these rules. ()

02. Chapter 2, Management and Personnel. Modifications have been made to this chapter. See Sections 200 - 299 of these rules. ()

03. Chapter 3, Food. Modifications have been made to this chapter. See Sections 300-399 of these rules. ()

04. Chapter 4, Equipment, Utensils, and Linens. This chapter has been adopted with no modifications. ()

05. Chapter 5, Water, Plumbing and Waste. This chapter has been adopted with no modifications. ()

06. Chapter 6, Physical Facilities. Modifications have been made to this chapter. See Sections 600-699 of these rules. ()

07. Chapter 7, Poisonous or Toxic Materials. Modifications have been made in this chapter. See Sections 700 - 799 of these rules. ()

08. Chapter 8, Compliance and Enforcement. Modifications have been made in this chapter. See Sections 800-899 of these rules. ()

09. Annexes 1 Through 7 Are Excluded. These sections have not been adopted. ()

003. -- 049. (RESERVED)

050. TRAINING AND INFORMATIONAL MATERIALS.

The Department is authorized under Section 56-1007, Idaho Code, to establish a reasonable charge for training and informational materials that are provided to the public. ()

051. -- 099. (RESERVED)

100. PURPOSES AND DEFINITIONS.

Sections 100 through 199 of these rules will be used for modifications and additions to Chapter 1 of the incorporated Food Code. ()

101. -- 109. (RESERVED)

110. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.

The definitions defined in this section are modifications or additions to the definitions and terms provided in the incorporated Food Code. ()

01. Agricultural Market. Any venue where a fixed or mobile retail food establishment can engage in the sale of raw or fresh fruits, vegetables, and nuts in the shell. It may also include the sale of factory sealed non-time/temperature control for safety foods (non-TCS). Agricultural market means the same as “farmers market” or “roadside stand.” ()

- 02. Board.** The State of Idaho Board of Health and Welfare as established in Section 56-1005, Idaho Code. ()
- 03. Consent Order.** A consent order is an enforceable agreement between the regulatory authority and the license holder to correct violations that caused the actions taken by the regulatory authority. ()
- 04. Core Item.** A core item is a provision in the incorporated Food Code that is not designated as a priority item or a priority foundation item. A core item includes items that usually relate to general sanitation, operation controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance. ()
- 05. Cottage Food Operation.** A cottage food operation is when a person or business prepares or produces cottage food products in the home kitchen of that person's primary residence or other designated kitchen or location. ()
- 06. Cottage Food Product.** Cottage food products are non-time/temperature control for safety (non-TCS) foods that are sold directly to a consumer. Examples of cottage foods may include but are not limited to: baked goods, fruit jams and jellies, fruit pies, breads, cakes, pastries and cookies, candies and confections, dried fruits, dry herbs, seasonings and mixtures, cereals, trail mixes and granola, nuts, vinegar, popcorn and popcorn balls, and cotton candy. ()
- 07. Department.** The Idaho Department of Health and Welfare as established in Section 56-1002, Idaho Code, or its designee. ()
- 08. Director.** The Director of the Idaho Department of Health and Welfare as established in Section 56-1003, Idaho Code ()
- 09. Embargo.** An action taken by the regulatory authority that places a food product or equipment used in food production on hold until a determination is made on the product's safety. ()
- 10. Enforcement Inspection.** An inspection conducted by the regulatory authority when compliance with these rules by a food establishment is lacking and violations remain uncorrected after the first follow-up inspection to a routine inspection. ()
- 11. Farmers Market.** Any fixed or mobile retail food establishment at which farmer producers sell agricultural products directly to the general public. Farmers market means the same as "agricultural market" and "roadside stand." ()
- 12. Food Establishment.** Modifications to Section 1-201.10 amends the definition of "food establishment" as follows: ()
- a. Delete Subparagraph 3(c) of the term "food establishment" in the incorporated Food Code; ()
 - b. Add Subparagraph 3(h) to the term "food establishment" to clarify that a cottage food operation is not a food establishment. ()
- 13. Food Processing Plant.** Modification to Section 1-201.10 amends the definition of "food processing plant" by deleting Subparagraph 2 of the term "food processing plant" in the incorporated Food Code. ()
- 14. Good Retail Practice.** Good retail practice means the preventive measures that include practices and procedures that effectively control the introduction of pathogens, chemicals, and physical objects into food. ()
- 15. High-Risk Food Establishment.** A high-risk food establishment performs the following: ()
- a. Extensive handling of raw ingredients; ()

b. Preparation processes that include the cooking, cooling and reheating of time/temperature control for safety (TCS) foods; or ()

c. A variety of processes requiring hot and cold holding of time/temperature control for safety (TCS) foods. ()

111. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.

The definitions defined in this section are modifications or additions to the definitions and terms provided in the incorporated Food Code. ()

01. License. The term “license” is used in these rules the same as the term “permit” is used in the incorporated Food Code. ()

02. License Holder. The term “license holder” is used in these rules the same as the term “permit holder” is used in the incorporated Food Code. ()

03. Low-Risk Food Establishment. A low-risk food establishment provides factory-sealed pre-packaged non-time/temperature control for safety (non-TCS) foods. The establishment may have limited preparation of non-time/temperature control for safety (non-TCS) foods only. ()

04. Medium-Risk Food Establishment. A medium-risk food establishment includes the following: ()

a. A limited menu of one (1) or two (2) items; or ()

b. Pre-packaged raw ingredients cooked or prepared to order; or ()

c. Raw ingredients requiring minimal assembly; or ()

d. Most products are cooked or prepared and served immediately; or ()

e. Hot and cold holding of time/temperature control for safety (TCS) foods is restricted to minimal holding between preparation and service. ()

05. Priority Item. A priority item is a provision in the incorporated Food Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. A priority item includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and is an item that is denoted in the incorporated Food Code with a superscript (P). ()

06. Priority Foundation Item. A priority foundation item is a provision in the incorporated Food Code whose application supports, facilitates, or enables one (1) or more priority items. Priority foundation item includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling. A priority foundation item is an item that is denoted in the incorporated Food Code with a superscript (Pf). ()

07. Regulatory Authority. The Department is the regulatory authority authorized to enforce compliance of these rules. ()

a. The Department is responsible for preparing the rules, rule amendments, standards, policy statements, operational procedures, program assessments and guidelines. ()

b. The seven (7) Public Health Districts and the Division of Licensing and Certification have been designated by the Director as the regulatory authority for the purpose of issuing licenses, collecting fees, conducting inspections, reviewing plans, determining compliance with the rules, investigating complaints and illnesses,

examining food, embargoing food and enforcing these rules. ()

08. Risk Control Plan. A document describing the specific actions to be taken by the license holder to address and correct a continuing hazard or risk within the food establishment. ()

09. Risk Factor Violation. Risk factor violation means improper practices or procedures that are most frequently identified by epidemiologic investigation as a cause of foodborne illness or injury. ()

10. Roadside Stand. Any fixed or mobile retail food establishment at which an individual farmer producer sells own agricultural products directly to consumers. Roadside stand means the same as “agricultural market” and “farmers market.” ()

112. -- 199. (RESERVED)

200. MANAGEMENT AND PERSONNEL.

Sections 200 through 299 of these rules will be used for modifications and additions to Chapter 2 of the incorporated Food Code. ()

201. ASSIGNMENT OF PERSON IN CHARGE.

Modification to Section 2-101.11. The license holder will be the person in charge or will designate a person in charge and will ensure that a person in charge is present at the food establishment during all hours of food preparation and service. ()

202. -- 209. (RESERVED)

210. DEMONSTRATION OF KNOWLEDGE.

Modification to Section 2-102.11. The person in charge of a food establishment may demonstrate knowledge on the risks of foodborne illness or health hazards by one (1) of the following. ()

01. No Priority Violations. Complying with the incorporated Food Code by not having any priority violations at the time of inspection; ()

02. Approved Courses. Completion of the Idaho Food Safety Exam, or an equivalent course designed to meet the same training as the Idaho Food Safety Exam; or ()

03. Certified Food Protection Manager. Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. ()

211. -- 299. (RESERVED)

300. FOOD.

Sections 300 through 399 of these rules will be used for modifications and additions to Chapter 3 of the incorporated Food Code. ()

301. -- 319. (RESERVED)

320. MEAT AND POULTRY.

01. Custom Meat. Meat that is processed for individual owner(s) by a custom butcher, under the custom exemption in 9 CFR 303.1 “Mandatory Meat Inspection Exemptions,” must be marked “Not For Sale” and may not be sold, served or given away to any member of the public. This meat must be for the use in the household of such owner(s), their families, non-paying guest and employees only. ()

02. Poultry Exemption. Poultry that is exempt in 9 CFR 381.10, Subpart C “Mandatory Poultry Products Inspection Exemptions” may be sold, served or given away in Idaho, if it is processed in a licensed food processing facility and is labeled “Exempt from USDA Inspection per PL 492.” ()

321. -- 324. (RESERVED)

325. GAME ANIMALS.

Modification to Section 3-201.17(A)(4), is made by deleting Section 3-201.17(A)(4) and replacing it with Subsections 325.01 through 325.04 of these rules. ()

01. Field Dressed Game Animals. Un-inspected wild game animals and wild poultry may be custom processed or prepared and served upon request by an individual having ownership of the animal. Except as allowed in Subsection 325.04 of this rule, un-inspected wild game animals and wild poultry must be processed for or served to that owner and for the family or guests of that individual animal owner only. ()

02. Processing Game Animals. Game animals and birds are to be completely separated from other food during storage, processing, preparation and service with the use of separate equipment or areas or by scheduling and cleaning, providing there is compliance with the following: ()

a. Slaughtering and cleaning of game animals or birds can not be done in the food establishment, except for meat processing establishments with kill floors; and ()

b. Game animals and other animal carcasses are free of any visible dirt, filth, fecal matter or hair before such carcasses enter the food establishment, except for meat processing establishments with kill floors; and ()

c. An identifying tag with the owner's name must be on each carcass or divided parts and packaged or wrapped parts; and ()

d. Each carcass or divided parts and packaged or wrapped parts are marked or tagged with a "Not for sale" label. Except as allowed in Subsection 325.04 of this rule, these may not be sold, given away, or served to any members of the public. ()

03. Un-Inspected Game Animals. Any un-inspected game animals prepared and served in a food establishment may only be prepared and served at the request of the owner of the animals for the owner and invited family or friends at a private dinner. Except as allowed in Subsection 325.04 of this rule, these animals may not be served, sold, or given away to any members of the public. ()

04. Donated Game Meat. Legally harvested game meat may be donated to a food bank or food pantry when the following conditions are met: ()

a. The end recipient of the donated game meat signs an acknowledgment statement indicating that he is aware that the meat has been donated and that the meat itself is un-inspected, wild-harvested game meat. ()

b. The game meat must have been processed by: ()

i. A facility that is subject to inspection by the regulatory authority with jurisdiction over meat products; ()

ii. The facility packages the game meat into portions that require no further processing or cutting by the food bank or food pantry; and ()

c. The meat is labeled by the processor with the following: ()

i. Species identification; ()

ii. The name and address of the meat processing facility; and ()

iii. The words "Processed for Donation or Private Use" and "Cook to 165° F." ()

326. -- 354. (RESERVED)

355. FOOD PROCESSING PLANTS.

Food processing plants, establishments, canning factories or operations must meet the requirements in Chapters 1 through 8 of the incorporated Food Code, and Subsections 355.01 through 355.07 of this rule. ()

01. Thermal Processing of Low-Acid Foods. Low-acid food products processed using thermal methods for canning must meet the requirements of 21 CFR 113. ()

02. Processing of Acidified Foods. Acidified food products must meet the requirements of 21 CFR 114. ()

03. Bottled Water Processing. Bottled drinking water processed in Idaho must be from a licensed processing facility that meets the requirements of 21 CFR 129. Bottled drinking water must also meet the quality and monitoring requirements in 21 CFR 165. ()

04. Approval of Process Methods. A variance by the regulatory authority must be approved and granted for specialized processing methods for products listed in Section 3-502.11. ()

05. Labels. Proposed labels must be submitted to the regulatory authority for review and approval before printing. ()

06. Testing. The license holder is responsible for chemical, microbiological or extraneous material testing procedures to identify failures or food contamination of food products being processed or manufactured by the license holder. ()

07. Quality Assurance Program. The license holder or his designated person must develop and submit to the regulatory authority for review and approval a quality assurance program or HACCP plan which covers the food processing operation. The program must include the following: ()

a. An organization chart identifying the person responsible for quality control operations; ()

b. A process flow diagram outlining the processing steps from the receipt of the raw materials to the production and packaging of the finished product(s) or group of related products; ()

c. A list of specific points in the process which are critical control points that have scheduled monitoring; ()

d. Product codes that establish and identify the production date and batch; ()

e. A manual covering sanitary maintenance of the facility and hygienic practices to be followed by the employees; and ()

f. A records system allowing for review and evaluation of all operations including the quality assurance program results. These records must be kept for a period of time that exceeds the shelf life of the product by six (6) months or for two (2) years, whichever is less. ()

356. -- 359. (RESERVED)

360. ADVISING CONSUMERS OF HEALTH RISK OF RAW OR UNDERCOOKED FOODS. Modification to Section 3-603.11. ()

01. Consumption of Animal Foods That Are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens. Except as specified in Section 3-401.11(C) and Subparagraph 3-401.11(D)(3) and under Section 3-801.11(D), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another ready-to-eat food, the license holder must inform the consumers of health risks. ()

02. How to Inform Consumers of Health Risk. The license holder must use any effective means to inform consumers of potential health risks. Some effective ways that may be used to inform consumers are: brochures, deli case placards, signs or verbal warnings, that state, "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions." ()

361. -- 369. (RESERVED)

370. ADULTERATED OR MISBRANDED FOOD.

The regulatory authority may order the license holder or other person who has custody of misbranded food to destroy, denature or recondition adulterated or misbranded food according to Section 37-118, Idaho Code. See Section 851 of these rules for embargo, tagging, storage and release of adulterated or misbranded food. ()

371. -- 599. (RESERVED)

600. PHYSICAL FACILITIES.

Sections 600 through 699 of these rules will be used for modifications and additions to Chapter 6 of the incorporated Food Code. ()

601. -- 619. (RESERVED)

620. PRIVATE HOMES AND LIVING OR SLEEPING QUARTERS, USE PROHIBITION.

Modifications to Section 6-202.111. Except for cottage food operations, a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting food establishment operations. Residential care or assisted living facilities designed to be a homelike environment, are exempted from Section 6-202.111. ()

621. -- 699. (RESERVED)

700. POISONOUS OR TOXIC MATERIALS.

Sections 700 through 799 of these rules will be used for modifications and additions to Chapter 7 of the incorporated Food Code. ()

701. -- 719. (RESERVED)

720. RESTRICTION AND STORAGE OF MEDICINES.

Modifications to Section 7-207.11. ()

01. Medicines Allowed in a Food Establishment. Only those medicines that are necessary for the health of employees, patients or residents in a care facility are allowed in a food establishment. Subsection 720.01 does not apply to medicines that are stored or displayed for retail sale. ()

02. Labeling of Medicines. Medicines that are in a food establishment for the employees, patients or residents use must be labeled as specified under Section 7-101.11 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. ()

721. REFRIGERATED STORAGE OF MEDICINES.

Modification to Section 7-207.12. Medicines belonging to employees, patients or residents in a care facility that require refrigeration may be stored in a food refrigerator using the following criteria: ()

01. Medicines Stored in a Leak Proof Container. Medicines must be stored in a package or container and kept inside a covered, leak proof container that is identified as a container for the storage of medicines. ()

02. Accessibility of Stored Medicines. Medicines will be stored to permit access to self-medicating patients or residents to their individual medication. Authorized staff in a care facility also have access to these medications. ()

722. -- 799. (RESERVED)

800. COMPLIANCE AND ENFORCEMENT.

Sections 800 through 899 of these rules will be used for modifications and additions to Chapter 8 of the incorporated Food Code. ()

801. -- 829. (RESERVED)

830. APPLICATION FOR A LICENSE.

01. To Apply for a Food Establishment License. To apply for an Idaho food establishment license, the application and fee is submitted to the “regulatory authority” as defined in Section 111 of these rules. ()

02. Food License Expiration. The license for an Idaho food establishment expires on December 31st of each year. ()

03. Renewal of License. A renewal application and a license fee must be submitted to the regulatory authority by December 1st of each year for the next calendar year starting January 1st. ()

04. Summary Suspension of License. A license may be immediately suspended under Section 831 of these rules. Reinstatement of a license after a summary suspension does not require a new application or fee unless the license is revoked. ()

05. Revocation of License. When corrections have been made to a food establishment whose license has been revoked under Section 860 of these rules, a new application and fee must be submitted to the regulatory authority. ()

06. License is Non-Transferable. A license is not be transferrable when ownership changes according to Section 8-304.20, of the incorporated Food Code. ()

831. SUMMARY SUSPENSION OF LICENSE.

The regulatory authority may summarily suspend a license to operate a food establishment when it determines an imminent health hazard exists. ()

01. Reasons a Summary Suspension May Be Issued. When a food establishment does not follow the principles of food safety, or a foodborne illness is found, or an environmental health hazard exists and public safety cannot be assured by the continued operation of the food establishment, a summary suspension may be issued. The following are some reasons the regulatory authority may determine a summary suspension is necessary: ()

- a. Inspection of the food establishment shows uncorrected priority violations; ()
- b. Examination of food shows the food is unsafe; ()
- c. Review of records shows that proper steps for food safety have not been met; ()
- d. An employee working with food is suspected of having a disease that is communicable through food; or ()
- e. An imminent health hazard exists. ()

02. Prior Notification Is Not Required for a Summary Suspension. Upon providing a written notice of summary suspension to the license holder or person in charge, the regulatory authority may suspend a food establishment's license without prior warning, notice of hearing, or hearing. ()

03. Written Notice of Summary Suspension. The regulatory authority must give the license holder or person in charge a written notice with the following information when suspending a license. ()

a. The specific reasons or violations the summary suspension is issued for with reference to the specific section of the incorporated Food Code which is in violation; ()

b. A statement notifying the food establishment its license is suspended and all food operations are to cease immediately; ()

c. The name and address of the regulatory authority representative to whom a written request for re-inspection can be made and who can certify the reasons for the suspension have been eliminated; ()

d. A statement notifying the food establishment of its right to an informal hearing with the regulatory authority upon submission of a written request within fifteen (15) days of receiving the summary suspension notice; ()

e. A statement informing the food establishment that proceedings for revocation of its license will be initiated by the regulatory authority, if violations are not corrected; and ()

f. The right to appeal to the Department as provided in Section 861 of these rules. ()

04. Length of Summary Suspension. The suspension will remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority during a re-inspection. ()

05. Re-Inspection of Food Establishment. The regulatory authority will conduct a re-inspection of the food establishment within two (2) working days of receiving a written request stating the condition for the suspension no longer exists. ()

06. Reinstatement of License. The regulatory authority will immediately reinstate the suspended license if the re-inspection determines the public health hazard no longer exists. The regulatory authority will provide a written notice of reinstatement to the license holder or person in charge. ()

832. -- 839. (RESERVED)

840. INSPECTIONS AND CORRECTION OF VIOLATIONS.

Modification to Section 8-401.10. ()

01. Inspection Interval Section 8-401.10(A). Except as specified in Section 8-401.10(C), the regulatory authority must inspect a food establishment at least once every twelve (12) months. ()

02. Section 8-401.10(B). This section has not been adopted. ()

03. Section 8-401.10(C). This section is adopted as published. ()

04. Section 8-405.11. This section is adopted with the following modifications: ()

a. Delete Section 8-405.11(B)(1); and ()

b. Amend Section 8-405-11(B)(2) to ten (10) calendar days after the inspection for the permit holder to correct critical or potentially-critical items or HACCP plan deviations. ()

841. INSPECTION SCORES.

The regulatory authority will provide the license holder an inspection report with a total score indicating the number of risk factor violations and the number of repeat risk factor violations added together. Repeat violations are those observed during the last inspection. The inspection report will also score the total number of good retail practice violations and the number of repeat good retail practice violations. These scores will be used to determine if a follow-up inspection or a written report of correction is needed to verify corrections have been made. ()

01. Medium-Risk Food Establishment. If the risk factor violations exceed three (3), or good retail

practice violations exceed six (6), an on-site follow-up inspection is required for verification of correction by the regulatory authority. ()

02. High-Risk Food Establishment. If the risk factor violations exceed five (5), or good retail practice violations exceed eight (8), an on-site follow-up inspection is required for verification of correction by the regulatory authority. ()

03. Written Violation Correction Report. A written violation correction report by the license holder may be provided to the regulatory authority if the total inspection score of the food establishment does not exceed those listed in Section 845 of these rules. The report must be mailed within five (5) days of the correction date identified on the inspection report. ()

842. -- 844. (RESERVED)

845. VERIFICATION AND DOCUMENTATION OF CORRECTION.

In addition to Section 8-405.20 of the incorporated Food Code, the on-site follow-up inspection may not be required for verification of correction if the regulatory authority chooses to accept a written report of correction from the license holder. ()

01. Written Report of Correction. The regulatory authority may choose to accept a written report of correction from the license holder stating that specific violations have been corrected. The license holder must submit this report to the regulatory authority within five (5) days after the correction date identified on the inspection report. ()

a. Medium-risk food establishment. If the risk factor violations do not exceed three (3), or the good retail practice violations do not exceed six (6), a follow-up inspection is not required for verification of correction. ()

b. High-risk food establishment. If the risk factor violations do not exceed five (5), or the good retail practice violations do not exceed eight (8), a follow-up inspection is not required for verification of correction. ()

02. Risk Control Plan. The regulatory authority may require the development of a risk control plan as verification of correction. The risk control plan must provide documentation on how the license holder will obtain long term correction of priority violations that are repeated violations, including how control will be monitored and who will be responsible. ()

846. -- 849. (RESERVED)

850. ENFORCEMENT INSPECTIONS.

01. Follow-Up Inspection. If a follow-up inspection reveals that priority, priority foundation, or core violations identified on a previous inspection have not been corrected or still exist, an enforcement inspection may be made. ()

02. Written Notice. The license holder will receive written notice on the inspection form of the specific date for an enforcement inspection. This date must be within fifteen (15) days of the current or follow-up inspection. ()

03. Enforcement Inspections on Consent Order. When a compliance conference results in a consent order and includes a compliance schedule to correct violations without further regulatory action, all inspections by the regulatory authority to satisfy the compliance schedule will be considered enforcement inspections until the next annual inspection. ()

04. Regulatory Action. If the violations have not been corrected by the date of the enforcement inspection, regulatory action will be initiated to revoke the license issued to the food establishment. ()

851. ENFORCEMENT PROCEDURES FOR ADULTERATED OR MISBRANDED FOOD.

The regulatory authority may order the license holder or other person who has custody of adulterated or misbranded food to destroy, denature or recondition adulterated or misbranded food according to Section 37-118, Idaho Code. The following procedures apply: ()

- 01. Serving an Embargo Order.** An embargo order must be served by one (1) of the following ways: ()
 - a.** Delivered personally to the license holder or person in charge of the food establishment; or ()
 - b.** Posted at a public entrance to the food establishment, provided a copy of the notice is sent by first-class mail to the license holder or the person in charge of the embargoed food. ()
- 02. The Embargo Order Is Effective When Served.** The embargo order is effective at the time the notice is delivered to the license holder or person in charge, or when the notice is posted. ()
- 03. Tagging Embargoed Food.** The regulatory authority must securely place an official tag or label on food or containers identified as food subject to the hold order. ()
- 04. Storage of Embargoed Food.** The regulatory authority allows storage of food under conditions specified in the embargo order, unless storage is not possible without risk to the public health. The regulatory authority may order immediate destruction of the adulterated or misbranded food for public safety. ()
- 05. Removal of Embargo Tag or Label.** The removal of the embargo tag, label or other identification from food under embargo must be done by the regulatory authority. ()
- 06. Embargo Release.** The issue of release and removal of the embargo tag, label or other identification from the suspected food when it is not adulterated or misbranded must be done by the regulatory authority. ()

852. -- 859. (RESERVED)

860. REVOCATION OF LICENSE.

The regulatory authority may revoke the license issued to a food establishment when the license holder fails to comply with these rules or the operation of the food establishment is a hazard to public health. ()

- 01. Reasons a License May Be Revoked.** ()
 - a.** The license holder violates any term or condition in Section 8-304.11 of the incorporated Food Code. ()
 - b.** Access to the facility is denied or obstructed by an employee, agent, contractor or other representative during the performance of the regulatory authority's duties. It is not necessary for the regulatory authority to seek an inspection order to gain access as permitted in Section 8-402.40 of the incorporated Food Code, before proceeding with revocation. ()
 - c.** A public health hazard or priority violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation or hazard still exists. See Section 850 of these rules on enforcement inspections. ()
 - d.** A core violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation still exists. See Section 845 of these rules on verification and documentation of correction. ()
 - e.** Failure to comply with any consent order issued after a compliance conference. See Section 861 of these rules on compliance conference. ()

f. Failure to comply with a regulatory authority's summary suspension order. See Section 831 of these rules on summary suspension of a license. ()

g. Failure to comply with an embargo order. See Section 851 of these rules on adulterated or misbranded food. ()

h. Failure to comply with a regulatory authority order issued when an employee is suspected of having a communicable disease. See Chapter 2 of the incorporated Food Code on employee health. ()

02. Notice to Revoke a License. The regulatory authority must notify the license holder of the food establishment in writing of the intended revocation of the license. See Section 861 of these rules for appeal process. The notice must include Subsections 860.02.a. through 860.02.c. of this rule: ()

a. The specific reasons and sections of the Idaho Food Code which are in violation and the cause for the revocation; and ()

b. The right of the license holder to request in writing a compliance conference with the regulatory authority within fifteen (15) days of the notice; and ()

c. The right of the license holder to appeal in writing to the Department. See Subsection 861.02 of these rules. ()

d. The following is sufficient notification of the license holder's appeal rights: "You have the right to request in writing a compliance conference with (name and address of designated health district official) within fifteen (15) days of the receipt of this notice. You may also appeal the revocation of your license to the Director by filing a written appeal with the Department as provided in IDAPA 16.05.03, "Contested Case Proceeding and Declaratory Rulings," within fifteen (15) days of the receipt of this notice, or if a timely request is made for a compliance conference and the matter is not resolved by a consent order, within five (5) working days following the conclusion of the compliance conference." ()

03. Effective Date of Revocation. The revocation will be effective fifteen (15) days following the date of service of notice to the license holder, unless an appeal is filed or a timely request for a compliance conference is made. If a compliance conference is requested and the matter is not resolved by a consent order, the revocation will be effective five (5) working days following the end of the conference, unless an appeal is filed with the Director within that time. See Section 861 of these rules for compliance conference, consent order and appeal process. ()

861. APPEAL PROCESS.

A license holder may appeal a summary suspension, notice of revocation, other action, or failure to act by the regulatory authority which adversely affects the license holder. A summary suspension or other emergency order is not stayed during the appeal process. ()

01. Compliance Conference. The license holder may request in writing a compliance conference with the regulatory authority within fifteen (15) days of receipt of the notice or action by the regulatory authority. If a timely request for a compliance conference is made, a compliance conference will be scheduled within twenty (20) days and conducted in an informal manner by the regulatory authority. At the compliance conference the license holder may explain the circumstances of the alleged violations and propose a resolution for the matter. ()

a. If the compliance conference results in an agreement between the license holder and the regulatory authority to remedy circumstances giving rise to the action and to assure future compliance, the agreement must be put in written form and signed by both parties. This written agreement constitutes an enforceable consent order. ()

b. Unless otherwise specifically stated in the consent order, the agreement will be for the duration of the existing license only. ()

02. Appeal to the Director. The license holder may appeal in writing to the Director within fifteen (15) days of receipt of the notice of action by the regulatory authority, or if a timely request for a compliance

conference was made, within five (5) working days following the completion of the compliance conference. ()

862. -- 889. (RESERVED)

890. CRIMINAL AND CIVIL PROCEEDINGS.

The regulatory authority may choose to enforce the provisions of these rules and its administrative orders through the courts. ()

01. Criminal Proceedings. Misdemeanor proceedings to enforce these rules, federal regulations, and the enabling statutes may be instituted as provided in Sections 37-117, 37-119, 37-2103, and 56-1008, Idaho Code. These statutes provide for fines or terms of imprisonment that may be sought through the court of competent jurisdiction. ()

02. Civil Proceedings. Civil enforcement actions may be commenced and prosecuted in the district court in the county where the alleged violation occurred according to Sections 56-1009 and 56-1010, Idaho Code. The person who is alleged to have violated any statute, rule, federal regulation, license or order may be charged in the court proceeding. This action may be brought to compel compliance with these rules, regulations, license or order for relief or remedies authorized in these rules. ()

03. Injunctive Relief. In addition to other remedies provided by law, Section 56-1009, Idaho Code, allows for a search warrant to gain access and injunctions to be issued in the name of the state against any person or entity to enjoin them from violating these rules, regulations, statutes or administrative orders. ()

891. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.02 – SKILLED NURSING FACILITIES

DOCKET NO. 16-0302-2201

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

This change was requested by skilled nursing facilities and the Idaho Health Care Association. With the current demand for licensed nurses in all health care settings, skilled nursing facilities are challenged in their efforts to retain licensed/certified direct care workers. Through informal negotiations, the Department has determined that allowing Certified Medication Assistants (MA-C) to administer medications will help support facilities with their staffing challenges without compromising the health and safety of the residents in facilities.

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

This rulemaking confers a benefit to skilled nursing facilities.

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

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

This rule change is budget neutral. There is no cost associated with adding MA-Cs as staff allowed to administer medications.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, formal negotiated rulemaking was not conducted as this rule change is simple in nature and is being done at the request of the primary stakeholders. The content of this rulemaking is a result of informal negotiations conducted with stakeholders.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Laura Thompson, (208) 364-1874.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0302-2201
(Only Those Sections With Amendments Are Shown.)**

200. NURSING SERVICES.

The following requirements must be met: (3-17-22)

01. Director of Nursing Services (DNS). A licensed registered nurse currently licensed by the state of Idaho and qualified by training and experience is designated DNS in each SNF and is responsible and accountable for the following: (3-17-22)

a. Participating in the development and implementation of resident care policies; (3-17-22)

b. Developing and/or maintaining goals and objectives of nursing service, standards of nursing practice, and nursing policy and procedures manuals; (3-17-22)

c. Assisting in the screening and selection of prospective residents in terms of their needs, and the services available in the facility; (3-17-22)

d. Observing and evaluating the condition of each resident and developing a written, individualized patient care plan that is based upon an assessment of the needs of each resident, and that is kept current through review and revision; (3-17-22)

e. Recommending to the administrator the numbers and categories of nursing and auxiliary personnel to be employed and participating in their recruitment, selection, training, supervision, evaluation, counseling, discipline, and termination when necessary. Developing written job descriptions for all nursing and auxiliary personnel; (3-17-22)

f. Planning and coordinating orientation programs for new nursing and auxiliary personnel, as well as a formal, coordinated in-service education program for all nursing personnel; (3-17-22)

g. Preparing daily work schedule for nursing and auxiliary personnel that includes names of employees, professional designation, hours worked, and daily patient census; and (3-17-22)

h. Coordinating the nursing service with related resident care services; (3-17-22)

02. Minimum Staffing Requirements. That minimum staffing requirements include the following: (3-17-22)

- a.** A Director of Nursing Services (DNS) works full time on the day shift but the shift may be varied for management purposes. If the DNS is temporarily responsible for administration of the facility, there is a licensed registered nurse (RN) assistant to direct patient care. The DNS is required for all facilities five (5) days per week. (3-17-22)
- i.** The DNS in facilities with an average occupancy rate of sixty (60) residents or more has strictly nursing administrative duties. (3-17-22)
- ii.** The DNS. in facilities with an average occupancy rate of fifty-nine (59) residents or less may, in addition to administrative responsibilities, serve as the supervising nurse. (3-17-22)
- b.** A supervising nurse, licensed registered nurse, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse and meets the definition in Subsection 002.35. (3-17-22)
- c.** A charge nurse, a licensed registered, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse in accordance with the definition in Subsection 002.07. A charge nurse is on duty as follows: (3-17-22)
- i.** In SNFs with an average occupancy rate of fifty-nine (59) residents or less a licensed registered nurse is on duty eight (8) hours of each day and no less than a licensed practical nurse is on duty for each of the other two (2) shifts. (3-17-22)
- ii.** In SNFs with an average occupancy rate of sixty (60) to eighty-nine (89) residents a licensed registered nurse is on duty for each a.m. shift (approximately 7:00 a.m. - 3:00 p.m.) and p.m. shift (approximately 3:00 p.m. to 11:00 p.m.) and no less than a licensed practical nurse on the night shift. (3-17-22)
- iii.** In SNFs with an average occupancy rate of ninety (90) or more residents a licensed registered nurse is on duty at all times. (3-17-22)
- iv.** In those facilities authorized to utilize a licensed practical nurse as charge nurse, the facility must make documented arrangements for a licensed registered nurse to be on call for these shifts to provide professional nursing support. (3-17-22)
- d.** Nursing hours per resident per day are provided to meet the total needs of the residents. The minimum staffing is as follows: (3-17-22)
- i.** Skilled Nursing Facilities with a census of fifty-nine (59) or less residents provide two and four-tenths (2.4) hours per resident per day. Hours do not include the DNS but the supervising nurse on each shift may be counted in the calculations of the two and four-tenths (2.4) hours per resident per day. (3-17-22)
- ii.** Skilled Nursing Facilities with a census of sixty (60) or more residents provide two and four-tenths (2.4) hours per resident per day. Hours do not include the DNS or supervising nurse. (3-17-22)
- iii.** Nursing hours per resident per day are required seven (7) days a week with provision for relief personnel. (3-17-22)
- iv.** Skilled Nursing Facilities are considered in compliance with the minimum staffing ratios if, on Monday of each week, the total hours worked by nursing personnel for the previous seven (7) days equal or exceed the minimum, staffing ratio for the same period when averaged on a daily basis and the facility has received prior approval from the Licensing Agency to calculate nursing hours in this manner. (3-17-22)
- e.** Combined Hospital and Skilled Nursing Facility. In a combined facility the DNS may serve both the hospital and long term care unit with supervising and charge nurses as required under Subsection 200.02.b. and 200.02.c. In a combined facility of less than forty-one (41) beds, the supervising or charge nurse may be an LPN. Combined beds (forty-one (41) or less) represent the total number of acute care (hospital) and long term care (nursing home) beds. (3-17-22)

f. Waiver of Licensed Registered Nurse as Supervising or Charge Nurse. In the event that a facility is unable to hire licensed registered nursing personnel to meet these regulation requirements, a licensed practical nurse will satisfy the requirements so long as: (3-17-22)

i. The facility continues to seek a licensed registered nurse at a compensation level at least equal to that prevailing in the community; (3-17-22)

ii. A documented record of efforts to secure employment of licensed registered nursing personnel is maintained in the facility; (3-17-22)

iii. The facility maintains at least forty (40) hours a week R.N. coverage. (3-17-22)

g. There is at least two (2) nursing personnel on duty on each shift to ensure resident safety in the event of accidents, fires, or other disasters. (3-17-22)

h. Nursing care is given only by licensed staff, nursing personnel, and auxiliary nursing personnel. (3-17-22)

03. Resident Care. That nursing staff must document on the resident medical record, any assessments of the resident, any interventions taken, effect of interventions, significant changes and observations, and the administration of medications, treatments, and any other services provided, and entries made at the time the action occurs with signature, date and time. At a minimum, a monthly summary of the resident's condition and reactions to care must be written by a licensed nursing staff person. (3-17-22)

04. Medication Administration. Medications must be provided to residents by licensed nursing staff ~~in accordance with~~ or certified medication assistants (MA-C) per established written procedures that includes at least the following: ~~(3-17-22)~~(9-1-22)I

a. Administered ~~in accordance with~~ per physician's, dentist's, or nurse practitioner's written orders; ~~(3-17-22)~~(9-1-22)I

b. The resident is identified prior to administering the medication; (3-17-22)

c. Medications are administered as soon as possible after preparation; (3-17-22)

d. Medications are administered only if properly identified; (3-17-22)

e. Medications are administered by the person preparing the medication for delivery to the resident (exception: Unit dose); (3-17-22)

f. Residents are observed for reactions to medications and if a reaction occurs, it is immediately reported to the charge nurse and attending physician; (3-17-22)

g. Each resident's medication is properly recorded on their individual medication record by the person administering the medication. The record includes: (3-17-22)

i. Method of administration; (3-17-22)

ii. Name and dosage of the medication; (3-17-22)

iii. Date and time of administration; (3-17-22)

iv. Site of injections; (3-17-22)

v. Name or initial (that has elsewhere been identified) of person administering the medication; (3-17-22)

vi. Medications omitted; (3-17-22)

vii. Medication errors (that are reported to the charge nurse and attending physician). (3-17-22)

05. Tuberculosis Control. ~~That in order to~~ To assure the control of tuberculosis in the facility, there is a planned, organized program of prevention through written and implemented procedures that are consistent with current accepted practices and includes: ~~(3-17-22)~~(9-1-22)T

a. The results of a T.B. skin test is established for each resident upon admission. If the status is not known upon admission, a T.B. skin test is done as soon as possible, but no longer than thirty (30) days after admission. (3-17-22)

b. If the T.B. skin test is negative, the test does not have to be repeated. (3-17-22)

c. If the T.B. skin test is positive, if determined upon admission or following the test conducted after admission, the resident receives a chest x-ray. A chest x-ray conducted thirty (30) days prior to admission is acceptable. (3-17-22)

d. When a chest x-ray is indicated and the resident's condition presents a transportation problem to the x-ray machine, a Sputum culture for m.tuberculosis is acceptable instead of a chest x-ray until the resident's next visit for any purpose to a place where x-ray is available. (3-17-22)

e. Annual T.B. skin testing and/or chest x-rays are not required. (3-17-22)

f. If a case of T.B. is found in the facility, all residents and employees are retested. (3-17-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.19 – CERTIFIED FAMILY HOMES
DOCKET NO. 16-0319-2201 (ZBR CHAPTER REWRITE, FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-3505 and 56-1005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

There are two (2) types of fees in this chapter:

- A one-time non-refundable application fee required when applicants are applying to be certified as Certified Family Homes
- A monthly certification fee that Certified Family Homes providers are required to pay the Department; these are billed quarterly

None of the fees in this chapter of rules are being changed.

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, ([Vol. 22-5, pp. 70-72](#)).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The document incorporated by reference in these rules is not being changed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steven L. Millward at (208) 334-0706.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0319-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

16.03.19 – CERTIFIED FAMILY HOMES

000. LEGAL AUTHORITY.

Sections 56-1005 and 39-3505, Idaho Code, authorize the Idaho Board of Health and Welfare to adopt and enforce rules and standards for Certified Family Homes. Sections 56-264 and 56-1007, Idaho Code, authorize the Department to adopt and develop application and certification criteria, and to charge and collect application and certification fees. Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. ()

001. SCOPE AND EXCEPTIONS.

01. Scope. These rules set the administrative requirements for care providers who are 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 personal assistance. ()

02. Exceptions. These rules do not apply to the following: ()

a. Individuals who provide only housing, meals, transportation, housekeeping, or recreational and social activities. ()

b. Health facilities defined by Title 39, Chapter 13, Idaho Code. ()

c. Residential assisted living facilities defined by Title 39, Chapter 33, Idaho Code. ()

d. Any arrangement for care in a relative’s home that is not compensated through a publicly funded program. ()

e. Homes 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. ()

03. State Certification to Supersede Local Regulation. These rules supersede any program of any political subdivision of the state that certifies or sets standards for certified family homes. These rules do not supersede any other local regulations. ()

002. INCORPORATION BY REFERENCE.

The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36 - 2010 ADA Standards for Accessible Design, is incorporated by reference. The website is http://www.ada.gov/2010ADASTandards_index.htm. ()

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Background Check Clearance. The provider, staff, substitute caregivers, and all adults living in the home, except for residents, are required to complete a background check and receive a clearance affiliated with the certified family home program (i.e., Agency ID 1104) under IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. When Certification Can Be Granted. Prior to certification, all adults living in the home, except for residents, must complete the background check and receive a clearance. ()

03. New Adults in the Home After Certification. An adult who plans to live in the home must, prior to moving, complete a self-declaration form, be fingerprinted, and not have any designated crimes under IDAPA 16.05.06, "Criminal History and Background Checks." ()

04. Visitors. No unsupervised contact with residents unless the visitor first clears a background check. ()

05. Minor Child Turning Eighteen. A minor child turning eighteen (18) and living in the home must complete a self-declaration form, be fingerprinted, and not have any designated crimes under IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of their eighteenth birthday. ()

06. Substitute Caregivers and Staff. The Department can require a new background check at any time. Any staff of substitute caregiver must complete a self-declaration form, be fingerprinted, and not have any designated crimes under IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. ()

07. Renewal of Clearance. Renewed clearance from the Department must also be obtained as follows: ()

a. Every five (5) years through the first fifteen (15) consecutive years, except as noted below, then every ten (10) years; ()

b. For adults continuously affiliated (i.e., holding the certificate, living in, or providing substitute care) for at least five (5) years with an existing CFH in operation on or before July 1, 2015, who renewed their clearance after July 1, 2020, a second renewal is needed during the fifth year after the previous clearance, then every ten (10) years; or ()

c. For adults continuously affiliated for at least fifteen (15) years with an existing CFH in operation on or before July 1, 2005, who received clearance after July 1, 2020, a renewed clearance is needed every ten (10) years. ()

010. DEFINITIONS AND ABBREVIATIONS.

The following definitions apply, in addition to the terms defined under Section 39-3502, Idaho Code: ()

01. Alternate Caregiver. A CFH provider approved by the Department to care for a resident from another CFH for up to thirty (30) consecutive days when the original provider is temporarily absent or unable to care for the resident. ()

02. Certificate. A permit issued by the Department to operate a CFH. ()

- 03. Certified Family Home (CFH).** Hereafter referred to as “CFH” or “the home.” ()
- 04. Certified Family Home (CFH) Requirements.** The requirements under which CFHs must operate are these rules and the provisions of Title 39, Chapter 35, Idaho Code. ()
- 05. Critical Incident.** Any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety, or well-being of a resident. ()
- 06. Healthcare Professional.** An individual licensed to provide healthcare within their respective discipline and scope of practice. ()
- 07. Immediate Jeopardy.** An immediate or substantial danger to a resident. ()
- 08. Incident.** An actual or alleged event or situation that impacts or has the potential to impact the resident's health or safety, but does not rise to the level of a critical incident. ()
- 09. Incidental Supervision.** Supervision of the resident by a provider-approved, responsible adult not including care services such as medication management, personal assistance, managing resident funds, etc. ()
- 10. Instrumental Activities of Daily Living.** The performance of secondary level activities that enable a person to live independently in the community, including preparing meals, accessing transportation, shopping, laundry, money management, housework, medication management, using tools and technology, and other associated tasks. ()
- 11. Level of Care.** A categorical assessment of the resident's functional ability in any given activity of daily living, instrumental activity of daily living or self-preservation, and the degree of care required in that area to sustain the resident in a daily living environment. ()
- 12. Plan of Service.** The generic term used in these rules to refer to the Negotiated Service Agreement, Personal Care Plan, Plan of Care, Individual Support Plan, Support and Spending Plan, or any other comprehensive service plan. ()
- 13. Primary Residence.** A person’s place of permanent domicile or residence, to which the person intends to return after any temporary absence. The residence in which a person stays for at least thirty (30) days in any consecutive sixty (60) day period. ()
- 14. PRN (Pro Re Nata).** An abbreviation meaning “when necessary,” allowing prescribed medication or treatment to be given as needed. ()
- 15. Relative.** A person related by birth, adoption, or marriage to the third degree, including spouses, parents, children, siblings, grandparents, grandchildren, aunts, uncles, nephews, nieces, great-grandparents, great-grandchildren, great-aunts, great-uncles, and first cousins. ()
- 16. Staff.** The provider, or a person retained by the provider to assist with maintaining the home and caring for residents. A full-time staff works at least forty (40) hours per week for the CFH. ()
- 17. Variance.** A temporary exception not exceeding twelve (12) months issued by the Department to a CFH allowing noncompliance with a specific requirement of these rules when the provider shows good cause for the exception and the variance does not endanger any resident’s health or safety. ()
- 18. Visitor.** A guest of a household member who is temporarily visiting the home for thirty (30) consecutive days or less. ()
- 19. Vulnerable Adult.** A person eighteen (18) years of age or older who seems unable to protect themselves from abuse, neglect, or exploitation due to the effects of advancing age, mental illness, developmental or physical disability, or other chronic health condition. ()

20. Waiver. A permanent exception issued by the Department to a CFH allowing noncompliance with a specific requirement of these rules when the provider shows good cause for the exception and the waiver does not endanger any resident's health or safety. ()

012. -- 099. (RESERVED)

100. CERTIFICATION REQUIREMENTS.

An individual is required to obtain certification to operate a CFH under Section 39-3512, Idaho Code. ()

01. Certification Limitations. The Department cannot certify or maintain the certification of any individual who: ()

a. Charges room or board to any person who is not a resident, full-time staff, or a relative under these rules. A variance may be granted by the Department under Section 39-3505(3), Idaho Code. ()

b. Holds a current license for a children's foster home, unless a variance is granted by the Department under Section 39-3505(4), Idaho Code. ()

c. Is appointed, is a relative of, or resides in the home with the legal guardian of the resident, except if any of the aforementioned is a relative of the resident. A variance may be granted by the Department when it is determined the guardianship is in the best interest of the resident. ()

d. Is absent from the CFH for more than thirty (30) consecutive days when the home has an admitted resident. ()

e. Has a primary residence somewhere other than the CFH. ()

02. Certification Study. Following receipt of an acceptable application and other required documents, the Department will begin a certification study within thirty (30) days. The certification study will serve as the basis for issuing a certificate. The study will include the following: ()

a. A review of all material submitted; ()

b. A home inspection; ()

c. An interview with the applicant; ()

d. An interview with the applicant's relatives or other household members, when deemed necessary; ()

e. A review of the care needs of other household members to evaluate the ability of the applicant to meet the needs of the resident; ()

f. A medical or psychological examination of the applicant or staff, when the Department determines it is necessary, including a statement from a healthcare professional that the individual has the ability to adequately care for the resident and ensure a safe living environment; ()

g. Proof that the applicant or their spouse has a legal right to occupy the home and has control of the premises (e.g., a lease, deed, or mortgage for the property); and ()

h. Other information necessary to verify that the home complies with these rules. ()

03. Provider Training Requirements. As a condition of initial certification, the applicant must receive training in the following areas: ()

a. Resident rights; ()

- b. Certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) which must be kept current and include hands-on skills training; ()
- c. Emergency procedures; ()
- d. Fire safety, including use and maintenance of fire extinguishers, smoke detectors, and carbon monoxide detectors; ()
- e. Unless a licensed practical nurse, registered nurse, physician's assistant, or medical doctor, completion of a Department-approved medications course through an Idaho technical college; and ()
- f. Complaint investigation and inspection procedures. ()

101. APPLICATION FOR CERTIFICATION.

The applicant must apply for certification on Department forms and submit the following to the Department: ()

- 01. Completed Application Signed by Applicant.** ()
- 02. Statement to Comply.** A written statement that the applicant has thoroughly read and reviewed all CFH requirements, and is prepared to comply. ()
- 03. Statement Disclosing Revocation or Disciplinary Actions.** A written statement that the applicant has thoroughly read and reviewed all CFH requirements, and is prepared to comply. ()
- 04. Electrical Inspection.** A written statement from a licensed electrician or the local/state electrical inspector within the past twelve (12) months indicating that all electrical installations in the home comply with applicable local code and are in good working order. ()
- 05. Plumbing Inspection.** A written statement from a licensed plumber within the last twelve (12) months that the water supply and sewage disposal system in the home are in good working order. ()
- 06. Heating and Air Conditioning Inspection.** A written statement within the last twelve (12) months by a person licensed to service heating and cooling systems that these systems in the applicant's home are in good operating condition. ()
- 07. Proof of Insurance.** Proof of homeowner's or renter's insurance on the applicant's home. For continued certification, the provider must ensure that insurance is kept current. ()
- 08. List of Individuals Living in the Home.** A list of all individuals living in the home at the time of application and their relationship to the applicant. ()
- 09. Other Information as Requested.** Other information that may be requested by the Department for the proper administration and enforcement of the CFH requirements. ()

102. TERMINATION OF APPLICATION.

- 01. Failure to Cooperate.** Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application. Failure to cooperate means the applicant does not submit in the form requested or within a reasonable timeframe as determined by the Department: ()
 - a. Information under Section 101 of these rules; or ()
 - b. Payment of the application fee under Section 109 of these rules. ()
- 02. Reapplication.** An applicant whose application has been terminated may reapply for certification. ()

103. -- 108. (RESERVED)

109. APPLICATION AND CERTIFICATION FEES.

01. Application Fee. An applicant is required to pay the Department a non-refundable application fee of one hundred fifty (\$150) dollars for each of the following: ()

- a. As part of the initial application to become a CFH care provider; ()
- b. As part of any reapplication after the initial application is terminated, withdrawn, or the CFH closed; or ()
- c. When the home will be operated by a new care provider. ()

02. Certification Fees. The provider is required to pay to the Department a certification fee of twenty-five (\$25) dollars per month while certified. This amount is billed to the provider every three (3) months, and is due and payable within thirty (30) days of the invoice date. ()

a. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action under Section 913 of these rules. ()

b. Monthly certification fees paid in advance for the CFH will be refunded when the provider operates the home for less than fifteen (15) days during any given month for which payment was received by the Department. An advance payment refund may be issued when the provider voluntarily closes the home as provided in Section 114 of these rules, or involuntarily closes the home due to an enforcement remedy imposed by the Department. ()

110. ISSUANCE OF CERTIFICATE.

The Department will issue a certificate when certification requirements are met. Each certificate must be available at the home upon request. ()

01. Full Certificate. The Department will issue a full certificate upon a finding that the CFH is compliant with CFH requirements.. A full certificate is effective for no more than twelve (12) months from the issue date. ()

02. Temporary Certificate. The Department may issue a temporary certificate to allow time for the provider to meet all certification requirements without a lapse in certification when the provider plans to relocate to a residence within the state and continue operation of a CFH. A temporary certificate is effective for no more than sixty (60) days from the issue date. ()

a. At least thirty (30) days prior to moving into a new residence, the provider must notify the certifying agent for the region in which the new home will be located. Prior to moving into the new residence, the provider must submit to the certifying agent the following: ()

- i. A completed application form under Section 101 of these rules; ()
- ii. Copies of all inspection reports for the new residence under Section 101 of these rules; and ()
- iii. Other information requested by the Department to ensure the new residence is appropriate for use as a CFH and safe for occupation. ()

b. The Department will issue a temporary certificate upon review and approval of the information required under Subsection 110.02 of this rule. ()

c. The provider must coordinate with the certifying agent an inspection of the new residence to occur prior to the expiration of the temporary certificate and be prepared to demonstrate compliance with CFH requirements during the home inspection. ()

d. The Department will issue a full certificate as described in Subsection 110.01 of this rule when it determines that the home complies with CFH requirements. ()

111. RENEWAL OF CERTIFICATE.

01. Home Inspection. A home inspection by a certifying agent is required the year after the initial certification study and at least every twenty-four (24) months thereafter. The home inspection will consist of the elements of the certification study under Section 100 of these rules. ()

02. Desk Review. When the Department determines a home inspection is not required to renew the certificate, the Department may conduct a desk review by written notification to the provider. The provider must submit copies of the following documentation to the certifying agent at least thirty (30) days prior to the expiration of the certificate: ()

- a. Current first aid and adult CPR certifications; ()
- b. Private well water testing report, as applicable; ()
- c. Updated septic system inspection or pumping report, as applicable, when the previous inspection is older than five (5) years; ()
- d. Annual fire extinguisher inspection reports, or sales receipts for fire extinguishers that comply with Section 600 of these rules that are less than twelve (12) months old; ()
- e. Logs of smoke and carbon monoxide detector tests and battery replacement, fire extinguisher examinations, and emergency plan reviews; ()
- f. Emergency drill summaries or recordings; ()
- g. Training logs; ()
- h. Proof of current homeowner's or renter's insurance; ()
- i. Requests for renewed exceptions that meet the requirements in Sections 120 through 140 of these rules as applicable; and ()
- j. Other information as requested by the Department. ()

112. DENIAL OF APPLICATION FOR CERTIFICATE.

01. Causes For Denial. Causes for denial of an application for issuance of a certificate, besides those under Section 39-3523, Idaho Code, include the following: ()

- a. The applicant or provider has willfully misrepresented or omitted information on the application or other submitted documents; ()
- b. A required background check results in an Unconditional Denial; ()
- c. The applicant or provider has been denied or has had revoked any child care (including foster home) or health facility license, residential assisted living facility license, or CFH certificate; ()
- d. The applicant or provider has been found to have operated a health facility, residential assisted living facility, or CFH without a license or certificate; ()
- e. A court has ordered that the applicant or provider must not operate a health facility, residential assisted living facility, or CFH; ()

f. The applicant or provider is directly under the control or influence of any person who is described in Subsection 112.01 of this rule. ()

02. Notice of Denial. Immediately upon denial of an application, the Department will provide notice by certified mail or by personal service, including the reason(s) for the denial and instructions regarding appealing the decision. ()

113. OPERATING WITHOUT A CERTIFICATE.

01. Operating Without Certificate. A person found to be operating as a CFH as described under Section 39-3512, Idaho Code, without first obtaining a certificate may be referred for criminal prosecution under Section 39-3528, Idaho Code. ()

02. Placement or Transfer of Resident. Upon discovery of such a person described in Subsection 113.01 of this rule, the Department may transfer residents to the appropriate placements when: ()

a. There is an immediate threat to any resident's health and safety; or ()

b. The individual operating the home does not cooperate with the Department to apply for certification, meet certification standards, and obtain a valid certificate. ()

114. VOLUNTARY CLOSURE.

When choosing to voluntarily close a CFH, the provider must give written notice at least thirty (30) days in advance to the residents, or the residents' representatives when applicable, and the certifying agent in the region where the home is located. The notification must include the following: ()

01. Date of Notification. ()

02. Provider's Certificate. A copy of the certificate, or information from the certificate that includes: ()

a. The provider's name; and ()

b. Address of the home; or ()

c. Certificate number. ()

03. Closure Date. The written notice must include the planned closure date. The Department will not refund or prorate prepaid certification fees on retroactive closures. ()

04. Discharge Plans. If applicable, discharge plans for current residents must accompany the written notice to the certifying agent. ()

115. REQUIRED ONGOING TRAINING.

The provider must document a minimum of eight (8) hours per year of ongoing, relevant training in the provision of supervision, services, and care. ()

01. Initial Provider Training. The initial provider training required in Section 100 of these rules satisfies the eight (8) hour training requirement for the first year of certification. ()

02. Content of Training. Relevant training includes any topic that maintains or expands caregiving skills or safety practices in the home, such as topics of supervision, services, and care to vulnerable adults. ()

a. At least half of the required ongoing training hours each year must be devoted to the specific conditions, diagnoses and needs of admitted residents, when residents are admitted. ()

- b. The remaining hours may be devoted to general topics related to caregiving, health, or safety. ()

03. Documentation of Training. The provider must document ongoing training to include the following: ()

- a. Topic or title of the training with a brief description; ()
- b. Source of training, including the name of the instructor or author; ()
- c. Number of hours the provider received instruction; ()
- d. Whether the training was resident-specific or a general topic.; and ()
- e. Date of the training. ()

116. -- 119. (RESERVED)

120. EXCEPTIONS.

The Department may grant an individual provider an exception to a specific standard in these rules under Section 39-3554, Idaho Code. Such an exception may be in the form of a permanent waiver or a temporary variance effective for up to twelve (12) months. ()

01. Written Request. The provider must submit a written request for an exception to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under these rules. The appropriateness of granting an exception is determined by the Department. The request must include the following: ()

- a. Reference to the Section of these rules for which the exception is requested; ()
- b. Reasons that show good cause for granting the exception, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the exception, such as additional floor space or additional staffing; and ()
- c. A signed statement from the provider that assures resident health and safety will not be jeopardized if the exception is granted, including an agreement to implement any special conditions the Department may require. ()

02. Special Conditions. When granting an exception, the Department may require the provider to meet special conditions while the exception is in effect to ensure the health and safety of residents. ()

03. Variance Renewal. To renew a variance, the provider must submit a written request to the regional certifying agent where the home is located at least thirty (30) days prior to expiration of the variance. The request for renewal must include the information required in Subsection 120.01 of this rule. The appropriateness of renewing a variance is determined by the Department. ()

04. Exception Not Transferable. An exception granted under Sections 120 through 140 of these rules is not transferable to any other provider, home, or resident. ()

121. REVOKING AN EXCEPTION.

01. Causes for Revocation. The Department may revoke any exception granted under Sections 120 through 140 of these rules when: ()

- a. The provider has not met the special conditions associated with granting the exception; ()
- b. Conditions within the home have changed such that an exception is no longer prudent; or ()

c. The health and safety of residents have otherwise been compromised. ()

02. Written Notice. The Department will provide written notice to the provider when an exception is revoked, including the reason for the revocation. ()

03. Time Frame to Comply. When there is a threat to the health or safety of any person, the provider must immediately upon notification comply with the rule for which the exception is revoked. When no such threat exists, compliance must occur within thirty (30) days of notification. ()

122. -- 129. (RESERVED)

130. NURSING FACILITY LEVEL OF CARE VARIANCE.

A certified family home may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a variance. A home seeking to provide care to two (2) residents who require nursing facility level of care must request a variance in writing from the Department as required in Section 121 of these rules. ()

01. Request for Variance. A CFH may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a variance. A provider seeking to care for two (2) or more residents who require nursing facility level of care must request a variance in writing from the Department as required in Section 120 of these rules. ()

02. Conditions for Variance. The Department may issue a written variance permitting the arrangement when: ()

a. Each of the residents or their representative provides a written statement to the Department requesting the arrangement; ()

b. Each of the residents or their representative making the request is competent, informed, and has not been coerced; and ()

c. The Department finds the arrangement safe and effective. ()

131. -- 139. (RESERVED)

140. VARIANCE TO THE TWO RESIDENT LIMIT.

A CFH may admit or retain a maximum of two (2) residents without first obtaining a variance from the Department. Exceeding that limit requires a variance from the Department. ()

01. Application for Variance. The provider must apply on forms provided by the Department for a variance to the two (2) resident limit to care for three (3) or four (4) residents on a per resident basis prior to any new admissions. The application must be submitted to the certifying agent where the home is located. The Department determines the appropriateness of granting the variance. ()

02. Criteria for Determination. The Department will determine if safe and appropriate care can be provided based on residents' needs. The Department will consider the following factors in making its determination: ()

a. Each current or prospective resident's physical, mental, and behavioral status and history; ()

b. The household composition including the number of adults, children, and other family members requiring care and their care needs from the provider; ()

c. The training, education, and experience of the provider to meet each resident's needs; ()

d. Potential barriers that might limit egress from and ingress to the home; ()

e. The number and qualifications of staff to meet the needs of residents and others requiring care in the home; ()

f. The desires of the prospective and current residents or their representatives, including approval of roommate, if applicable; ()

g. The individual and collective hours of care needed by the residents; and ()

h. The physical layout of the home and the square footage available to meet the space requirements of all persons living in the home. ()

03. Other Employment. A provider who is granted a variance to admit three (3) or four (4) residents must not have other gainful employment outside the home unless staff are immediately able to consult with the provider about resident needs as they arise. ()

04. Additional Training. A provider who is granted a variance to admit three (3) or four (4) residents must obtain additional training to meet the needs of the residents as follows: ()

a. A provider who cares for three (3) residents must obtain a total of twelve (12) hours per year of ongoing relevant training under Section 115 of these rules. ()

b. A provider who cares for four (4) residents must obtain a total of sixteen (16) hours per year of ongoing relevant training under Section 115 of these rules. ()

c. When caring for three (3) or four (4) residents for only part of the year, additional training hours above those hours required in Section 115 of these rules are prorated by month. A resident is counted towards the home's resident census when the admission agreement is in effect for fifteen (15) days or more during the month. The following table shows the additional prorated training requirements to be added to the base training hours:

TABLE 140.04 - PRORATED ADDITIONAL TRAINING HOURS FOR PROVIDERS WHO EXCEED THE TWO-RESIDENT LIMIT

Months	3 Residents	4 Residents
1	20 minutes	40 minutes
2	40 minutes	1 hour and 20 minutes
3	1 hour	2 hours
4	1 hour and 20 minutes	2 hours and 40 minutes
5	1 hour and 40 minutes	3 hours and 20 minutes
6	2 hours	4 hours
7	2 hours and 20 minutes	4 hours and 40 minutes
8	2 hours and 40 minutes	5 hours and 20 minutes

TABLE 140.04 - PRORATED ADDITIONAL TRAINING HOURS FOR PROVIDERS WHO EXCEED THE TWO-RESIDENT LIMIT

Months	3 Residents	4 Residents
9	3 hours	6 hours
10	3 hours and 20 minutes	6 hours and 40 minutes
11	3 hours and 40 minutes	7 hours and 20 minutes

()

05. Reassessment of Variance. A variance to care for more than two (2) residents must be reassessed at least annually and when either of the following occurs: ()

a. Each time the provider applies to the Department for approval of a prospective third or fourth resident admission; or ()

b. When there is a significant change in any of the factors specified in Subsection 140.02 of this rule. ()

06. Annual Home Inspection. A CFH with a variance to care for more than two (2) residents must have a home inspection by a certifying agent at least annually. ()

07. Shared Sleeping Rooms. In addition to the requirements in Section 700 of these rules, the provider must not house more than two (2) residents in any one (1) sleeping room. ()

08. Fire Drill Frequency. A provider who is granted a variance to admit three (3) or four (4) residents must conduct fire drills as described in Section 600 of these rules, except the frequency of the fire drills must be at least monthly. ()

141. -- 149. (RESERVED)

150. INSPECTIONS OF HOMES.

The Department will inspect each CFH at least every twenty-four (24) months, calculated from the first month of the most recent certification. Inspections may occur more frequently as the Department deems necessary. That determination may consider the results of previous inspections, history of compliance with rules, and complaints. ()

01. Notice of Inspection. All inspections, except for the initial certification study, may be made unannounced and without prior notice. ()

02. Inspection by Certifying Agent. The Department may use the services of any qualified person or organization, either public or private, to examine and inspect any home requesting certification. The inspector has the authority to have full access to the home and the authority to: ()

a. Examine quality of care and service delivery; ()

b. Examine home records, resident records, and any records or documents pertaining to any financial transactions between residents and the home, including resident accounts; ()

c. Examine the physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, and housekeeping practices; ()

d. Examine any other areas necessary to determine compliance with the CFH requirements; ()

e. Interview the provider, any adults living in the home, the resident and the resident's relatives, substitute caregivers, persons who provide incidental supervision, and any other person who is familiar with the home or its operation. Interviews are conducted privately unless otherwise specified by the person being interviewed or that person's legal guardian, except when the legal guardian is an alleged perpetrator in an allegation being investigated in connection with the interview; and ()

f. Inspect the entire home, including the personal living quarters of household members, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the home. The provider, staff, substitute caregiver, or any other adult living in the home may accompany the certifying agent. ()

151. VIOLATIONS.

When an investigation or inspection finds violations of the CFH requirements, the Department will notify the provider in writing within thirty (30) days of the completed inspection or investigation. ()

01. Technical Assistance. When the Department determines a violation does not pose a health or safety risk to residents or is not otherwise a core issue, and the non-compliant practice was due to the provider's misunderstanding of a standard, the Department may give technical assistance to the provider under Section 39-3527, Idaho Code. When given written notice of technical assistance, the provider must correct the violation within thirty (30) days of the notice. ()

02. Statement of Deficiencies. When the Department determines a formal citation is necessary to enforce compliance with a standard, the Department may issue the provider a statement of deficiencies. The statement of deficiencies will include the findings of the investigation or inspection and any rules or statutes the home was found to have violated. ()

03. Plan of Correction. When a statement of deficiencies is issued, the provider must develop a plan of correction and submit it to the Department for review and approval. ()

a. Depending on the severity of the deficiency, the provider may be given up to fourteen (14) calendar days to submit a written plan of correction to the regional certifying agent where the home is located. ()

b. An acceptable plan of correction includes: ()

i. How each deficiency was corrected or how it will be corrected; ()

ii. What steps have been taken to assure that the deficiency does not reoccur; ()

iii. Acceptable time frames for correction of the deficiency not to exceed thirty (30) days from the date of the Department's written notice; and ()

iv. Signature of the provider or written acknowledgment that the provider agrees to implement the plan of correction. ()

c. Follow-up inspections may be conducted to determine whether corrections to deficiencies have been made according to the Department-approved plan of correction. ()

04. Disclosure of Deficiencies. A statement of deficiencies, if issued, for each inspection or investigation of a current provider, including the approved plan of correction, will be made available to the public upon written request to the Department under Title 74, Chapter 1, Idaho Code. ()

152. -- 159. (RESERVED)

160. INVESTIGATIONS.

01. Complaints. ()

a. Any person who believes that staff have committed a violation of the CFH requirements may report a complaint to the Department. ()

b. In addition to its own investigation, the Department will also refer any complaint alleging abuse, neglect, or exploitation of a vulnerable adult to adult protective services according to Section 39-5303, Idaho Code, for potential criminal investigation. ()

02. Critical Incidents. The Department will investigate or cause to be investigated any reported critical incident that indicates a possible violation of CFH requirements. ()

03. Investigation Method. The nature of the alleged violation will determine the method used to investigate the report. Onsite investigations at the home can be unannounced and without prior notice. ()

04. Written Report. Within thirty (30) days following completion of an investigation, the Department will provide a written report, including findings of the investigation, to the provider and any named complainant, if applicable. ()

05. Public Disclosure. The Department will not publicly disclose information or findings from an investigation so as to identify the complainant except as permitted under Section 74-105(16), Idaho Code, or individual residents except in an administrative or judicial proceeding. ()

161. -- 169. (RESERVED)

170. MINIMUM STANDARDS OF CARE.
The provider must adequately care for each resident as follows: ()

01. Plan of Service. Ensure services are provided to meet the terms of the resident's plan of service as described in Section 250 of these rules. ()

02. Supervision. Ensure the resident receives appropriate and adequate supervision under the resident's plan of service while in the care of CFH staff. ()

03. Daily Living Activities. Ensure assistance is provided to the resident at the level of care indicated on the resident's plan of service in the areas of activities of daily living and instrumental activities of daily living. ()

04. Medication Management. Ensure assistance and monitoring of medications is provided as described in Sections 400 through 402 of these rules, as applicable. ()

05. Emergency Services. Ensure immediate and appropriate interventions on behalf of the resident are provided in response to an emergency, including the following: ()

a. Developing emergency plans as described in Section 600 of these rules and executing those plans when necessary; ()

b. Evacuating the resident from the home; ()

c. Providing first aid to the resident when seriously injured; ()

d. Administering CPR to the resident unless the resident has an order not to resuscitate; and ()

e. Contacting 9-1-1 for first responder services when necessary for the protection of the resident. ()

- 06. Supportive Services.** Coordinate paid services for the resident outside the home, including: ()
- a.** Medical appointments; ()
 - b.** Dental appointments; ()
 - c.** Other services in the community as identified in the plan of service or reasonably requested by the resident; and ()
 - d.** Arrange transportation to and from the service location. ()

07. Resident Rights. Protect the resident's rights as listed under Section 200 of these rules and Section 39-3516, Idaho Code. ()

08. Safe Living Environment. Provide a physical living environment that complies with Sections 500 through 710 of these rules. ()

171. -- 173. (RESERVED)

174. ACTIVITIES AND COMMUNITY INTEGRATION.

Section 39-3501, Idaho Code, requires that a CFH provide a homelike, family-styled living environment with a focus on integrated community living. The provider must offer the following: ()

01. Activities. As reasonably reflecting the interests of the resident, recreational activities, participation in social functions, and daily activities. ()

02. Transportation. Arrangement of transportation to and from community, recreational, and religious activities within twenty-five (25) miles of the home when requested by the resident at least twenty-four (24) hours in advance. ()

175. ROOM AND BOARD.

The home must provide room, utilities, and three (3) daily meals to the resident. The following are included in the charge for room and board: ()

01. Sleeping Room. A sleeping room meeting the requirements of Section 700 of these rules, and, when requested by the resident, equipped with a dresser and chair in good repair. ()

02. Bed. A bed that is at least thirty-six (36) inches wide. Roll-away type beds, cots, folding beds, or double bunks must not be used unless requested by the resident. A clean and comfortable mattress, bedspread, sheets and pillow cases, and pillow that are standard for the size of the bed must also be included. The bed, bedding, and mattress must be kept in good repair. ()

03. Monitoring or Communication System. A monitoring or communication system, when necessary due to the size or design of the home, or the needs of the resident. The provider must hold a written agreement with the resident or resident's representative prior to using a monitoring system that may violate the resident's right to privacy. ()

04. Secure Storage. On request, a lockable storage cabinet or drawer for personal items for each resident. ()

05. Bathroom. Access to bathing and toilet facilities meeting the requirements of Section 700 of these rules. ()

06. Common Areas. Access to common living areas, including: ()

- a.** A living room or family room that contains adequate lighting for activities, side or coffee tables, comfortable chairs or sofas, and basic television: ()

- b. A dining area containing a table and chairs; and ()
- c. A kitchen with a sink, oven, refrigerator, and counter space. ()
- 07. Supplies.** Bath and hand towels, wash cloths, a reasonable supply of soap, shampoo, toilet paper, and facial tissue, and first aid supplies. ()
- 08. Housekeeping Service.** Housekeeping and maintenance meeting the requirements in Section 500 of these rules, including laundry services. ()
- 09. Water.** Potable water meeting the requirements of Section 500 of these rules. ()
- 10. Sewer.** A sewage disposal system meeting the requirements of Section 500 of these rules. ()
- 11. Trash.** Disposal of garbage meeting the requirements of Section 500 of these rules. ()
- 12. Heating and Cooling.** Sufficient heating and cooling meeting the requirements of Section 700 of these rules. ()
- 13. Electricity.** Sufficient electricity to power common household and personal devices. ()
- 14. Telecommunication.** Access to a telephone or cell phone with unlimited local calls throughout the day, including night hours, meeting the requirements of Section 600 of these rules. ()
- 15. Meals.** Breakfast, lunch, and dinner offered each day. ()
 - a. Food must be prepared in a safe and sanitary method that conserves nutritional value, flavor, and appearance when prepared by the provider or other member of the household. ()
 - b. Meals offered by the home must meet the dietary requirements or restrictions of the resident when so ordered by a healthcare professional. ()
 - c. Food must be handled and stored safely. ()
- 176. -- 179. (RESERVED)**
- 180. HOURLY ADULT CARE.** Hourly adult care (adult day health) may be offered in a CFH when the provider implements a policy and procedure including: ()
 - 01. Medicaid Provider Agreement.** Each element under the Medicaid Provider Agreement Additional Terms - Adult Day Care (Adult Day Health). ()
 - 02. Records.** Maintenance of legible records identifying: ()
 - a. The rate charged by the provider for hourly adult care services if the participant is private pay; ()
 - b. On a per day basis, when hourly adult care services were provided in the home, the name of each participant and resident who received services, their times of arrival to and departure from the home and the names of staff who provided services and their arrival and departure times. ()
 - 03. Fire and Life Safety.** ()
 - a. Review of emergency preparedness plans under Section 600 of these rules with the individual who completed the enrollment contract and provision of a written copy of the plans to that individual; and ()

c. Conduct of emergency drills under Section 600 of these rules, except that the frequency of the drills must be at least monthly. ()

181. -- 199. (RESERVED)

200. RESIDENT RIGHTS POLICY.

The provider must possess and implement a written policy designed to protect and promote resident rights. In addition to the rights under Section 39-3516, Idaho Code, the resident rights policy must include the following: ()

01. Monitoring Correspondence. The right to send and receive mail unopened, either by postal service, electronically, or by other means, unless the resident's plan of service specifically calls for the provider to monitor the correspondence to protect the resident from abuse or exploitation. ()

02. Image. The right to control staff's use of pictures and videos containing the resident's image. ()

03. Crime-Free Living Environment. The right to a living environment free of illicit drug use or possession, and other criminal activities. ()

04. Freedom From Discrimination. The right to be free from discrimination on the basis of race, color, national origin, sex, religion, age, disability, or veteran status; ()

05. Freedom of Choice. The right to be free from intimidation, manipulation, and coercion. ()

06. Basic Needs Allowance. For each resident whose care is publicly funded, in whole or in part, the right to retain, for personal use, the CFH basic allowance established by IDAPA 16.03.05. "Eligibility for Aid to the Aged, Blind, and Disabled," Section 513. The provider's total monthly charges to a resident receiving public assistance must be limited to ensure the resident retains at least the basic needs allowance. ()

07. Resident Funds and Property. The right to manage personal funds and use personal property, including access to the home. ()

a. The resident has the right to retain and use personal property in their own living area. The provider must ensure, however, the storage and use of these items by the resident does not present a fire or life safety hazard. ()

08. Access to Records, Medications, and Treatments. The right for the resident's healthcare professionals to have reasonable access to the resident's records, medications, and treatments subject to the resident's permission. ()

09. Freedom From Exploitation. The right to be free from exploitation. ()

10. Written Response to Grievance. The right to a written response to any expressed grievance describing how the provider resolved or attempted to resolve the grievance. ()

11. Advance Notice. The right to receive written advance notice at least thirty (30) calendar days prior to non-emergency transfer or discharge unless the transfer or discharge is for a reason under Section 261 of these rules. ()

12. Personal Records. The right to access personal records, including those under Section 270 of these rules. ()

13. Activities. The right to participate in social, religious, and community activities. ()

14. Other CFHs. The right to review a list of other CFHs that may be available in case of transfer.

()
15. **File Complaints.** The right to file a complaint with the Department under Section 160 of these rules. ()

16. **Care of a Personal Nature.** The right to refuse routine care of a personal nature from any person whom the resident is uncomfortable receiving such care. ()

17. **Formulate Advance Directives.** The right to be informed, in writing, regarding the formulation of advance directives under Title 39, Chapter 45, Idaho Code. ()

18. **Other Rights.** The right to exercise any other rights established by law. ()

201. NOTICE OF RESIDENT RIGHTS.

01. **Resident Rights Notice.** At the time of admission to the home, the provider must inform the resident or their representative, verbally and in writing, of the home's resident rights policy and supply the resident or their representative a copy of the policy. ()

02. **Annual Review of Resident Rights.** The provider must review the resident rights policy with the resident or their representative at least annually. ()

03. **Documentation of Review.** The provider must keep a log of each review of the resident rights policy in the resident's record. The log must include dated signatures from the provider and the resident or the resident's representative acknowledging the review. ()

202. -- 209. (RESERVED)

210. REPORTING REQUIREMENTS.

The provider must report the following to the regional certifying agent where the home is located or appropriate agency or individual: ()

01. **Serious Physical Injury or Death.** The provider must report to the appropriate law enforcement agency within four (4) hours when there is reasonable cause to believe that abuse, neglect, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a resident under Section 39-5303, Idaho Code. ()

02. **Abuse, Neglect, or Exploitation.** When the provider has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited, the provider must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging, under Section 39-5303, Idaho Code. ()

03. **Critical Incidents.** The provider must notify the certifying agent when a critical incident affects the health or safety of the resident or leads to a change in the resident's condition, including serious illness, accident, elopement, death, or adult protective services or law enforcement contact and investigation. Reporting requirements are as follows: ()

a. Within twenty-four (24) hours of the resident's death or disappearance; and ()

b. Within three (3) business days following: ()

i. Contact from adult protective services or law enforcement in conjunction with an investigation; ()

ii. A visit to an urgent care clinic or emergency room; or ()

iii. Admission to a hospital. ()

04. Report of Fire. A written report of each fire incident occurring within the home, for which a fire extinguisher was discharged or 9-1-1 was contacted, must be submitted to the certifying agent within three (3) business days of the occurrence. The report must include: ()

- a. Date of the incident; ()
- b. Origin of the fire; ()
- c. Extent of damage; ()
- d. How and by whom the fire was extinguished; and ()
- e. Injuries or deaths, if any. ()

05. Additional Criminal Convictions. The provider must immediately report to the certifying agent any additional criminal convictions for themselves, staff, any other adult living in the home, or a substitute caregiver. ()

06. Notice of Investigations. The provider must immediately report to the certifying agent when the provider, staff, any other adult living in the home, or a substitute caregiver is charged with or under investigation by law enforcement, adult protection services, or child protection services for: ()

- a. Abuse, neglect, or exploitation of any vulnerable adult or child; ()
- b. Other criminal conduct; or ()
- c. When an adult protection or child protection complaint is substantiated. ()

07. Funds Managed by the Provider for a Deceased Resident. For resident funds managed under Section 275 of these rules, upon the death of the resident, the provider must convey the resident's remaining funds, with a final accounting of those funds, to the individual administering the resident's estate within thirty (30) days. ()

08. Discharge of a Resident. The provider must immediately notify the certifying agent upon the discharge of any resident from the home. ()

211. -- 224. (RESERVED)

225. UNIFORM ASSESSMENT REQUIREMENTS.

01. State Responsibility for Publicly Funded Residents. The Department will assess residents accessing services through a publicly funded program according to uniform criteria developed for that program. ()

02. Provider Responsibility for Private-Pay Residents. The provider will develop, identify, assess, or direct a uniform needs assessment of each private-pay resident. The uniform needs assessment must be: ()

- a. Completed no later than fourteen (14) calendar days after admission; and ()
- b. Reviewed when there is a change in condition, or every twelve (12) months, whichever occurs first. ()

03. Core Elements. The assessment of a private-pay resident must be based on the following: ()

- a. Identification and background information; ()

- b. Medical diagnosis; ()
- c. Medical and health needs; ()
- d. Prescription medications including routes of administration, and any treatments or special diets, if applicable; ()
- e. Historical and current behavior patterns; ()
- f. Cognitive function; ()
- g. Psychosocial and physical needs of the resident; ()
- h. Functional status; and ()
- i. Assessed level of care. ()

04. Results of Assessment. The results of the assessment for both publicly funded and private-pay residents are used to evaluate the provider's ability to meet the resident's needs, and to evaluate whether any special training, licenses, or certificates may be required to care for certain residents. ()

226. -- 249. (RESERVED)

250. PLAN OF SERVICE.

The provider must ensure each resident has a plan of service. The plan must identify the resident, describe the services to be offered, and describe how the services will be delivered. ()

- 01. Core Elements.** A resident's plan of service must be based on the resident's: ()
 - a. Assessment; ()
 - b. Service needs for activities of daily living; ()
 - c. Need for limited nursing services; ()
 - d. Need for medication assistance; ()
 - e. Frequency of needed services; ()
 - f. Level of care; ()
 - g. Habilitation and training needs; ()
 - h. Behavioral management needs, including identification of situations that trigger dangerous, unlawful, or otherwise problematic behavior, plans to prevent such situations, and coping procedures if triggered; ()
 - i. Healthcare professional's orders; ()
 - j. Admission records; ()
 - k. Supportive services; ()
 - l. Desires and choices, to the greatest extent possible; ()
 - m. Need for supervision, including the degree; ()

- n. Transfer and discharge needs; and ()
- o. Other identified needs. ()
- 02. Signature and Approval.** The provider and the resident or the resident’s representative must sign and date the plan of service upon its completion, within fourteen (14) days of the resident's admission. ()
- 03. Developing the Plan.** The provider will consult the resident and other individuals identified by the resident in developing the plan of service. Professional staff must be involved in developing the plan if required by another program. ()
- 04. Copy of the Plan.** Signed copies of the plan of service must be placed in the resident's file and given to the resident or the resident’s representative, if applicable, no later than fourteen (14) days after admission. ()
- 05. Changes to the Plan.** A record must be made of any changes to the plan. When changes to the plan are made, the resident or resident's representative and the provider must sign and date the updated plan. ()
- 06. Frequency of Review.** The plan of service must be reviewed when the resident experiences a significant change in condition, or at least every twelve (12) months, whichever occurs first. ()
- 07. Date of Regular Review.** The date of the next regularly scheduled review must be documented in the plan of service. ()
- 251. – 259. (RESERVED)**
- 260. ADMISSIONS.**
The provider must only admit or retain residents in the home under Section 39-3507, Idaho Code. ()
- 01. Department Review.** The provider must obtain approval from the Department for each admission prior to the prospective resident moving into the home. The following must be provided to the regional certifying agent where the home is located: ()
 - a. Name, gender, and date of birth of the prospective resident; ()
 - b. The contemplated date of admittance of the prospective resident into the home; ()
 - c. The prospective resident's history and physical from the resident’s healthcare professional, conducted within the previous twelve (12) month period and reflecting the resident’s current health status. If the resident is private-pay, the documentation must include a statement from the resident's healthcare professional indicating that the resident is appropriate for CFH care; ()
 - d. A list of the prospective resident's current medications and treatments from their healthcare professional; ()
 - e. Contact information for the prospective resident's healthcare professionals; ()
 - f. Contact information for the prospective resident's representative, if applicable; ()
 - g. The prospective resident's plan of service from another healthcare setting, or any such plan of service conducted for the resident within the previous six (6) months, if one exists, when the resident transfers to the home from another healthcare setting; and ()
 - h. Other information requested by the Department relevant to the appropriateness of the admission and the provider's ability to provide adequate care. ()
- 02. Notification.** Within five (5) business days of receipt of the documents under Subsection 260.01 of

this rule, the Department will notify the provider whether the proposed admission is approved or denied. When verbal notification is given, the Department will provide follow-up written communication to the provider stating the approval or denial within ten (10) business days. ()

03. Emergency Admission. The provider may not accept an emergency admission without prior approval from the Department except under the following conditions: ()

a. The provider may make a conditional admission when the provider reasonably believes the CFH has the ability to provide adequate care to the resident and the request for an emergency placement occurs after normal business hours and the provider is unable to contact the Department for prior approval. The provider must notify the resident or the resident's representative that the admission is conditional upon Department approval. ()

b. The provider must notify the regional certifying agent where the home is located by the next business day when a conditional emergency admission is made. ()

c. The provider must follow the regular admission process under Subsection 260.01 of this rule within two (2) business days of making a conditional emergency admission. The Department may deny the placement and require the provider to immediately transfer the resident when the Department has reasonable cause to believe the provider lacks the ability to provide adequate care to the resident. ()

04. Admission Agreement. At the time of admission to the CFH, the provider and the resident or resident's representative, if applicable, must enter into an admission agreement. The agreement must be in writing and be signed and dated by both parties. The agreement must, in itself or by reference to the resident's plan of service, include provisions addressing at least the following: ()

a. Whether or not the resident intends to assume responsibility for self-administering medication; ()

b. Steps the provider will take in the event the resident is not able to carry out self-preservation (e.g., performance of life-saving measures, contacting 9-1-1, honoring an order not to resuscitate, etc.); ()

c. Whether or not the provider will accept responsibility for managing the resident's funds; ()

d. How a partial month's refund will be managed; ()

e. Arrangements for the return of the resident's belongings should the resident leave the home; ()

f. Amount of liability coverage provided by the homeowner's or renter's insurance policy and whether the insurance policy covers the resident's personal belongings; ()

g. A requirement of written notice on the part of the provider, resident, or resident's representative of at least thirty (30) calendar days prior to termination of the admission agreement, when the termination is not for a situation under Subsection 261.01.b. of these rules; ()

h. Conditions under which an emergency temporary placement will be made consistent with Subsection 261.02 of these rules; ()

i. Consent or denial for the provider to supply pertinent information from the resident's record to the resident's healthcare professionals or, in case of transfer, current or prospective care setting; ()

j. Responsibility of the provider to obtain consent for medical procedures from the resident's legal guardian or power of attorney for healthcare if the resident is unable to make medical decisions; ()

k. Resident responsibilities as appropriate that do not conflict with the CFH requirements; ()

l. Amount the provider will charge the resident for room and board on a monthly basis, and a separately listed amount for any monthly care charges for which the resident is responsible; ()

m. A requirement of written notice to the resident or resident's representative of at least thirty (30) calendar days before the provider implements changes to charges under Subsection 260.04.l. of this rule; ()

n. Protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law. The admission agreement must either: ()

i. Adopt the eviction and appeal processes under Title 6, Chapter 3, Idaho Code; or ()

ii. Adopt the eviction and appeal processes as described in the version of the admission agreement provided by the Department; and ()

o. Additional conditions as agreed upon by both parties but consistent with the CFH requirements. ()

261. DISCHARGE OR TRANSFER.

01. Termination of Admission Agreement. The admission agreement must only be terminated under the following conditions: ()

a. The provider or the resident, or the resident's representative, if applicable, provides the other party at least thirty (30) calendar days' prior written notice; or ()

b. A three (3) day written notice may be given by the provider to the resident or the resident's representative, if applicable, when any of the following occur, subject to the appeal process under Subsection 260.04.n. of these rules: ()

i. Nonpayment of the resident's bill identified in Subsection 260.04.l. of these rules; ()

ii. The resident violates any written conditions of the admission agreement (e.g., no smoking, no pets, etc.); or ()

iii. The resident engages in the unlawful delivery, production, or use of a controlled substance on the premises of the home. ()

02. Emergency Temporary Placement. The admission agreement will remain in force and effect, excluding the provider's responsibility for care and the charge to the resident for such care under Subsection 260.04.l. of these rules, while the resident is temporarily transferred from the home to another care setting on an emergency basis unless either party terminates the agreement under Subsection 261.01 of this rule. An emergency temporary placement must only occur when: ()

a. The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be met by the provider or reasonably accommodated by the home; or ()

b. Emergency conditions require such transfer to protect the resident, other residents, the provider, or other individuals living in the home from harm. ()

03. Return of Resident's Possessions. The provider must document the return of the resident's personal possessions to the resident or resident's representative as arranged in the admission agreement according to Subsection 260.04.e. of these rules, and must: ()

a. Return immediately upon discharge: ()

i. All personal funds belonging to the resident; and ()

- ii. Any medication, supplement, or treatment belonging to the resident; ()
- b. Return within three (3) business days: ()
- i. If the provider was deemed to be managing the resident's funds under Subsection 275.02 of these rules, a copy of the final accounting of the resident's funds; ()
- ii. All belongings listed on the resident's belongings inventory; and ()
- iii. Any other items belonging solely to the resident, including personal documents. ()

262. -- 269. (RESERVED)

270. RESIDENT RECORDS.

The provider must maintain legible records for each resident admitted to the home as follows. ()

01. Updated Records. Records maintained by the CFH must be updated, as necessary, to reflect accurate information as changes occur. ()

02. Maintenance of Records. The provider must ensure records are maintained and available for inspection in the home as follows: ()

- a. Admission records for two (2) years from the date of the resident's discharge from the home; and ()
- b. Ongoing records for two (2) years from the date of the record. ()

03. Admission Records. The following records pertaining to the resident must be completed or collected as part of the initial admission process and continuing retention of the resident's records thereafter: ()

- a. A form containing general resident information including: ()
 - i. Full legal name; ()
 - ii. Primary residence, if other than the CFH; ()
 - iii. Marital status and sex; ()
 - iv. Date of birth; ()
 - v. The name, address, and telephone number of an individual identified by the resident or the resident's representative who should be contacted in an emergency or upon death of the resident; ()
 - vi. The resident's healthcare professionals and their contact information, and the contact information for any other supportive service used by the resident; ()
 - vii. Social information including social history, hobbies, and interests; ()
 - viii. Information about any specific health problems that may be useful in a medical emergency; and ()
 - ix. Any other health-related, emergency, or pertinent information that the resident requests the provider to keep on record. ()
- b. Results of the resident's history and physical examination performed by a healthcare professional conducted no earlier than twelve (12) months prior to admission; ()

- c. A list of all medications, treatments, and special diets prescribed by a healthcare professional; ()
 - d. The written admission agreement under Section 260 of these rules; ()
 - e. A log of the resident rights policy review under Section 201 of these rules; ()
 - f. The assessment under Section 225 of these rules; ()
 - g. The plan of service under Section 250 of these rules; ()
 - h. An inventory of the resident's belongings that may consist of photographs or a written descriptive list. The resident or the resident's representative may inventory any personal possession they so choose and expect returned upon the resident's transfer or discharge from the home. The belongings inventory may be updated at any time but must be reviewed at least annually; ()
 - i. If the resident has a representative, a copy of the document giving the representative legal authority to act on behalf of the resident, including guardianship or power of attorney for healthcare decisions; and ()
 - j. A copy of any care plan that is prepared for the resident by an outside service provider. ()
- 04. Ongoing Records.** The following records must be completed or collected by the provider for ongoing services to the resident: ()
- a. Any incident or accident occurring while the resident is living in the home and the staff's response, including refusal of any prescription medication. If the incident or accident occurs while the resident is receiving supportive services, the provider must obtain a written report of the event from the service provider; ()
 - b. The provider's written response to any grievance under Section 200 of these rules; ()
 - c. Notes or logs from the licensed nurse, home health agency, physical therapist, or any other service providers, documenting the services provided to the resident at each visit to the home; ()
 - d. Documentation of changes in the resident's physical, behavioral, or mental status, and the staff's response, including usage of any PRN medication; ()
 - e. When the provider is deemed to be managing the resident's funds, financial accounting records for such funds as described in Section 275 of these rules; and ()
 - f. Medication records as described in Sections 400 through 402 of these rules, as applicable. ()

271. -- 274. (RESERVED)

275. RESIDENT FUNDS AND FINANCIAL RECORDS.

- 01. Resident Funds Policy.** Each provider must possess and implement a policy and procedure describing how the resident's funds will be managed including the following: ()
- a. When the resident moves out from the home under any circumstances except those under Section 912 of these rules, the provider will: ()
 - i. Only retain prepaid room and board funds prorated to the last day of the notice period terminating the admissions agreement as specified in the agreement, or upon the resident moving from the home, whichever is later; ()
 - ii. Immediately return all remaining resident funds to the resident or to the resident's representative as specified in the admission agreement under Section 260 of these rules; and ()

- iii. Only use the resident's funds for that resident's expenses until a new payee is appointed. ()
- b.** Prohibit personal loans to the resident from the provider, provider's relatives, and other household members unless the loan is from a relative of the resident. When such a loan is made, the provider must: ()
 - i. Ensure the terms of the loan are described in a written contract signed and dated by the resident or resident's representative; ()
 - ii. Maintain a copy of the loan contract in the resident's record; and ()
 - iii. Immediately update documentation of repayments towards the loan. ()

02. Managing Resident Funds. When the resident's funds are turned over to the provider or staff for any purpose other than payment for services allowed under CFH requirements, or if the provider, provider's relative, staff, or an individual living in the home acts as the resident's payee, the provider is deemed to be managing the resident's funds. The provider who manages a resident's funds must: ()

- a.** Establish a separate account at a financial institution for each resident to which resident income and use of the resident's funds may be accounted and reconciled by means of a financial statement; ()
- b.** Prohibit commingling of the resident's funds with the funds of any other person, including borrowing funds from the resident; ()
- c.** Upon request, notify the resident or the resident's representative the current amount of the resident's funds available for their use; ()
- d.** Charge the resident the amount agreed upon in the admission agreement under Section 260 of these rules for CFH services on a monthly basis; ()
- e.** Maintain separate accounting records, including bank statements, cash ledgers with a running balance of cash on-hand, and receipts for any purchases in excess of ten dollars (\$10) for each resident for whom the provider manages funds; ()
- f.** Restore funds to the resident if the provider cannot produce proper accounting records of resident's funds or property under Subsection 275.02.e. of this rule. Restitution of these funds to the resident is a condition for continued operation of the CFH; ()
- g.** Not require the resident to purchase goods or services from or for the home other than those under Section 260 of these rules; and ()
- h.** Provide the resident, the resident's legal guardian, representative with financial power of attorney, or conservator access to the resident's funds. ()

276. -- 299. (RESERVED)

300. SHORT-TERM CARE AND SUPERVISION.

When the provider is temporarily unavailable to provide care or supervision to the resident, the provider may designate another adult to provide care and supervision, or only supervision to the resident. The provider must assure that this short-term arrangement meets the needs of the resident and protects the resident from harm. ()

01. Alternate Care. Means services to the resident at another CFH. An alternate caregiver operating the other CFH ensures care and supervision are provided to the resident under the resident's original plan of service and admission agreement. The following applies to an alternate care placement: ()

- a.** The Department must approve an alternate care placement using the process under Section 260 of these rules. The alternate caregiver must: ()

- i. Not exceed the number of residents for which the home is certified to provide care; ()
 - ii. Comply with Section 140 of these rules when the resident receiving alternate care will be the third or fourth resident in the alternate caregiver's home; and ()
 - iii. Comply with Section 130 of these rules when the resident receiving alternate care requires nursing facility level of care and any other resident in the alternate caregiver's home requires nursing facility level of care. ()
- b.** Upon approval from the Department, alternate care may be provided for up to thirty (30) consecutive days. ()
- c.** The provider must give or arrange for resident-specific training to the alternate caregiver prior to alternate care, including supplying copies of the resident's current assessment, plan of service, and admission agreement. ()

02. Substitute Care. Means services to the resident in the same CFH where the resident holds an admission agreement during the regular provider's absence. A substitute caregiver must be an adult designated by the provider to provide care and supervision to the resident in the provider's CFH. The following apply to the designation of a substitute caregiver: ()

- a.** The provider is responsible to give or arrange for resident-specific training to the substitute caregiver prior to substitute care, including reviewing copies of each resident's current assessment, plan of service, and admission agreement. ()
- b.** Staffing levels in the home must be maintained at the same level as when the provider is available to provide care and supervision. ()
- c.** Substitute care can be provided for up to thirty (30) consecutive days. ()
- d.** The substitute caregiver must have the following qualifications: ()
 - i. Current certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) that meets the standards under Section 100 of these rules; ()
 - ii. A cleared background check under Section 009 of these rules; and ()
 - iii. Completion of a medications training under Section 100 of these rules. ()

03. Incidental Supervision. Means a brief reprieve for the provider from direct care responsibilities. An individual providing incidental supervision is approved by the provider to supervise the resident only. ()

- a.** Incidental supervision must not include resident care. ()
- b.** Incidental supervision may be provided for up to ten (10) hours per week for no more than six (6) consecutive hours, so long as the resident does not require care. ()

301. -- 399. (RESERVED)

400. MEDICATION POLICY.

The provider must possess and implement written medication policies and procedures that describe in detail how staff will ensure appropriate assistance with and handling of and safeguarding of medications. These policies and procedures must be maintained in the home and include the following: ()

- 01. Following Orders.** Assistance given by staff will only be as directed by the resident's healthcare professionals. ()

02. Evidence of Orders. Evidence of each resident's orders will be maintained in the home, regardless of whether the resident is able to self-administer, and may consist of the following: ()

- a. Written prescriptions from the healthcare professional for the medication, including the dosage; ()
- b. Medisets or sealed blister medication cards filled and appropriately labeled by a pharmacist or licensed nurse with the names of the medications, dosages, times to be taken, routes of administration, and any special instructions; ()
- c. An original prescription bottle labeled by a pharmacist describing the order and instructions for use; or ()
- d. If the medication, supplement, or treatment is without a prescription, it will be listed among over-the-counter medications approved by the resident's healthcare professional as indicated by a signed statement. Over-the-counter medications will be given as directed on the packaging. ()

03. Alteration of Orders. Staff will not alter dosage, discontinue or add medications, including over-the-counter medications and supplements, or discontinue, alter, or add treatments or special diets without first consulting the resident's prescribing healthcare professional and obtaining an order for the change as required under Subsection 400.02 of this rule. ()

04. Allergies. The provider will list any known food or drug allergies for each resident and take precautions to guard against the resident ingesting such allergens. ()

05. Training. Each staff assisting with resident medications will have successfully completed a medication training under Section 100 of these rules. Additionally: ()

- a. Each resident's orders will be reviewed by each staff assisting residents with medications prior to offering assistance; and ()
- b. Written instructions will be in place that outline who to notify if any of the following occur: ()
 - i. Doses are not taken; ()
 - ii. Overdoses occur; or ()
 - iii. Side effects are observed. ()
- c. The provider will ensure any staff assisting with medications has reviewed each resident's known allergies and takes precautions against the resident ingesting such allergens. ()

06. Consumer Medication Information. The provider will keep on file in the resident's record the consumer medication information handout for each current prescription medication. ()

07. Self-Administration. When the provider cares for a resident who self-administers medications, staff will follow Section 401 of these rules. ()

08. Assistance with Medication. When the provider cares for a resident who needs assistance with medications, the provider must follow Section 402 of these rules. ()

401. SELF-ADMINISTRATION OF MEDICATION. Prior to giving the resident responsibility for administering medications without assistance, the provider must ensure the following: ()

- 01. Approval.** The provider has obtained written approval from the resident's healthcare professional

stating that the resident is capable of safe self-administration; otherwise, staff will comply with Section 402 of these rules. ()

02. Evaluation. The resident's record includes documentation that the resident's healthcare professional has evaluated the resident's ability to safely self-administer medication. The evaluation must include verification of the following: ()

- a.** The resident understands the purpose of each medication; ()
- b.** The resident is oriented to time and place and knows the appropriate dosage and times to take the medication; ()
- c.** The resident understands the expected effects, adverse reactions, or side effects, and knows what actions to take in case of an emergency; and ()
- d.** The resident can take the medication without assistance or reminders from staff. ()

03. Change in Condition. Should the condition of the resident change such that it brings into question the resident's ability to safely continue self-administration of medications, the provider will arrange for a reevaluation of the resident to self-administer under Subsection 401.02 of this rule. Until the resident's healthcare professional provides written approval for the resident to resume self-administration, staff will comply with Section 402 of these rules. ()

04. Safeguarding Medication. The provider must ensure that the medications of a resident who self-administers are safeguarded, including providing a lockable storage cabinet or drawer to the resident under Section 175 of these rules. The resident is allowed to maintain personal medications under the resident's own control and possession. ()

402. ASSISTANCE WITH MEDICATION.

The provider must offer assistance with medications to residents who need assistance. Prior to staff assisting residents with medication, the provider must ensure the following conditions are in place: ()

- 01. Condition of the Resident.** The resident's health condition is stable. ()
- 02. Nursing Assessment.** The resident's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken, unless the staff assisting with medications is a healthcare professional operating within the scope of their license. ()
- 03. Containers.** The medication is in the original pharmacy-dispensed container with its proper label and directions or in an original over-the-counter container or in a Mediset, blister pack, or similar organizational system. When a Mediset, blister pack, or similar system is used, staff will comply with the following. ()
 - a.** The system contains easily identifiable dates and times for medication dispensing; ()
 - b.** The system is filled according to the schedule ordered by the resident's healthcare professional for each medication; ()
 - c.** Unless filled by a pharmacy or a licensed nurse, the system is filled not more than seven (7) days prior to the scheduled medication dispensing date; ()
 - d.** Staff only assist with the specific medication indicated for administration on the system on that particular date and within twenty (20) minutes before or after the specified time; ()
 - e.** The original medication container with its proper label is maintained in the home until the medication it contained is completely used or refused by the resident; and ()
 - f.** Any medication scheduled for dispensing that the resident refuses or that is otherwise missed is ()

immediately removed from the system and disposed of at the earliest opportunity under Subsection 402.07 of this rule. ()

04. Safeguarding Medications. Staff take adequate precautions to safeguard the medications of each resident for whom they provide assistance. Safeguarding consists of the following: ()

a. Storing each resident’s medications in an area or container designated only for that particular resident including a label with the resident’s name, except for medications that must be refrigerated or over-the-counter medications; ()

b. Keeping the designated area or container for the resident’s medications under lock and key when either of the following apply: ()

i. The resident’s medications include a controlled substance; or ()

ii. Any member of the household has drug-seeking behaviors. ()

c. Ensuring each resident’s designated medication area or container is clean and kept free of contamination, including disposal of loose pills at the earliest opportunity under Subsection 402.07 of this rule; ()

d. Dispensing only one (1) resident’s set of medications from its designated area or container at one (1) time to mitigate medication errors; and ()

e. On at least a monthly basis, the provider conducts and documents an inventory of narcotic medications and reconciles the actual amount on-hand with the expected amount on-hand. When a discrepancy occurs between the expected and actual amounts, the provider will. ()

i. Investigate the cause of the discrepancy; and ()

ii. Write a summary report of the investigation and keep the report in the resident’s record. ()

05. Scope of Practice. Only a healthcare professional working within the scope of their license may administer medications or practice other nursing functions. Practice of such functions must comply with IDAPA 24.34.01, “Rules of the Idaho Board of Nursing.” ()

06. Documentation of Assistance. Documentation of assistance with medications is maintained in the home. Such documentation: ()

a. Is logged concurrent with the time of assistance; and ()

b. Contains at least the following information: ()

i. The name of the resident receiving the medication; ()

ii. The name of the medication given; ()

iii. The dosage of the medication given; and ()

iv. The time and date the medication was given. ()

07. Disposal of Medication. Medication that has been discontinued as ordered by the resident's healthcare professional, has expired, or should otherwise be disposed of under this rule is disposed of by the provider within thirty (30) days of the order, expiration date, or as otherwise described in this rule. A written record of all disposal of drugs will be maintained in the home and include: ()

a. The name of the medication; ()

- b. The amount of the medication, including the number of pills at each dosage, if applicable; ()
- c. The name of the resident for whom the medication was prescribed; ()
- d. The reason for disposal; ()
- e. The date on which the medication was disposed; ()
- f. The method of disposal; and ()
- g. A signed statement from the provider and a credible witness confirming the disposal of the medication. ()

403. -- 499. (RESERVED)

500. ENVIRONMENTAL SANITATION STANDARDS.

The provider is responsible for disease prevention and maintenance of sanitary conditions in the home and must ensure: ()

01. Water Supply. The water supply for the home is adequate, safe, and sanitary by obtaining and keeping in the home evidence of the following: ()

- a. The home uses a public or municipal water supply or a Department-approved private water supply; ()
- b. If water is from a private supply, water samples are submitted to an accredited laboratory and show an absence of bacterial contamination at least annually, or more frequently if deemed necessary by the Department; and ()
- c. The home always has adequate water pressure to meet sanitary requirements. ()

02. Sewage Disposal. The sewage disposal system is approved and maintained by obtaining and keeping in the home evidence of the following: ()

- a. All sewage and liquid wastes are discharged, collected, treated, and disposed of in a manner approved by the local municipality or the Department. The Department may require the provider to obtain a statement from the area health district indicating that the sewage disposal system meets local requirements. The statement, if required, must be kept on file at the home. ()
- b. For homes with nonmunicipal sewage disposal, the septic tank has been pumped within the last five (5) years or the system is otherwise in good working condition. ()

03. Garbage and Refuse Disposal. Garbage and refuse disposal is provided by or at the home at least biweekly and the garbage containers are: ()

- a. Constructed of durable materials and provided with tight-fitting lids; ()
- b. Maintained in good repair and do not leak or absorb liquids; and. ()
- c. Sufficient in number to hold under lid all garbage and refuse that accumulates between periods of removal from the premises such that storage areas are free of excess refuse and debris. ()

04. Insect and Rodent Control. The home is maintained free from infestations of insects, rodents, and other pests by using a control program based on the pest involved when an infestation appears. ()

05. Yard. The yard surrounding the home is safe and maintained. ()

06. Laundry. A washing machine and dryer are readily available for the proper and sanitary washing of linen and other washable goods and laundry services are offered: ()

- a. On at least a weekly basis; or ()
- b. When soiled linens or clothing create a noticeable odor. ()

07. Housekeeping and Maintenance. Sufficient housekeeping and maintenance are provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner including compliance with the following: ()

- a. Resident sleeping rooms are cleaned on at least a weekly basis as described in the resident's plan of service and thoroughly cleaned immediately after the discharge of the previous resident using the room; and ()
- b. Deodorizers are not used to cover odors caused by poor housekeeping or unsanitary conditions. ()

501. -- 599. (RESERVED)

600. FIRE AND LIFE SAFETY STANDARDS.

Each home must meet the requirements of this rule and all other applicable requirements of local and state codes concerning fire and life safety. ()

01. General Requirements. The provider must ensure that: ()

- a. The home is structurally sound and equipped and maintained to assure the safety of residents; and ()
- b. When natural or man-made hazards are present, suitable fences, guards, or railings are in place to protect the resident according to the resident's needs as documented in the plan of service. ()
- c. The exterior and interior of the home are kept free from the accumulation of weeds, trash, debris, rubbish, and clutter. ()

02. Fire and Life Safety Requirements. The provider must ensure that: ()

- a. Smoke detectors are installed in sleeping rooms, hallways, on each level of the home, and as recommended by the local fire district. ()
- b. Carbon monoxide (CO) detectors are installed as recommended by the Department when: ()
 - i. The home is equipped with gas or other fuel-burning appliances or devices; or ()
 - ii. An enclosed garage is attached to the home. ()
- c. Unvented combustion devices of any kind are prohibited from use inside the home. ()
- d. Any locks installed on exit doors can always be easily opened from the inside without the use of keys or any special knowledge. ()
- e. Electric portable heating devices are only used under the following conditions: ()
 - i. The unit is maintained in good working order and without obvious damage or fraying of the cord; ()
 - ii. Remain unplugged until in operation, and then plugged directly into a wall outlet and not a surge

- protector, power strip, or extension cord; ()
- iii. The user complies with safety labels, which remain on the unit; ()
 - iv. The unit is equipped with automatic shut-off protection when tipped over; and ()
 - v. The unit is operated under direct supervision and at least thirty-six (36) inches away from combustibles (e.g., furnishings, bedding, and blankets.), pets, and people. ()
- f.** Each resident’s sleeping room has at least one (1) door or window that can be easily opened from the inside and leads directly to the outside. If a window is used as a means of egress/ingress, the following conditions are met: ()
- i. The window sill height is not more than forty-four (44) inches above the finished floor; ()
 - ii. The window opening is at least twenty (20) inches in width and twenty-four (24) inches in height; and ()
 - iii. If the sleeping room is in a below-ground basement, the window opens into a window well through which the resident can easily exit. ()
- g.** Flammable or highly combustible materials are stored safely. Necessary precautions are taken to protect the resident from obtaining flammable materials as appropriate for the resident’s functional and cognitive ability. ()
- h.** Boilers, hot water heaters, and unfired pressure vessels are equipped with automatic pressure relief valves. ()
- i.** A two and a half (2.5) pound or larger dry chemical multipurpose A:B:C type portable fire extinguisher is immediately accessible without obstructions in a designated location, subject to Department approval, on each level of the home. ()
- j.** Electrical installations and equipment comply with IDAPA 24.39.10, “Rules of the Idaho Electrical Board,” or authorized local jurisdiction. ()
- k.** Fuel-fired heating devices are approved by the local heating/venting/air conditioning (HVAC) board. ()
- l.** Exits are free from obstruction. ()
- m.** Paths of travel to exits and all exit doorways are at least twenty-eight (28) inches wide. ()
- n.** The door into each bathroom and sleeping room, if equipped with a lock, can be unlocked from either side to allow access to the room in case of an emergency. ()
- o.** Cleaners, pesticides, and other toxic chemicals or materials are: ()
- i. Only used according to the manufacturer's instructions; and ()
 - ii. Stored with necessary precautions to protect the resident as appropriate for the resident’s functional and cognitive ability. ()
- 03. Smoking.** Smoking is a fire hazard. The provider may choose to allow or not allow smoking in the home or on the property. If the provider chooses to allow smoking, the provider must reduce the risk of fire by prohibiting smoking: ()
- a. In any area where flammable liquids, gases, or oxidizers are in use or stored; ()

- b. In bed; and ()
- c. By the resident without supervision unless unsupervised smoking is specifically allowed in the resident's plan of service. ()

04. Emergency Preparedness Plan. The provider must develop and implement a written emergency preparedness plan. The provider must review the plan with the resident, or the resident's representative, at admission and at least every twelve (12) months thereafter. The plan must address the following: ()

- a. Evacuation of the home in the event of a house fire, including: ()
 - i. A floor plan depicting at least two (2) escape routes from each room, excluding bathrooms and the laundry room; ()
 - ii. A designated meeting area indicated on the floor plan where all household members will congregate upon evacuation of the home; and ()
 - iii. Identification of the person responsible to take a head-count at the designated meeting area and relay information to firefighters regarding the probable whereabouts in the home of missing individuals. ()
- b. Emergency situations in which people are confined to the home for a period of at least seventy-two (72) hours and considering adequate food, water, and medications during that time; ()
- c. Complying with mandatory evacuation orders from the area, including prearranged plans to shelter within the local community and in a town outside the local community, and considering the necessary supplies that will be kept in a state of readiness for quick evacuation; and ()
- d. Procedures for any situation in which the provider is incapacitated and unable to provide services. ()

05. Emergency Drills. The provider must ensure staff conduct emergency drills, at least half of which over a year are fire drills, at least every three (3) months as follows: ()

- a. Those persons capable of participating in a fire drill reach a point of safety outside the home within three (3) minutes from the start of the drill. ()
- b. Residents who are medically unable to exit unassisted are exempt from physical participation in a fire drill if the provider has an effective evacuation plan for such residents and staff discuss the plan with the resident immediately prior to the drill; ()
- c. Documentation of the drill is kept in the home, which may consist of a video recording or a written summary, to include the following: ()
 - i. The date and time of the drill; ()
 - ii. The purpose of the drill; ()
 - iii. If a fire drill, the length of time for all persons who participated in the drill to reach a point of safety outside the home; ()
 - iv. The name or likeness of each person who participated in the drill; and ()
 - v. Any problems encountered during the drill or deviations from the home's emergency plans, and how the provider will overcome the problem or improve performance in future drills. ()

06. Maintenance of Equipment. The provider must ensure that all equipment in the home is properly

maintained by: ()

a. Testing smoke and carbon monoxide detectors at least monthly and keeping a written record of the test results on file in the home. ()

b. If the smoke or carbon monoxide detector has replaceable batteries, replacing the batteries at least every twelve (12) months or as indicated by a low battery, whichever occurs first. ()

c. Replacing each smoke or carbon monoxide detector at the end of its useful life as indicated by the manufacturer, which date is to be labeled on the unit. ()

d. Replacing or servicing the portable fire extinguishers through a professional servicing company every twelve (12) months or when the quarterly examination reveals issues with the extinguisher under Subsection 600.06.e. of this rule, whichever occurs first. ()

e. Examining all portable fire extinguishers at least every three (3) months as indicated by initials and date on a log, to determine that: ()

i. The extinguisher is in its designated location; ()

ii. Seals or tamper indicators are not broken, and the safety pin is in place; ()

iii. The extinguisher has not been physically damaged; ()

iv. The extinguisher does not have any obvious defects, such as leaks; ()

v. The nozzle is unobstructed and intact; and ()

vi. Chemicals are prevented from settling and clumping by repeatedly tipping the extinguisher upside down and right-side up. ()

f. When the home has wood-burning or pellet stoves, arranging for professional cleaning of the chimneys at least annually by a person in the business of chimney sweeping, and keeping the records on file in the home. ()

g. Maintaining functional and dependable telephone or cell phone service and hardware. Additionally, ensuring that the following numbers are either programmed into the telephone or cell phone, or alternatively, such numbers are posted in the home: ()

i. General emergency numbers including 9-1-1, poison control, adult protective services, and the suicide hotline; and ()

ii. Emergency contacts for each resident. ()

601. -- 699. (RESERVED)

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. General Requirements. Any residence used as a CFH must be suitable for that use. CFHs must only be located in buildings intended for residential use. ()

a. Remodeling or additions to the home must be consistent with residential use of the property and must comply with local building standards and IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)," including obtaining building permits as required by the local jurisdiction. ()

b. All homes are subject to Department approval. ()

- 02. Toilet Facilities and Bathrooms.** The home must contain: ()
- a.** A bathroom equipped with at least one (1) flush toilet, one (1) tub or shower, and one (1) sink with a mirror; ()
 - b.** Toilet and shower or bathing facilities separated from all rooms by solid walls or partitions; ()
 - c.** A window that is easily opened to the outside, or forced ventilation to the outside, in each room containing a toilet, shower, or bath; ()
 - d.** All tubs, showers, and sinks connected to hot and cold running water; and ()
 - e.** Without passing through another person’s sleeping room, access to toilet and bathing facilities designated for the resident’s use. ()
- 03. Accessibility for Residents with Physical and Sensory Impairments.** A provider choosing to provide services to a resident who has difficulty with mobility or who has sensory impairments must ensure the physical environment maximizes the resident’s independent mobility and use of appliances, bathroom facilities, and living areas. The home must be equipped with necessary accommodations that meet the “American With Disabilities Act Accessibility Guidelines--Standards for Accessible Design (SFAD),” under Section 002 of these rules and as described below according to the individual resident’s needs: ()
- a.** A ramp that complies with Section 405 of the SFAD. Elevators or lifts that comply with Sections 409 and 410, respectively, may be utilized in place of a ramp; ()
 - b.** Doorways large enough to allow easy passage of a wheelchair and that comply with Subsection 404.2.3 of the SFAD; ()
 - c.** Toilet and bathing facilities that comply with Sections 603 and 604 of the SFAD; ()
 - d.** Sinks that comply with Section 606 of the SFAD; ()
 - e.** Grab bars in resident toilet facilities and bathrooms that comply with Section 609 of the SFAD; ()
 - f.** Bathtubs or shower stalls that comply with Sections 607 and 608 of the SFAD, respectively; ()
 - g.** Non-retractable faucet handles that comply with Subsection 309.4 of the SFAD. Self-closing valves are not allowed; ()
 - h.** Suitable handrails on both sides of all stairways leading into and out of the home that comply with Section 505 of the SFAD; and ()
 - i.** Smoke and carbon monoxide detectors that comply with Section 702 of the SFAD. ()
- 04. Storage Areas.** Adequate storage space must be provided in the home. ()
- 05. Lighting.** Adequate lighting must be provided in all resident sleeping rooms and any other rooms accessed by the resident. ()
- 06. Ventilation.** The home must be well-ventilated and the provider must take precautions to prevent offensive odors. ()
- 07. Heating and Cooling.** The temperature in the home must be maintained between sixty-five degrees Fahrenheit (65°F) and eighty degrees Fahrenheit (80°F) when residents or adult hourly care participants are at home. Thermostats must be located away from stoves, fireplaces, and furnaces. ()

08. Plumbing. All plumbing in the home must be in good working order and comply with local and state codes. All plumbing fixtures must be maintained in good repair. ()

09. Resident Sleeping Rooms. The provider must ensure each sleeping room occupied by a resident is: ()

a. Not an attic, stairway, hall, or any other space commonly used for other than bedroom purposes. ()

b. Not in a below-ground basement or a room located on the second story or higher unless the following conditions are met: ()

i. The resident is able to independently recognize an emergency and self-evacuate from the sleeping room without physical assistance or verbal cueing as assessed and indicated in the resident's plan of service; or ()

ii. The sleeping room of a responsible and able-bodied individual living in the home is located on the same level with the resident's sleeping room; and ()

iii. The level of the home on which the resident's sleeping room is located has floors, ceilings, and walls that are finished to the same degree as the rest of the home. ()

c. Separated by walls running from floor to ceiling and has a solid door. ()

d. Not also the provider's sleeping room unless there is medical necessity to share the room. A relative of the provider must not share the resident's sleeping room unless the individual is also a relative of the resident. ()

e. Covered by a ceiling with a height of at least seven feet, six inches (7'6") at its lowest point. ()

f. Equipped with a closet that is: ()

i. If shared, fairly and substantially divided such that each resident's space is clearly distinct. ()

ii. Equipped with a door if the resident so chooses. ()

g. At least one hundred (100) square feet for a one (1) person sleeping room and at least one hundred and sixty (160) square feet for a two (2) person sleeping room. Free-standing closet space must be deducted from the square footage in the sleeping room. ()

701. MANUFACTURED AND MODULAR HOMES.

01. Approved Homes. A residential modular or manufactured building approved by the Idaho Division of Building Safety (DBS) or U.S. Department of Housing and Urban Development (HUD) may be approved for use as a CFH when the home meets the following: ()

a. The manufactured or modular home meets the HUD or DBS requirements under state and federal regulations as of the date of manufacture; and ()

b. The manufactured or modular home meets the adopted standards and requirements of the local jurisdiction in which the home is located. ()

02. Prohibited Homes. The following types of manufactured homes will not be approved by the Department for use as a CFH: ()

- a. Recreational vehicles, including fifth wheel trailers, truck campers, and commercial coaches; ()
- b. Manufactured or modular tiny houses with 400 square feet or less of floor space, excluding lofts; ()
- c. Tent-like structures, including yurts; and ()
- d. Manufactured or modular homes not approved by DBS or HUD or with unregulated or unapproved modifications or additions. ()

702. -- 709. (RESERVED)

710. SITE REQUIREMENTS.

The provider must ensure home and real property comply with the following: ()

- 01. Fire District.** The home is located in a lawfully constituted fire district or the provider holds an agreement with the nearest fire district that the fire department will respond when not responding to other calls within their district. ()
- 02. Accessible Road.** The home is always served by an all-weather road kept open to motor vehicles all year. ()
- 03. Emergency Medical Services.** The home is accessible to emergency medical services. ()
- 04. Accessible to Services.** The home is accessible to necessary social, medical, and rehabilitation services. ()
- 05. House Number.** The house number is prominently displayed and plainly visible from the street. ()

711. -- 899. (RESERVED)

900. EMERGENCY POWERS OF THE DIRECTOR.

When an emergency endangers the life or safety of a resident, the Director may summarily suspend or revoke any CFH certificate. As soon thereafter as practical, the Director will provide an opportunity for a hearing under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

901. ENFORCEMENT PROCESS.

If the Department finds that the provider does not meet, or did not meet, a rule or statute governing CFHs, it may impose a remedy, independently or in conjunction with others, subject to these rules for notice and appeal. ()

01. Determination of Remedy. In determining which enforcement remedy(s) to impose, if any, the Department will consider the provider's compliance history, complaints, and the number, scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the remedies listed under Sections 909 through 915 of these rules. ()

02. Notice of Enforcement Remedy. The Department will give the provider written notice of any enforcement remedy it imposes. The notice will be mailed immediately by certified mail or delivered by personal service upon the Department's decision. The notice will include the decision, the reason for the Department's decision, and how the provider may appeal the decision under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

902. FAILURE TO COMPLY.

The Department may impose any of the enforcement remedies under Sections 909 through 913 of these rules when it determines any of the following conditions exist: ()

01. Out of Compliance. The provider has not complied with any part of the CFH requirements within thirty (30) days of being notified by the Department in writing that the CFH is out of compliance with that requirement. ()

02. Lack of Progress. The provider has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted the provider's plan of correction. ()

903. REPEATED NONCOMPLIANCE.

When the Department determines that a provider has repeated noncompliance with any of the CFH requirements, it may impose any of the enforcement remedies under Sections 909 through 913 of these rules. ()

904. -- 908. (RESERVED)

909. ENFORCEMENT REMEDY OF PROVISIONAL CERTIFICATION.

When the Department finds that the provider is unable or unwilling to meet a CFH requirement because of conditions that are not anticipated to continue beyond six (6) months and do not jeopardize the health or safety of the residents, the Department may impose provisional certification upon the provider. ()

01. Conditions of Provisional Certification. The Department, at its discretion, may impose conditions upon the provider in conjunction with provisional certification, which conditions will be included with the notice of provisional certification, if so imposed. Conditions are imposed to ensure the provider achieves compliance with the CFH requirements and to aid the Department in monitoring the provider's performance during the provisional certification period. ()

02. Certification or Revocation. The Department, upon review of the provider's performance during the provisional certification period, may issue a full certificate to the provider when the Department finds that the provider has achieved compliance with the CFH requirements, or revoke the provider's certificate if the provider failed to comply. ()

910. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.

All admissions to the home are banned pending satisfactory correction of all deficiencies. The ban remains in effect until the Department determines that the provider has achieved full compliance with all CFH requirements or until a substitute remedy is imposed. ()

911. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENT WITH SPECIFIC DIAGNOSIS.

Any admission to the home of a prospective resident with a specific diagnosis may be banned when the Department has determined the provider lacks the skill or ability to provide adequate care to such a resident under Section 170 of these rules. ()

912. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENT.

The Department may summarily suspend the provider's certificate and transfer the resident when convinced by a preponderance of the evidence that the resident's health and safety are in immediate jeopardy. In such a transfer, the provider must: ()

01. Return Resident's Possessions. Comply with Subsection 261.03 of these rules; and ()

02. Refund Prepaid Charges. Refund to the resident a prorated amount restoring prepaid charges for room, board, and care for the month within fourteen (14) calendar days of the Department's notice of summary suspension. ()

913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.

01. Revocation of the Certificate. The Department may institute a revocation action when persuaded by a preponderance of the evidence that the provider is not in compliance with the CFH requirements. ()

02. Additional Causes for Revocation. The Department may also revoke any certificate for any of the

- following causes: ()
- a. The provider willfully misrepresented or omitted any of the following: ()
 - i. Information pertaining to the continuing certification of the CFH; or ()
 - ii. Information pertaining to an investigation that obstructs the certifying agent's collection of evidence. ()
 - b. When persuaded by a preponderance of the evidence that conditions exist endangering the health or safety of any resident; ()
 - c. An act adversely affecting the welfare of any resident is being or has been permitted, aided, performed, or abetted by the provider or staff. Such acts may include neglect, physical, mental, or sexual abuse, and exploitation; ()
 - d. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a CFH; ()
 - e. The provider has violated any condition of a provisional certificate in effect upon the CFH; ()
 - f. The provider has been cited with one (1) or more core issue deficiencies; ()
 - g. An accumulation of minor violations that, when taken as a whole, constitute inadequate care; ()
 - h. Repeat violations of any of the CFH requirements; ()
 - i. The provider lacks the ability to properly care for the resident, as required by the CFH requirements, or as directed by the Department; ()
 - j. The provider refuses to allow any certifying agent or other representative of the Department or protection and advocacy agency representative full access to the home, records, or the residents according to their respective authority to access such; ()
 - k. The provider fails to pay the certification fee under Section 109 of these rules. ()

914. (RESERVED)

915. TRANSFER OF RESIDENT.

The Department may require transfer of a resident from a CFH to an alternative placement on the following grounds: ()

01. Violation of Laws or Rules. As a result of a violation of a provision of the CFH requirements, the provider is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision to the resident; or ()

02. Violation of Resident's Rights. As a result of a violation of the resident's rights under Section 39-3516, Idaho Code, or Section 200 of these rules. ()

916. -- 949. (RESERVED)

950. RIGHT TO SELL.

Nothing contained in these rules limits the right of any homeowner to sell, lease, mortgage, or close any CFH under applicable laws. ()

951. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.04.18 – CHILDREN’S AGENCIES AND RESIDENTIAL LICENSING

DOCKET NO. 16-0418-2201 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1207, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Therapeutic and Residential Program is striving to prevent the accumulation of costly, ineffective, and outdated regulations and to reduce regulatory burden to achieve a more efficient operation of government.

The rule changes are intended to perform a comprehensive review of Children’s Agencies and Residential Licensing Program rules by collaborating with the public to streamline and simplify these rules. The rule content currently resides in 16.06.02, “Child Care Licensing,” and is being separated from day care content and placed into a new chapter to reduce confusion for stakeholders. The new chapter is titled IDAPA 16.04.18, “Children’s Agencies and Residential Licensing.” The changes are intended to clarify licensing requirements for children’s agencies, children’s residential care facilities, children’s camps, children’s therapeutic outdoor programs, and substance abuse treatment facilities licensed to operate in Idaho. Redundant and outdated language and requirements have been updated and removed as necessary.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 16-0602-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the March 2, 2022, [Vol. 22-3, pages 18-21](#), and April 6, 2022, [Vol. 22-4, pages 32-34](#) Idaho Administrative Bulletins.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Frede’ Teske, 208-334-0649.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720

Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0418-2201
(New Chapter)

16.04.18 – CHILDREN'S AGENCIES AND RESIDENTIAL LICENSING

000. LEGAL AUTHORITY.

Sections 39-1207, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code, authorizes the Department and the Idaho Board of Health and Welfare to adopt and enforce rules for licensing children's agencies, children's residential care facilities, and children's therapeutic outdoor programs. ()

001. SCOPE, POLICY, EXCEPTIONS, AND EXEMPTIONS TO LICENSING.

01. Scope. These rules establish requirements for licensing, maintaining, and operating the following facilities or programs in Idaho: ()

a. Children's agencies; ()

b. Children's residential care facilities which include nonaccredited residential schools, substance abuse treatment facilities for adolescents, and children's camps; and ()

c. Children's therapeutic outdoor programs. ()

02. Policy. The Department will assure that Idaho children receive adequate substitute parental care in case of absent parents, or the temporary or permanent inability of parents to provide care and protection, or if parents are seeking alternative twenty-four (24) hour care for their children. ()

03. Exceptions and Exemptions. Under Sections 39-1206 and 39-1211, Idaho Code, these rules do not apply to: ()

a. The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily engaged in child care; or ()

b. Children's camps that only provide child care for any one (1) child up to and including nine (9) consecutive weeks in any one (1) year period. A children's camp that provides child care for any one (1) child for nine (9) consecutive weeks or more in any one (1) year period constitutes a children's residential care facility and is subject to these rules. ()

002. – 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Background Check. Background checks are required for individuals who are licensed under these rules and must comply with IDAPA 16.05.06, "Criminal History and Background Checks," except for those individuals under Subsection 009.03 of this rule. ()

02. Individuals Subject to Background Check Requirements. The following individuals must receive a background clearance according to IDAPA 16.05.06, "Criminal History and Background Checks:" ()

a. Contract employees or volunteers that have unsupervised time with children; ()

- b. Any adult living on the premises; ()
- c. Adoptive Parents; ()
- d. Agency Licensed Foster Parents. ()
- e. Children's Agency Facility Staff; ()
- f. Children's Residential Care Facility Staff; and ()
- g. Children's Therapeutic Outdoor Program Staff. ()
- 03. Exceptions to Background Checks.** Background checks are optional for: ()
 - a. Youth in foster care who reach eighteen (18) years old and continue to reside in the same licensed foster home. ()
 - b. Youth in a children's residential care facility who reach eighteen (18) years old who continue to live in the same licensed residential facility. ()
 - c. Any employee, contractor, or volunteer of an organization who does not have access to a child living in a residential care facility, and who has duties or performs tasks that do not involve contact with a child or their personal belongings. ()
- 010. DEFINITIONS A THROUGH M.**
 - 01. Chief Administrator.** The duly authorized representative or designee of an organization responsible for day-to-day operations, management, and compliance with these rules and Title 39, Chapter 12, Idaho Code. ()
 - 02. Child.** Under Title 39, Chapter 12, Idaho Code, a "child" is an individual less than eighteen (18) years old, synonymous with juvenile or minor. ()
 - 03. Child Care.** The care, control, supervision, or maintenance of a child for twenty-four (24) hours a day provided as an alternative to parental care. ()
 - 04. Children's Agency.** A business for the placement of children in foster homes or for adoption and who does not provide child care as part of that business. A children's agency includes those providing home studies, post-placement supervision, post-finalization services, and other domestic and international adoptive services under Title 39, Chapter 1202(4), Idaho Code. A children's agency does not include an Idaho certified adoption specialist. ()
 - 05. Children's Camp.** A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period constitutes a children's residential care facility. ()
 - 06. Children's Residential Care Facility.** A facility that provides residential child care, excluding foster homes, residential schools, and juvenile detention centers that:
 - a. Seeks, receives, or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation, or supervision; or ()
 - b. Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or intellectual disability. ()
 - 07. Children's Therapeutic Outdoor Program.** A program that provides child care designed to

provide behavioral, substance abuse, or mental health services to children in an outdoor setting. Also known as "outdoor program." ()

08. Continued Care. The ongoing placement of an individual who reaches the age of eighteen (18) years but is less than twenty-one (21) years old. ()

09. Department. The Idaho Department of Health and Welfare, the Department Director, or designee. ()

10. Direct Care Staff. An employee who has direct personal interaction with children in the supervision of child care. ()

11. Disrupted Placement. When a child is discharged by the organization based on the child's behaviors, or when a child is removed from an adoptive placement before the adoption is finalized. ()

12. Governmental Unit. The State of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. ()

13. Intercountry Adoption. The placement of a child from one (1) country to another for the purpose of adoption. ()

14. Mechanical Restraint. Devices used to restrict a person's free movement. ()

15. Medical Professional. Person who received a degree in nursing or medicine and is licensed as a nurse, licensed nurse practitioner, physician's assistant, or medical doctor. ()

011. DEFINITIONS N THROUGH Z.

01. Nonaccredited Residential School. A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. ()

02. Noncompliance. Violation of, or inability to meet, the requirements of these rules or the terms of licensure. ()

03. Operator. An individual who operates or maintains within Idaho a children's residential care facility, children's agency, or outdoor program. ()

04. Organization. A children's agency, a children's residential care facility, or an outdoor program. ()

05. Person. Any individual, association, partnership, corporation, or any group thereof. ()

06. Physical Restraint Intervention. Any intervention utilized to control the range and motion of an individual, including an escort, to assist a child in moving from one location to another. ()

07. Placement. The activities and arrangements related to finding a suitable home or facility for a child. ()

08. Plan of Correction. The detailed procedures developed between the Department and an organization required to bring the organization into compliance. ()

09. Residential School. A residential facility for children which provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students under Section 39-1202(23), Idaho Code. ()

10. Seclusion. A room within a facility designed to temporarily isolate an individual to gain emotional or physical control by means of structure and minimal stimulation. ()

11. Staff-Child Ratio. The maximum number of children allowed under the care and supervision of one (1) staff. ()

12. Substance Abuse Treatment Facility. A licensed children's residential care facility participating in the public Substance use Disorder (SUD) system specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse, under IDAPA 16.07.17, "Substance Use Disorders Services." Private pay children's residential care facilities must utilize licensed professionals under IDAPA 16.07.17 to provide specialized treatment for children whose primary problem is alcohol or drug abuse. ()

13. Supervision. Monitoring a child based on their individual needs to provide for their safety and protection. ()

14. Time-Out. Separation of a child from an activity as a means of behavior management. ()

15. Training. Instruction related to child care that increases knowledge, skill, and abilities. ()

017.– 099. (RESERVED)

LICENSING AND CERTIFICATION
Sections 100 – 199

100. LICENSING.
These rules set requirements and monitor compliance. ()

01. Operator Responsibilities. The operator must conform to the terms of the license. ()

02. Knowledge of Standards. The operator is responsible for knowing and always complying with the rules regulating the license. The operator is responsible for ensuring that staff are familiar with the rules governing their organization. ()

03. Voluntary Closure. The operator must notify the Department of any voluntary closure prior to the closure date. ()

04. Voluntary Withdrawal of License. The Department will withdraw the license of an organization that has not provided services in the last licensed year. ()

05. Operating Without a License. If children are found in an unlicensed organization, the Department will refer to law enforcement or Child Protective Services if it has been determined that an immediate threat to the children's health and safety exists; ()

06. Operating an Unlicensed Organization. Operating an unlicensed organization is a misdemeanor under Sections 39-1220 and 39-1221, Idaho Code. ()

101. APPLICATIONS FOR LICENSE.
A license application must be submitted to the Department using the Department-approved process and include applicant's completed background clearance. All organizations must comply with applicable Idaho state, city, and county ordinances. ()

102. DISPOSITION OF APPLICATIONS.
After receipt of a completed application that addresses each requirement for the organization, the Department will review the materials for compliance with these rules and will act on the application within thirty (30) days after receipt of the completed application. ()

01. Application Approval. A license will be issued to any organization in compliance with these rules. The license is issued under the terms specified in the licensing survey and will be sent to the applicant. ()

02. License. A license will be issued to any organization in compliance with these rules and will specify the terms of licensure, such as: ()

a. Capacity, age range, and gender; ()

b. Specific services under the approved program description; and ()

c. Effective up to twelve (12) months from the date of issuance unless suspended or revoked earlier. ()

03. Variance. A license will be issued to an organization that has been approved for a variance through the Department-approved process, under Section 67-5230, Idaho Code. Variances must be approved annually. ()

04. Provisional License for Idaho-Licensed Organizations. A provisional license may be issued to an organization when a licensing standard is not met but can be expected to be corrected within six (6) months of issuing the provisional license, provided this does not endanger the health, safety, and well-being of any child in care or who may come into care during the period of the provisional license. A provisional license will be issued according to Section 39-1216, Idaho Code. ()

05. Denial of Application. If an application is denied, notification will be sent to the applicant stating the basis for such denial. ()

06. Failure to Complete Application Process. Failure of the applicant to progress in the application process will result in a denial of the application. ()

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the organization and premises designated. Each license is issued in the name of the organization, or governmental unit identified on the application and only to an address of the organization stated in the application and approved program description for the period and services specified. Any change in terms, such as capacity, ages, or gender served, approved program description services, management, or address renders the license null and void. ()

02. Nontransferable. A license is nontransferable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. ()

03. Change in Ownership, Operator, Terms, or Location. When these changes occur, the organization must submit a change application. The new owner or operator must obtain a license before starting operations. ()

104. MANDATORY VISITATIONS.

Under Section 39-1217, Idaho Code, the Department must visit and be given access to the premises of each organization as often as deemed necessary by the Department to assure compliance with these rules at intervals not to exceed twelve (12) months. ()

105. LICENSE RENEWAL.

Under Section 39-1215, Idaho Code, a renewal application must be submitted through a Department-approved process, no less than sixty (60) days before the expiration date of the license. When renewal applications are properly made, the existing license will, unless revoked, remain in force until the Department has completed an annual survey. ()

01. Full Survey. An organization will receive a full survey upon initial licensure and annually thereafter. ()

02. Focused Survey. An organization may receive a focused annual survey if the organization meets the following: ()

a. Has been licensed for three (3) consecutive years; ()

b. Has received five (5) or fewer total deficiencies during the most recent annual survey and any mid-year statement of deficiencies; and ()

c. Has no criminal history, medication, child health record, dental, or repeat deficiencies in the last three (3) annual surveys or mid-year statement of deficiencies. ()

106. COMPLAINT INVESTIGATION.

The Department will investigate complaints which may include further contact with the complainant, scheduled or unannounced visits to the organization, review of records, and collateral contacts including interviews and review of records with any persons who may have knowledge of the complaint. ()

107. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license may be suspended for a violation of these rules. Suspension may lead to revocation if the operator fails to satisfy the Department that the violation has been corrected to assure compliance. ()

108. NONRENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

If, upon investigation, it is found that an applicant or operator has failed or refused to comply with the provisions of the Child Care Licensing Reform Act, Sections 39-1201 through 39-1224, Idaho Code, with these rules, or with any provision of the license, the Department may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any organization when the following is determined: ()

01. Criminal Conviction or Relevant Record. Anyone providing direct care or working onsite under these rules is denied background clearance or refuses to comply with requirements in IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. Other Misconduct. The applicant, operator, or the chief administrator: ()

a. Fails to furnish any data, statistics, records, or information requested by the Department without good cause or provides false information. ()

b. Has been found guilty of, or is under investigation for, fraud, deceit, misrepresentation, or dishonesty with the operation of the organization. ()

c. Has been found guilty of, or is under investigation for, the commission of any felony. ()

d. Has knowingly permitted, aided, or abetted the commission of any illegal act. ()

03. Transfer of Children. May occur under the following circumstances: ()

a. Any condition that endangers the health or safety of any resident or child. ()

b. An organization is not in substantial compliance with, or has repeat violations of, these rules. ()

c. An organization has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. ()

d. An organization has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. ()

e. Refusal to allow Department full access to the organization's grounds, facilities, and records. ()

f. An organization has violated the terms or conditions of a provisional license. ()

109. ENFORCEMENT REMEDY – BAN ON ADMISSIONS.

The Department may summarily ban admissions, in whole or in part, pending satisfactory correction of all deficiencies. Bans remain in effect until the Department determines that the organization has achieved compliance with all program requirements, or until a substitute remedy is imposed. ()

110. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the Department will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. ()

111. – 199. (RESERVED)

**CHILDREN'S AGENCIES, CHILDREN'S RESIDENTIAL CARE FACILITIES,
AND OUTDOOR PROGRAMS**
Sections 200 – 299

200. GENERAL STANDARDS FOR ORGANIZATIONS.

These organizations must have policies and procedures addressing the licensing standards in Sections 200 - 299 of these rules. ()

201. ACCESS BY DEPARTMENT-AUTHORIZED AGENTS.

The Department must be provided access to the grounds, facilities, and records for determining compliance with applicable rules and investigation of complaints against the organization. ()

202. NOTIFICATION TO THE DEPARTMENT.

An organization must notify the Department no later than the next business day of the following: ()

01. Change in Chief Administrator. ()

02. Employee Investigated for Child Abuse or Neglect. ()

203. NOTIFICATION.

An organization must notify the Department by close of the next business day using the Department-approved process and immediately notify the parent, guardian, or placing children's agency for the following: ()

01. Fire. A fire that requires the services of a fire company or when children are relocated. ()

02. Hospitalized Child. Any illness, injury, or behavioral health crisis that requires admittance to a hospital. ()

03. Law Enforcement Authorities. When a child is detained, arrested, or charged by law enforcement authorities. ()

04. Suicide Attempt. A child's attempt to commit suicide that requires an external emergency response or emergency room visit. ()

05. Missing or Runaway Child. When a child is missing or has eloped and is not within the child's supervision needs. ()

06. Death of a Child. If sudden death, or if the death occurs because of a crime or accident, the appropriate law enforcement agency must be contacted immediately. ()

204. REGISTRATION.

The organization must be registered with the Idaho Secretary of State. ()

205. ORGANIZATIONAL CHART.

An organization must have an organizational chart identifying the job positions, individuals in each position, and the lines of authority within the organization. ()

206. INSURANCE COVERAGE.

An organization must maintain copies of current motor vehicle, comprehensive general liability, and professional liability insurance. ()

207. QUALITY OF SERVICES.

An organization must carry out its licensed programs in an environment that is safe, accessible, and appropriate for the needs of those served and with regard for the rights and protections of those persons receiving services. ()

01. Assess Compliance. The organization's administration must conduct and document a quality assurance review for compliance with these rules annually. ()

02. Corrective Action for Noncompliance. For each noncompliance, within thirty (30) days of notification by the Department, the organization must have developed and implemented a plan approved by the Department to correct each item within six (6) months. ()

03. Expeditious Correction. The Department may require a more expeditious correction when it determines there is a health and safety risk to children. The corrective action must be completed within twenty-four (24) hours of discovery of the noncompliance by the Department. ()

208. CONFIDENTIALITY AND PRIVACY.

An organization must have and follow processes governing access to, use of, and release of information about a person served that include the organization's publicity, social media, research, and Health Insurance Portability and Accountability Act (HIPAA) practices. ()

209. PROGRAM DESCRIPTION.

An organization must have and follow a program description of the services and fees the organization charges including those provided by the organization or arranged through other sources. This information must be available to the public. The description must include criteria governing eligibility for service, age, specific characteristics, and treatment needs of children served, accommodation of cultural sensitivity, and the geographic area served. ()

210. SUFFICIENT FINANCIAL RESOURCES.

An organization must have sufficient financial resources to implement and deliver its programs. Initially and annually, organizations must develop and implement a financial plan to carry out its programs, to ensure that children receive safe and appropriate care and needed services, and to ensure licensing requirements are met. ()

211. HUMAN RESOURCES NEEDED.

An organization must: ()

01. Human Resources. Determine, organize, and deploy the human resources needed to provide services subject to these rules and to promote optimum outcomes for persons served. ()

02. Staff. Have an adequate number of qualified administrative staff, supervisor(s), case manager(s), direct care staff, and other staff to perform the prescribed functions required by these rules to provide for the needs, safety, protection, and supervision of children served. ()

212. CHIEF ADMINISTRATOR RESPONSIBILITIES.

An organization must designate a person to function as the chief administrator to manage the organization including the overall day-to-day responsibilities. The chief administrator must adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. There must be a written plan for the delegation of authority in the absence of the chief administrator. ()

213. CHIEF ADMINISTRATOR QUALIFICATIONS.

01. Qualifications. All organizations must employ a full-time chief administrator. At the time of appointment, the chief administrator must have two (2) years experience working with children and three (3) years experience in staff supervision and administration, and one (1) of the following: ()

a. A Bachelor's degree in a relevant discipline; ()

b. The completion of a career development program which includes work related experience, training, or college credits that provide a level of achievement equivalent to the Bachelor's degree. ()

02. Outdoor Program. Additional Chief Administrator qualifications for an outdoor program are found in Section 502 of these rules. ()

214. CASE MANAGER SUPERVISOR.

The organization must employ a case manager supervisor when the organization employs eight (8) or more full-time case managers. A case manager supervisor is not allowed to supervise their own work and must not supervise more than eight (8) full-time case managers. ()

215. CASE MANAGER SUPERVISOR QUALIFICATIONS.

A case manager supervisor must possess one (1) of the following: ()

01. Master's Degree. A Master's degree from an accredited college or university in a behavioral science or related field, and have demonstrated experience of not less than three (3) years working with families or children in a social service setting and two (2) years in staff supervision. ()

02. Bachelor's Degree. A Bachelor's degree from an accredited college or university in a behavioral science or related field, and have demonstrated experience of not less than four (4) years working with families or children in a social service setting and two (2) years in staff supervision. ()

216. CASE MANAGER.

Except for nonaccredited residential schools, an organization must employ one (1) case manager who is not allowed to supervise their own work. ()

217. CASE MANAGER QUALIFICATIONS.

The organization must hire a case manager that possesses one (1) of the following: ()

01. Social Work Licensure. Licensed by the state of Idaho under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." ()

02. Bachelor's Degree. A Bachelor's degree in a behavioral science, or a related field; and have the following: ()

a. For children's residential care facilities, the case manager must have at least one (1) year of full-time work experience with children in a social service setting. ()

b. For children's agencies, the case manager must have at least one (1) year of full-time work experience in foster care or adoption services. ()

03. Five Years Full-Time Work Experience. Except for a children's agency, at least five (5) years of full-time work experience with children in a social service setting. ()

218. CASE MANAGER RESPONSIBILITIES.

01. Children's Agencies. ()

a. The responsibilities of a case manager employed or contracted by a children's agency to perform work within their scope that may include child assessment, service plan development, child placement, foster or

adoptive home assessment, and supportive services for children and families. ()

b. At the discretion of the supervisor, a case manager may be assigned a caseload of: ()

i. Twenty (20) families with an adoption placement, or active child foster care; or ()

ii. Forty (40) adoptive families being studied or awaiting an adoptive placement or foster home certification cases, or a proportionate combination of these families. ()

02. Children's Residential Care Facilities and Outdoor Programs. ()

a. The responsibilities of a case manager employed or contracted by a children's residential care facility or outdoor program to perform work within their scope that may include assessment, writing the service plan, supervision, and support. The case manager must be available during normal business hours to provide onsite support. ()

b. There must be at least one (1) case manager for every twenty (20) children. ()

219. STAFF RECRUITMENT, HIRING, SUPERVISION, TRAINING, EVALUATION, PROMOTION, AND DISCIPLINE.

An organization must have processes governing recruitment, screening, hiring, supervision, training, evaluation, promotion, and discipline of employees and volunteers. An organization must employ persons and use volunteers who have an understanding and respect for children and their needs, the child's family and culture, are able to provide services to unrelated children and the problems they present, and are capable of performing activities related to their job. An organization must have the following: ()

01. Job Descriptions. Every position needs to identify and follow necessary qualifications, including education, experience, training, duties, and lines of authority. A designated employee of the organization must supervise a volunteer and be included in that individual's job description. ()

02. Personnel Records. Every employee and volunteer needs a personnel record that contains the following: ()

a. Employment application or resume; ()

b. Name, date of birth, current address, and phone number; ()

c. Documents verifying education, certification, and license when the person fills a position requiring a minimum level of education, applicable certification, or license; ()

d. Three (3) verified references from persons who are unrelated to the employee or volunteer. For a job applicant who has worked for an organization that provides care or services to children, one (1) of the references must be from a prior child care provider for whom the employee or volunteer worked; ()

e. Verified documentation of a complete background check under IDAPA 16.05.06, "Criminal History and Background Checks"; ()

f. Verification by the employee or volunteer of receipt of the organization's behavior management policy; ()

g. Copy of the current job description, date they began their current job, and verification that the employee has been provided a copy of their current job description; ()

h. The date the person was hired; ()

i. For staff and volunteers who transport children, a copy of a valid driver's license. If they use their own vehicle to transport children, the record must include proof that the vehicle is properly insured. ()

j. Performance evaluation within a probationary period and annual performance evaluations thereafter; and ()

k. Documentation of any disciplinary actions. ()

220. ORIENTATION.

An organization must document that each new employee, contractor, and volunteer participates in an orientation within the first week of employment that includes the following: ()

01. **Organization.** The purpose of the organization. ()

02. **Job Function.** The policies and procedures of the organization as they relate to their job function. ()

03. **Job Responsibilities.** The employee's, contractor's, or volunteer's role and responsibilities. ()

04. **Reporting Requirement for Child Abuse, Neglect, and Abandonment.** ()

221. TRAINING.

An organization must document that each new and current employee, volunteer, or contractor whose job function significantly changes, and whose primary role requires interaction with children, receive the following trainings before working independently. Volunteers and contractors who provide occasional services, or are always supervised, or both, are exempt from the training requirements: ()

01. **Specific Instruction in Job Responsibilities.** ()

02. **Policies and Procedures.** ()

03. **Child Safety.** ()

04. **CPR and First Aid.** Employees, volunteers, and contractors who work independently with children need certification in cardiopulmonary resuscitation (CPR) and first aid appropriate to the age of the children served within ninety (90) days after employment and maintain the certification during their employment. ()

05. **Job Shadowing.** Employees are to receive job shadowing applicable to their daily responsibilities. ()

222. INITIAL AND ANNUAL TRAINING.

An organization must document that each new employee, volunteer, or contractor receive the following trainings prior to working independently and annually thereafter. Volunteers and contractors who provide occasional services or are always supervised, or both, are exempt from the training requirements: ()

01. **Child Abuse, Neglect, or Abandonment Identification.** ()

02. **Emergency Procedures.** ()

03. **Child Development Appropriate to Population Served.** ()

04. **Cultural Sensitivity and Diversity.** ()

05. **Behavior Management and Mental Health Issues Appropriate to Population Served.** ()

223. PERMANENT REGISTER.

The organization must maintain a permanent register of all children admitted into care that includes each child's full name, gender, date of birth, parents or guardian and their addresses, who placed the child, the date of placement, date of discharge, and to whom the child was discharged. ()

224. MAINTENANCE OF RECORDS.

An organization must have and follow processes for the maintenance and security of records, that include: ()

01. Record Storage. Ensuring electronic or hard copies of records are stored in a secure manner.()

02. Record Confidentiality. Ensuring confidentiality and prevention of unauthorized access to records. ()

03. Organization of Record. Requiring records be maintained in a uniform and organized manner. ()

04. Record Storage for Closed Organizations. Before an organization ceases operations, it must provide for the storage of all records mandated to be maintained by rules. ()

225. RECORD RETENTION.

All organization records must be maintained for at least five (5) years after the case is closed or services ended. Except for home study only services, adoption agencies must permanently retain the records for an adopted child and adoptive parent. ()

226. ICPC COMPLIANCE.

Organizations must comply with the Interstate Compact on the Placement of Children (ICPC) on the state ICPC website: <http://icpcstatepages.org>. ()

227. REPORTING OF CHILD ABUSE, NEGLECT, AND ABANDONMENT.

All suspected incidents of child abuse, neglect, or abandonment must be reported immediately to child protection services or law enforcement under Section 16-1605, Idaho Code. The chief administrator must ensure the safety and protection of children when the allegation is against an organization's staff, volunteer, or contractor. The chief administrator must initiate a thorough investigation of all reported incidents, submit an administrative summary of the investigation to the Department, and administer appropriate disciplinary action. ()

228. AUTHORIZATIONS REQUIRED.

Written authorization must be obtained from the parent, guardian, or court of jurisdiction to obtain and provide routine medical care, emergency medical and surgical care, and mental health care for the child. ()

229. HEALTH SERVICES.

The organization must assure appropriate health care is provided as follows: ()

01. Physical Exam. The organization will provide documentation of a physical exam within the last year by a licensed physician. If a child has not received a physical exam within the last year, it must be done within thirty (30) days of admission and annually thereafter. For a child under two (2) years old physical exams will be scheduled as determined by a licensed physician. ()

02. Immunizations. Documentation of current immunizations or exemptions for immunizations will be maintained according to Section 39-4802, Idaho Code, within thirty (30) days of admission. ()

03. Timely Medical Care. The organization will obtain or provide timely medical care for the treatment of injuries and illnesses, and will carry out corrective measures and treatment as ordered by the medical professional. ()

04. Required Documentation. Documentation will be maintained of all medical treatment provided, applicable medical insurance provider(s), policy numbers, and who holds the policy. ()

230. DENTAL SERVICES.

Organizations must ensure and document the child has had a dental exam within the last nine (9) months or a dental exam within three (3) months of admission. An annual dental exam and necessary dental treatment, including prophylaxis, extraction, repair and restoration will be provided as ordered by the dentist. Dental care will be provided

for a child under the age of three (3) when the child's dental needs indicate. ()

231. PHYSICAL RESTRAINT INTERVENTION.

An organization must have processes governing the appropriate use of physical restraint intervention strategies which follow a nationally recognized program. Physical restraint intervention strategies must: ()

01. Protection. Be used only when a child's behavior could physically harm themselves or others, or to prevent the destruction of property, when the child fails to respond to nonphysical behavior management interventions. ()

02. Intervention Time Guidelines. Be used only until the child has regained control, not exceed fifteen (15) consecutive minutes, and include documentation of attempts made to release the child from the restraint. ()

03. Intervention Training Requirements. Be used only by employees or volunteers documented to have been specifically trained in its use and authorized to apply such strategies. ()

04. Conditions Limiting Restraint Use. Prohibit the application of a physical restraint intervention if a child has a documented physical condition that would contraindicate its use unless a medical professional has previously and specifically authorized its use in writing. Documentation will be maintained in the child's record. ()

05. Intervention Documentation. Require documentation of the behavior that required physical restraint intervention, the specific attempts to deescalate the situation before using physical restraint, the length of time the physical restraint was applied which includes documentation of the time started and completed, and the debriefing completed with the staff and child involved in the physical restraint. ()

06. Subsequent Review. Whenever physical intervention is used on a child more than two (2) times in one (1) week, require a review and appropriate action taken by the organization. ()

232. PROHIBITED RESTRAINTS.

The following restraints are prohibited: ()

01. Mechanical, Chemical, and Alternative Forms. ()

02. Transporting Children Using Restraints. ()

03. Prone Restraints. ()

233. GRIEVANCE POLICY.

An organization's grievance policy must be in simple and clear language, require prompt investigation of the grievance by a person who can be objective, and provide at least one (1) level of appeal. The policy must be signed by the parent and guardian, if applicable, and the person receiving services. The policy will be shared in a manner appropriate to the person's age and their ability to understand, and requires monitoring to ensure there is no retaliation against the person who files a grievance. ()

234. SUICIDE PREVENTION PLAN.

An organization must develop and follow a written suicide prevention plan that addresses the needs of the population the organization serves. ()

235. CLOTHING.

An organization must ensure each child has sufficient clean, properly fitting clothing, appropriate for the child's age, individual needs, program, and season. ()

236. EDUCATION POLICY.

Except for an outdoor program, children of school age, under state law, must be enrolled in an appropriate school program within five (5) school days after a child's placement or the organization must document why the child was

unable to enroll. ()

237. PERSONAL POSSESSIONS, ALLOWANCE, AND MONEY POLICY.

An organization must have and follow a personal possessions, allowance, and money policy that includes: ()

01. Financial Accounting. Payment of, and accounting for, any allowance, social security benefits, and other financial benefits to a child. ()

02. Child's Personal Possessions. ()

a. Documented accounting for a child's personal possessions, clothing with which the child came into care, and items which were obtained while in care, and documented return of all inventoried items to the child, parent, or guardian at discharge, except illegal contraband and other items prohibited by the organization. ()

b. At the time of inventory and when the items are returned, the organization must obtain the signature of the parent, guardian, or child who can understand the purpose of the inventory. In the event of a child's elopement, clothing and other personal belongings must be secured until the child returns or other arrangements are made. ()

238. EMERGENCY POLICIES.

An organization must have emergency processes that ensure a caregiver has and follows the organization's procedures for the following emergencies: ()

01. Fire. ()

02. Natural Disaster. ()

03. Serious Accident or Injury. ()

04. Medical. ()

05. Missing Child. ()

06. Power Outage. ()

07. Bomb Threat. ()

08. Severe Weather. ()

09. Hostage Taking. ()

10. Active Shooter. ()

11. Other Dangers Unique to the Location of an Organization. ()

239.– 299. (RESERVED)

**CHILDREN'S AGENCY LICENSING FOSTER HOMES
SECTIONS 300 – 350**

300. POLICIES.

A children's agency that licenses foster homes must have policies that comply with IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, and may require that additional foster care rules be met if the agency deems appropriate. ()

301. FOSTER FAMILY HOME STUDY.

The agency must conduct and maintain an appropriate home study based on IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, to determine if the family meets required licensing standards to be issued a foster care license. ()

302. TRAINING.

The agency must have and follow a training policy that includes completing the orientation and ongoing training requirements of IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499. All foster care training must be documented in the foster parent's case file record. ()

303. EMERGENCY EVACUATION PLAN.

An agency must have a policy requiring foster homes to have an agency-approved a written evacuation plan. ()

304. PLACEMENT AGREEMENT.

The agency must use a placement agreement, signed by the foster parents and the agency before placing a child in a foster home, that identifies the responsibilities of the agency including supervision, support services for the foster family, and the responsibilities of the foster family. The foster family must be informed of and agree to follow the agency's policies and procedures. An agency must review annually the agreement with the foster family and, when needed, develop a new agreement. The organization must provide the foster family with a copy of the signed current placement agreement and maintain a copy in the foster home record. ()

305. CHILDREN'S AGENCY SUPERVISION OF CHILD.

An agency must develop a plan of supervisory visits with a child in foster care consistent with the child's service plan. The child's record must contain documentation that the agency case manager personally visited the foster child at least once each month with at least one-half (1/2) of the visits occurring in the foster home. An agency may reduce the number of the agency's case manager visits with a child to once every ninety (90) days if there is documentation and justification in the service plan that a child's placement in a foster home is a long-term planned placement. ()

306. COMPLAINT INVESTIGATION PROCESS.

01. Initiation of Complaint Investigation. When a complaint is received that relates to possible foster parent noncompliance with IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, an agency must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, and no later than seven (7) calendar days after receipt of the allegation. ()

02. Agency Report. Upon completion of the investigation, an agency must prepare a written report that includes: ()

a. The specific allegations; ()

b. Findings of fact, based on the investigation; ()

c. Conclusions regarding noncompliance with IDAPA 16.06.02, "Child Care and Foster Care Licensing," Sections 400 through 499; ()

e. Any changes in the agency's decision regarding placement specifications, based on the investigation's findings; and ()

f. Recommendations regarding licensing action and any required corrective action. ()

307. RECORDS MANAGEMENT.

An agency must maintain the following records: ()

01. Foster Home Record Contents. All documents pertaining to licensing of the home, any complaint investigation reports, and placement agreements between a foster parent and the agency. ()

02. Placement Record. A complete record identifying all children placed in the foster home and

- removed from the home, including: ()
- a. Full name, age, gender, and race of the child; ()
 - b. Date of the placement; ()
 - c. Date and reasons for a foster child's departure from the foster home; and ()
 - d. Any corrective action plans. ()

308. CONTENT OF CHILD'S RECORD.

At the time of a child's placement, the person admitting the child must document in the child's record their physical and emotional state at the time of placement. An organization must document the following at the time of placement, and if not available at the time of an emergency placement, then within seven (7) days: ()

- 01. **Child's Full Name.** ()
- 02. **Date of Birth.** ()
- 03. **Gender.** ()
- 04. **Height, Weight, Hair and Eye Colors, Race, and Identifying Marks.** ()
- 05. **Last Known Address and with Whom Child Lived.** ()
- 06. **Last School Attended.** Include previous grade level, current grade level, and scholastic performance. ()
- 07. **Parental Information.** Include full names, marital status, and addresses unless parental rights are terminated. ()
- 08. **Guardian's Name and Address.** ()
- 09. **Date of Admission.** ()
- 10. **Name of Who Placed Child.** ()
- 11. **Nature of Child's Problems.** Include the reason for being served. ()
- 12. **Documentation of Authority to Accept and Care for Child.** ()
- 13. **Child's Evaluations.** Include the child's physical, social, and emotional development, and any special problems and needs they have, including medical, surgical, and dental care needs. ()
- 14. **Reports.** Include psychological tests, psychiatric examinations, and follow-up treatment if obtained. ()
- 15. **Communications.** Include records of the child's contacts with their family. ()

309. SERVICE PLANS.

An organization must develop and follow a written service plan that includes the following: ()

- 01. **Initial Service Plan.** To be developed and recorded in the child's record within thirty (30) days after admission and must: ()
 - a. Identify the needs of the child and family, provide goals, and a time frame to achieve the goals; ()

- b. Establish and document criteria for discharge; ()
- c. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if they are under nine (9) years old or incapable of understanding the purpose of the planned services; and ()
- d. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. ()
- 02. Updated Service Plan.** To be updated every ninety (90) days and: ()
 - a. Document progress towards achieving the goals in the service plan; and ()
 - b. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if they are under nine (9) years old or incapable of understanding the purpose of the planned services. ()
- 310. DISCHARGE SUMMARY.**
A discharge summary must be written within seven (7) days of discharge that includes: ()
 - 01. Date of and Reason for Discharge.** ()
 - 02. Physical, Emotional, Medical, and Educational Needs of Child.** ()
 - 03. Recommendations for Treatment.** ()
 - 04. Documentation of Disrupted Placements, Assessed Causes, and Any Corrections.** ()
- 311 – 350. (RESERVED)**

**CHILDREN'S AGENCIES PROVIDING ADOPTION SERVICES
Sections 351 – 399**

- 351. PRE-ADOPTIVE HOME.**
A home that has an approved adoption home study in which a child is placed for the purpose of adoption is not subject to foster home rules. ()
- 352. ADOPTION SERVICES – NONPROFIT STATUS.**
An agency must provide documentation that it is incorporated as a nonprofit corporation. ()
- 353. POLICIES AND PROCEDURES.**
An agency must have and follow policies and procedures for the adoption services it provides or facilitates including services for children, birth parents, adoptive applicants and parents, post-placement services, and post-finalization services. ()
- 354. CHILDREN AWAITING ADOPTIVE PLACEMENT.**
For children under the supervision of the agency awaiting adoptive placement in a licensed foster home, there must be a documented review every month for an infant one (1) year old or younger, and every three (3) months for a child over one (1) year old, to determine actions necessary to locate an adoptive placement for the child. ()
- 355. SERVICES FOR CHILD'S BIRTH PARENTS.**
An agency that accepts custody of a child from a birth parent(s) must provide services for the parent(s) either directly or through cooperative arrangements. The agency must ensure that the legal rights of the birth parent(s) are protected including checking the putative father registry and release of records, under Title 16, Chapter 15, Idaho Code, and Title 16, Chapter 20, Idaho Code, "Termination of Parental Rights and Adoptions." The agency will respect the

expressed desires of either or both birth parents to provide for continuity of identity of the child's religious, cultural, racial, linguistic, and ethnic background, provided the desired request does not deny or delay placement for adoption under the Multi-ethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, and provided such considerations are legal. ()

356. FINANCIAL ASSISTANCE TO BIRTH PARENT.

Under Section 18-1511, Idaho Code, documentation of financial assistance to the birth parent is maintained in the file. ()

357. SERVICES FOR ADOPTIVE APPLICANTS.

An agency must provide the following to its adoptive applicants: ()

01. Suitability Criteria. Information about specific criteria by which the agency determines suitability as adoptive parents and areas the agency assesses to determine the ability of the adoptive applicants to meet the needs of an adopted child. ()

02. Selections and Services for a Specific Child. Procedures for selection of adoptive applicants to meet the needs of a specific child and, where indicated, assistance in obtaining resources and services to meet the continuing needs of the child. ()

03. Legal Assessment. Procedures for assuring that a child placed is legally free for adoption, or an explanation that the placement is a legal-risk placement and any efforts made to free the child for adoption. ()

04. Preparation for Placement. Procedures for preparing an applicant for parenting and placement of a child. ()

05. Counseling. Offer or arrange counseling for prospective adoptive parents including assistance in understanding a child's religion, culture, ethnic, or linguistic background and the impact of leaving familiar ties and surroundings, including attachment issues and living in an institution, as appropriate to the age of the child. ()

06. Termination of Services. Procedures for termination of services for an applicant found to be unsuited for adoptive parenthood or for an applicant found suited to adopt but for whom a child cannot be found. ()

07. Financial. Provide a clear delineation of fees, charges, and other considerations for adoption services that include: ()

a. Specific charges for expenses and services provided within the agency; ()

b. Chronological itemization of fees for expenses and services provided by other identified sources; ()

c. Identification of the charges that are refundable and nonrefundable; and ()

d. The manner and timing of payments. ()

358. PAYMENT LIMITATIONS IN ADOPTION.

An agency must prohibit the actual or promised payment or other material consideration to any party directly or indirectly involved in the administration of an adoption service, whether acting as an employee or independent contractor, except for the performance of routine professional duties necessary to complete the adoption process. ()

359. PROHIBITION OF CONTRIBUTIONS IN ADOPTIONS.

An agency must not accept contributions from adoptive applicants or from persons acting on the applicant's behalf during the period of application or before an adoption has been finalized, nor accept a commitment to make a contribution after an adoptive placement. ()

360. PROHIBITION OF STAFF HOME STUDY.

An agency must not do an adoption home study for its own staff, board member, or person with whom the agency contracts to provide services for the agency. ()

361. OUT-OF-STATE HOME STUDY.

An agency may accept a home study from another out-of-state agency, with the following conditions: ()

01. Out-of-State Approval. The out-of-state agency or individual is licensed or approved by a court in their state to provide adoptive home studies. ()

02. Verification. The Idaho agency verifies licensure by receipt of a copy of the license or court approval. ()

03. Agreement. There is a documented agreement of the terms of services between agencies. ()

04. Documented Review of Home Study. The Idaho agency must document a review of the home study. ()

362. FAMILY HOME STUDY, APPLICATION PROCESS, AND CONTENT.

An agency must complete or obtain a home study and application before approving the home for the placement of a child. ()

01. Required Information. The home study must include the following: ()

a. When there is a change in persons residing in the home, the applicant must notify the agency of the change by the next working day, and the new adult member must complete a background check; ()

b. Verification that the age of the applicant complies with Section 16-1502, Idaho Code; ()

c. Names, including maiden or other names used; ()

d. Social Security Number; ()

e. Education; ()

f. Verification of marriages and divorces; ()

g. Religious and cultural practices, including their willingness and ability to accommodate or provide care to a child of a different race, religion, or culture; ()

h. A statement of income and financial resources and the family's management of these resources; ()

i. Marital relationship, if applicable, including decision-making, communication, and roles within the family; ()

j. Description of individuals and family dynamics with each member of the household; ()

k. Documentation of any current or past family problems, including mental illness, substance abuse, addiction, and medical conditions; ()

l. Previous criminal convictions of child abuse and neglect; ()

m. Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving; ()

n. Special needs of the applicant's children and a description of how they will adjust to a new member

- of the household; ()
- o.** Interests and hobbies; ()
 - p.** Adequacy of the house, property, and neighborhood as determined by onsite observations; ()
 - q.** Child care and parenting skills; ()
 - r.** Current methods of discipline; ()
 - s.** Demonstrated understanding of the care that must be provided to the children served by the agency or express a willingness to learn how to provide that care; ()
 - t.** The applicant has adequate time to provide care and supervision for children; ()
 - u.** Demonstration of a home life that gives children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home; ()
 - v.** A medical statement for each applicant and members of the household, signed by a medical professional, within the twelve (12) month period prior to initial approval for adoption, indicating they are in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; ()
 - w.** Three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s); ()
 - x.** Names of each member of the household; this includes any persons who reside at the applicant's address; ()
 - y.** Each adoptive parent's reasons for applying to be an adoptive parent and prior efforts to adopt; ()
 - z.** Understanding of the permanence of adoption; ()
 - aa.** The family's prior and current experiences with adoption; ()
 - bb.** The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; ()
 - cc.** Family's attitudes toward the adoptive child's birth family and willingness to allow them contact with the child after adoption; ()
 - dd.** Applicant's experience with other support agencies or resources in their communities and their comfort level in seeking help from services outside the family; ()
 - ee.** Applicant's awareness of the potential for the child to have identity issues and loss regarding separation from birth parents; ()
 - ff.** Applicant's ability to accept a child's background and help the child cope with their past; ()
 - gg.** Applicant's understanding that the child will have questions about birth parents and other relatives; ()
 - hh.** Specifications of children preferred by the family that include the number of children, and the age, gender, race, ethnic background, social, emotional, and educational characteristics; ()

ii. Information on the adoptive family's medical insurance coverage including insurance carrier, policy number, eligibility of new adoptive family member(s), limitations, and exclusions; and ()

jj. How the household will fulfill their transportation needs. ()

02. Pre-Adoptive Parent to Inform Agency of Changes. The pre-adoptive parent is responsible to keep the agency that completed the home study informed of changes in the family's circumstances, or of any subsequent decision against adoption. ()

03. Adoptive Placement Agreement. A home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, a home study remains valid for a period of two (2) years from the home study date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. ()

363. SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of an adoptive home must be constructed and maintained in good repair, in a clean condition, free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. ()

01. Pools, Hot Tubs, and Ponds. Homes must provide the following safeguards: ()

a. Around any body of water, children have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; ()

b. The area surrounding access to a body of water for use by children will be secured by a fence and locked in a manner that prevents access by children, or have a secured protective covering that prevents access by a child; ()

c. Pool or hot tub covers be completely removed when in use; ()

d. When the pool or hot tub cover is in place, the cover is free from standing water; ()

e. Covers are always secured when the pool or hot tub is not in use; and ()

f. Exterior ladders on above ground pools be removed when the pool is not in use. ()

02. Access by Children Five Years Old and Under. Any home that has children five (5) years old or younger and chooses to prevent access to a body of water by fencing must provide the following: ()

a. The fence be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

b. The gate be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

c. If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool have alarms that produce an audible sound when the doors are opened; and ()

d. Furniture or other large objects will not be left near the fence enabling a child to climb on the furniture and gain access to the pool. ()

03. Irrigation Canals or Similar Bodies of Water. A home that has a child five (5) years old or younger or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water. ()

364. FLAME AND HEAT-PRODUCING EQUIPMENT.

A home that has a furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment must ensure that said equipment is installed and maintained as recommended by the manufacturer, and fireplaces protected by screens or other means. ()

365. SMOKE AND CARBON MONOXIDE DETECTORS.

Each home must meet the following: ()

01. Smoke Detectors. There will be: ()

a. At least one (1) single-station smoke detector that is installed and maintained as recommended by the manufacturer; ()

b. One (1) smoke detector on each floor of the home, including the basement; ()

c. One (1) smoke detector in each bedroom; and ()

d. One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. ()

02. Carbon Monoxide Detectors. There will be at least one (1) carbon monoxide detector installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. ()

366. EXITS.

There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct, safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if in compliance with these rules. ()

367. DANGEROUS AND HAZARDOUS MATERIALS.

Dangerous and hazardous materials, objects, or equipment that could present a risk to a child, including poisonous, explosive, or flammable substances must be stored securely and out of reach of a child for the child's age and functioning level. ()

368. FIREARMS AND AMMUNITION.

Ammunition must be in a locked container and inaccessible to children. Firearms must be: ()

01. Trigger Locks. Unloaded and equipped with a trigger lock; ()

02. Unassembled and Inoperable. Unloaded, fully inoperable, and unassembled; ()

03. Locked Cabinet or Container. Unloaded and locked in a cabinet or storage container that is inaccessible to children; or ()

04. Gun Safe. Locked in a gun safe that is inaccessible to children. ()

369. PETS AND DOMESTIC ANIMALS.

Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. ()

370. HEAT, LIGHT, AND VENTILATION.

A home must have adequate heat, light, and ventilation. ()

371. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.

A home must meet the following: ()

01. Bathrooms. A minimum of one (1) flush toilet, one (1) sink that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all in good working order. ()

02. Water Supply. The water supply meets one (1) of the following requirements: ()

a. It is water used for consumption that is bottled water from an acceptable source or water boiled for a period specified by the health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or ()

b. Water used for consumption is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

03. Sewage Disposal. Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." ()

372. TRAININGS FOR ADOPTIVE APPLICANTS.

The agency must provide or arrange the following training specific to the needs of the adoptive child and family, and maintain training records: ()

01. Orientation. Orientation describes the agency's adoption process and procedures, the availability of children for adoption, explains policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. ()

02. Initial Training. Each applicant will complete not less than ten (10) hours of training prior to the placement of a child. ()

03. Specific Training. The agency will provide or arrange specific training related to the culture and race of the child who is of a different culture or race from the adoptive parents. ()

373. SERVICES FOR ADOPTIVE PARENTS.

An agency must provide or arrange for the following services to adoptive parents served by the agency: ()

01. Disclosure of Non-Identifying Child Information. Disclosure of all non-identifying information known to the agency about the child, the child's birth parents, and the circumstances leading to the decision to place for adoption. ()

02. Post-Placement Services. Post-placement services related to support for the family and supervision of the placement. ()

03. Provision of Resources. Provision of resources, or for the arrangement thereof, to ensure a safe, stable, and suitable placement for the child and the family, including information regarding the federal adoption assistance program. ()

04. Adoption Finalization Assistance. ()

a. Help in finalizing the legal adoption. The agency must obtain a copy of the final order of adoption. ()

b. Upon request, the agency, either directly or by referral to a resource, will assist the family with any identified problems associated with the adoption. ()

374. SELECTION OF AN ADOPTIVE PLACEMENT.

An agency must consider the following factors in selecting adoptive parents for a child: ()

01. Child's Needs. The physical, emotional, medical, and educational needs. ()

02. Continued Contact. The child's needs for continued contact with the birth parent(s) and other

persons significant to the child. ()

03. Racial, Ethnic, and Cultural Considerations. Under the Multiethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, the child's racial, ethnic, cultural identity, heritage, and background may only be considered if a written assessment indicates that such consideration is in the best interest of the child. ()

04. Authorized Placement on Approved Recommendations. The agency must require authorization by a chief administrator or case manager supervisor after the recommendations of approval are given by a case manager. The approval or denial must be documented in the case record. ()

05. Placement. An agency will place a child with agency-approved adoptive parents consistent with the recommendations specified in the home study and the needs of the child. ()

375. ADOPTIVE CHILD INFORMATION.

An agency must provide adoptive parents with the following before the placement of a child: ()

01. Name. Child's name as permitted by law or disclosure agreement. ()

02. Date, Time, and Location of Birth. For children, up to two (2) years old, include the hospital, city, state, and country of birth. ()

03. Racial, Ethnic, and Religious Considerations. ()

04. Medical Records. Include physical and mental health records and special needs. ()

05. Family of Origin. Description of the child's family of origin, including age and gender of each family member, their relationship to the child, medical and mental health history, and social and education history of each member of the family. ()

06. Circumstances of the Placement. Description of the circumstances necessitating placement. ()

07. Preparation for Placement. Child's preparation for placement and attitude towards adoption. ()

08. Other Information. Any other information to enable the adoptive parent to provide a stable, safe, and healthy environment for the child. ()

376. POST-PLACEMENT.

An agency case manager must provide post-placement supervision to the adoptive family at the family's home at least thirty (30) days post-placement, then once every three (3) months before the final order of adoption. Supervisory reports must include: ()

01. Documentation of Adjustment. Assessment and documentation of the child's and adoptive family's adjustment and, where indicated, plans to assist the child and family. This includes physical, emotional, medical, and educational needs of the child. ()

02. Medical Care Documentation. All medical care received during the supervisory period. ()

03. Assessment Results. Informing the adoptive parents of the results of the agency's assessment of the placement at the conclusion of each supervisory contact. ()

04. Disrupted Placement. Documentation of disrupted placements, assessed causes, and any corrections. ()

377. – 380. (RESERVED)

381. INTERCOUNTRY ADOPTION SERVICES.

An agency providing intercountry adoption services must include in its program description of intercountry adoptive placement services that it provides services either directly or through collaboration with other agencies or individuals with proper credentials. When an adoption agency provides intercountry adoption services for a Hague accredited agency, they will have an Exempt Provider Agreement and copy of the agency's license or Hague accreditation. ()

382. LEGAL REQUIREMENTS.

A children's agency that arranges an intercountry adoption must: ()

01. Agreement. Maintain a file and provide for review to prospective adoptive families an English-translated copy of any agreement that exists between a foreign government and the agency. ()

02. Adoptive Home Standards. Receive an approval letter from United States Citizenship and Immigration Services (USCIS). ()

03. United States Placement. Follow USCIS procedures to ensure that the child is or will be authorized to enter and reside permanently in the United States. ()

04. Citizenship. Inform families about how to obtain citizenship for a foreign-born adopted child. ()

05. Child's Legal Status. Acquire documentation that, at referral, the child is legally free for intercountry adoption. ()

383. – 399. (RESERVED)

**CHILDREN'S RESIDENTIAL CARE FACILITIES AND OUTDOOR PROGRAM
Sections 400 – 407**

400. INTAKE POLICY.

An organization must have and follow an intake policy that sets the criteria for admitting children for care or services and keeps with the organization's purpose and services provided. Except for an emergency placement, the intake policy must include a requirement that sufficient information on each child admitted for care or services is obtained to determine that the child can be appropriately served by the organization. An emergency placement policy requires that the information needed to determine the appropriateness of continuing the placement or services is obtained within seven (7) days admission of placement. ()

401. CONTENT OF CHILD'S RECORD.

Except for nonaccredited residential schools at the time of a child's placement, the person admitting the child must document in the child's record the child's physical and emotional state. At the time of placement, and if not available at the time of an emergency placement then within seven (7) days, an organization must document complete biographical and identifying information on each child admitted into care. The record must contain the following: ()

01. Child's Full Name. ()

02. Date of Birth. ()

03. Gender. ()

04. Height, Weight, Hair and Eye Colors, Race, and Identifying Marks. ()

05. Last Known Address and with Whom Child Lived. ()

06. Last School Attended. Previous grade level, current grade level, and scholastic performance.

- ()
07. **Parental Information.** Full names, marital status, and addresses unless parental rights are terminated. ()
08. **Guardian's Name and Address.** ()
09. **Date of Admission.** ()
10. **Name of Who Placed Child.** ()
11. **Child's Primary Diagnosis.** ()
12. **Nature of Child's Problems.** Reason for being served. ()
13. **Documentation of Authority to Accept and Care for Child.** ()
14. **Child's Evaluations.** Child's physical, social, and emotional development, and any special problems and needs they have, including medical, surgical, and dental care needs. ()
15. **Medications.** List of all medications the child is taking at time of admission. ()
16. **Reports.** Psychological tests, psychiatric examinations, and follow-up treatment if obtained. ()

402. VISITATION POLICY.

An organization must have and follow a visitation policy that includes the following: ()

01. **Encourage Visits.** The policy will encourage visits between a child and family members and others significant to the child except when visitation is contraindicated and is documented in the child's record. ()
02. **Visitation Log.** The policy will maintain a visitation log for each child in residential care which includes the name of the person visiting and the date and time of the visit. ()

403. CORRESPONDENCE POLICY.

An organization must have and follow a correspondence policy. The organization will keep records of the child's contacts with their family. The policy will specify the conditions under which the organization restricts the receipt of correspondence to or from a child and requires that the child and parent or guardian be informed of the restriction, the reason for the restriction, and that the restriction is documented in the child's record. The policy must prohibit staff from reading children's correspondence except where there is a legitimate documented reason to do so. When staff read a child's correspondence, the child must be present. Packages may be inspected. ()

404. RELIGIOUS AND CULTURAL POLICY.

An organization must have and follow a policy regarding religious participation, religious training, cultural heritage, and cultural practices of children. Upon placement of any child, the child's parents or guardians will receive a copy of this policy and acknowledge receipt with their signature and date. ()

405. PREGNANT MINOR.

01. **Pregnant Minor Protection.** A pregnant minor may not sign a statement committing to any definitive plan prior to the birth of her child and must not be subject to coercion to release her child before or after the birth of her child. ()
02. **Obstetrical Exam.** An obstetrical exam is required and to be completed within ten (10) days of entering care. ()
03. **Licensed Hospital Delivery.** Infant delivery must be in a hospital licensed by the state of Idaho; ()

and ()

04. Prenatal and Postnatal Care. A pregnant minor must be provided educational information on prenatal and postnatal care as appropriate. ()

406. CONTINUED CARE.

Continued care is authorized under the Idaho Child Care Licensing Reform Act Sections 39-1202 and 39-1213, Idaho Code, for individuals eighteen (18) to twenty-one (21) years old. Individuals who are in the care of a licensed residential care facility prior to turning eighteen (18) years old may remain in the program for up to ninety (90) days after their eighteenth birthday, or up to the age of twenty-one (21) if necessary to complete a treatment program or school educational program currently attended by the individual. ()

407. DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.

Prior to accepting an individual into continued care the following is required: ()

01. Voluntary Agreement. A voluntary agreement to remain in the program signed by the person turning eighteen (18), or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. ()

02. Assessment for Others' Safety. An assessment to assure that an individual does not jeopardize the health, safety, and well-being of the children in care of the organization. ()

03. Additional Continued Care Plans. A plan that prohibits individuals from sharing a bedroom or other sleeping rooms with a child. ()

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual was in the care of the organization prior to their eighteenth birthday. ()

05. Documentation of Need for Continued Care. Documentation verifying the individual needs to remain to complete treatment, education, or other similar needs. ()

CHILDREN'S RESIDENTIAL CARE FACILITIES

Sections 408 – 465

408. DIRECT CARE STAFF SUPERVISOR QUALIFICATIONS.

A direct care staff supervisor, at the time of appointment, must possess one (1) of the following: ()

01. Bachelor's Degree. A Bachelor's degree from an accredited college and one (1) year of full-time experience in a children's residential care facility. ()

02. Associate's Degree. An Associate's degree or a minimum of forty-eight (48) credit hours from an accredited college and two (2) years of full-time experience in a children's residential care facility. ()

03. Experience. A high school diploma or equivalent and three (3) years of full-time experience in a children's residential care facility. ()

409. DIRECT CARE STAFF QUALIFICATIONS.

Direct care staff must be at least nineteen (19) years old at the time of appointment and possess a high school diploma or equivalent. ()

410. REQUIRED STAFF RATIOS.

Except for nonaccredited residential schools, there must be staff ratio policies with the following requirements:()

01. Supervisor-Staff Ratio. At least one (1) direct care staff supervisor for every twenty (20) direct care staff or less. ()

02. Staff-Child Ratio - Daytime. One (1) direct care staff to every eight (8) children when children are awake and present, unless the presenting problems of the children are such that a ratio of one (1) to eight (8) is not sufficient to provide for the safety and treatment needs. In that case, the ratio of direct care staff to children must be increased to ensure the safety and treatment needs are met. ()

03. Staff-Child Ratio - Sleeping Hours. One (1) awake direct care staff to twenty (20) children or less during the children's normal sleeping hours. Each individual building that houses the children's sleeping rooms must meet this ratio. If the presenting problems of the children are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs, then the ratio of direct care staff to children must be increased to ensure the safety and treatment needs are met. ()

04. Medical Emergency. One (1) staff on duty who is certified to provide cardiopulmonary resuscitation (CPR) and first aid for the age of the children. ()

05. Emergency Staff Access. When only one (1) direct care worker is on duty, an additional staff will be available within ten (10) minutes or if assistance from first responders is available within ten (10) minutes, an additional staff will be available within thirty (30) minutes to assist with an emergency. ()

411. SERVICE PLANS.

Except for nonaccredited residential schools, an organization must develop and follow written service plans for a child admitted into care. ()

01. Initial Service Plan. Must be developed and recorded in the child's record within thirty (30) days after admission with the following: ()

- a.** Identify the needs of the child and family, and provide goals and a time frame to achieve the goals; ()
- b.** Services the organization will provide to assure the safety, health, permanency, and well-being of the child; ()
- c.** Criteria for discharge and projected discharge date; ()
- d.** Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are under nine (9) years old or incapable of understanding the purpose of the planned services; and ()
- e.** Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. ()

02. Updated Service Plan. Must be updated every ninety (90) days and: ()

- a.** Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; ()
- b.** Document progress towards achieving the goals in the service plan; ()
- c.** Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are under nine (9) years old or incapable of understanding the purpose of the planned services. ()

03. Placements Less Than Thirty Days. A service plan for placements less than thirty (30) days must document the following upon admission: ()

- a.** The immediate needs of the child; and ()
- b.** Services the organization will provide to assure the safety, health, and well-being of the child. ()

412. DISCHARGE SUMMARY.

Except for nonaccredited residential schools, a discharge summary must be written within seven (7) days of discharge and must include: ()

- 01. Date of and Reason for Discharge.** ()
- 02. Physical, Emotional, Medical, and Educational Needs of Child.** ()
- 03. Recommendations for Treatment.** ()
- 04. Documentation of Disrupted Placements, Assessed Causes, and Any Corrections.** ()

413. COMPLIANCE WITH APPLICABLE LAWS.

An organization must comply with the applicable Idaho state and local zoning, fire, health, construction laws, ordinances, and regulations. The applicant must complete the following at the time of initial application: ()

- 01. Sanitation Inspection.** Obtain a sanitation inspection and report from the applicable Public Health District; ()
- 02. Fire Inspection.** Obtain a fire safety inspection and report from the office of the Idaho State Fire Marshall, or local fire department; ()
- 03. Corrective Action and Fees.** Correct all deficiencies noted in the sanitation and fire reports. Document that the applicant has passed the inspections and paid any outstanding fees; and ()
- 04. Building, Planning and Zoning.** Provide documentation demonstrating the facility meets the planning and zoning requirements of the applicable local laws, ordinances, and regulations and is in compliance with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()

414. BUILDING REQUIREMENTS.

An organization must meet the following: ()

- 01. Access to Community Resources.** Have access to school facilities, hospitals, recreational, and other community resources. ()
- 02. Occupancy Restrictions.** House only the number of persons for which it is rated, given its type of construction and size. ()
- 03. Location Restrictions.** Not be located within three hundred (300) feet of an aboveground storage tank containing flammable liquids or gases used in connection with a bulk plant, marine terminal, aircraft refueling, or bottling plant of a liquefied gas installation, or similar hazard. ()

415. NATIONAL ELECTRICAL CODE COMPLIANCE.

A building used to house children must comply with the National Electrical Code under IDAPA 24.39.10, "Rules of the Idaho Electrical Board." ()

416. FIRE SAFETY REQUIREMENTS.

A building that houses children must be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter for compliance with the applicable International Fire Code, under Section 41-253, Idaho Code. A copy of the inspection must be maintained at the facility with the following requirements: ()

- 01. Fire Extinguishers.** Each building used to house children is to have a minimum of one (1) 2-A-10BC extinguisher per floor, and if there is a kitchen on the floor, a fire extinguisher is to be in or immediately adjacent to the kitchen. Each fire extinguisher is to be inspected annually by a fire extinguisher service agency. ()

02. Smoke Detectors. There must be one (1) smoke detector on each floor of the facility, approved by a nationally recognized testing laboratory, and installed and maintained as recommended by the manufacturer. Fire alarm systems, fire suppression/sprinkler systems, and kitchen hoods must be maintained as required by the state-adopted International Fire Code and inspected annually. ()

03. Carbon Monoxide Detector. There must be one (1) carbon monoxide detector on each floor of the facility that is approved by a nationally recognized testing laboratory and installed and maintained as recommended by the manufacturer. A facility that does not have equipment that produces carbon monoxide or does not have an attached garage is exempt from this requirement. ()

417. EMERGENCY PROCEDURES.

An organization must have and follow policies and procedures governing the handling of emergencies which include evacuation plans, telephone numbers for contacting ambulances, medical personnel, fire departments, hospitals, poison control centers, police, location and use of first aid kits, and roster with telephone numbers of staff to be contacted, and other emergency services as appropriate. ()

418. FIRE DRILLS.

Fire drills must be conducted and recorded monthly, with each work shift participating in a drill once every three (3) months. Emergency evacuation routes must be posted in conspicuous locations on each floor of a building housing children. Where a fire alarm system is provided, evacuation drills must be initiated by activating the fire alarm system. ()

419. RECORD KEEPING.

Records must be maintained of required fire drills and include the following: ()

01. Identity of Person Conducting the Drill. ()

02. Date and Time of Drill. ()

03. Notification Method Used. ()

04. Staff Members on Duty and Participating. ()

05. Number of Occupants Evacuated. ()

06. Problems Encountered. ()

07. Weather Conditions During Evacuation. ()

08. Time Required to Complete Evacuation. ()

420. PUBLIC HEALTH DISTRICT INSPECTION.

The facility must provide documentation of an initial and annual inspection and approval by the applicable Public Health District before a license will be issued: ()

01. Inspection Copy. A copy of the inspection must be maintained. ()

02. Food Permit. A copy of the food permit must be posted. The facility must comply with IDAPA 16.02.19, "Idaho Food Code." ()

421. DRINKING WATER SYSTEMS.

The facility must comply with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

422. INSECT AND RODENT CONTROL.

The facility must effectively prevent insects, rodents, and other pests from entering or infesting the facility. ()

423. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.

Buildings used to house children must be furnished with comfortable furniture, in good repair and appropriate to the age, size, and capabilities of the children. When an organization uses video monitoring systems, they must assure privacy of the children. ()

424. MAINTENANCE.

Buildings, grounds, furnishings, and equipment must be kept clean, free of clutter, and in good repair. ()

425. EQUIPMENT STORAGE.

All facility cleaning equipment must be stored separate from the kitchen, from food preparation, service, and storage areas. Kitchen and bathroom sinks must not be used for cleaning mops, emptying mop buckets, or for any other purpose not connected with food preparation, or personal hygiene. ()

426. SERVICE SINK.

A building housing more than twelve (12) persons must have a service sink used for general maintenance purposes such as floor mopping and not used for food preparation, dishwashing, or personal hygiene. ()

427. BUILDING'S HAZARDOUS MATERIALS OR TOXINS.

Buildings used to house children must be free from hazardous materials and toxins. The organization must provide and maintain the following: ()

01. Radon Gas. Upon initial licensing, provide documentation of testing for radon gas. Buildings constructed prior to 1990 must provide documentation of asbestos or lead paint testing. ()

02. Hazardous Material. Maintain documentation at the facility confirming any hazardous material or toxin have been removed or do not pose a threat to the children served. Hazardous materials and toxins are not limited to lead paint, asbestos, and radon. ()

428. LIGHTING.

All rooms used by children must be appropriately lighted for safety and comfort. ()

429. HEATING.

Heating and ventilation equipment must be properly installed, inspected annually, and kept in good repair. Portable fuel burning and wood-burning heating appliances are prohibited. Portable electric heaters must not be used in sleeping rooms. Local fire officials must approve portable heaters used in other areas. ()

430. BATHROOM FACILITIES.

A building used to house children must have adequate, clean, and easily accessible bathroom facilities and the following ratios are required: ()

01. Toilets. One (1) per every ten (10) individuals. ()

02. Bathtub or Shower. One (1) for every eight (8) individuals. ()

03. Sink. One (1) for every ten (10) individuals, unless IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)," requires more for the type of building and its use. ()

04. Multi-Stall Bathrooms. There must be separate use of bathroom facilities for boys and girls over six (6) years old. Staff must not use a multi-stall bathroom when children are present in the bathroom. ()

431. SLEEPING ROOMS.

Sleeping rooms in a building used to house children must meet the following: ()

01. Size. Space requirements are as follows: ()

a. Seventy (70) square feet in a single occupancy room, exclusive of closet space. ()

b. Forty-five (45) square feet per occupant in a multiple occupancy room, exclusive of closet space. ()

()

c. Existing multiple occupancy sleeping rooms may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. ()

d. Three (3) feet between the sides of beds when situated side by side, and two (2) feet at the end of the beds, when situated end to end. Beds may be placed against a wall. ()

02. Window Space. There must be sufficient window space for adequate natural light and ventilation. Emergency egress or rescue windows must comply with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()

03. Restrictions. A child over the age of one (1) cannot share a sleeping room with an adult. A sleeping room must not be in a stairway, hallway, unfinished attic, unfinished basement, or in a separate building apart from staff supervision. There must be separate rooms for male and female children. Except for adult restrictions, sleeping room arrangements may be determined by the facility's professionals to best meet the needs of the children. Sleeping rooms must be near adult supervision. ()

432. BEDS.

Each child must have their own bed that has substantial support, and is age and size appropriate. Each bed must have a comfortable, clean mattress that complies with the Consumer Product Safety Commission standard for mattresses, cpsc.gov. Each child must have seasonally appropriate bedding. The bed must be equipped with railings when used for children under two (2) years old. Over-and-under bunk beds must not be used for children under eight (8) years old. Cribs must meet Consumer Product Safety Commission, Crib Safety Tips available at: <https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs>. ()

433. STORAGE OF POISONOUS AND TOXIC MATERIALS.

Materials that are poisonous or toxic, or both, must be stored under lock and key and distinctly labeled as poisonous, toxic, and stored so as not to contaminate food and not to be a hazard to children. ()

434. FLAMMABLE LIQUIDS.

Flammable liquids, including gasoline, propane, and kerosene, must be stored only in appropriate containers and kept separate from any building that houses children. ()

435. FIREARMS.

Firearms are prohibited in a children's residential care facility. ()

436. SUFFICIENT RECREATIONAL SPACE.

Sufficient indoor and outdoor recreational space is needed so children can participate in a wide range of physical and individual activities. ()

437. GENERAL SAFETY PROVISIONS.

The following conditions must be met: ()

01. Reasonable Precautions. Prevent children from having unauthorized access to machinery, tools, irrigation ditches, and hazardous materials. ()

02. Balconies, Ramps, and Stairways. Provide substantial railings as per IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()

03. Stairway Protection. Where an organization provides care to children under three (3) years old, stairways will be protected to prevent children from falling down the stairs. ()

04. Hazard Area Restrictions. Depending on the age and functioning level of children and the type of hazard, an outdoor hazard area will be restricted to prevent easy access. ()

05. Outdoor Activity Equipment. Equipment will be maintained in a safe condition free of sharp, ()

loose, or pointed parts and anchored to the ground unless it is portable by design. The areas around and under high climbing equipment, swings, slides, and other similar equipment will be cushioned with material that absorbs falls. Sand, woodchips, rubber mulch, or rubber mats commercially produced for this purpose are permitted. ()

438. DIAPERING AND SANITATION.

A diaper-changing area must be separate from food preparation and serving areas and be easily accessible to a handwashing sink. The area must have nonabsorbent and washable surfaces, and be disinfected between uses by different children or protected by a disposable covering discarded after each use. ()

439. SECURED FACILITIES.

Locked facilities are not allowed. Secured facilities using door delay security devices that prevent immediate egress must be approved by the local fire chief, cannot exceed fifteen (15) seconds, and comply with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." If the fire alarm is activated, the door must open immediately. The following conditions are required for secured facilities: ()

01. Prohibit Use as Detention. Facilities will not be used for detention of children who are determined to be delinquent or who require secure custody pending court adjudication, court disposition, execution of a court order, or after commitment; ()

02. Purpose. The secure facility is for the benefit, treatment, and safety of the child; and ()

03. Egress. Prevention of egress will not be used as punishment or for facilitating supervision for staff convenience. ()

440. EDUCATION PROGRAM.

Excluding children in a licensed non-accredited residential school, each child of school age must attend either an accredited onsite school, accredited online school, Idaho public school, or charter school that is approved by the Idaho State Board of Education. Organizations may also assist children in continuing education through their home school district, if available. When the education program is provided directly by the organization, the following must be met: ()

01. Teacher Ratio. At least one (1) Idaho certified teacher must be provided for every twenty (20) children or less. ()

02. Teacher Qualifications. Teachers must possess a current Idaho certification. ()

03. Minimum Hours. The school must provide education that meets the number of school days and clock hours as are required under Section 33-512, Idaho Code. ()

441. WORK.

Children may be given a nonvocational work assignment as a constructive experience under child labor laws, which are age-appropriate and within the child's capabilities. The primary purpose of work must not be to substitute for paid labor. ()

442. RECREATION, PHYSICAL EXERCISE, AND LEISURE TIME ACTIVITIES.

An organization must have a policy giving children the opportunity for daily participation in recreation, physical exercise, and leisure time activities and document the activities offered. Participation must be encouraged but not forced. ()

443. SLEEP.

An organization must have and follow policies and procedures giving each child the opportunity for at least eight (8) hours of uninterrupted rest at night and more time if the service plan or health needs of the child require. ()

444. SWIMMING POOL, POND, OR OTHER BODY OF WATER FOR USE BY CHILDREN.

An above-ground or in-ground swimming pool, hot tub, pond, or other body of water on the premises of an organization for use by children must comply with Section 56-1003(3)(d), Idaho Code, and with applicable federal, state, county, and municipal laws, regulations, and ordinances regarding swimming pool construction, sanitation,

water quality standards, water temperature, recreational bathing, and life-saving. ()

01. Staff with Lifesaving or Lifeguard Certificate. The facility must maintain at least one (1) staff who has a valid lifesaving or lifeguard certificate issued by a nationally recognized organization. This certified staff must always be on duty when children are in the water. ()

02. Repair and Safeguards. The facility must maintain the pools, hot tubs, ponds, and other bodies of water on its property in good repair, clean condition, and free from safety hazards and dangerous machinery and equipment. Areas and equipment that are hazardous to children must not be accessible by children. The following safeguards must be provided: ()

a. The area surrounding a body of water for use by children will be secured by a fence and locked in a manner that prevents access by children, or have a secured protective covering that will prevent access by a child. ()

b. Pool or hot tub covers will be completely removed when in use; ()

c. When the pool or hot tub cover is in place, the cover will be free from standing water; ()

d. Covers will always be secured when the pool or hot tub is not in use; ()

e. A reaching pole with a hook and a ring buoy will be accessible; ()

f. Exterior ladders on above-ground pools will be removed when the pool is not in use; and ()

g. A child who does not know how to swim will use an approved, appropriately fitting, lifesaving personal flotation device. ()

03. Safety for Children Five (5) Years and Under. ()

a. Any organization that cares for children five (5) years old and under, and chooses to prevent access to a body of water by fencing must provide the following: ()

i. The fence will be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

ii. The gate will be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

iii. If a building forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool will have alarms that produce an audible sound when the doors are opened; and ()

iv. Furniture or other large objects will not be left near the fence enabling a child to climb on the furniture and gain access to the pool. ()

b. Children must be under the direct supervision of an adult while using any body of water including a wading pool. ()

c. Toys that attract young children to the pool area must be kept picked up and away from the pool area when not in use. ()

445. IRRIGATION CANALS, RIVERS, PONDS, OR SIMILAR BODIES OF WATER FOR A CHILD UNDER EIGHT YEARS.

An organization caring for a child eight (8) years and under, or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal, river, pond, or similar body of water must have fencing that prevents access to the body of water by the child. ()

01. Staff Training. The facility must maintain at least one (1) staff who has a valid lifesaving, swift water rescue, or lifeguard certificate issued by a nationally recognized organization for the type of water adjacent to or on the property, and this person must be on duty when any children are using the water for any purpose. ()

02. Use of Rescue Equipment. All staff must be trained on the location and use of the water rescue equipment. ()

03. Safety Equipment. Appropriate water rescue equipment must be maintained in an accessible area. ()

04. Fencing for Child Eight (8) Years and Under. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, and designed so that a young child cannot climb or squeeze under or through the fence. ()

446. IRRIGATION CANALS, RIVERS, PONDS OR SIMILAR BODIES OF WATER FOR CHILD OVER EIGHT YEARS.

When deciding whether a child over eight (8) years who is not developmentally, mentally, or physically disabled should have access to ponds, rivers, or other bodies of water on or adjacent to the facility, the facility must consider or provide the following: ()

01. Distance. The distance of the body of water from the closest facility structure. ()

02. Depth of the Water. ()

03. Water Flow. ()

04. Water Safety and Hazard Instruction to Child. ()

05. Assessment of Child's Swimming Ability. ()

06. Documentation of Required Level of Child Supervision. ()

07. Signed Acknowledgment of Instruction. The child and their parent or guardian must provide a signed and dated acknowledgment of receipt of instruction and water safety and hazard information. ()

447. SUPERVISION OF RECREATIONAL ACTIVITY.

Staff conducting or supervising a recreational activity must have knowledge of and enforce appropriate safety techniques for the recreational activity and do the following: ()

01. Instruction. Instruct each participant in the appropriate safety procedures. ()

02. Safety Equipment. Ensure that each participant uses adequate and appropriate safety equipment for the activity and the child's ability. ()

03. Rescue Equipment. Ensure that there is proper rescue equipment available and easily accessible. ()

04. Cardiopulmonary Resuscitation (CPR) and First Aid. Ensure that at least one (1) staff has current CPR and first aid certification appropriate to the age of the children. ()

05. Staff Coverage. Ensure that there is adequate staff for the activity and children involved. ()

448. CHILD'S HEALTH RECORD.

There must be a health record for each child, available to appropriate staff for emergency use and to provide for the child's routine care. The record must contain the following: ()

- 01. **Initial Health Screening and History Including Allergies.** ()
- 02. **Child's Medical Provider's Name, Address, and Phone Number.** ()

449. MEDICATION.

An organization must have and follow policies and procedures on the storage and administration, or assistance with medication, and comply with IDAPA 24.34.01, "Rules of the Idaho Board of Nursing." The policies must address the following: ()

01. Medication Storage. Require that prescription and over-the-counter medication be stored under lock and key and the keys are safeguarded from children. For medications taken on field outings, storage of medication must be in the possession of staff who is qualified to administer or assist with medications. The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a medical professional. ()

02. Administration and Assistance. Require that staff who administer or assist with self administration of medications be trained by a medical professional. ()

- 03. Psychotropic Medication.** Prohibit the administration of psychotropic medications: ()
 - a. Unless a medical professional determines that the medication is clinically indicated; and ()
 - b. For disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. ()

04. Medication Changes. Document medications prescribed for the child while in care including the date prescribed and the prescribing physician. Prescribed medications must not be stopped or changed without consulting with a medical professional. Documentation of the consultation must include: ()

- a. Names of the child, the medical professional, and staff consulting with the medical professional; ()
- b. Date of the consultation; ()
- c. Specific details of the change to include dosage, administration time, and instructions; and ()
- d. Reasons for the change. ()

05. Documentation for Prescription Medication. Document all prescription medication issued by a medical professional's order to include dosage to be given, and the following: ()

- a. The child's name; ()
- b. The date and time; ()
- c. The amount of dosage given and whether the child did not take the medication; and ()
- d. The person who administered or assisted in self-administration of the medication. ()

06. Documentation for Nonprescription Medication. Document all over-the-counter medication and the following: ()

- a. The child's name; ()
- b. The date and time; ()
- c. The amount of dosage given and whether the child did not take the medication; ()

- d. The person who administered or assisted in self-administration of the medication; ()
 - e. The reason the medication was given. Over-the-counter medication will only be given according to the package instructions unless there is a child-specific valid order by a medical professional stating the medication is to be used for reasons other than those stated on the packaging; and ()
 - f. The effects of the medication. ()
- 07. Disposal of Unused Medication.** Dispose of all unused and expired medication so they are not available to children. ()

450. UNIVERSAL PRECAUTIONS.

Universal precautions must be taken for spills of body fluids such as blood, blood containing body fluids, eye discharge, feces, body tissue discharge, nasal discharge, saliva, urine, vomit, contaminated material, and diapers, which must be disposed of in a plastic bag that is secured with a tie. The disinfectant solution used to clean up body fluids must be a commercially prepared spill kit or a disinfectant solution. The person doing the cleaning and disinfecting must wear nonporous disposable gloves. Mops and other cleaning devices and fluids used to clean up body fluid spills must be disinfected, properly dried, and stored. Syringes must be disposed of under Occupational Safety and Health Act (OSHA) standards and not to be accessible to children. ()

451. FIRST AID KIT.

A first aid kit must be readily available and contain materials sufficient to meet a child's medical needs until other medical treatment is obtained. The contents, location, and use of first aid kits must be reviewed annually with all staff. The content of the kits must be inventoried and restocked as needed. ()

452. NUTRITION.

Children must be provided daily three (3) nutritionally balanced meals in appropriate intervals and in amounts appropriate to their size and age. A licensed nutrition or dietitian professional must approve menus annually. The current menu must be readily available, and any change or substitution noted on the menu. Menus must be maintained on file for sixty (60) days. Accommodations must be made to a child with special medical or religious dietary needs. ()

453. ANIMALS AND PETS.

Program animals must be free from disease and cared for in a safe and clean manner. Visiting and program dogs will be vaccinated against rabies with documentation kept on file. ()

454. TOBACCO PRODUCTS, ALCOHOL, AND ILLEGAL DRUGS.

Use of tobacco, nicotine, vaping products, alcohol, and illegal drugs is prohibited by children, staff, volunteers, visitors, or contractors in any building used to house children, in the presence of children, or in vehicles used to transport children. ()

455. TRANSPORTING CHILDREN.

- 01. Vehicle.** Transportation of children must be in a vehicle that is: ()
 - a. Properly registered; ()
 - b. Covered by insurance for personal injury and liability; ()
 - c. Driven by a person with a valid driver's license for the type of vehicle; ()
 - d. Maintained in a clean and safe condition with documentation of maintenance; ()
 - e. Equipped with a red triangular reflector device for use in emergency; ()
 - f. Equipped with a first aid kit; and ()

- g.** Equipped with a fire extinguisher that is properly secured and not readily available to children. ()

02. Proper Seating of Children and Adults. ()

a. A child must ride in an age-appropriate vehicle restraint seat according to Title 49, Chapter 6, Idaho Code, properly secured, or if the child is large enough, in a vehicle-manufactured seat, and properly use the passenger restraint device. All vehicle restraints and car seats must meet the Idaho Department of Transportation recommendations, be maintained in good operating condition, and not be expired. ()

b. Adults riding in the vehicle must occupy a manufactured seat and use the passenger restraint device. ()

456. CONTRABAND.

An organization must define prohibited contraband in a policy. Contraband found in the possession of children must be confiscated and secured. Local law enforcement must be notified if illegal contraband is confiscated. The organization will dispose of all contraband not confiscated by law enforcement and notice of such requirement will be provided in the organization's contraband policy. ()

457. SEARCHES.

If an organization conducts searches of children or the facility, it must have and follow policies and procedures. Searches must be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of under the contraband policy. The policies and procedures require the following: ()

01. Training. Staff conducting any type of search must be trained on organization policy and procedures related to searches with documentation of training. ()

02. Pat Down Searches. Pat down searches of children may only be conducted to discourage the introduction of contraband into the facility, or to promote the safety of staff and other children. Pat down searches must be conducted as follows: ()

- a.** The search is conducted in the presence of at least two (2) staff members; ()
- b.** The child is told they are about to be searched; ()
- c.** The child removes all outer clothing and empty all pockets; ()
- d.** The staff pats the clothing of the child using only enough contact to conduct an appropriate search; ()
- e.** If the staff detects anything unusual, the child is asked to identify the item and appropriate steps taken to remove the item for inspection; ()
- f.** If the child refuses to comply, the chief administrator is notified immediately and is responsible to resolve the matter; and ()
- g.** All searches of children are documented in writing. ()

03. Strip and Body Cavity Searches are Prohibited. ()

458. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Documentation. An organization must explain the policy to the child considering their age and level of understanding. The parents or guardians and child will sign the policy acknowledging receipt. ()

02. Behavior Management. An organization must have and follow a behavior management and

discipline policy for children that identifies appropriate and specific methods and ensures that these methods are positive and consistent. Individualized behavior management must be based on an assessment of the child's needs, stage of development, and behavior to promote self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the child's age and development level. The policy must include the concept and application of least-restrictive effective treatment and positive reinforcements and prohibit the following: ()

- a. Physical force, except for physical restraint intervention; ()
- b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting an arm or leg in a way that would cause pain or injury, kneeling or sitting on the chest, placing a choke hold, bending back a finger, and shoving or pushing a child into the wall, floor, or other stationary object; ()
- c. Cruel and unusual physical exercise, including forcing the child to take an uncomfortable position; ()
- d. Verbal abuse, ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; ()
- e. Confinement in an area except an area approved by the Department for confinement of a child as provided under these rules; ()
- f. Withholding of necessary food, clothing, bedding, rest, toilet use, bathing facilities, and entrance to the facility; ()
- g. Denial of visits or communication with the child's family, except as specified in the child's service plan or court order; ()
- h. Denial of necessary educational, medical, counseling, and social services; ()
- i. Disciplining a group of children or another child for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which group discipline is allowed, and the discipline is supervised directly by staff; ()
- j. The placing of anything in or on a child's mouth; ()
- k. A physical work assignment that produces unreasonable discomfort; ()
- l. Requiring cold showers or otherwise using water as a form of behavior management; ()
- m. Requiring an individual to remain silent for long periods for the purpose of behavior management; ()
- n. Extensive withholding of emotional response or stimulation; ()
- o. Exploitation which includes, but is not limited to: ()
 - i. Using a child's property without their consent or using a child's property in a way that is contrary to their best interests, such as expending a child's funds for the benefit of another; or ()
 - ii. Accepting gifts in exchange for preferential treatment of a child or in exchange for services that the facility is already obliged to provide to the child. ()
- p. Failure to provide adequate supervision, including situations where the facility's employee or volunteer is asleep or ill on the job, or is impaired due to the use of alcohol or drugs; and ()

- q. Failure to provide care and treatment as prescribed by the child's services, program, or service plan. ()

459. TIME-OUT.

An organization must have and follow policies and procedures governing the appropriate use of staff directed time-out as follows: ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. ()

02. Children Under Six Years. For children under six (6) years old, the period for time-out is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, but not a substitute for, other developmentally appropriate positive methods of behavior management. ()

03. Children Six Years or Older. For children six (6) years old and older the time duration cannot exceed sixty (60) consecutive minutes. ()

04. Prohibited Locations. The time-out cannot be in a closet, bathroom, unfinished basement, or attic, and cannot be in a locked area or box. ()

05. Documentation. A description in sufficient detail to provide a clear understanding of the incident that resulted in the child being placed in time-out, and the staff's attempts to help the child avoid time-out. ()

06. Observations. A staff is designated to be responsible for visually observing the child at random intervals not to exceed fifteen (15) minutes. ()

07. Reintroduction to the Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. ()

08. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted to determine the suitability of the child remaining in the facility, whether modifications to the child's service plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques and appropriate action taken is based on the findings of the review. ()

460. SECLUSION.

Seclusion rooms must be equipped with break-resistant windows, and a mirror or camera that allows for full observation of the room. Rooms used for seclusion must be inspected and approved by a fire inspector annually. If an organization uses seclusion there must be policies and procedures, which include: ()

01. Seclusion. Seclusion will not be used as punishment or to substitute for other developmentally appropriate positive methods of behavior management. Seclusion may only be used as a means of intervention when the child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to self or others, and less restrictive and less punitive interventions have been applied without success. ()

02. Time Needed. Seclusion must be used only for the time needed to change the behavior compelling it. ()

03. Seclusion Duration. For children under six (6) years old, the period is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, not a substitute for, other developmentally appropriate positive methods of behavior management. For children six (6) years old and older the time duration cannot exceed sixty (60) consecutive minutes. ()

04. Restrictions on Seclusion. Seclusion must not be in a box, closet, bathroom, unfinished basement, or attic. Except for a licensing-approved bedroom, a seclusion room cannot be used as a sleeping room, and temporary beds or mattresses in these areas are not allowed. ()

05. Staff Supervision. A staff is designated to be responsible for visually observing the child at

random intervals, which are not to exceed fifteen (15) minutes throughout the period of seclusion, and must be recorded in a log. ()

06. Supervisory Approval. Supervisory approval is required when the total seclusion time for one (1) child exceeds three (3) hours in a twenty-four (24) hour period, or more than four (4) separate seclusion incidents in a twenty-four (24) hour period. ()

07. Documentation. Each seclusion must be documented in writing and include the child's name, a description in sufficient details of the incident that resulted in the child being placed in seclusion, staff's attempts to help the child avoid seclusion, the date, start and end time of the seclusion, and the staff assigning the seclusion. ()

08. Reintroduction. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as they can participate appropriately. ()

09. Review. If there are more than five (5) seclusions for a child in a twenty-four (24) hour period, there must be a documented review. The review is to determine whether modifications to the child's service plan are warranted or whether staff needs additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action must be taken based on the findings of the review. ()

461. – 465. (RESERVED)

**NONACCREDITED CHILDREN'S RESIDENTIAL SCHOOLS
Sections 466 – 499**

466. STAFF RATIOS REQUIRED.

Nonaccredited children's residential schools must have at least one (1) staff member on duty and one (1) on-call and available within (10) minutes for every twenty-five (25) children or less. During normal sleeping hours, children in each sleeping room will be under close supervision and within easy call of a staff member. ()

467. CHILD'S RECORD.

The school must maintain a record on each child with the following: ()

- 01. Child's Full Name.** ()
- 02. Birth Date.** ()
- 03. Gender.** ()
- 04. Height, Weight, Hair and Eye Colors, Race, and Identifying Marks.** ()
- 05. Name, Address and Phone Number of Responsible Parent, Guardian, or Legal Custodian.** ()
- 06. Documentation of Authority to Accept and Care for Child.** ()
- 07. Medical Care Authorizations.** ()
- 08. School Reports Including Grades and Adjustment.** ()
- 09. Reason for Referral or Placement.** ()
- 10. Special Considerations and Needs.** ()

468. – 499. (RESERVED)

OUTDOOR PROGRAMS
Sections 500 – 599

500. BASE CAMP REQUIREMENTS.

01. Base Camp. An outdoor program must have a base camp or field office in Idaho, hereafter referred to as a "base camp." A base camp must: ()

- a.** Be staffed and monitored twenty-four (24) hours a day when there are children in the base camp or on expeditions; ()
- b.** Have current staff personnel files; ()
- c.** Have a current list of the names of staff and children in each field group; ()
- d.** Have a master map of all activity areas used by the program; ()
- e.** Have copies of each group's expeditionary route with its schedule and itinerary; ()
- f.** Maintain current logs of all communications with each field group away from the base camp; and ()
- g.** Have an emergency response plan developed by the organization and updated annually. ()

02. Proof of Compliance. An outdoor program that operates in Idaho must comply with federal, state, and local regulations and maintain proof of compliance at the base camp. ()

501. HIGH ADVENTURE REQUIREMENTS.

01. High Adventure Activities Include the Following: ()

- a.** Target sports; ()
- b.** Aquatics; ()
- c.** Hiking; ()
- d.** Adventure challenge courses; ()
- e.** Climbing and rappelling; ()
- f.** Winter camping; ()
- g.** Soloing; ()
- h.** Spelunking; ()
- i.** Expeditioning; ()
- j.** Swimming in a river, stream, lake, or pond; ()
- k.** Whitewater activities; and ()
- l.** Animal-related activities. ()

02. High Adventure Activity Policies and Procedures. For the high adventure activities and for any activity identified by the outdoor program or the Department as a high adventure activity, there must be a policies and

procedures to be followed that includes: ()

- a. Training, experience, and qualifications for leader and staff; ()
- b. Specific staff-to-participant ratios appropriate to the activity; ()
- c. Classification and limitations for each child's participation; ()
- d. Arrangement, maintenance, and inspection of the activity area; ()
- e. Appropriate equipment and the inspection and maintenance of the equipment; and ()
- f. Safety precautions to reduce the possibility of an accident or injury. ()

03. High Adventure Activities Leader. An activity leader who conducts high adventure activities must be at least twenty-one (21) years old and have documented training and experience in conducting the activity. ()

502. STAFF QUALIFICATIONS FOR OUTDOOR PROGRAMS.

Staff, interns, and volunteers must complete a background check as required by IDAPA 16.05.06, "Criminal History and Background Checks." Outdoor programs must have the following staff: ()

01. Chief Administrator. An outdoor program must have a chief administrator who is primarily responsible for ensuring that the program complies with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator may also function as the field director. In addition to qualifications in Section 213 of these rules, the chief administrator must also: ()

- a. Be at least twenty-five (25) years old; and ()
- b. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience. ()

02. Field Director. An outdoor program must have a field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director is responsible for compliance with applicable licensing rules and ensures that staff are familiar with all program policies and procedures, and must: ()

- a. Be at least twenty-five (25) years old; ()
- b. Have at least thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; ()
- c. Have at least forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in their personnel file; and ()
- d. Be certified to provide CPR and first aid. ()

03. Senior Field Staff. An outdoor program must have a senior field staff working directly with each group of program participants, and must: ()

- a. Be at least twenty-one (21) years old; ()
- b. Have an associate degree or high school diploma or equivalent and thirty (30) semester hours or forty-five (45) quarter hours of education and training, or comparable experience and training, in a field related to recreation and adventure activities; ()
- c. Have forty (40) twenty-four (24) hour field days of program experience or equivalent experience in ()

outdoor programs documented in their personnel file; and ()

d. Be certified to provide CPR and first aid. ()

04. Field Staff. Must: ()

a. Be at least twenty-one (21) years old; ()

b. Have a high school diploma or equivalent; and ()

c. Be certified to provide CPR and first aid. ()

05. Multidisciplinary Team. An outdoor program must have a multidisciplinary staff or program consultants who have knowledge of the physical and emotional demands of the program and are available to program participants upon the recommendation of the field director or senior field staff. The team must consist of: ()

a. A licensed physician; and ()

b. A licensed treatment professional including either a licensed psychologist, certified social worker, marriage and family counselor, or professional counselor. ()

06. Each Intern. Must: ()

a. Be in a learning program to meet personal educational goals; ()

b. Be at least eighteen (18) years old; ()

c. Have a high school diploma or its equivalent; and ()

d. Be under the supervision of a licensed therapist if they are in a clinical internship pursuing a professional degree or license. ()

07. Each Volunteer. Must: ()

a. Be at least eighteen (18) years old; and ()

b. Be under the direct, constant supervision of qualified staff. ()

08. Staff Health Requirements. ()

a. Prior to engaging in any field activities with children, staff, interns, and volunteers must have a written statement from a licensed physician, physician's assistant, or nurse practitioner verifying they are physically fit to perform the duties of the job. ()

b. A new, written physician's statement must be obtained every three (3) years. The medical professional who provides the written statement must be given a form to use that clearly describes the physical demands for the job and the environmental conditions the person being evaluated is required to work in. ()

c. The outdoor program must review the form and maintain it in the individual's personnel file. ()

503. SKILLS AND TRAINING. Skills and training for each staff, intern, and volunteer must be documented and kept on file at the base camp. ()

01. Skills. Each staff, intern, and volunteer must demonstrate specific skills, prior to assuming field supervision. The skill assessment procedures must be approved, and results of the assessment documented. ()

02. Training. Chief administrator, field director, senior field staff, field staff, volunteers, and interns

must have trainings that address deficiencies identified in the skills assessment. The curriculum will include: ()

- a. Four (4) days of practicum field training; ()
- b. Supervision of program participants; ()
- c. Water, food, shelter procurement, preparation, and conservation; ()
- d. Low-impact wilderness expedition and environmental conservation skills and procedures; ()
- e. Child management including containment control, safety, conflict resolution, and behavior management; ()
- f. Instruction in safety procedures and safe equipment use of fuel, fire, and life protection; ()
- g. Sanitation procedures related to food, water, and waste; ()
- h. Special instruction for individuals who conduct and supervise high adventure activities; ()
- i. Wilderness medicine, including health issues related to acclimation, exposure to the environment, and environmental elements; ()
- j. First aid kit contents and use; ()
- k. Navigation skills including map and compass use, and Global Positioning System (GPS); ()
- l. Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations; ()
- m. Report writing, including development and maintenance of logs and journals; ()
- n. Federal, state, and local regulations including the Department, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and state and federal land use agencies; and ()
- o. Ongoing training for direct care staff to upgrade their skills, including mandatory training to maintain skills, certifications, and licenses. ()

504. STAFF RATIOS AND GROUP SIZE.

01. Staff Ratio. Each group of children must have one (1) staff for every four (4) children. Where there are four (4) children or less there must be at least two (2) staff. ()

02. Interns and Volunteers. Interns and volunteers must never be counted in the staff ratio and never have sole responsibility to supervise the child. ()

505. ALCOHOL OR CONTROLLED SUBSTANCES PROHIBITED.

Staff, interns, and volunteers engaging in field activities with children are prohibited from using alcohol or controlled substances, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program. ()

506. – 514. (RESERVED)

515. ASSESSMENTS.

01. Preadmission Assessment. Preadmission assessments must be done for each child by a qualified treatment professional familiar with the outdoor program prior to enrollment. This must include a review of the child's social and psychological history. ()

02. Subsequent Assessments. Subsequent assessments must be done before the child leaves for the field portion away from the main base of operations. The assessment must include: ()

a. An interview with the child by the senior field staff assigned to the child's field experience; and ()

b. A review of the child's health history and physical examination by a medically trained field staff assigned to the child's field experience. ()

03. Psychological Problems. For a child with a history of psychological problems, a psychological evaluation must be obtained and reviewed by the multidisciplinary team prior to the child's entrance into the field portion. ()

516. PHYSICAL EXAMINATION.

A child must have a physical examination within thirty (30) days prior to entrance into the outdoor program. ()

01. Physical Examination Requirements. The result of the physical exam must be recorded on a standard form provided by the outdoor program. The form must clearly document the type and extent of physical activity in which the child will be engaged and completed by a licensed physician, physician's assistant, or nurse practitioner, who signs the form, and includes: ()

a. A urinalysis; ()

b. A pregnancy test for each female participant; ()

c. A physical assessment to determine fitness given the climate and temperature in which the child will be participating, and the child's age, weight, and physical condition; and ()

d. A determination whether detoxification is indicated prior to entrance into the field portion of the program. ()

02. Prior Physical Examination. A physical examination of a child who is coming into an outdoor program directly from a children's residential care facility is acceptable provided the physical examination is current, occurred prior to entrance into the field, and meets the criteria in Subsection 516.01. ()

03. Medical Special Needs. If a child is currently taking or has been taking prescribed medication within the past six (6) months prior to placement, a notation must be made on the physical examination form by the medical professional approves the child's participation in an outdoor, high impact environment. The physical examination will include a description of any possible special needs due to the use of medication in said environment. ()

04. Physical Examination Availability. The physical examination form must be maintained at the base camp and a copy carried by staff in a waterproof container when the child is away from the base camp. The physical examination form must be maintained in a manner that assures the confidentiality of all medical and identifying information. ()

517. SERVICE PLANS.

An outdoor program must develop and follow a written service plan for a child admitted. ()

01. Initial Service Plan. Must be developed and recorded in the child's record within thirty (30) days after admission with the following: ()

a. Identify the needs of the child and family, and provide goals and a time frame to achieve the goals; ()

b. Services the organization will provide to assure the safety, health, and wellbeing of the child;()

c. Criteria for discharge and projected discharge date; ()
d. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are incapable of understanding the purpose of the planned services; and ()

e. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. ()

02. Updated Service Plan. A service plan must be updated every ninety (90) days and must: ()

a. Document services the organization will provide to assure the safety, health, and wellbeing of the child; ()

b. Document progress towards achieving the goals in the service plan; ()

c. Demonstrate the service plan was developed with participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation if they are incapable of understanding the purpose of the planned services. ()

518. DISCHARGE SUMMARY.

A discharge summary must be written within seven (7) days of discharge, and include: ()

01. Date of and Reason for Discharge. ()

02. Physical, Emotional, Medical, and Educational Needs of Child. ()

03. Recommendations for Treatment. ()

04. Documentation of Disrupted Placements, Assessed Causes, and Any Corrections. ()

519. CONTINUED CARE.

Continued care is permitted under the Idaho Child Care Licensing Reform Act, Sections 39-1202 and 39-1213, Idaho Code, for individuals eighteen (18) to twenty-one (21) years old. Individuals who are in the care of a licensed outdoor program prior to turning eighteen (18) years old may remain in the program for up to ninety (90) days after their eighteenth birthday, or up to the age of twenty-one (21) if necessary to complete a treatment program or school educational program currently attended by the individual. ()

520. DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.

Prior to accepting an individual into continued care the following is required: ()

01. Voluntary Agreement. A voluntary agreement to remain in the program signed by the person turning eighteen (18), or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. ()

02. Assessment for Others Safety. An assessment to assure that an individual does not jeopardize the health, safety, and well-being of the children in care of the organization. ()

03. Additional Continued Care Plans. A plan that prohibits individuals from sharing a bedroom or other sleeping rooms with a child. ()

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual was in the care of the organization prior to their eighteenth birthday. ()

05. Documentation of Need for Continued Care. Documentation verifying the individual needs to remain to complete treatment, education, or other similar needs. ()

521. AGE REQUIREMENTS.

01. Age. A child must be at least eleven (11) years old and less than eighteen (18) years old unless the individual qualifies for continued care. ()

02. Grouping. A licensed treatment professional familiar with the outdoor program must determine whether children eleven (11) years old through thirteen (13) years old are to be placed in a younger program group or in an older program group. The decision must be based upon the child's needs and level of maturity, both physical and mental. The basis for the decision must be documented in the child's record. ()

522. EXPEDITIONS.

Expeditions include any excursion taking children away from the base camp. ()

01. Description. There must be an approved written description of the expedition. The expedition must not expose children to unreasonable risk. ()

02. Group Size. The number of expedition participants must not exceed fifteen (15) children. ()

03. Wilderness First Responder (WFR). At least one (1) staff member per expedition group must have a current WFR Certificate. ()

04. Global Positioning System (GPS). Each expedition group must be equipped with a GPS system. ()

05. Staff Briefing. Staff must be briefed prior to any expedition. The briefing must include: ()

a. The expedition route, terrain, time schedule, weather forecast, and any potential hazards; ()

b. Any procedures unique to that expedition; and ()

c. Participant backgrounds and any potential problems. ()

06. Expedition Evaluations. Each expedition must be evaluated once during a calendar week, either in person by a field director or as detailed in the organization's approved policies and procedures. If the expedition is longer than three (3) weeks, onsite visits by a field director must occur every three (3) weeks. ()

07. Staff Debriefing. Staff must be debriefed after an expedition. ()

08. Participant Debriefing. Children must be debriefed after an expedition. The debriefing must include a written summary of the child's participation and progress and be retained in the child's record. ()

09. Expedition Summary. Results of the evaluation of the conditions of the children, interactions of children and staff, briefings, debriefings, and compliance with program policies and procedures must be summarized and documented. ()

523. SAFETY.

Each outdoor program must have appropriate safety procedures and equipment. ()

01. Environmental Hazards. Each program participant must have instruction on environmental hazards and precautions. ()

02. First Aid Kit. There must be a first aid kit with sufficient supplies. The first aid kit must: ()

a. Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used; ()

- b. Be reviewed with new staff for contents and use; ()
- c. Be reviewed at least annually with all staff for contents and use; and ()
- d. Be inventoried after each expedition and restocked as needed. ()

524. COMMUNICATIONS.

01. Support System. There must be multiple reliable communication systems. ()

02. Requirements. There must be daily communication between each field group and the base camp unless alternative arrangements have been made and documented in a communications log maintained at the base camp. Absence of communication must never exceed seventy-two (72) hours. ()

03. Emergencies. The base camp support personnel must have immediate access to emergency telephone numbers, contact personnel, and procedures for an emergency evacuation or field incident requiring emergency medical support. ()

525. EMERGENCY PLAN.

An outdoor program must have and follow a written emergency plan and procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, and missing children. ()

01. Plan Must Include: ()

- a. Designation of authority and staff assignments; ()
- b. Transportation and relocation of program participants when necessary; ()
- c. Instruction to all participants on how to respond to an emergency; ()
- d. Notification regarding the nature of the emergency and an accounting for each participant's location and status; ()
- e. Supervision of program participants after an evacuation or a relocation; and ()
- f. Arrangements for medical care and notification of a child's physician and identified parent or guardian. ()

02. Emergency Drills Must Be Conducted and Recorded Annually. ()

526. EXPEDITION AND HIKING LIMIT REQUIREMENTS.

01. Physical Capability. Hiking must not exceed the physical capability of the weakest member of the group. ()

02. Maximum Temperature. There must be no hiking when the temperature is above ninety-five (95) degrees Fahrenheit. ()

03. Inability or Refusal to Hike. When a child cannot or refuses to hike, the group cannot continue hiking unless it is necessary for safety reasons, and a contingency plan, based on approved policies and procedures, must be used. The contingency plan must ensure there is staff coverage for each group, if the group is split, and that communication between the groups is maintained. ()

04. Maps and Itinerary. Copies of map routes and anticipated schedules, including arrival and departure times, must be maintained by the field staff and base camp when a group is away from the base camp. ()

05. Acclimation to Environment. Staff must closely monitor children for acclimation to the

temperature, climate, altitude, environment, and situation. ()

06. Log. There must be a common written log that is signed and dated by the participating staff immediately following an expedition. The log must contain information on health problems, accidents, injuries, medications used, behavioral problems, and unusual occurrences and be recorded with any corrections initialed and dated. ()

527. WATER REQUIREMENTS.

01. Water. Children must have access to potable water while hiking and the program must: ()

a. Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one hundred fifty (150) pounds, then one (1) additional quart of potable water will be provided for every twenty-five (25) pounds of body weight over one hundred fifty (150) pounds; and ()

b. Encourage each child to consume at least three (3) quarts of potable water per day. ()

02. Water for Cooling. When the temperature is eighty (80) degrees Fahrenheit or higher, adequate water must be available for coating each child's body for the purpose of cooling when needed. ()

03. Water Caches. When water caches are used, each water cache must be placed at predetermined sites prior to the day the group leaves the camp. Field staff must verify the water cache locations before the group leaves the base camp each day. ()

04. Aerial Water Drops. An expedition group must not depend on aerial drops for its water supply and be used only in an emergency. ()

05. Water From a Natural Source. Water from a natural source used for drinking or cooking must be treated to eliminate health hazards. ()

06. Electrolyte Replacement. Each group must have a supply of electrolyte replacement, with quantities to be determined by group size and environmental conditions. ()

528. NUTRITIONAL AND SANITARY REQUIREMENTS.

01. Menu. There must be a written menu approved annually by a professional nutritionist or dietitian with knowledge of program activity levels and environmental factors. The menu will list the necessary or recommended food supplies and caloric intake for each group. The current menu must be available, and any change or substitution noted on the menu. Menus must be maintained on file for sixty (60) days. ()

02. Food. Each child must be provided enough food and calories based on the approved menu that includes fresh fruit and vegetables at least twice a week. ()

03. Special Needs. The menu must take into consideration a child's special nutritional needs, including food allergies or religious restrictions. ()

04. Fasting. There must be no imposed food fasting. ()

05. Cleansing of Hands. Soap and water, or other methods to disinfect hands, is provided and encouraged after each latrine use. Cleansing of hands is required prior to food preparation. ()

529. (RESERVED)

530. HEALTH CARE REQUIREMENTS.

01. First Aid. First aid treatment will be provided in as prompt a manner as the location and circumstances allow. ()

02. Administration and Assistance. Staff who administer or assist with self-administration of medications will be trained by a medical professional. ()

03. Documentation. Complaints or reports by a child of illness and injuries will be recorded in the daily log along with any treatment provided. ()

04. Negative Consequences. There will be no negative consequences imposed on a child for reporting an injury or illness, or for requesting to see a health care professional. ()

05. Daily Physical Assessment. Children's hydration, skin condition, extremities, and general physical condition will be evaluated and recorded by field staff in the daily log. ()

06. Weekly Physical Assessment. At least every seven (7) days, each child's physical condition will be assessed by a WFR, an EMT, or a medical professional. The results of the assessment will be recorded in the daily log and include: ()

- a. Blood pressure; ()
- b. Heart rate; ()
- c. Condition of extremities and skin; ()
- d. Hydration level; ()
- e. Allergies, if any; ()
- f. General physical condition; and ()
- g. Provision of appropriate medical treatment if needed. ()

531. MEDICATION.

An outdoor program must have and follow policies and procedures on the storage and administration, or assistance with medication, and comply with IDAPA 24.34.01, "Rules of the Idaho Board of Nursing." The policies must address the following: ()

01. Medication Storage. Prescription and over-the-counter medication will be stored under lock and key and safeguarded from children. For medications taken on field outings, all medication will be in the possession of a staff member qualified to administer or assist with medications. The medication must be in the original pharmacy-dispensed container, in original over-the-counter container, or placed in a unit container by a medical professional. ()

02. Administration and Assistance. Staff who administer or assist with self-administration of medications will be trained by a medical professional. ()

03. Psychotropic Medication. Prohibit the administration of psychotropic medications: ()

- a. Unless a medical professional determines that the medication is clinically indicated; and ()
- b. For disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. ()

04. Documentation for Prescription Medication. Document all prescription medication issued by a medical professional's order to include dosage to be given, and the following: ()

- a. The child's name; ()

- b. The date and time; ()
- c. The dosage given and whether the child did not take the medication; and ()
- d. The person who administered or assisted in self-administration of the medication. ()

05. Documentation for Nonprescription Medication. Documentation for all over-the-counter medication must include: ()

- a. The child's name; ()
- b. The date and time; ()
- c. The dosage given whether the child did not take the medication; ()
- d. The person who administered or assisted in self-administration of the medication; ()
- e. The reason the medication was given. Over-the-counter medication will only be given according to the package instructions unless there is a child-specific valid order by a medical professional stating the medication is to be used for reasons other than those stated on the packaging; and ()
- f. The effects of the medication. ()

06. Medication Changes. Document medications prescribed for the child while in care including the date prescribed and the prescribing physician. Prescribed medications must not be stopped or changed without consulting with a medical professional. Documentation of the consultation must include: ()

- a. Name of the child, the medical professional, and staff consulting with the medical professional; ()
- b. Date of the consultation; ()
- c. Specific details of the change including dosage, administration time, and instructions; and ()
- d. Reasons for the change. ()

07. Disposal of Unused Medication. Dispose of all unused and expired medication so they are not available to children. ()

532. PARTICIPANT CLOTHING, EQUIPMENT, AND SUPPLIES.

Each program participant must have clothing, equipment, and supplies appropriate for the types of activities and for the weather conditions likely to be encountered. ()

01. Clothing, Equipment, and Supplies Requirements: ()

- a. Sunscreen; ()
- b. Insect repellent; ()
- c. A commercially available backpack or the materials to construct a safe backpack or bedroll; ()
- d. Personal hygiene items necessary for cleansing; ()
- e. Appropriate feminine hygiene supplies; ()
- f. Wool blankets or an appropriate sleeping bag and a tarp or poncho when the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher; ()

g. Shelter, appropriate sleeping bag, and ground pad when the average nighttime temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower; ()

h. Clothing appropriate for temperature changes generally expected for the area; ()

i. For each child, a clean change of clothing at least once a week or an opportunity to wash their clothes at least once a week; and ()

j. For each child, clean undergarments and a means to clean their body at least twice a week. Additional clean undergarments may be needed for health or sanitary reasons. ()

02. Denial of Clothing, Equipment, and Supplies. Appropriate clothing, equipment, and supplies must not be removed, denied, or made unavailable for any reason. ()

533. CONTRABAND.

An outdoor program must define prohibited contraband in a policy. ()

01. Confiscation. Contraband found in the possession of children must be confiscated and secured in a location inaccessible to children. ()

02. Law Enforcement Notification. Local law enforcement must be notified when illegal contraband is confiscated. ()

03. Disposal. The outdoor program will dispose of all contraband not confiscated by law enforcement, under the program's contraband policy. When contraband is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. ()

534. SEARCHES.

If an outdoor program conducts searches of children, it must have and follow policies and procedures. Searches must be completed in the least intrusive manner possible for the type of search being conducted. All searches must be documented, including the reasons for the search, the persons conducting the search, and any results. The policies and procedures must include: ()

01. Pat Down Searches. May only be conducted to discourage the introduction of contraband or to promote the safety of staff and other children. Pat down searches must be conducted as follows: ()

a. The search is conducted in the presence of at least two (2) staff members; ()

b. The child will be told they are about to be searched; ()

c. The child will remove all outer clothing and empty all pockets; ()

d. The staff will pat the clothing of the child using only enough contact to conduct an appropriate search; ()

e. If the staff detects anything unusual, the child will be asked to identify the item and appropriate steps taken to remove the item for inspection; and ()

f. If the child refuses to comply, the chief administrator must be notified immediately and is responsible for resolving the matter. ()

02. Searches. All searches of children must be documented in writing. ()

03. Training. Staff conducting any type of search must be trained on organization policy and procedures related to searches with documentation of training. ()

04. Strip and Body Cavity Searches are Prohibited. ()

535. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

An outdoor program must have and follow a behavioral management and discipline policy that identifies appropriate methods of behavioral management and ensures that any discipline is positive and consistent. Individual behavioral management must be based on an assessment of the child's needs, behavior, and stage of development with the goal of promoting self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. An organization must explain the policy to the child's age and development level. The parents or guardians and child will sign the policy acknowledging receipt. The policy must include the concept and application of least-restrictive effective treatment and positive reinforcement and prohibits the following:

- 01. Physical Force.** Except for physical restraint intervention; ()
- 02. Punishment.** Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting an arm or leg in a way that would cause pain or injury, kneeling or sitting on the chest, placing a choke hold, bending back a finger, and shoving or pushing a child into a stationary object; ()
- 03. Covering of the Mouth.** The placement of anything in or over a child's mouth; ()
- 04. Excessive Physical Demands.** Cruel physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort; ()
- 05. Verbal Abuse.** Ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; ()
- 06. Restraints and Seclusion.** Locked seclusion, mechanical restraints, and alternative forms of restraints; ()
- 07. Withholding of Items.** Withholding of necessary food, clothing, shelter, bedding, rest, medical care, and toilet use; ()
- 08. Denials.** Denial of visits or communication with the child's family except as specified in the child's plan or court order; ()
- 09. Group Discipline.** Disciplining a group of children or another child for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which group discipline is allowed, and the discipline is supervised directly by staff; ()
- 10. Behavioral Management Using Water.** Requiring cold showers or otherwise using water as a form of behavior management; ()
- 11. Extensive Periods of Silence.** Demanding an individual to remain silent for long periods for the purpose of behavior management; ()
- 12. Extensive Withholding of Emotional Response or Stimulation.** ()
- 13. Exploitation.** Includes the following: ()
 - a.** Using a child's property without their consent or using a child's property in a way that is contrary to their best interests, such as expending a child's funds for the benefit of another; and ()
 - b.** Accepting gifts in exchange for preferential treatment of a child or in exchange for services that the organization is already obliged to provide to the child. ()

14. Failure to Provide Adequate Supervision. Includes situations where the organization's employee or volunteer is asleep or ill on the job, or is impaired due to the use of alcohol or drugs; ()

15. Failure to Provide Care and Treatment. As prescribed by the child's services, program, or service plan. ()

536. TIME-OUT.

An outdoor program must have and follow policies and procedures governing the appropriate use of time-out that includes the following: ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. ()

02. Duration. Time duration cannot exceed sixty (60) consecutive minutes. ()

03. Observation. A staff is designated to be responsible for visually observing the child at random intervals at least every fifteen (15) minutes. ()

04. Documentation. A written description maintained in the child's file in sufficient detail to provide a clear understanding of the incident or behavior that resulted in the child being placed in time-out, staff's attempts to help the child avoid time-out, and observations by staff. ()

05. Reintroduction to the Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. ()

06. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted to determine the suitability of the child remaining in the program, and whether staff needs additional training in alternative therapeutic behavior management techniques. Appropriate action must be taken based on the findings of the review. ()

537. WORK.

Children may be given a nonvocational work assignment as a constructive experience, in compliance with child labor laws, that is age appropriate and within the child's capabilities. The primary purpose of work must not be to substitute for paid labor. ()

538. ANIMALS AND PETS.

Program animals must be free from disease and cared for in a safe and clean manner. Visiting and program dogs will be vaccinated against rabies and documentation kept on file. ()

539. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children must be in a vehicle that is: ()

a. Properly registered; ()

b. Insured for personal injury and liability; ()

c. Driven by a person with a valid driver's license for the type of vehicle; ()

d. Maintained in a safe condition with documented maintenance; ()

e. Equipped with a red triangle reflector device for use in an emergency; ()

f. Equipped with a first aid kit; and ()

g. Equipped with a fire extinguisher that is properly secured and not readily available to children. ()

02. Proper Seating of Children and Adults. The driver and all passengers must ride in a vehicle-manufactured seat and properly use a passenger restraint device. ()

540. FIREARMS.
Firearms are prohibited in outdoor programs. ()

541. – 550. (RESERVED)

SOLO EXPERIENCES IN OUTDOOR PROGRAMS
Sections 551 – 559

551. SOLO EXPERIENCES IN OUTDOOR PROGRAMS.
If an outdoor program conducts a solo component for children, they must have and follow policies and procedures. Every outdoor program that includes a solo component will include a written description of the solo component in the program description. ()

552. PLAN.
There must be a plan for the solo component, and an individual solo plan for each child. The plans must be documented and approved to ensure that the children are not exposed to unreasonable risks. The plans must include: ()

01. Individual Solo Plan. The goals, methods, techniques to be used, and time frames will be listed for each participant and each individual plan will be reviewed with the child and signed and dated by the child and the designated staff member. ()

02. Ability. There will be consideration of the maturity level, health, physical ability, and emotional state of the child. ()

03. Preparation. The child will be instructed on the solo experience, including expectations, restrictions, communication, environment, and emergency procedures. ()

04. Backup Plan. There will be documented instructions for a backup plan in case the child's plan does not work. ()

05. Responsible Staff. A designated staff member will be responsible for coordination and implementation of the plan. ()

553. SOLO SITES.
Staff must be familiar with the site chosen to conduct solos. The following requirements apply: ()

01. Pre-Site Investigation. A pre-site investigation will be conducted and mapped prior to the solo experience. The site will be checked at the time the child is placed to assure that no changes in the environment have taken place since the pre-site investigation that may put the child at risk. ()

02. Hazardous Conditions. Any hazardous conditions, including terrain, are to be considered prior to selecting a solo site, considering the age, physical, developmental, and psychological issues of the children in the solo experience. ()

03. Mapping and Site Coordinates. The selected site will be mapped and the site coordinates will be recorded. The map and the site coordinates will be maintained at the solo site and communicated to the base camp prior to leaving for the solo component. ()

04. Supplies. Arrangements will be made prior to the solo experience for medication, food, and water drop-offs if needed. ()

554. SUPERVISION.

Plans for supervision must be in place during the solo experience, and require: ()

01. Assigned Staff. The assignment of a specific staff member to be responsible for supervising each solo participant. ()

02. Observation. A predetermined procedure for observation that always ensures the child's health, safety, and wellbeing, that includes: ()

a. Placing children at a distance from each other and the central staff site to allow for appropriate supervision and emergency communication; ()

b. Placing children requiring special attention closer to the central staff site; ()

c. Clearly defining physical boundaries and any other restrictions; ()

d. Instructing children to not participate in potentially dangerous activities; ()

e. Notification and check-in systems; ()

f. Visual checks; and ()

g. Checking the participant's emotional and physical condition daily. ()

555. EMERGENCY PROCEDURES.

In addition to the requirements under Section 525 of these rules, solo emergency plans must include: ()

01. Instruction. Instructing participants on the safety and emergency procedures, including evacuation routes. ()

02. Communication. Providing each participant with signaling capabilities, including a whistle, for emergency notification. ()

03. Participant Response. Instructing participants on how to respond if the emergency notification system is put into use, including each participant's requirement to check into the central staff site. ()

04. Check-In. Provide a check-in system should an emergency occur that includes notification to the base camp and an accounting of each participant's whereabouts and safety. ()

556. – 559. (RESERVED)

**STATIONARY OUTDOOR PROGRAMS
Sections 560 – 562**

560. STATIONARY OUTDOOR PROGRAMS.

An outdoor program that maintains a designated location for the housing of children is considered stationary and must be subject to additional fire, health, and safety standards. ()

561. FIRE SAFETY REQUIREMENTS.

A stationary outdoor camp must be inspected by a state certified fire inspector before being occupied and annually thereafter, with a copy of the inspection maintained. The inspection requires: ()

01. Fire Extinguishers. One (1) 2-A-10BC type fire extinguisher must be in each of the following locations: ()

a. On each floor in any building that houses children; ()

- b. In any room where cooking or heating occurs; ()
 - c. In a group of tents within a seventy-five (75) foot travel distance; and ()
 - d. Each fire extinguisher will be inspected annually by a fire extinguisher service agency. ()
 - 02. Smoke Detectors.** A smoke detector will be in buildings where children sleep. ()
 - 03. Escape Routes.** At least two (2) escape routes from buildings where children sleep. ()
 - 04. Flammable Liquids.** Flammable liquids will not be used to start fires, be stored in structures that house children, or be stored near ignition sources. If generators are used, they will only be refueled by staff when the generator is not running and is cool to the touch. ()
 - 05. Electrical.** Wiring will be properly attached and fused to prevent overloads. ()
- 562. HEALTH SAFETY REQUIREMENTS.**
A stationary outdoor camp must be inspected by the applicable Public Health District before being occupied and annually thereafter with a copy of the inspection maintained. The inspection requires: ()
- 01. Food.** Food is stored, prepared, and served in a manner that is protected from contamination. ()
 - 02. Water Supply.** The water supply will be from a source that is accepted by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses. ()
 - 03. Sewage Disposal.** Sewage will be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority under IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." ()
- 563. – 999. (RESERVED)**

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2201

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 18, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

Idaho continues to experience increased cost of living. These changes provide for increased reimbursement to foster parents and address the increased cost in caring for a child in foster care. During the 2022 legislative session, the Division of Family and Community Services (FACS) requested an increase to the budget to allow for an increase to the reimbursement to foster parents and to increase the reimbursement amount for youth age eighteen through twenty-one (18-21) in extended foster care. JFAC approved this request and utilized additional funds to make the increase effective April 1, 2022. The funding for this increased foster care reimbursement is included in appropriation bill H0773 (2022).

Not updating this rule would leave foster parents with reimbursement rates out of alignment with approved budget and fees. Community members will be unable to care for children in foster care without having to use their own finances to do so. There would be a continued decline in the number of community members willing to provide foster care.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This confers a benefit to foster parents and foster children and the need to increase reimbursements to prevent the further decline of foster parents and their financial ability to participate in the Foster Parent Program.

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

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

Funds are provided through State General Funds and federal Title IV-E and IV-B funds. The total increased spending associated with this change is \$6,103,400 (\$3,284,900 State General Fund and \$2,818,500 Federal funds). These amounts were allocated by the 2022 Idaho Legislature for this purpose (H0733-2022). These funds will go directly to foster and adoptive families. The FACS case management system has been updated to generate the new rates, and there is no fiscal impact to the case management system change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are simple in nature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Julie Sevcik, 208-863-4229 and Michelle Weir, 208-334-5651.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0601-2201
(Only Those Sections With Amendments Are Shown.)**

483. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483				
Ages	0-5	6-12	13-17	18-20
Monthly Room and Board	\$395632	\$439702	\$584759	\$674876

~~(3-15-22)~~(8-18-22)T

01. Gifts. An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. (3-15-22)

02. Clothing. Costs for clothing will be paid, based upon the Department’s determination of each child’s needs. All clothing purchased for a child in alternate care becomes the property of the child. (3-15-22)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department’s determination of the child’s needs. (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2202

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

In 2018 the Family First Act (Public Law (P.L.) 115-123), became effective allowing for the use of federal funds to prevent children at risk from entering foster care. Idaho is currently negotiating our five-year prevention plan that outlines the requirements that define when a family qualifies for the use of these funds to prevent a qualifying child from entering foster care. Idaho contract requirements include that when multiple contracts will be issued for the same services that the rates must be published.

Under Core Child and Family Services, the prevention services and community support services will be combined to reflect the application of services to prevent children at risk of entering foster care. The rule will further clarify for the purpose of entering into multiple statewide contracts the rates that have been set for statewide service provision and where those rates are located. This will provide clarity to prevention services and rates paid to private agencies by the department.

If these rates are not promulgated, the Division of Family and Community Services (FACS) will be unable to implement multiple contracts for services across the state that have standard rates for the provision of services. Not having prevention service rates published statewide would lead to inconsistency in the rate of payment to private agencies who provide services.

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

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

There will be an increase in Title IV-E federal funds to pay for prevention services currently covered by state general funds and other federal grants. Based on current use of in-home parenting and intensive parent-child therapy this impact is expected to be less than \$100,000 during the first 12 months of prevention services. Due to stand up time for services this cost will be significantly less in SFY 2023. Prevention Services will be eligible for Title IV-E funds at 50% of Federal Medical Assistance Percentage (FMAP) through 2026 and then at the full FMAP rate.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule will provide guidance on how services rates are determined and where rates are located. These changes are simple in nature, needed to align with federal requirements, and to maintain consistency in rates of payment.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Julie Sevcik, 208-863-4229

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0601-2202
(Only Those Sections With Amendments Are Shown.)

030. CORE CHILD AND FAMILY SERVICES.

~~The following core services are the state and federally mandated services provided by or through regional Child and Family Services offices.~~ State and federally mandated core services provided by or through regional Child and Family offices include: (3-15-22)()

01. Crisis Services. Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger ~~as a result~~ because of child abuse, neglect, or abandonment. Crisis services require immediate access to services, ~~twenty-four (24) hours per day; seven (7) days per week~~ always to assess safety and place in alternate care, if necessary, to ensure safety for the child. (3-15-22)()

02. Screening Services. Initial contact with families and children to gather information to determine whether ~~or not~~ the child meets eligibility criteria to receive child protection or adoption services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (3-15-22)()

03. Assessment and Safety/Service Planning Services. ~~P~~Assessment process in which the safety threats to the child, and the family's concerns, strengths, and resources are identified. ~~Based on this assessment, a~~ after which a written plan is developed by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally-specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. (3-15-22)()

04. Preventative Prevention Services. ~~Community~~ Evidence-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. (3-15-22)()

a. These services are provided in the Family First Prevention Services Act (Public Law 115-123) under the categories of mental health, substance use prevention and treatment, and in-home parent skill-based programs and services. Additional services can ~~involve direct services, but are primarily~~ be implemented through community education, and partnerships with other community agencies such as schools and courts. (3-15-22)()

b. The Department sets the maximum hourly or flat rates for Prevention Services covered by Title IV-E federal funding and are based on the cost for services. When services are provided by private providers, payment

must be made according to a contract authorized by the Child and Family Services Program Manager, based on the cost for services to be provided. Current information about services and rates can be obtained from Child and Family Services website. (3-15-22)()

05. Court-Ordered Services. These services primarily involve court-ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. (3-15-22)

06. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for children and youth who are victims of child abuse, neglect, or abandonment. ~~These out-of-home placements are arranged for and financed, in full or in part, by the Department.~~ The Department arranges and finances, in full or in part, out-of-home placements. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment will be made on behalf of a child placed in the licensed home of an individual or relative, a ~~public or private~~ child care institution, a home licensed or approved by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a ~~public or private~~ child placement or child care agency. (3-15-22)()

07. Community Support Services. Services provided to a child and family in a community-based setting designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include respite care and family preservation. (3-15-22)

08. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho will be considered. On very rare occasion the Department may contract with a residential facility out-of-state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101, et seq., Idaho Code, the "Interstate Compact on the Placement of Children." Placements must ~~be in compliance with~~ follow all state and federal laws. (3-15-22)()

09. Independent Living. Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. (3-15-22)

a. Eligibility ~~Requirements for~~ Current Foster Youth. To be eligible for independent living services, ~~a current foster~~ the youth must: (3-15-22)()

i. Be fourteen (14) to twenty-one (21) years of age; (3-15-22)

ii. Currently be under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and twenty-one (21) years of age; and (3-15-22)

b. Eligibility ~~Requirements for~~ Former Foster Youth. To be eligible for independent living services, ~~a former foster~~ the youth must: (3-15-22)()

i. Be a former foster youth who is currently under twenty-three (23) years of age; and (3-15-22)

ii. Have been under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and (3-15-22)

iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching sixteen (16) years of age or have aged out of foster care; or (3-15-22)

iv. Be eighteen (18) to twenty-three (23) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. (3-15-22)

c. Eligibility Limit. Once established as in Subsection 030.09.b. in this rule, a youth's eligibility is maintained up to their twenty-third birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. (3-15-22)

10. **Adoption Services.** Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of ~~all~~ parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services ~~also seeks~~ to build the community's capacity to deliver adoptive services. (3-15-22)()

11. **Administrative Services.** Regulatory activities and services that assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. ~~These services~~ include: (3-15-22)()

- a. Child care licensing; (3-15-22)
- b. Daycare licensing; (3-15-22)
- c. Community development; and (3-15-22)
- d. Contract development and monitoring. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~923. DISRUPTION OF INTERNATIONAL ADOPTIONS:~~

~~The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state guardianship as a result of termination of the parental rights of the adoptive parent and the dissolution of the adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the Department's Permanency Program Specialist in January of each year.~~ (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.06.02 – CHILD CARE AND FOSTER CARE LICENSING
DOCKET NO. 16-0602-2201 (ZBR CHAPTER REWRITE, FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1107, 39-1111, 39-1207, 39-1211, 39-1213, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code.

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

Virtual Public Hearing via WebEx
Tuesday, September 20, 2022 5:00 p.m. to 7:00 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m76d5d134d0e6b722493699e4837da1d9
Join by meeting number Meeting number (access code): 2762 142 2199 Meeting password: TSw4x8tJ4bm (87949885 from phones and video systems)
Tap to join from a mobile device (attendees only) +1-415-527-5035,,27621422199#87949885# United States Toll +1-303-498-7536,,27621422199#87949885# United States Toll (Denver) Some mobile devices may ask attendees to enter a numeric password.
Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)

Virtual Public Hearing via WebEx

**Friday, September 23, 2022
10:00 a.m. to 12:00 p.m. (MT)**

Join from the meeting link

<https://idhw.webex.com/idhw/j.php?MTID=m2479a71d7d04956c8df82935987d003b>

Join by meeting number

Meeting number (access code): 2762 209 9532

Meeting password: 4xXM4K3X85s (49964539 from phones and video systems)

Tap to join from a mobile device (attendees only)

+1-415-527-5035,,27622099532#49964539# United States Toll

+1-303-498-7536,,27622099532#49964539# United States Toll (Denver)

Some mobile devices may ask attendees to enter a numeric password.

Join by phone

+1-415-527-5035 United States Toll

+1-303-498-7536 United States Toll (Denver)

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

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

Under [Executive Order 2020-01](#) and the schedule set by the Division of Financial Management, this chapter underwent a complete rewrite. Additional requirements have been added for licensed foster parents to align with the state policy to assure that children in foster care receive care, services, and safe physical surroundings when they are unable to remain safely with their parent or legal guardian. The additional requirements will assist the state in maintaining standards for foster homes and child care institutions that are reasonably consistent with the final model licensing standards identified in Public Law 115-123. Additional rules will include updates to foster parent qualifications and suitability, foster parent training, home environment and safety requirements, and the maximum number of children in a foster home. Rules related to children's agencies and children's treatment facilities have been removed to an IDAPA chapter under licensing and certification. The title of this chapter is changing to "Child Care and Foster Care Licensing."

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

Under this chapter, non-refundable Daycare fees must be paid to the Department prior to the issuance or renewal of a daycare license. The fee is determined by size and type of daycare center or facility. None of the fees in this chapter of rules are being changed.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022 and April 6, 2022, Idaho Administrative Bulletins, [Vol. 22-3, pages 18-21](#), and [Vol. 22-4, pages 32-34](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The documents incorporated by reference in these rules are not being changed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the following:

- FACS - Julie Sevcik (208) 863-4229, and Michelle Weir (208) 334-5651
- Self-Reliance - Ericka Rupp (208) 224-5641, and Marilyn Peoples (208) 442-9989

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0602-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)**

16.06.02 – CHILD CARE AND FOSTER CARE LICENSING

000. LEGAL AUTHORITY.

Under Sections 39-1107, 39-1111, 39-1207, 39-1211, 39-1213, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code, the Idaho Legislature authorizes the Department and the Board to adopt and enforce rules for licensing daycare centers, group daycare facilities, family daycare homes, and foster homes. ()

001. SCOPE, POLICY, EXCEPTIONS, AND EXEMPTIONS TO LICENSING.

01. Scope. These rules establish requirements for licensing, maintaining, and operating the following facilities: ()

- a. Daycare centers; ()
- b. Group daycare facilities; ()
- c. Family daycare homes (voluntarily); and ()
- d. Foster homes. ()

02. Policy. It is the Department’s policy to assure that children receive adequate substitute parental care in the absence or temporary or permanent inability of parents to provide care and protection for their children, or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is because children are vulnerable and not capable of protecting themselves. When parents have relinquished their children’s care to others, there arises the possibility of risks to those children's lives, health, and safety. This requires the Department oversight of licensing and registration found in these rules. ()

03. Exceptions and Exemptions to Daycare Licensing. Under Section 39-1103, Idaho Code, the licensing requirements in these rules do not apply to: ()

a. Daycare facilities regulated, licensed, or certified by a city or county with local options under Section 39-1108, Idaho Code; ()

b. The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily in the business of providing daycare; ()

c. The operation of a private school or religious school for educational purposes for children over four (4) years old, or a religious kindergarten; ()

d. The provision of occasional care exclusively for children of parents who are simultaneously in the same building; ()

e. The operation of day camps, programs, and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week; or ()

f. The provision of care for children of a family within the second degree of relationship under Section 011 of these rules. ()

04. Exceptions and Exemptions to Daycare and Foster Home Licensing. Under Sections 39-1213(b) and 39-1211, Idaho Code, the licensing requirements in these rules do not apply to: ()

a. Foster homes approved by a licensed children’s agency provided the standards for approval by such agency are no less restrictive than the rules established by the Board and that such agency is maintained, operated, and conforms with these rules; or ()

b. The occasional or irregular care of a neighbor's, relative's, friend's child, or children by a person not ordinarily engaged in child care. ()

002. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in this chapter of rules. ()

01. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. ()

02. Crib Safety. Consumer Product Safety Commission, Crib Safety Tips can be found on the Internet at <https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs>. ()

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Background Check. Background checks are required for individuals who are licensed under these rules. Individuals who are required to have background checks must comply with IDAPA 16.05.06, “Criminal History and Background Checks,” except for those individuals described in Subsection 009.04 of this rule. ()

02. When License is Granted. The applicant(s) and any other adult(s) living in a foster home must have a completed background check, including clearance, prior to licensure. ()

03. Individuals Subject to Background Check Requirements. The following individuals must receive background check clearance prior to licensure: ()

a. Adoptive Parents. The background check requirements are found in Subsection 671.02 of these rules. ()

b. Daycare Center, Group Daycare Facility, and Family Day Care Home. The background check requirements are found in Section 309 of these rules and in Sections 39-1105, 39-1113, and 39-1114, Idaho Code. ()

c. Licensed Foster Care Home. The background check requirements are found in Section 404 of these rules and in Section 39-1211(4), Idaho Code. ()

04. Exceptions to Background Checks for Certain Youths. Background checks are optional for certain youth placed in licensed foster homes and licensed residential care facilities such as youth in foster care who reach the age of eighteen (18) but are less than twenty-one (21) years old age and continue to reside in the same licensed foster home. ()

05. Background Check at Any Time. The Department can require a background check at any time on any individual who: ()

a. Is a resident or an adult living in a licensed foster home; or ()

b. Is an owner, operator, daycare center staff, group daycare facility, family daycare home, and all other individuals who are thirteen (13) years old or older who have unsupervised direct contact with children or who are regularly on the premises. ()

010. DEFINITIONS A THROUGH M.

01. Attendance. Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, the number of children present at a daycare facility at any given time. ()

02. Board. The Idaho State Board of Health and Welfare. ()

03. Caregiver. A foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. ()

04. Chief Administrator. The duly authorized representative or designee of an organization responsible for day-to-day operations, management, and compliance with these rules and Title 39, Chapter 12, Idaho Code. ()

05. Child. ()

a. Under Title 39, Chapter 12, Idaho Code, and Sections 400 through 999 of these rules, “child” means an individual less than eighteen (18) years old, synonymous with juvenile or minor. ()

b. Includes individuals age eighteen (18) to twenty-one (21) who are ordered into or voluntarily entered Extended Foster Care through Child and Family Services. ()

c. Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “child” means an individual less than thirteen (13) years old. ()

06. Child Care. The care, control, supervision, or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. ()

07. Child-Staff Ratio. The maximum number of children allowed under the care and supervision of one (1) staff person. ()

08. Children's Agency. The Department and a person who operates a business for the placement of children in foster homes, or for adoption in a permanent home and who does not provide child care as part of that business. A children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. ()

09. Continued Care.

a. The ongoing placement of an individual in a foster home or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years old. ()

b. Includes Extended Foster Care for children placed through Child and Family Services. ()

10. Daycare. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, marriage, adoption, or legal guardianship to the person(s) providing the care, in a place other than the child's or children's own home. ()

11. Daycare Center. A place or facility providing daycare for compensation for thirteen (13) or more children. ()

12. Department. The Idaho Department of Health and Welfare and its authorized representatives. ()

13. Direct Care Staff. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the child-staff ratio requirements. ()

14. Family Daycare Home. A home, place, or facility providing daycare for six (6) or fewer children. ()

15. Foster Care. The twenty-four (24) hour substitute parental care for children placed away from their parents or guardians by persons who may or may not be related to the child and for whom the state agency has placement and care responsibility. ()

16. Foster Home. The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute parental care to six (6) or fewer children. ()

17. Foster Parent. A person(s) residing in a private home under their direct control to whom a foster care license has been issued. ()

18. Group Daycare Facility. A home, place, or facility providing daycare for seven (7) to twelve (12) children. ()

19. Medical Professionals. Persons who have received a degree in nursing or medicine and are licensed as a registered nurse, nurse practitioner, physician's assistant, or medical doctor. ()

20. Household Member. Any person, other than a foster child, who resides in, or on the property of, a foster home. ()

011. DEFINITIONS N THROUGH Z.

01. Noncompliance. Violation of, or inability to meet the requirements of these rules or terms of licensure. ()

- 02. Operator.** An individual who operates or maintains a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department. ()
- 03. Person.** Any individual, group of individuals, associations, partnerships, or corporations. ()
- 04. Placement.** The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. ()
- 05. Plan of Correction.** The detailed procedures and activities developed between the Department and caregiver required to bring a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster family into conformity with these rules. ()
- 06. Regularly on the Premises.** For Sections 009 and 309 of these rules, “regularly on the premises” means twelve (12) hours or more in any one (1) month, or daily during any hours of operation. ()
- 07. Relative.** Under Section 39-1202, Idaho Code, “relative” means a child’s grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling, and half-sibling. ()
- 08. Restraint.** Physical interventions to control the range and motion of a child. ()
- 09. Second Degree of Relationship.** Refers to persons related by blood or marriage, and includes their spouses. The number of degrees between two (2) relatives is calculated by summing the number of ties between each relative and the common ancestor. ()
- 10. Social Worker.** An individual licensed under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners.” ()
- 11. Staff.** Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “staff” means a person who is sixteen (16) years old or older and employed by a daycare owner or operator to provide care and supervision at a daycare facility. ()
- 12. Supervision.** Under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “supervision” is defined as within sight and normal hearing range of the child or children being cared for. ()
- 13. Time-Out.** Separation of a child from group activity as a means of behavior management. ()
- 14. Training.** The preparation, instruction, and education related to child care that increases the knowledge, skill, and abilities of a foster parent or children’s agency or volunteers. ()
- 15. Variance.** A temporary non-application of a foster care licensing rule that is resolved within six (6) months of approval. ()
- 16. Waiver.** The permanent non-application of a foster care licensing rule for relatives, if in the Department’s judgment, the health and safety of the child is not compromised. ()

012. -- 099. (RESERVED)

LICENSING
(Sections 100-299)

100. LICENSING.

The purpose of licensing is to set requirements and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to protect the health, safety and well-being of the children in their care. Physical surroundings must present no hazards to the children in care. ()

01. Responsibilities of the Foster Parent or Operator. A foster parent or operator must conform to the terms of the license. ()

02. Responsible for Knowledge of Standards. The foster parent or operator is responsible for knowing the rules applying to the type of foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, covered by the license, and for always conforming to them. ()

03. Responsible for Agency Staff Knowledge. The operator of a child care facility or agency is responsible for ensuring that all staff members are familiar with these rules. ()

04. Return of License. The foster parent or operator must immediately return their license to the Department under any of the following circumstances: ()

- a. Changes of management or address; ()
- b. Upon suspension or revocation of the license by the Department; or ()
- c. Upon voluntary discontinuation of service. ()

101. APPLICATIONS FOR LICENSE.

An application for a license must be submitted to the Department. Licensing studies will follow the format of these rules and will contain a specific recommendation for terms of the license. All foster homes, daycare centers, group daycare facilities, and family daycare homes voluntarily licensed by the Department must comply with applicable city and county ordinances. ()

102. DISPOSITION OF APPLICATIONS.

The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of home or facility. Upon receipt of a completed application and study, the Department will review the materials for compliance with these rules. ()

01. Approval of Application. A license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster home found in compliance with these rules. The license is issued under the terms specified in the licensing study and will be mailed to the applicant. ()

02. Regular License. A regular license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster home found in compliance with these rules and will specify the terms of licensure, such as: ()

- a. Full time or daycare; ()
- b. The number of children who may receive care at any one (1) time; and ()
- c. Age range and gender, if there are conditions in the foster home making such limitations necessary; ()
- d. The regular license for a foster home is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; ()
- e. A regular license for a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and ()
- f. If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. ()

03. Waiver. A regular license may be issued to the foster home of a relative who has received a waiver of licensing rules provided: ()

- a. The waiver is considered on an individual case basis; ()
 - b. The waiver is approved only for non-safety foster care rules; ()
 - c. All other licensing requirements have been met; ()
 - d. The approval of a waiver of any foster home rules requires the Department to document a description of the reasons for issuing a waiver, the rules being waived, and assurance that the waiver will not compromise the child's safety; and ()
 - e. The approved waiver must be reviewed for continued need and approved annually. ()
- 04. Variance.** A regular license will be issued to a foster home approved for a variance of a licensing rule provided: ()
- a. The variance is considered on an individual case basis; ()
 - b. The variance is approved for a non-safety licensing rules; ()
 - c. The approval of a variance must have no adverse effect on the health, safety, and well-being of any child in care at the foster home; ()
 - d. The approval of a variance is documented by the Department and includes a description of the reasons for issuing a variance and assurances that the variance will not compromise any child's health, safety, and well-being; and ()
 - e. The approved variance must be reviewed for continued need and approval annually. ()
- 05. Provisional License.** A provisional license may be issued to a foster home, when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety, and well-being of any child in care at the home. ()
- a. A provisional license will be in effect for not more than six (6) months. ()
 - b. Only one (1) provisional license will be issued to a foster home in any twelve-month period of time under Section 39-1216, Idaho Code. ()
- 06. Limited License.** A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided: ()
- a. The child is already in the home and has formed strong emotional ties with the foster parents; and ()
 - b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than would removal to another home. ()
- 07. Denial of Application.** If an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until after one (1) year has elapsed from the date on the denial of application. ()
- 08. Failure to Complete Application Process.** ()
- a. Failure of the applicant to complete the application process within six (6) months of the original date of application will result in a denial of the application. ()

b. An applicant whose application has been denied for being incomplete may not reapply until after one (1) year has elapsed from the date on the denial of application. ()

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the foster home, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or the person and premises designated. Each license is issued in the business name or individual name, and only to the specified address identified on the application of the foster home, daycare center, group daycare facility or family daycare home voluntarily licensed by the Department. A license issued in the name of a foster parent, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department applies only to the period and services specified in the license. Any change in management or address renders the license null and void, and the foster parent or operator must immediately return the license to the Department under Section 100 of these rules. ()

02. Nontransferable. A license is nontransferable or assignable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. ()

03. Change in Ownership, Operator, or Location. When there is a change in ownership, operator, or location, the foster home, daycare center, group daycare facility or family daycare home voluntarily licensed by the Department must reapply for a license under Section 101 of these rules. The new owner or operator must obtain a license before starting operations. ()

104. MANDATORY VISITATIONS.

Under Section 39-1217, Idaho Code, the Department must visit and be given access to the premises of each licensed foster home, as often as deemed necessary by the Department to assure compliance with these rules but at intervals not to exceed twelve (12) months. ()

105. REVISIT AND RELICENSE.

Revisit and relicense studies will document how the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster home continues to meet licensing standards. Consideration must be given to each standard, including a review of the previous study and original application to determine what changes have occurred. An application for renewal of a license must be made by the operator on the form furnished by the Department and filled out prior to the expiration date of the license currently in force. When a renewal application has been completed correctly, the existing license will, unless officially revoked, remain in force until the Department has acted on the application for renewal. ()

106. COMPLAINTS AGAINST DAYCARE CENTERS, GROUP DAYCARE FACILITIES, FAMILY DAYCARE HOMES, AND FOSTER HOMES.

01. Investigation. The Department will investigate complaints regarding daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, or foster homes. The investigation may include further contact with the complainant, scheduled or unannounced visits to the foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, collateral contacts including interviews with the victim, parents or guardian, operator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. ()

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents, operator, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. ()

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT OR OPERATOR.

When circumstances occur over which the foster parent or operator has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, child care facility, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department out of compliance with these rules, the license must be suspended until the nonconformity is remedied. ()

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license may be suspended for infractions of these rules. Such suspension may lead to revocation if the foster parent or operator fails to satisfy the Department that the infractions have been corrected in compliance with the rules. ()

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

If it is found that an applicant, foster parent, or operator has failed or refused to comply with any of the provisions of the Basic Daycare License Law, Sections 39-1101 through 39-1120, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1201 through 39-1224, Idaho Code, with these rules, or with any provision of the license, the Department may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, child care facility or foster home when any of the following occurs. ()

01. Criminal Conviction or Relevant Record. Anyone providing direct care or working onsite under these rules is denied clearance or refuses to comply with IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. Other Misconduct. The applicant, foster parent, operator, or the person proposed as chief executive officer: ()

a. Fails to furnish any data, statistics, records, or information requested by the Department without good cause or provides false information; ()

b. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility or children's agency; ()

c. Has been found guilty of or is under investigation for the commission of any felony; ()

d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or ()

e. Has knowingly permitted, aided, or abetted the commission of any illegal act on the premises of the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or foster home. ()

110. (RESERVED)

111. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF CHILDREN.

The Department may summarily suspend a foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department. Children in a foster home require the program to transfer children when the Department has determined a child's health and safety are in immediate jeopardy. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the home or facility, instead the parent or legal guardian will be contacted. ()

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF CHILDREN.

The Department may revoke the license of a foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, when the Department determines the home, facility, or operator is not in compliance with these rules. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. Revocation and transfer of children may occur under the following circumstances: ()

01. Endangers Health or Safety. Any condition that endangers the health or safety of any child. ()

02. Not in Substantial Compliance. A foster home, daycare center, group daycare facility, or family

daycare home voluntarily licensed by the Department is not in substantial compliance with these rules. ()

03. No Progress to Meet Plan of Correction. A foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. ()

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapters 11 and 12, Idaho Code. ()

05. Misrepresented or Omitted Information. A foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. ()

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department and its grounds, facilities, and records. ()

07. Violation of Terms of Provisional License. A foster home, that has violated any of the terms or conditions of a provisional license. ()

113. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the Department will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. ()

114. -- 299. (RESERVED)

**STANDARDS FOR DAYCARE
(Sections 300-399)**

300. STANDARDS FOR DAYCARE.

01. Daycare Standards. In addition to meeting the rules under Sections 000 through 299 of these rules, each owner, operator, or applicant seeking licensure from the Department as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must also meet the requirements under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules. ()

02. Minimum Age of Applicant. An individual, applying to the Department to be licensed for a daycare center, group daycare facility, or family daycare home, must be at least eighteen (18) years old. ()

301. TYPES OF DAYCARE LICENSES.

Subject to the requirements under Title 39, Chapter 11, Idaho Code, and these rules, the Department will determine the type of daycare license required by an owner or operator providing daycare by counting each child in attendance, regardless of relationship to the person(s) providing the care. The following types of daycare licenses may be issued by the Department. ()

01. Daycare Center License. Is issued for a place or facility providing daycare, where thirteen (13) or more children, regardless of relationship to the person(s) providing the care, are in attendance. ()

02. Group Daycare Facility. Is issued for a place or facility providing daycare, where seven (7) to twelve (12) children, regardless of relationship to the person(s) providing the care, are in attendance. ()

03. Family Daycare Home. Is not required to be licensed. However, a family daycare home may voluntarily elect to be licensed by the Department. ()

302. -- 308. (RESERVED)

309. CRIMINAL HISTORY AND BACKGROUND CHECK FOR DAYCARE STANDARDS.

01. Background Check for Daycare Centers and Group Daycare Facilities. Each owner, operator, or applicant seeking licensure for a daycare center, group daycare facility, or a family daycare home must submit evidence that is satisfactory to the Department that the following individuals have successfully completed and received a clearance for a Department background check under Sections 39-1105 and 39-1113, Idaho Code: ()

- a. Owners, operators, and staff; ()
- b. All other individuals thirteen (13) years old or older who have unsupervised direct contact with children; or ()
- c. All other individuals thirteen (13) years old or older who are regularly on the premises. ()

02. Juvenile Justice Records. The criminal history and background check for any individual under eighteen (18) years of age, must include a check of the juvenile justice records, as authorized by the minor and their parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) years of age through eighteen (18) years of age. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, paying for the costs of a check of the juvenile justice records, and submitting them to the Department for review. A check of the juvenile justice records must include the following: ()

- a. Juvenile justice records of adjudication of the magistrate division of the district court; ()
- b. County probation services; and ()
- c. Department records. ()

03. Background Check for Family Daycare Homes. Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with Sections 39-1105 and 39-1113, Idaho Code. ()

04. Background Check for Private Schools and Private Kindergartens. Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years old or a private kindergarten is required to comply with Sections 39-1105 and 39-1113, Idaho Code. ()

05. Cost of Background Check and Juvenile Justice Records. Each individual who requests and obtains a Department background check is responsible for the cost of the background check and check of juvenile justice records. ()

06. On going Duty to Report Convictions. Following completion of a background check and clearance, additional criminal convictions and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self-disclosed by the individual to the owner or operator of a daycare center, group daycare facility, or family daycare home. The owner or operator must report these additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. ()

310. -- 319. (RESERVED)

320. DAYCARE LICENSING FEES.

A nonrefundable licensing fee must be paid to the Department prior to the issuance or renewal of a daycare license. ()

01. Daycare Licensing Fee Amounts. The total fee for initial licensure or renewal of a daycare center, group daycare facility, or family daycare home voluntarily licensed must not exceed the following amounts: ()

a. Daycare center with more than twenty-five (25) children in attendance at any given time - three hundred twenty-five dollars (\$325). ()

b. Daycare center with thirteen (13) to twenty-five (25) children in attendance at any given time - two hundred fifty dollars (\$250). ()

c. Group daycare facility - one hundred dollars (\$100). ()

d. Family daycare home voluntary license - one hundred dollars (\$100). ()

02. Daycare Fire Inspection Fee. Daycare fire inspection fees are payable to the local fire department or fire district official. ()

321. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.

Any individual applying for licensure as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must be at least eighteen (18) years old. The applicant must apply on forms provided by the Department and provide information required by the Department under this rule. ()

01. Completed, Signed, and Dated Application by Applicant. ()

02. Licensing Fee. The applicant must pay the appropriate licensing fee prior to the issuance of a daycare license. ()

03. Inspection Reports. The following reports must be submitted to the Department with the application that prove the facility or proposed facility meets: ()

a. Building code under IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)," where required; ()

b. Electrical code under IDAPA 24.39.10, "Rules of the Idaho Electrical Board," where required; ()

c. Fire code under Section 41-253, Idaho Code, where required; and ()

d. Local planning and zoning requirements. ()

04. Proof of Insurance. The applicant must provide proof of current fire and liability insurance coverage for the daycare facility. ()

05. Background Clearance. Evidence that the applicant and all individuals required to have a criminal history and background check have received a clearance from the Department required in Section 309 of these rules. ()

06. Statement to Comply. The applicant must provide a written statement that these rules have been thoroughly read and reviewed and the applicant is prepared to comply with all provisions. ()

07. Statement Disclosing Revocation or Disciplinary Actions. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a daycare provider in any jurisdiction, or a statement from the applicant stating they have never been involved in any such action. ()

08. Other Information as Requested. The applicant must provide other information that may be requested by the Department for the proper administration and enforcement of these rules. ()

09. Additional Requirements for License Renewal. A daycare license must be renewed every two (2) years. The daycare operator must submit to the Department the renewal application, fee, and all required documentation in this rule at least forty-five (45) days prior to the expiration of the current daycare license. ()

10. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process may result in the termination of the application process. Failure to cooperate means that the information requested is not provided within ninety (90) days, or not provided in the form requested by the Department, or both. ()

322. -- 324. (RESERVED)

325. ISSUANCE OF LICENSE.

01. Department Action. The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete and the licensing fee has been paid. ()

02. Issuance of a Regular License. If the Department determines the applicant is in compliance with these rules, the Department will, within sixty (60) days from the date the completed application is submitted, issue one (1) of the following licenses stating the type of facility, the number of children who may be in attendance, and the length of time the license is effective: ()

- a. Daycare Center License; ()
- b. Group Daycare Facility License; or ()
- c. Family Daycare Home License. ()

03. Denial of Licensure. If the Department determines the applicant is not in compliance with these rules and further determines not to issue a daycare license the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial. ()

04. Incomplete Application. The Department is not required to take any action on an application until the application is complete. ()

05. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. ()

06. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use. ()

326. -- 329. (RESERVED)

330. STAFF AND OTHER RECORD REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must maintain a current list covering the previous twelve-month period of all staff and other individuals thirteen (13) years of age or older who have unsupervised direct contact with children, or are regularly on the premises. The list must specify, at a minimum, the following: ()

- 01. Legal Name.** ()
- 02. Proof of Age.** ()
- 03. Phone Number.** ()
- 04. Training Records.** ()
- 05. Verification of Background Check Clearance.** ()
- 06. Results of Juvenile Justice Records.** ()

07. Verification of Pediatric Rescue Breathing, Infant-Child CPR, and First Aid Certification from a Certified Instructor. ()

08. Times, Dates, and Records of Hours on the Premises Each day. ()

331. CHILD RECORD REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must maintain records for each child in attendance covering the previous twelve-month period. The record must contain the following: ()

01. Child's Full Name. ()

02. Date of Birth. ()

03. Parent or Guardian's Name, Address, and Contact Information. ()

04. Emergency Contact Information. ()

05. Child's Health Information. ()

a. Immunization record or waiver of exemption form or statement; ()

b. Any medical conditions that could affect the care of the child; and ()

c. Medications the child is taking or may be allergic to. ()

06. Times, Dates, and Record of Attendance Each Day. ()

332. -- 334. (RESERVED)

335. CHILD-STAFF RATIO.

Under Section 39-1109, Idaho Code, the Department determines the maximum allowable child-staff ratio based on a point system. ()

01. Daycare Child-Staff Ratio Point System.

The maximum allowable points for each staff member is twelve (12), using the following point system which is based on the age of each child in attendance: ()

a. Under the age of twenty-four (24) months, each child equals two (2) points. ()

b. From the age of twenty-four (24) months to under the age of thirty-six (36) months, each child equals one and one-half (1 1/2) points. ()

c. From the age of thirty-six (36) months to under the age of five (5) years, each child equals one (1) point. ()

d. From the age of five (5) years to under the age of thirteen (13) years, each child equals one-half (1/2) point. ()

02. Compliance with Child-Staff Ratios. Child-staff ratios must always be maintained during all hours of operation when children are in attendance and when transporting children. ()

a. Each child in attendance is counted by the Department for the purposes of calculating maximum allowable points, counting the number of children in attendance, and for determining compliance with child-staff ratios; ()

b. Each adult staff member who is providing direct care for a child or children is counted by the

Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios; and ()

c. Each staff member sixteen (16) and seventeen (17) years old under the supervision of an adult staff member, when providing direct care for a child or children, may be counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios. ()

03. Supervision of Children. The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting the child-staff ratio requirements, the owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must ensure that at least one (1) adult staff member is: ()

a. Always awake and on duty on the premises during regular business hours or when children are in attendance, and ()

b. Currently certified in pediatric rescue breathing, infant-child CPR, and first aid. ()

04. Napping Children. Napping children who are not within sight of a staff member must always be within easy hearing distance. ()

05. Overnight Daycare. For daycare operators providing overnight care of children, the following must apply: ()

a. A sleeping child must sleep on the same level as the staff member who must be able to hear the child; and ()

b. A staff member must be awake and on duty to release and receive a child. ()

336. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. All of the following types of punishment of a child are prohibited: ()

01. Physical Force. Any kind of punishment inflicted on the body, including spanking; ()

02. Cruel and Unusual Physical Exercise. Includes forcing a child to take an uncomfortable position; ()

03. Use of Excessive Physical Labor. With no benefit other than for punishment; ()

04. Restraint(s). ()

05. Locking a Child in a Room. Or any area of the home or facility; ()

06. Denying Necessities. Includes necessary food, clothing, bedding, rest, toilet use, personal care and sanitation, or entrance to the home or facility; ()

07. Mental or Emotional Cruelty. ()

08. Verbal Abuse. Includes ridicule, humiliation, profanity, threats, or other forms of degradation directed at a child or a child's family. ()

337. -- 339. (RESERVED)

340. DAYCARE CENTER TRAINING REQUIREMENTS.

Each owner or operator of a daycare center licensed by the Department must receive and ensure that each staff

member receives and completes four (4) hours of ongoing training every twelve (12) months after the staff member's date of hire. ()

01. Child Development Training. Training must be related to continuing education in child development. ()

02. Training Hours. It is the responsibility of the owner or operator of the daycare center to ensure that each staff member has completed four (4) hours of training each year. The training must be documented in the staff member's record. ()

03. Pediatric Rescue Breathing, Infant-Child CPR, and First Aid Training. Pediatric rescue breathing, infant-child CPR, and first aid training will not count towards the required four (4) hours of annual training. ()

04. Staff Training Records. Each owner or operator of the daycare center is responsible for maintaining documentation of staff's training and may be asked to produce documentation at the time of license renewal. ()

341. -- 344. (RESERVED)

345. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT.

Under Section 16-1605, Idaho Code, daycare personnel, including the owners, operators, staff, and any other person who has reason to believe that a child has been abused, abandoned, or neglected, or is being subjected to conditions or circumstances which would reasonably result in abuse, abandonment, or neglect, must report or cause to be reported within twenty-four (24) hours, such conditions or circumstances to the Department or the proper law enforcement agency. ()

346. VISITATION AND ACCESS.

01. Visitation Rights. Parents and guardians have the absolute right to enter the daycare premises when their child is in the care of the daycare operator. Failure or refusal to allow parental or guardian entry to the daycare premises or access to their child may result in the suspension or revocation of a daycare license. ()

02. Denied or Limited Visitation Rights by Court Order. If a parent or guardian has been granted limited visitation rights or denied visitation rights by a court of competent jurisdiction, and the daycare operator has written documentation from the court, Subsection 346.01 of this rule does not confer a right to visitation upon the parent or guardian. ()

03. Department Access. The owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must allow the Department access to the premises for reinspection at any time during the licensing period. ()

347. -- 349. (RESERVED)

350. FIRE SAFETY STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire safety standards in this rule. ()

01. Inspections. Inspections must be completed by the local fire official or designee. For a daycare located outside of the area of authority under Section 39-1109, Idaho Code, the Department can designate an approved inspector for daycare licensing purposes only. ()

02. Unobstructed Exits. Required exits must be located in such a way that an unobstructed path outside the building is provided to a public way or area of refuge. ()

a. Exit doors must open from the inside without the use of a key or any special knowledge or effort. ()

b. There must be at least two (2) exits located a distance apart of not less than one-half (1/2) the diagonal dimension of the building or portion used for daycare, but not to exceed seventy-five (75) feet. An exception may be made for the following: ()

i. The distance between exits may be extended to ninety (90) feet if the building is totally protected throughout with smoke detectors; or ()

ii. The distance between exits may be increased to one hundred ten (110) feet if the building is equipped with an automatic fire sprinkler system. ()

c. The required dimensions of exits must not be less than thirty-two (32) inches of clear exit width and not be less than six (6) feet, eight (8) inches in height. An exception for sliding patio doors will be accepted as a required second exit in a family daycare home and group daycare facilities only. ()

d. Sleeping room exits must be provided with at least one (1) emergency egress window having at least a single net clear opening of five point seven (5.7) square feet, minimum height twenty-four (24) inches, minimum width twenty (20) inches, and maximum finished sill height not over forty-four (44) inches. ()

i. Approved egress windows from sleeping areas must be operable from the inside without the use of separate tools. ()

ii. In lieu of egress windows, an approved exit door is acceptable. ()

iii. An approved piece of furniture or platform, if anchored in place, may be approved to sit in front of a window if the sill height is over forty-four (44) inches. ()

e. Where children are located on a story below the level of exit discharge (basement), there must be at least two (2) exits, one (1) of which must open directly to the outside. More than one (1) exit from the basement opening directly to the outside may be required, depending on the structure of the building, to ensure the safety of the occupants. ()

f. Where children are located on a story above the level of exit discharge, there must be two (2) exits, one (1) of which must open directly to the outside and comply with building codes. ()

351. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.

Occupant load is determined by the local fire official or designee. ()

01. Area for Daycare Use Only. The local fire official or designee will only use those areas used for daycare purposes when determining the occupant load. ()

02. Facilities with an Occupancy Load of Fifty or More. Facilities with an occupancy load of fifty (50) or more occupants must meet the requirements in Section 350 of these rules in addition to this rule. ()

a. Exit doors must swing in the direction of egress. ()

b. Exit doors from rooms, if provided with a latch, must have panic hardware installed. ()

03. Exit Signs. Exit signs must be installed at required exit doorways and wherever else necessary to clearly indicate the direction of egress. ()

352. FIRE EXTINGUISHERS AND SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire extinguisher and safety requirements in this rule as applicable for size and type of facility. ()

01. Portable Fire Extinguisher. There must be an approved portable fire extinguisher (minimum 2A-

10BC) mounted securely in a visible location not to exceed five (5) feet from the floor to the top of the extinguisher and not more than seventy five (75) feet travel distance to an extinguisher and maintained properly. ()

02. Kitchen Area. An approved fire extinguisher must be present, or a hood-type fire suppression system must be installed in the kitchen area. ()

03. Fire Extinguishers. Approved fire extinguishers must be maintained properly. ()

04. Facilities Over Three Thousand Square Feet. Each daycare facility over three thousand (3,000) square feet is required to have additional fire extinguishers as approved by the local fire official or designee. ()

05. Fire Alarm System. Each daycare facility with over fifty (50) children, must have an approved fire alarm system installed. ()

06. Smoke Detectors. Smoke detectors must be installed and maintained in the following locations: ()

a. On the ceiling, wall outside, or each separate sleeping area in the immediate vicinity of bedrooms; ()

b. In each room used for sleeping purposes; and ()

c. In each story within a facility including basements. ()

d. If there is a basement, there must be a smoke detector installed in the basement having a stairway which opens from the basement into the facility. Such detector must be connected to a sounding device or other detector to provide an alarm which is audible in the sleeping area. ()

07. Automatic Sprinkler Systems. An automatic sprinkler system must be provided in all daycare facilities greater than twenty thousand (20,000) square feet in area or when the number of children under the age of eighteen (18) months exceeds one hundred (100). ()

353. FIRE SAFETY AND EVACUATION PLANS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must have an approved fire safety and evacuation plan prepared that includes the following: ()

01. Evacuation. Procedures and policies for accounting for staff and children after an evacuation is completed. ()

02. Evacuation Plan and Assembly Point for Children and Staff. ()

03. Locations of Facility Exits. ()

04. Evacuation Routes. ()

05. Location of Fire Alarms. ()

06. Location of Fire Extinguishers. ()

07. Annual Review. Fire safety and evacuation plans must be reviewed or updated annually and available in the facility for reference and review. ()

08. Frequency of Fire and Emergency Evacuation Drills. Fire and evacuation drills must be conducted on a routine schedule and all staff and children must participate. ()

354. -- 359. (RESERVED)

360. HEALTH STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the following. Health inspections will be completed by a qualified inspector designated by the Department. ()

01. Food Source. Food must be from an approved source under IDAPA 16.02.19, "Idaho Food Code." Food must not be served past expiration or "use by" date. ()

02. Food Preparation. Food for use in daycare facilities must be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination. ()

a. Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process. Food must be cooked to proper temperatures under IDAPA 16.02.19, "Idaho Food Code." ()

b. Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes. ()

03. Food Temperatures. Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty-five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures under IDAPA 16.02.19, "Idaho Food Code." Refrigerators must be equipped with an accurate thermometer. ()

04. Food Storage. All food that is served in daycare facilities must be stored in such a manner that protects it from potential contamination. There must be no evidence of pests present in the daycare facility. ()

05. Food Contact Surfaces. Food contact surfaces must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards. ()

06. Dishwashing Sanitizing. Dishes, glasses, utensils, silverware, and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures. ()

07. Utensil Storage. Clean utensils must be stored on clean shelves or drawers and not subject to recontamination, and sharp knives and other sharp objects be kept out of reach of children. ()

08. Garbage. Garbage must be kept covered or inaccessible to children. ()

09. Hand Washing. Children and facility staff must be provided with individual or disposable towels for hand drying, and the hand washing area be equipped with soap and warm and cold running water. ()

10. Diaper Changing. Diaper changing must be conducted in such a manner as to prevent the spread of communicable diseases, be separate from food preparation and serving areas, and have easy access to a hand-washing sink. ()

11. Sleeping Areas. Children sleeping at the facility must have separate cots, mats, or beds and blankets. ()

12. Restrooms, Water Supply, and Sewage. All daycare facilities must have restrooms. ()

a. Each facility must have at least one (1) flushable toilet and at least one (1) hand washing sink with warm and cold water per restroom. ()

b. Plumbing and bathroom fixtures must be in good condition. ()

c. All daycare facilities and homes must comply with IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)." ()

- 13. Water Supply.** The facility's water supply must meet one (1) of the following requirements: ()
- a.** Be from a public water system that is maintained under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of initial or renewal application; or ()
 - b.** Be from a private source, such as well or spring, be tested annually for bacteria and nitrate, and be approved by the Department. ()
 - c.** Water used for consumption at a daycare facility is from an acceptable source. Temporary use of bottled water or boiled water may be allowed for a period specified by the Department. ()
- 14. Sewage Disposal.** Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." ()
- 15. Use of Alcohol and Illegal Drugs.** Alcohol and illegal drugs must not be used by operators, children, staff, volunteers, visitors at daycare facilities, in the presence of children during hours of operation, or in vehicles while transporting children. ()
- a.** Any individual under the influence of alcohol or drugs is not be permitted at or in the daycare facility. ()
 - b.** Illegal drugs are prohibited by law and therefore are not allowed on the premises of a licensed daycare facility at any time. ()
- 16. Smoke-Free Environment.** Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all staff must ensure that no smoking or other tobacco use occurs within the facility, in outdoor areas, or in vehicles when children are present. ()
- 17. Medication.** No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise inaccessible to children. ()
- 18. Adequate Heat, Light, and Ventilation.** A daycare facility must have adequate heat, light, and ventilation. Windows and doors must be screened if used for ventilation. ()
- 19. Immunizations.** Daycare operators must comply with requirements under IDAPA 16.02.11, "Immunization Requirements for Licensed Day care Facility Attendees." ()
- 361. MISCELLANEOUS SAFETY REQUIREMENTS.**
Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the following. ()
- 01. Telephone.** An operable telephone or cell phone must always be available in the facility with the following conditions: ()
 - a.** The telephone number used must be made available to parents and guardians. ()
 - b.** Emergency phone numbers to include 911, an adult emergency substitute operator, and the address and phone number of the facility must be posted by the telephone or in a location that is easily and always visible. ()
 - 02. Heat-Producing Equipment.** A furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment must be installed and maintained as recommended by the manufacturer and protected on all surfaces by screens or other means. ()

03. Portable Heating Devices. Portable heating devices must be limited and approved for use and location by the Fire Inspector prior to use within a facility. ()

04. Storage of Weapons, Firearms, and Ammunition. Firearms or other weapons stored at a daycare facility must be kept in a locked cabinet, gun safe, or other container that is inaccessible to children, while children are in attendance. Keys to these containers must also be inaccessible to children. ()

a. Ammunition must be stored in a locked container separate from firearms. ()

b. Matches, lighters, and any other means of starting fires must be kept away from and out of the reach of children. ()

c. Other weapons that could cause harm must be stored out of reach of children. ()

05. Animals and Pets. Any pet or animal present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The operator must maintain the animal's vaccinations and vaccination records which will be made available to the Department upon request. ()

06. Storage of Hazardous Materials. Cleaning materials, flammable liquids, detergents, aerosol cans, pesticides, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children. ()

362. -- 364. (RESERVED)

365. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the following: ()

01. Appliances and Electrical Cords. All appliances, lamp cords, exposed light sockets, and electrical outlets will be protected to prevent electrocution. ()

02. Balconies and Stairways. Balconies and stairways accessible to children will have substantial railings as required by IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules). ()

03. Stairway Protection. Where an operator cares for children less than three (3) years old, stairways will be protected to prevent child access to stairs. ()

04. Hazardous Area Restrictions. Based on the age and functioning level of children in care and the type of hazard and the area surrounding the hazard will be restricted to prevent easy access to the hazard. ()

05. Fueled Equipment. Fueled equipment including motorcycles, mopeds, lawn-care equipment, and portable cooking equipment will not be stored or repaired in areas where children are present. ()

06. Water Hazards. Above and below ground pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: ()

a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following: ()

i. The fence will be at least four (4) feet high with no vertical opening more than four (4) inches wide and designed so that a young child cannot climb or squeeze under or through the fence. The fence will surround all sides of the pool and have a self-closing gate that has a self-latching mechanism in proper working order that is out of the reach of young children. ()

ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool will have alarms that produce an audible sound when the door is opened. ()

b. Furniture or other large objects will not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub, pond, or other body of water is not fenced and locked, there will be a secured protective covering that prevents access by a child. ()

c. Wading pools and buckets will be empty when not in use. ()

d. Children will be under direct supervision of an adult staff member who is certified in pediatric rescue breathing, infant-child CPR, and first aid while using a bathtub, pool, hot tub, pond, or other body of water. ()

e. A minimum of a four (4) foot high fence that prevents access from the daycare facility premises, if the daycare premises are adjacent to a body of water. ()

07. Indoor Play Areas and Toys. The indoor play areas will be clean, have age-appropriate toys, and be free from accumulation of dirt, rubbish, or other health hazards. ()

08. Outdoor Play Areas and Toys. Any outdoor play area must be maintained free from hazards such as wells, machinery, and animal waste. ()

a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area will be enclosed with a fence in good repair that is at least four (4) feet high without any holes or spaces greater than four (4) inches in diameter. ()

b. Outdoor equipment, such as climbing apparatus, slides, and swings will be anchored firmly and placed in a safe location and according to the manufacturer's instructions. ()

c. Outdoor play areas will be designed so that all parts always visible and are easily supervised by a staff member. ()

d. Toys, play equipment, and any other equipment used by the children will be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides will be kept in good repair and well-maintained. ()

e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects, and balloons will not be accessible to children ages three (3) and under or children who are known to place such objects in their mouths. ()

366. -- 389. (RESERVED)

390. CONTINUED COMPLIANCE, REPORTING CHANGES, AND CRITICAL INCIDENTS.

Each daycare owner or operator must always remain in compliance with fire, safety, and health requirements under these rules. ()

01. Posting of License and Other Information. ()

a. A daycare license issued by the Department to operators must be posted in plain view where it can be seen by parents and the public upon entering the facility. ()

b. A daycare must post the Department's contact information and the statewide number to file daycare complaints. ()

02. Reporting Changes. The Department must be notified of any changes that would affect the terms

of licensure or could affect the health, well-being, or safety of children. ()

03. Critical Incidents. A daycare operator must report any of the following to the Department within twenty-four (24) hours: ()

a. Serious injury or death of a child at the facility; ()

b. Any arrests, citations, withheld judgments, or criminal convictions of disqualifying crimes under Section 39-1113, Idaho Code, of an operator or any individual regularly on the premises of the facility and provide documentation that the individual is not working with children or is not on the premises. ()

391. -- 394. (RESERVED)

395. FAILURE TO COMPLY.

01. Misdemeanors to Operate Without a License. It is a misdemeanor to operate a daycare center or group daycare facility without first obtaining a daycare license from the Department or to operate a daycare center or group daycare facility without posting the license in a place easily seen by a parent or the general public. ()

a. The Department may grant a grace period of no more than sixty (60) days to allow the daycare facility to comply with these rules and with Title 39, Chapter 11, Idaho Code. ()

b. The operator or owner must agree to begin the application process under Section 321 of these rules within one (1) business day of identification by the Department that a daycare owner or operator is noncompliant with Title 39, Chapter 11, Idaho Code, or this chapter of rules. ()

02. Misdemeanor to Operate Without Obtaining a Background Check. It is a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining the required background check under Section 39-1105, Idaho Code. If there is an initial citation for violation of Section 39-1115, and a person makes the applications required within twenty (20) days, the complaint will be dismissed. Operating a family daycare home for four (4) or more children after failure to pass the required background check is a misdemeanor. ()

03. Misdemeanor to Provide Daycare if Guilty of Certain Offenses. It is a misdemeanor to provide daycare services if found guilty of any offenses under Section 39-1113, Idaho Code. ()

396. -- 399. (RESERVED)

**STANDARDS FOR FOSTER HOMES
(Sections 400-499)**

400. STANDARDS FOR FOSTER HOMES.

The standards for licensing foster homes are to insure that children of the state who must live away from their parents receive adequate substitute parental care to address their need for safety, health, and well-being, that the persons providing this care are capable and suitable to meet the protection needs of children living in foster homes, and the physical environment in which these children reside is a safe setting. ()

401. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.

These rules do not supercede the licensing authority of Indian tribes under the Indian Child Welfare Act, P.L. 95-608, 25 USC, Sections 1901 – 1963. ()

402. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.

Foster parents must be physically and emotionally suited to care for children and to deal with the problems presented by children placed away from their own parents, family and homes. An applicant for licensure as a foster parent must meet the following: ()

01. Minimum Age. Be twenty-one (21) years old or older. ()

- 02. Character.** Be of good character. ()
- 03. Communication.** Be able to communicate with the child, the licensing agency, and health care and other service providers. ()
- 04. Personal Attributes and Experiences.** Have the maturity, interpersonal qualities, temperament and life experiences that prepare the foster parent to provide foster care. ()
- 05. Availability for Child Placement.** Express a willingness to provide care for the kind of children the children's agency has available for placement. ()
- 06. Knowledge and Skill.** Demonstrate an understanding of the care that must be provided to the children served by the children's agency or express a willingness to learn how to provide that care. ()
- 07. Child Care and Supervision.** Have adequate time to provide care and supervision for children. ()
- 08. Income and Resources.** Have a defined and sufficient source of income and be capable of managing that income to meet the needs of the foster family without relying on the payment made for the care of a foster child. ()
- 09. Health.** Have the physical, intellectual, and emotional health to assure appropriate care of children. ()
- 10. Harmonious Home Life.** Establish and maintain a harmonious home life to give children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home. ()
- 11. Literacy.** At least one (1) adult caretaker in the home must have functional literacy. ()
- 12. Acceptance of Foster Children.** Demonstrate a willingness and ability to accept a child into the home as a member of the family. ()
- 13. Family Supports.** Demonstrate a willingness, and ability, to work with a foster child's legal family, future family, relatives, or Indian tribe. ()
- 14. Compliance with Licensing Rules.** Demonstrate a willingness and ability to comply with the licensing rules for foster homes. ()
- 15. Illegal Substance.** Foster Parents will not use any illegal substances, abuse alcohol by consuming it in excessive amounts, or abuse legal prescription or nonprescription drugs, or both, by consuming them in excessive amounts or using them contrary to medication instructions. ()
- 16. Nicotine Use.** Foster Parents and their guests will not smoke or vape in the foster family home, in any vehicle used to transport the child, or in the presence of the child in foster care. ()
- 403. CRIMINAL HISTORY AND BACKGROUND CHECKS FOR FOSTER CARE LICENSE.**
All applicants for a foster care license and other adult members of the household must comply with IDAPA 16.05.06, "Criminal History and Background Checks," and the following: ()
- 01. Required Procedures.** Each applicant for a foster home license, and any other adult household member, must participate in a background check. ()
- 02. Change in Household Membership.** By the next working day after another adult begins residing in a licensed foster home, a foster parent must notify the children's agency of the change in household membership and assure that the new adult household member will complete a background check within fifteen (15) days of residence in the foster home. ()

03. Foster Parent's Child Turns Eighteen. A foster parent's child who turns eighteen (18) and lives continuously in the home is not required to have a background check except as specified in Subsection 404.03.c. of this rule. ()

a. After turning eighteen (18) years old, if the foster parent's adult child no longer lives in the foster parent's home and subsequently resumes living in the licensed foster home, they will be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. ()

b. If the adult child leaves the foster home for the purpose of higher education or military service, and periodically returns to the home for less than ninety (90) days, they are not considered to be an adult household member and are not required to complete a background check. While in the home, they cannot have any unsupervised direct care responsibilities for any foster children in the home. Should they remain in the foster home for more than ninety (90) days, they will immediately be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. ()

c. If the adult child continues to live in their parent's licensed foster home or on the same property, they must complete a background check within fifteen (15) days of turning twenty-one (21). This requirement is not necessary if the adult child has completed a background check between the ages of eighteen (18) and twenty-one (21). ()

04. Background Check at Any Time. The Department retains the authority to require a background check at any time on individuals who are residing in a licensed foster home or on the foster parent's property. ()

404. INITIAL AND ONGOING EVALUATION.

An applicant must participate in the process and tasks to complete an initial evaluation for foster care licensure. ()

01. Applicant Participation. The applicant must do all the following: ()

a. Cooperate with and allow the children's agency to determine compliance with these rules to conduct an initial foster home study; ()

b. Inform the children's agency if the applicant is currently licensed or has been previously licensed as a foster parent or the applicant has been involved in the care and supervision of children or adults; ()

c. Provide a medical statement for each applicant, signed by a medical professional, within the twelve (12) month period prior to initial licensure for family foster care, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; ()

d. Provide the name of, and a signed release to obtain the following information about, each household member: ()

i. Admission to or release from a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; ()

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue; and ()

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s). An applicant will provide additional references upon the request of the children's agency. ()

02. Physical and Mental Health of Household Members. All household members must be in such physical and mental health that the health, safety, or well-being of a foster child will not be adversely affected. A health status report of household member may be required from a medical professional if this appears advisable to the children's agency. To assure the safety and well-being of children, each household member must comply with these

rules. ()

03. Disclosure of Information. An applicant must provide the children's agency with the following or any additional information the children's agency deems necessary to complete the initial family home study: ()

a. The names, including maiden or other names used, and ages of the applicant(s); ()

b. Social Security Number; ()

c. Education; ()

d. Verification of marriages and divorces; ()

e. Religious and cultural practices of the applicant including their willingness and ability to accommodate or provide care to a foster child of a different race, religion, or culture; ()

f. A statement of income and financial resources and the family's management of these resources; ()

g. Marital relationship, if applicable, including decision making, communication, and roles within the family; ()

h. Individual and family functioning and interrelationships with each household member; ()

i. Any current family problems, including medical or mental illness, illegal drug use, prescription drug abuse, and excessive alcohol use; ()

j. Previous criminal convictions and valid incidents of child abuse and neglect; ()

k. Family history, including how the applicant was disciplined, childhood experiences, and problem solving; ()

l. Child care and parenting skills; ()

m. Methods of discipline; ()

n. The names, ages, and addresses of all biological and adopted children currently residing in or outside the home; ()

o. Adjustment and special needs of the applicant's children; ()

p. Interests and hobbies; ()

q. Reasons for applying to be a foster parent; ()

r. Understanding of the purpose and goals of foster care; ()

s. Prior and current experiences with foster care; ()

t. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the child's placement into applicant(s) home; ()

u. The attitudes toward foster care by immediate and extended members of the family and other persons who reside in the home; ()

v. The applicant's attitudes about a foster child's family and the applicant's willingness to work with the child's family and tribe; ()

w. Specifications of the children preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics of children preferred; ()

x. Adequacy of the applicant's house, property, and neighborhood for the purpose of providing foster care as determined by onsite observations; ()

y. The applicant(s) willingness to abide by the children's agency policies and procedures for discipline; ()

z. Three (3) personal references, at least two (2) that are from persons not related to the applicants, reflecting the applicants to be of good character and possess good habits; ()

aa. Training needs of the applicant(s); and ()

bb. The capacity and willingness to transport a foster child in a motor vehicle. ()

405. SUBSEQUENT EVALUATIONS.

A foster parent must comply with the following for the subsequent evaluation required for a foster care license: ()

01. Reasonable Access. A foster parent will allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child, and any household member to determine continued compliance with licensing standards, for child supervision purposes, and to conduct a recertification study. ()

02. Update Information. Provide all changes to the information contained in the initial evaluation and subsequent evaluations. ()

03. Family Functioning. Provide information on any changes in family functioning and inter-relationships. ()

04. Other Circumstances. Provide the children's agency with any information regarding circumstances within the family that may adversely impact the foster child. ()

05. Written Plan of Correction. Cooperate with the children's agency in developing and carrying out a written plan required to correct any rule noncompliance identified by any evaluation conducted by the children's agency. ()

406. FOSTER PARENT DUTIES.

A foster parent must do the following: ()

01. Case Plan Implementation. Cooperate with, and assist the children's agency in the implementation of the case plan for children and their families. ()

02. Reporting Progress and Problems. Promptly and fully disclose to the children's agency information concerning a child's progress and problems. ()

03. Termination of Placement by the Foster Family. Provide notification to the children's agency of the need for a child to be moved from the foster home not less than fourteen (14) calendar days before the move, except when a delay would jeopardize the child's care or safety, or the safety of members of the foster family. ()

04. Written Policies and Procedures for Foster Families. Maintain a copy of, be familiar with, and follow these rules and any other rules, policies, or procedures which an agency may require for foster parents and foster care. ()

407. FOSTER PARENT TRAINING.

Each foster parent must comply with the following: ()

01. Orientation. Each applicant for a foster home license will receive an orientation related to the foster care program and services. ()

02. Pre-Service. Complete not less than twenty-four (24) hours of identified training prior to the issuance of an initial foster care license. ()

03. First Year. Prior to first annual licensing renewal, complete not less than fifteen (15) hours of identified training. ()

04. Annual Training. Complete not less than ten (10) hours of training annually following the first year of licensing. ()

05. Individualized Training. Complete training identified by the Department as meeting the individual needs of the foster parent(s). ()

06. Additional Training. Complete any additional training as required by the children's agency foster parent training plan. ()

408. -- 429. (RESERVED)

430. HOME ENVIRONMENT SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of a foster home must be constructed and maintained in good repair, in a clean condition, with proper trash and recycling disposal, and free from rodents or insect infestation, safety hazards, and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. ()

01. Living Space. The living space or structure of a foster home will be a house, mobile home (as defined under Title 39, Chapter 41, Idaho Code), housing unit, or apartment occupied by an individual or family. ()

02. Swimming Pools, Hot Tubs, Ponds, and Other Bodies of Water for Use by Children. Any licensed foster home with these water hazards on or adjacent to their property must provide the following safeguards: ()

a. Around any of the water hazards listed in Subsection 430.02 of this rule, a foster child must have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; ()

b. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children under the age of twelve (12), children of any age who are not competent swimmers, or children who are developmentally younger than their chronological age of twelve (12); or ()

c. Above ground pools must have a four-foot barrier that may be the pool structure or attached fencing, or both with a maximum vertical clearance between the top of the pool and the bottom of the barrier not exceeding four (4) inches; and ()

i. The ladder must be removed and stored inaccessible to children under the age of twelve (12) when not in use; and ()

ii. If the ladder cannot be removed, the steps or ladder must be surrounded by a barrier as required in Subsection 430.01.b of this rule. ()

d. If the area surrounding any of the water hazards listed in Subsection 430.02 of this rule, is not fenced and locked, there must be a secured protective covering that will not allow access by a child. ()

i. Pool or hot tub covers must be completely removed when in use; ()

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; ()

iii. Covers must always be locked when the pool or hot tub is not in use. ()

03. Access by Children Five Years Old and Under. Any licensed foster home that cares for children five (5) years old and under and chooses to prevent access to a body of water by fencing must provide a fence that meets the following: ()

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

c. If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and ()

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool; or ()

e. Above ground pools meet the requirements in Subsection 430.01.c in this rule. ()

04. Irrigation Canals or Similar Body of Water. A licensed foster home caring for a child five (5) years old and under or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water by the child. ()

05. Other Water Safety Precautions. ()

a. Wading pools must be empty when not being used; ()

b. Children must be under direct supervision of an adult while using a wading pool; ()

c. Toys that attract young children to the pool area must be kept picked up and away from the pool area when not in use; ()

d. A child who does not know how to swim must use an approved lifesaving personal flotation device; ()

e. All swimming pools will be equipped with a life-saving device, such as a ring buoy; and ()

f. Swimming pools that cannot be emptied after each use will have a working pump and filtration system. ()

431. INSTALLATION, MAINTENANCE, AND INSPECTION OF FLAME AND HEAT-PRODUCING EQUIPMENT.

A foster parent must assure: ()

01. Installation and Maintenance of Flame and Heat-Producing Equipment. That a furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment is installed and maintained as recommended by the manufacturer, and fireplaces are protected by screens or other means. ()

02. Portable Heating Devices. That portable heating devices will not be used during sleeping hours. ()

03. Fire Inspections. An inspection by a certified fire inspector may be required at the discretion of the children's agency. ()

04. Water Heater. The water temperature will not exceed 120 degrees Fahrenheit (49 degrees Celsius). ()

432. FIRE SAFETY, EMERGENCY PLANNING, AND EVACUATION PLAN.
Each foster home must meet the following standards: ()

01. Smoke Detectors. There will be at least one (1) single-station smoke detector (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer, and as follows: ()

a. One (1) smoke detector on each floor of the home, including the basement; ()

b. One (1) smoke detector in each bedroom used by a foster child; and ()

c. One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. ()

02. Carbon Monoxide Detectors. There will be at least one (1) carbon monoxide detector (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer. Living space that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. Multi-level homes will have one (1) carbon monoxide detector on each level of the home and at least one (1) near all sleeping areas. ()

03. Additional Fire Safety Requirements. To be within the structure of the home: ()

a. Have at least one (1) operable fire extinguisher that is readily accessible; ()

b. Be free of obvious fire hazards such as defective heating equipment or improperly stored flammable materials; ()

c. Have a written emergency evacuation plan posted in a prominent place in the home and reviewed with children placed for foster care; ()

d. Maintain a comprehensive list of emergency telephone numbers including poison control and posted in a prominent place in the home; and ()

e. Maintain first aid supplies. ()

433. EXITS.
There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct, safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if it complies with these rules. ()

434. DANGEROUS AND HAZARDOUS MATERIALS.
Dangerous and hazardous materials, objects, or equipment, including poisonous, explosive, or flammable substances that could present a risk to a child placed in a foster home must be stored securely and out of reach of a child, as appropriate for the age and functioning level of the child. ()

435. FIREARMS AND AMMUNITION.
Firearms at a foster home must be stored: ()

01. Trigger Locks. Unloaded and equipped with a trigger lock; ()

02. Unassembled and Inoperable. Unloaded, fully inoperable, and incapable of being assembled and

fired; ()

03. Locked Cabinet or Container. Unloaded and locked in a cabinet or storage container that is inaccessible to children; or ()

04. Gun Safe. Locked in a gun safe that is inaccessible to children; ()

05. Ammunition. Stored and locked separately from all guns in the home. ()

436. PETS AND DOMESTIC ANIMALS.

Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. Dogs must be vaccinated for rabies. ()

437. ADEQUATE HEAT, LIGHT, AND VENTILATION.

A foster home must have adequate heat, light, and ventilation and windows and doors will be screened if used for ventilation. ()

438. BATHROOMS, KITCHENS, WATER SUPPLY, AND SEWAGE DISPOSAL.

A foster home must meet the following: ()

01. Toilet Facilities. A foster home will have a minimum of one (1) flush toilet, one (1) washbasin that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all of which are in good working order. ()

02. Water Supply. The water supply will meet one (1) of the following requirements: ()

a. That it is from a source approved for a private home by the health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses; or ()

b. Water used for consumption at a foster home is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

03. Sewage Disposal. Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." ()

04. Kitchen. A foster home will include a properly operating kitchen with a sink, refrigerator, stove, and oven. ()

439. TRANSPORTATION.

A foster parent must comply with the following: ()

01. Legal Requirements for Transporting Children. A foster parent, or any person acting on behalf of a foster parent, that transports a child, will possess a valid driver's license, be insured under Idaho Law, and abide by all traffic laws including the requirement that all children are in proper safety restraints while being transported as required under Section 49-672, Idaho Code, and Section 49-673, Idaho Code. ()

02. Reliable Transportation. A foster parent will arrange for safe, reliable transportation of any foster child in their care to assure the child has access to school, community services, and the children's agency. ()

a. Privately owned vehicles used to transport children in foster care will be properly maintained and be owned by the foster family or friends. ()

b. Public Transportation includes all reliable public transportation. ()

03. Prohibitions of Foster Child Transportation. A foster parent will not transport a foster child while impaired by any substance including alcohol, prescription medication, or any illegal substances. ()

440. CELL PHONE OR TELEPHONE. Unless previously approved by the licensing agency, there must be an operating cell phone or telephone in a foster home. ()

441. WHEELCHAIR ACCESS. A foster home that provides care to a child who regularly requires the use of a wheelchair must be wheelchair accessible. ()

442. CHILD PLACEMENT REQUIREMENTS. A foster family must accept the placement of children into the home within the terms of the foster home license or certification and the children's agency placement agreement. The following provisions will be considered for determining placement: ()

01. Determining Factors. The number and the age group of children placed in a foster home will be determined by the following: ()

- a. The accommodations and the space in the home; ()
- b. The interest of the foster family; and ()
- c. The experience or skill of the foster family. ()

02. Maximum Number of Children. Except as specified, the maximum number of children in care at any time, including the foster family's own children, or daycare children, will be limited to not more than six (6) children. ()

03. Children Under Two Years Old. Except as specified in Subsection 442.04 of this rule, the maximum number of children under two (2) years old, including those of the foster family, will be limited to two (2) children or less. ()

04. Special Circumstances Regarding Maximum Numbers of Children. The maximum number of children in care at any time may be based on the children's agency assessment and at a minimum one (1) of the following: ()

- a. To allow siblings to remain together; ()
- b. To allow a child who has an established, meaningful relationship with the family to remain with the family; ()
- c. To allow a family with special training or skills to provide care for a child who has a severe disability; or ()
- d. To allow a parenting youth in foster care to remain with the child of the parenting youth. ()

05. Continued Care. A foster child who reaches the age of eighteen (18) may continue in foster care placement until the age of twenty-one (21) if the safety, health, and well-being of other foster children residing in the home is not jeopardized. ()

443. INTERAGENCY PLACEMENT OF CHILDREN. A foster family must only accept for placement children referred from the children's agency that licenses or certifies the foster home. A foster family may accept for placement a foster child from another children's agency only if that children's agency and the foster family have received prior approval for the placement of a child from the children's agency that licensed or certified the home. ()

444. SUBSTITUTE CARE PLACEMENT AND CHILDREN'S AGENCY NOTIFICATION.

A foster parent must: ()

01. Substitute Care. Place a child in substitute care only with the prior knowledge and consent of the children's agency; and ()

02. Notification to Agency. Notify the children's agency before the beginning of any planned absence that requires substitute care of a child for a period of twenty-four (24) hours or more. ()

445. BEDROOMS.

A foster parent must comply with the following: ()

01. Sleeping Arrangements. A bedroom occupied by a foster child will: ()

a. Provide an adequate opportunity for both rest and privacy for each child; ()

b. Be readily accessible to adult supervision as appropriate for the age and functioning level of each child; ()

c. Have sufficient floor space to provide two (2) feet of space between beds; ()

d. Have sufficient space for the storage of clothing and personal belongings; ()

e. Have a finished ceiling, permanently affixed floor-to-ceiling walls, and finished flooring; ()

f. Have a latchable door that leads to an exit from the foster home; ()

g. Have at least one (1) outside window that complies with the following: ()

i. Is readily accessible to children and the foster parent; ()

ii. Is readily opened from the inside of the room; and ()

iii. Is of sufficient size and design to allow for the evacuation of children and caregivers. ()

h. Is free of the following: ()

i. Household heating equipment excluding baseboard heating systems; ()

ii. Water heater; and ()

iii. Clothes washer and dryer. ()

02. Non-Ambulatory Child. A child who is non-ambulatory and cannot readily be carried by one (1) household member will sleep in a bedroom located at ground level. ()

03. Sharing Bedroom with a Non-Parent Adult. A child will not share a bedroom with a non-parent adult unless the child and adult are of the same gender and there is not more than four (4) years difference in age between the adult and the youngest child in the bedroom. ()

04. Sharing a Bedroom with a Foster Parent. A child three (3) years old or older will not routinely share the bedroom with a foster parent unless the child has special health or emotional needs that require the attention of the foster parent(s) during sleeping hours. ()

05. Maximum Number of Children in a Bedroom. No more than four (4) children will occupy a bedroom. The placement of more than one (1) child in a bedroom will be based on the age, behavior, functioning, individual needs of each child, and sufficient available space. ()

06. Children of the Opposite Gender. Children of the opposite gender, any of whom are more than five (5) years old, will not share the same bedroom. ()

07. Number of Children in a Bed. Each child will have an individual bed, except that two (2) brothers or two (2) sisters of comparable age may share a bed if they have previously shared a bed or when there are no health, behavioral, or other factors indicating this is undesirable. ()

08. Restrictions on Sleeping Arrangements. The following must not be used for sleeping purposes: ()

- a.** A room or area of the foster home that is primarily used for purposes other than sleeping; ()
- b.** A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor; or ()
- c.** A detached building, except in the case of an older child preparing for emancipation when it can be documented that the child's needs can best be met by that arrangement. ()

09. Appropriate Bedding. A child will have a bed that is appropriate for the age and development of the child. Beds will be equipped with a clean and comfortable mattress that complies with the Consumer Product Safety Commission standard (<https://www.cpsc.gov/>), pillow, linens, and blankets appropriate for the weather. ()

10. Infants. Adults and children, or both, will not co-sleep or bed-share with infants. Cribs will comply with Subsection 002.02 of these rules. ()

446. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. ()

01. Prohibitions. The following types of punishment of a foster child are prohibited: ()

- a.** Physical force or any kind of punishment inflicted on the body, including spanking; ()
- b.** Cruel and unusual physical exercise or forcing a child to take an uncomfortable position; ()
- c.** Use of excessive physical labor with no benefit other than for punishment; ()
- d.** Mechanical, medical, or chemical restraint; ()
- e.** Locking a child in a room or area of the home; ()
- f.** Denying necessary food, clothing, bedding, rest, toilet use, bathing facilities, or entrance to the foster home; ()
- g.** Mental or emotional cruelty; ()
- h.** Verbal abuse, ridicule, humiliation, profanity, threats, or other forms of degradation directed at a child or a child's family; ()
- i.** Threats of removal from the foster home; ()
- j.** Denial of visits or communication with a child's family unless authorized by a children's agency in its service plan for the child and family; and ()

k. Denial of necessary educational, medical, counseling, or social services. ()

02. Restraint. A foster parent who has received specific training in the use of child restraint may use reasonable restraint methods, approved by the children's agency, to prevent a child from harming themselves, other persons or property, or to allow a child to gain control of themselves. ()

03. Authority. The authority for the discipline of a foster child must not be delegated by a foster parent to other members of the household. ()

04. Agency Consultation. A foster parent must consult with the children's agency prior to using any behavior management or discipline technique that exceeds the scope of these rules. ()

447. MEDICAL AND DENTAL CARE.

01. Health Care Services. A foster parent must follow and carry out the health or dental care plan for a child as directed by a medical professional. ()

02. Child Injury and Illness. Follow the children's agency approved policies for medical care of a child who is injured or ill. ()

03. Dispensing of Medications. Provide prescription medication as directed by a medical professional. A foster parent must not discontinue or in any way change the medication provided to a child unless directed to do so by a medical professional. ()

04. Storage of Medication. A foster parent must store vitamins, prescriptions, and over-the-counter medications in an area that is inaccessible to a child. ()

448. PERSONAL CARE AND HYGIENE.

A foster parent must instruct the child in personal care, hygiene, and grooming and provide the child with necessary personal care, hygiene, and grooming products appropriate to the age, gender, and needs of the child. The foster parents will seek approval from the children's agency before altering a child's physical appearance including haircuts, body piercing, and tattooing. ()

449. FOOD AND NUTRITION.

A foster parent must provide a foster child with meals that are nutritious, well-balanced, of sufficient quantity, and serve the foster child the same meals as other members of the household unless a special diet has been prescribed by a medical professional, or unless otherwise dictated by differing needs based on a child's age, medical condition, or cultural or religious beliefs. A foster child is required to eat with other members of the family unless the child's medical condition dictates a different arrangement. Perishable foods must be refrigerated. Milk provided to foster children must be pasteurized, from a licensed dairy, or come from an animal that is documented to be free from tuberculosis, brucellosis, or other conditions that could be injurious to a child's health. ()

450. NECESSARY CLOTHING.

A foster parent must provide a child with sufficient, clean, properly fitting clothing appropriate for the child's age, gender, individual needs, and season with clothing reflecting cultural and community standards. ()

451. PERSONAL POSSESSIONS, ALLOWANCES, AND MONEY.

A foster parent must follow the children's agency policy regarding a child's personal possessions and when a child moves from a foster home, the foster parent will provide the child or the children's agency with all of the child's possessions. ()

452. CHILD TASKS.

A parent must permit a child to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to the routine tasks expected of other members of the household of similar age and ability. ()

453. EDUCATION.

A foster parent must cooperate with the children's agency and applicable educational organizations to implement the

education and training plan for each child. ()

454. RELIGIOUS AND CULTURAL PRACTICES.

A foster parent must provide a child in care with opportunity for spiritual development and cultural practices according to the wishes of the child and the child's parent or tribe. ()

455. RECREATION.

A foster parent must provide or arrange access to a variety of indoor and outdoor recreational activities and encourage a child to participate in recreational activities that are appropriate for the child's age, interests, and ability. ()

456. MAIL.

A foster parent must permit a child to send and receive mail according to the mail policy of the children's agency. ()

457. REASONABLE AND PRUDENT PARENT STANDARD.

A caregiver must follow the reasonable and prudent parent standard. ()

01. Reasonable and Prudent Parent Standard Defined. The reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child that a caregiver must use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, or social activities. See "Caregiver" in the definitions. "Age or developmentally appropriate" means the following: ()

a. Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and ()

b. In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. ()

02. Training. Each caregiver will complete training to include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one (1) or more days, and involving the signing of permission slips and arranging transportation for the child to and from extracurricular enrichment and social activities. ()

458. -- 469. (RESERVED)

470. RECORD MANAGEMENT AND REPORTING REQUIREMENTS.

A foster parent must maintain a record for each child in the home that will include all written material provided to the foster home by the children's agency and additional information gathered by the foster parent that includes the following: ()

01. Personal Data. The child's name, gender, date of birth, religion, race, and tribe, if applicable; ()

02. Any Known History of Abuse and Neglect of the Child. ()

03. Any Known Emotional and Psychological Needs of the Child. ()

04. Any Information Known about the Child's Health. ()

05. Any Known Behavioral Problems of the Child. ()

471. REPORTING FOSTER HOME CHANGES.

A foster parent must report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: ()

01. Illness, Injury, or Death. Serious illness including physical or mental health, injury, or death of a foster parent or a household member. ()

02. Arrests, Citations, Withheld Judgments, or Criminal Convictions. Any arrests, citations, withheld judgments, or criminal convictions of a foster parent or household member. ()

03. Parole and Probation. Initiation of court-ordered parole or probation of a foster parent or household member. ()

04. Admission or Release From Facilities. Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental health, or substance abuse issue of a foster parent or household member. ()

05. Employment. A change of employment status of a foster parent. ()

06. Counseling, Treatment, or Therapy. Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent or household member. ()

07. Change of Residence. A foster parent will inform the children's agency of any planned change in residence and apply for licensure at the new address not less than two (2) weeks prior to a change in residence. ()

08. Household Members. Inform the children's agency of changes in household members including minor children. ()

09. Additional Licensing Application. A foster parent will notify the children's agency within five (5) calendar days after filing an application for a certified family home, daycare, or group daycare license. ()

472. CONFIDENTIALITY.

A foster parent must maintain the confidentiality of any information and records regarding a foster child and the child's parents and relatives. A foster parent will release information about the foster child only to persons authorized by the children's agency responsible for the foster child. Foster parents will follow the Department's policies for the use of social media and posting of pictures of children in foster care. ()

473. CRITICAL INCIDENT NOTIFICATION.

The foster parent must immediately notify the responsible children's agency of any of the following incidents: ()

01. Death. Death or near death of a child in care. ()

02. Suicide. Suicidal ideation, threats, or attempts to commit suicide by the foster child. ()

03. Missing. When a foster child is missing from a foster home. ()

04. Illness. Any illness or injury that requires hospitalization of a foster child. ()

05. Law Enforcement Authorities. A foster child's detainment, arrest, or other involvement with law enforcement authorities. ()

06. Removal of Child. Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the children's agency. ()

474. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.07.33 – ADULT MENTAL HEALTH SERVICES

DOCKET NO. 16-0733-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-3140, 56-1003(1), 56-1003(3)(d), 56-1004, and 56-1004A, Idaho Code.

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

Virtual Public Hearing via WebEx
Tuesday, September 20, 2022 1:00 p.m. to 2:00 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m5a1a42bd9dbe63b717dd807fbc9baca0
Join by Phone: 1-415-527-5035 or 1-303-498-7536
Meeting access code: 2761 289 2093
Meeting password: eDA7ZxEAy55 (33279932 from phones and video systems)

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the February 2, 2022, Idaho Administrative Bulletin, [Vol. 22-2, pages 36-37](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) is being incorporated by reference into these rules to give it the force and effect of law. This will replace the currently incorporated document, DSM-5. The document is not being published in this chapter of rules due to its length and format, and may be ordered from American Psychiatric Association, 800 Maine Avenue, S.W., Suite 900, Washington, DC 20024.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Treena Clark at (208) 334-6611.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0733-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

16.07.33 – ADULT MENTAL HEALTH SERVICES

000. LEGAL AUTHORITY.

Under Section 39-3140, Idaho Code, the Department is authorized to promulgate rules to carry out the purposes and intent of the Regional Behavioral Health Services Act. Under Sections 56-1003(3)(d), 56-1004, and 56-1004A, Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. ()

001. SCOPE.

This chapter sets the standards for providing adult mental health services administered under the Department's Division of Behavioral Health. ()

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

Administrative appeals from a denial of eligibility under Section 102 of these rules are governed by the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

004. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) Washington, DC, American Psychiatric Association, 2022, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 800 Maine Avenue, S.W., Suite 900, Washington, DC 20024. ()

005. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. All employees, interns, contractors, and volunteers, of adult mental health services must comply with the provisions in IDAPA 16.05.06, “Criminal History and Background Checks.,” Section 101. ()

02. Availability to Work or Provide Service. An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted their background check application, it has been reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual is fingerprinted within twenty-one (21) days of submitting their background check. ()

a. An individual is allowed to work or have access to participants only under supervision until the background check is completed. ()

b. An individual, who does not receive a background check clearance or have a Behavioral Health waiver granted under the provisions in this chapter, may not provide direct care or services, or serve in a position that requires regular contact with participants. ()

03. Waiver of Criminal History and Background Check Denial. ()

a. A certified individual who is seeking to provide Peer Support Specialist, Family Support Partner, or Recovery Coach services that receives an unconditional denial or a denial after an exemption review by the Department’s Criminal History Unit, may apply for a Behavioral Health waiver. ()

b. An individual is allowed to work with or have access to participants only under supervision until the waiver request is processed. ()

010. DEFINITIONS - A THROUGH L.

For the purposes of these rules, the following terms apply: ()

01. Adult. An individual eighteen (18) years or older. ()

02. Adult Mental Health Services. Adult mental health services are listed in Section 301 of these rules. These services are provided in response to the mental health needs of adults eligible for services required in Title 39, Chapter 31, Idaho Code, the Regional Behavioral Health Service Act, and under Section 102 of these rules. ()

03. Applicant. An adult individual who is seeking mental health services through the Department who has completed, or had completed on their behalf, an application for mental health services. ()

04. Clinical Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify a participant’s mental health issues, strengths, and service needs. ()

05. Clinical Team. A proposed participant’s clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians, and any other individual deemed appropriate and necessary to ensure that the treatment is comprehensive and meets the needs of the proposed participant. ()

06. Crisis Intervention Services. A set of planned activities designed to reduce the risk of life-threatening harm to self or another person. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. ()

07. Department. The Idaho Department of Health and Welfare or its designee. ()

08. Eligibility Screening. The collection and review of information directly related to the applicant’s mental health and level of functioning, which the Department uses to determine whether an applicant is eligible for adult mental health services available through the Department’s Division of Behavioral Health. ()

011. DEFINITIONS - M THROUGH Z.

For the purposes of these rules, the following terms apply: ()

01. Mental Health Crisis. A mental health crisis occurs when a sudden loss of an adult individual's ability to use effective problem-solving and coping skills leads to an imminent risk of harm to self or others, or decompensation to the point of the individual's inability to protect themselves. ()

02. Network Treatment Provider. Any provider, group of providers, or entity that has a network provider agreement with the Department's Division of Behavioral Health contractor to provide behavioral health services. ()

03. Participant. A person receiving mental health services through the Department. ()

04. Serious Mental Illness (SMI). Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, (DSM-5-TR), incorporated in Section 004 of these rules: ()

a. Schizophrenia spectrum and other psychotic disorders; ()

b. Bipolar disorders (mixed, manic and depressive); ()

c. Major depressive disorders (single episode or recurrent); ()

d. Obsessive-compulsive disorders. ()

05. Serious and Persistent Mental Illness (SPMI). A primary diagnosis under DSM-5-TR of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: ()

a. Vocational or educational, or both. ()

b. Financial. ()

c. Social relationships or support, or both. ()

d. Family. ()

e. Basic daily living skills. ()

f. Housing. ()

g. Community or legal, or both. ()

h. Health or medical, or both. ()

012. -- 099. (RESERVED)

100. ACCESSING ADULT MENTAL HEALTH SERVICES.

Adult mental health services may be accessed either through an application for services, or through a court order for services. Individuals may access adult mental health services administered by the Department's Division of Behavioral Health through an eligibility screening. ()

101. ELIGIBILITY SCREENING AND MENTAL HEALTH ASSESSMENT.

01. Eligibility Screening. The eligibility screening must be directly related to the participant's mental illness and level of functioning and is based on the eligibility criteria under Section 102 of these rules. ()

02. Clinical Assessment. Once an individual is found eligible for adult mental health services, the individual will be authorized to receive a clinical assessment from a treatment provider in the Division of Behavioral Health's adult mental health services network to determine level of care. ()

102. ELIGIBILITY DETERMINATION.

01. Determination of Eligibility for Mental Health Services. The Department may limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. ()

02. Eligibility Requirements. To be eligible for voluntary mental health services, the individual must: ()

a. Be an adult; ()

b. Be a resident of the state of Idaho; and ()

c. Have a primary diagnosis of SMI or SPMI. ()

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services according to Sections 18-212, 19-2524, and 66-329, Idaho Code. ()

04. Ineligible Conditions. An individual who has a neurological disorder, a neurocognitive disorder as defined in Section 66-317, Idaho Code, a developmental disability as defined in Section 66-402, Idaho Code, a physical disability, or any medical disorder that includes psychiatric symptomology or is primarily impaired by substance use, unless in addition to such condition, such person is mentally ill. ()

103. NOTICE OF CHANGES IN ELIGIBILITY FOR MENTAL HEALTH SERVICES.

The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for mental health services. ()

104. CRISIS INTERVENTION SERVICES.

Crisis intervention services are available twenty-four (24) hours per day, seven (7) days per week to adults experiencing a mental health crisis as defined under Section 011 of these rules. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. ()

01. Determination of the Need for Crisis Intervention Services. The Department or its contractors will assess an adult experiencing a mental health crisis to determine whether services are needed to alleviate the crisis. ()

02. Identification of the Crisis Intervention Services Needed. If crisis intervention services are clinically necessary, as determined by the Department or its contractors, the Department or its contractors will: ()

a. Identify the services needed to stabilize the crisis; ()

b. Arrange for the provision of the crisis intervention services; and ()

c. Document in the individual's record the crisis services that are to be provided to the individual. ()

03. Immediate Intervention. If the Department determines that a mental health crisis exists

necessitating immediate intervention, crisis services will be arranged immediately. ()

105. NOTICE OF DECISION ON ELIGIBILITY AND RIGHT TO APPEAL.

01. Notification of Eligibility Determination. Within two (2) business days of receiving a completed screening, the Department or its contractors will notify the applicant or the applicant's designated representative in writing of its eligibility determination. ()

02. Notice of Right to Appeal. When the applicant is not eligible for services through the Department or its contractor(s), the Department or its contractor(s) will notify the applicant or the applicant's designated representative. The written notice will include: ()

a. A statement of the decision and the concise reasons for it; ()

b. The process and timeline for pursuing an appeal of the decision under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings"; and ()

c. The right to be represented on appeal. ()

106. -- 119. (RESERVED)

120. PARTICIPANT'S RIGHTS AND RESPONSIBILITIES.

The Department will inform each participant receiving adult mental health services through the Department of their rights and responsibilities prior to the delivery of mental health services. Each participant is given a written statement of participant rights and responsibilities, which includes who the participant may contact with questions, concerns, or complaints regarding services provided.. ()

121. -- 999. (RESERVED)

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01 – ADMINISTRATIVE RULES UNDER THE WORKER'S COMPENSATION LAW

DOCKET NO. 17-0101-2202

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 3, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: The Commission wishes to implement an update to the electronic claim reporting standard as a more efficient alternative to the maintenance of paper claims. The implementation date is coordinated with the Commission's broader systems modernization effort.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule would confer a benefit by revising the implementation date of the proposed update of the electronic claim reporting standard to September 14, 2023.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee imposed or increased by this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this temporary rule is simply revising the implementation date of the planned update of the electronic claim reporting standard to September 14, 2023.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kamerron Slay, 208-334-6017 or kamerron.slay@iic.idaho.gov

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 3rd day of August, 2022.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
(208) 334-6000

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 17-0101-2202
(Only Those Sections With Amendments Are Shown.)**

002. WRITTEN INTERPRETATIONS.

The Industrial Commission uses the following guidelines for implementing the EDI reporting requirements set out in this Chapter: (3-23-22)

01. EDI Guide and Tables. The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables (“EDI Guide and Tables”). The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables are available on the Commission's website at <https://iic.idaho.gov/>. (3-23-22)

02. EDI Implementation Guide. International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 or, after ~~December 1, 2022~~ September 14, 2023, Release 3.1, Implementation Guide (“EDI Implementation Guide”). The IAIABC Claims Release 3.0 and Release 3.1 Implementation Guides are available at the IAIABC website at <https://www.iaiacb.org>. ~~(3-23-22)~~ (8-3-22)T

(BREAK IN CONTINUITY OF SECTIONS)

601. SUBMISSION OF FROI AND SROI.

01. Purpose. Pursuant to Sections 72-602(1)-(2), Idaho Code, employers must submit a FROI and/or SROI in accordance with these rules. (3-23-22)

02. EDI Reporting. The Commission requires electronic submission of FROIs and SROIs in accordance with the most current versions of the IAIABC EDI Claims Release 3.0, or release 3.1 after ~~December 1, 2022~~ September 14, 2023, and the Commission's EDI Guides and Tables from any employer not otherwise exempt by these rules. Each FROI and SROI must comply with formatting requirements and must contain the information identified as mandatory or mandatory conditional, as applicable. ~~(3-23-22)~~ (8-3-22)T

03. Trading Partner Agreements. Before commencing with electronic reporting, Trading Partners shall electronically submit a Trading Partner Agreement with the Commission, which the Commission must approve prior to submitting reports. This agreement must provide the effective date to send and receive electronic reports, the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. This agreement will identify the insurance carrier, the Claims Administrator, the sender of the electronic files, and the electronic filing method. To ensure the accuracy of reported data, the Trading Partner must maintain their profile to reflect changes as they occur and the Commission may make periodic audits of Trading Partner files. In the event that a Trading Partner Agreement is entered into by a Claims Administrator, notice to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. (3-23-22)

04. Report Form and Content for Parties Exempt from EDI Requirements. (3-23-22)

a. Individual injured workers, injured worker's legal counsel, and employers that are not insured are not required to comply with EDI requirements for FROIs and SROIs. (3-23-22)

b. Parties exempt from EDI requirements must submit FROIs on a form 1A-1 and SROIs on a form IC-8, or in a format substantially similar. Both forms are available on the Commission's website. (3-23-22)

05. Retaining Claims Files. Upon request of the Commission, insurance carriers, Claims Administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of

the claim file at no cost to the Commission. All insurance carriers, Claims Administrators, or employers shall retain complete copies of claims files for the life of the Claim and a minimum of five (5) years from the date of closure. (3-23-22)

06. Filing Not an Admission. Filing a FROI is not an admission of liability and is not conclusive evidence of any fact stated therein. If a Claim is submitted electronically, no signatures are required. (3-23-22)

07. Filing Considered Authorization. Filing of a Claim shall be considered an authorization for the release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the Claimant is seeking compensation. (3-23-22)

08. Timely Response Requirement. When the Commission requests additional information in order to process the Claim, the Claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. (3-23-22)

602. FINAL REPORTS.

01. Report Requirements. An electronic filing of the Final Report as prescribed by Commission EDI requirements shall be filed for all indemnity claims or any claims resolved by lump sum settlement within thirty (30) days from the date the surety or self-insured employer closes the claim file. In the case of medical-only claims, no Final Report need be filed. For death claims and permanent total disability claims, Annual Reports shall be filed within the first quarter of each calendar year. A Final Report shall be filed within thirty (30) days from the date the surety or self-insured employer closes the death or permanent total disability claim file. In the event the Commission is unable to reconcile the Annual Report or Final Report, a request for additional information may be made, either in writing or telephonically, and the surety or self-insured employer shall submit the requested information within fifteen (15) working days of the request. If the surety or self-insured employer is unable to furnish the requested information, the surety or self-insured employer shall notify the Commission, in writing, of its inability to respond and the reasons therefor within fifteen (15) workings days of the request. (3-23-22)

02. Format. The required format for Final Reports is contingent on the claim file date: (3-23-22)

a. Final Reports for legacy claims filed on paper or via EDI Claims 1.0 prior to November 4, 2017, shall be submitted in a format substantially similar to IC Form 6, available on the Commission's website, or EDI Claims Release 3.1 after ~~December 1, 2022~~ September 14, 2023. ~~(3-23-22)~~ (8-3-22)T

b. Final Reports for legacy claims filed via EDI Claims 3.0 shall be submitted electronically via EDI Claims 3.0, or EDI Claims 3.1 after ~~December 1, 2022~~ September 14, 2023. ~~(3-23-22)~~ (8-3-22)T

03. Change in Status of Employer. In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the receiver or successor shall continue to report to the Commission, including the submission of Annual Reports, Final Reports and schedules of outstanding awards. (3-23-22)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.02.14 – RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0214-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2022 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The regulatory burden has been reduced by decreasing both the total word count (-19%) and the number of restrictive words (-11%) in the proposed rule. No changes were made that change the context of the previous rule.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022, Idaho Administrative Bulletin, [Vol. 22-3, pages 22-23](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeremy Shawver at (208) 666-8672 or jshawver@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 7th day of September 2022.

David Greenwood, Timber Management Bureau Chief
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, Idaho 83815
Phone: (208) 769-1525
Fax: (208) 769-1524
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0214-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

20.02.14 – RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 38-1201, et seq.; 58-104(6); 58-105; 67-5201, et seq.; Idaho Code. ()

001. SCOPE.

These rules govern the selling of forest products from state endowment lands. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Land Commissioners. ()

02. Contract. Timber sale contract in a form prescribed by the Department. ()

03. Department. The Idaho Department of Lands. ()

04. Development Credits. A stumpage credit received by the purchaser for road construction and improvements. ()

05. Director. The director of the Idaho Department of Lands or his designee. ()

06. Forest Products. Marketable forest materials. ()

07. Net Appraised Value. The minimum estimated sale value of the forest products after deducting the development credit. ()

08. Net Sale Value. The final sale bid value of the forest products after deducting the development credit. ()

09. Purchaser. A successful bidder for forest products from a state sale who has executed a timber sale contract. ()

011. -- 018. (RESERVED)

019. FIREWOOD AND OTHER PERSONAL USE PRODUCT PERMITS.

Forest product permits for personal use will be sold on a charge basis. The Director will determine permit rates and maximum permit values. ()

020. DIRECT SALES.

The sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. The duration of a direct sale is six (6) months. The purchaser must furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars (\$100). ()

021. TIMBER SALES.

Timber sales exceed the net appraised value or volume for direct sales established by the Board. ()

022. -- 025. (RESERVED)

026. ANNUAL SALES PLAN.

The Department's annual sales plan will be presented to the Board for approval annually and upon approval made available to all interested parties. The plan may be altered to respond to changing market conditions or to expedite the sale of damaged or insect-infested forest products. ()

027. -- 030. (RESERVED)

031. TIMBER SALE AUCTIONS.

01. Requirements. Timber and Delivered Products sales must be sold at public auction. ()

02. Requirements for Bidding. Bidders must: ()

a. Present a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. ()

b. Not be delinquent on any payments to the State at the time of sale. ()

c. Not be a minor as defined in Section 32-101, Idaho Code. ()

d. If a foreign corporation, have a completed and accepted foreign registration statement with the secretary of state and comply with Title 30, Chapter 21, Part 5, Idaho Code in order to do business in Idaho and be eligible to bid on and purchase State timber. ()

032. INITIAL DEPOSIT AND BONDS.

01. Initial Deposit. The initial deposit (ten percent (10%) of net sale value) is paid in cash and retained by the state as a cash reserve for the duration of the contract; the purchaser is not entitled to any interest earned thereon. All or a portion of the initial deposit may be applied to charges as the contract nears completion. Any remaining initial deposit will be forfeited in the event the contract is terminated without being completed. ()

02. Performance Bond. A bond of sufficient amount to ensure compliance with the terms and conditions of the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) must be executed within thirty (30) days from the date of sale and prior to contract execution. Failure to fully perform the contract may result in forfeiture of all or part of the performance bond. ()

03. Payment Bond. Prior to cutting any forest products, the purchaser must provide a bond acceptable to the Department as assurance of payment for products to be cut or removed, or both, within the succeeding ninety (90) days. The Department will determine the payment bond amount on delivered product sales. Failure to make full and timely payment per contract terms may result in forfeiture of all or a portion of the payment bond. ()

033. -- 040. (RESERVED)

041. STUMPAGE AND INTEREST PAYMENT.

The Department will prepare and forward to the purchaser a monthly stumpage summary of forest products measured during the prior month and a statement of account. The statement will include interest computed from the date of sale to the date of the billing at a rate specified in the contract. The purchaser must make payments within thirty (30) days of the end of the billing period or the payment is considered delinquent. Interest will not be charged on delivered product sales. ()

042. TIMBER SALE CANCELLATION.

It is the purchaser's responsibility to initiate cancellation by submitting a written request to the applicable supervisory area office. Once the cancellation process has finished, any credit balances and all cash bonds will be returned and/or transferred to other timber sale accounts within forty-five (45) days, as requested by the purchaser. ()

043. PREMATURE TIMBER SALE TERMINATION.

01. Request. A timber sale purchaser may, for reasons of hardship, make written request to terminate a timber sale contract before harvesting is completed. In such cases, the Board will determine if a hardship exists and if the contract should be terminated. ()

02. Termination Policy. ()

a. The Board may authorize premature termination of any sale under any terms considered reasonable and appropriate. Any remaining amount of the ten percent (10%) initial deposit will be retained in full and applied towards assessed damages and may not be used as payment for forest products cut and/or removed. Assessed damages in excess of the initial deposit will be applied against the performance bond. ()

b. The following damages will be assessed by the Board for premature sale terminations. The Board will seek payment: ()

i. Of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars (\$5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine remaining on the sale area, the purchaser will be assessed five hundred dollars (\$500) upon termination. ()

ii. Of the accrued stumpage interest due the endowed institutions based on the interest rate specified in the contract and calculated on all remaining volume from the date of sale to the date the Board approved termination of the contract. ()

iii. For any credits given for developments that remain incomplete at the time of termination. ()

iv. For estimated Department costs associated with reoffering the timber sale. ()

v. For other expenses including, but not limited to, legal costs and Department staff time. ()

c. If logging has occurred on the sale, the purchaser must complete the units that have been partially logged according to contract standards and complete all development work as specified in the contract to the extent of allowances that have been credited to the purchaser. ()

d. The purchaser who has terminated a timber sale contract is not eligible to rebid that particular sale unless specifically authorized to do so by the Board. ()

044. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.17 – RULES GOVERNING LEASES ON STATE-OWNED NAVIGABLE WATERWAYS

DOCKET NO. 20-0317-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2022 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The overall regulatory burden has been reduced by decreasing both total word count (-17%) and the number of restrictive words (-23%) in the proposed rule. Application and assignment fees have been increased to cover the costs of reviewing applications. Late payment policy is updated, and payment extensions are eliminated. Appraisals, if needed, will now be paid for by the applicant and will not be performed by qualified Department staff.

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

The \$150 application fee in place since 2008 is increased to \$425. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-603, Idaho Code. The \$150 assignment fee is increased to \$200. This fee is being imposed pursuant to Sections 58-104 and 58-127, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, pages 39-40](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Eric Wilson at (208) 334-0261 or ewilson@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 7th day of September, 2022.

Eric Wilson, Resource Protection and Assistance Bureau Chief
Idaho Department of Lands
300 N. 6th Street, Suite 103
Boise, Idaho 83720-0050
P.O. Box 83720
Phone: (208) 334-0261
Fax: (208) 334-3698
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0317-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

20.03.17 – RULES GOVERNING LEASES ON STATE-OWNED NAVIGABLE WATERWAYS

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Idaho Code, Sections 58-104(6), 58-104(9), and 58-105; Title 58, Chapter 3, Idaho Code, Sections 58-304 through 58-312; Title 58, Chapter 6, Idaho Code; Title 58, Chapter 12; and Title 67, Chapter 52, Idaho Code. ()

001. SCOPE.

01. Scope. These rules govern the issuance of leases on state-owned navigable waterways. While the State asserts the right to issue leases for all encroachments, navigational or non-navigational, upon, in or above the beds or waters of navigable lakes and rivers, nothing in these rules may be construed to vest in the state of Idaho any property, right or claim of such right to any private lands lying above the natural or ordinary high water mark of any navigable lake or river. ()

02. Rules Applicable To All Existing And Proposed Uses And Encroachments. These rules apply to all existing and proposed uses and encroachments, whether or not authorized by permit under the Lake Protection Act, Title 58, Chapter 13, Idaho Code, or the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code. These rules provide that a lease may be required in addition to existing permits. See Section 020 of these rules for information about exceptions to lease requirements. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Land Commissioners or its designee. ()

02. Commercial Marina. A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to the general public. ()

03. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes. ()

04. Community Dock. A structure that provides private moorage for more than two (2) adjacent

littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to, homeowners' associations. No public access is required for a community dock. ()

05. Department. The Idaho Department of Lands or its designee. ()

06. Director. The director of the Idaho Department of Lands or his designee. ()

07. Dock Surface Area. Includes docks, slips, piers, and ramps and is calculated in square feet. Dock surface area does not include pilings, submerged anchors, or undecked breakwaters. ()

08. Encroachments in Aid of Navigation. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake, river or stream. The term "encroachments in aid of navigation" is used interchangeably with "navigational encroachments." ()

09. Encroachments Not in Aid of Navigation. Includes all other encroachments on, in, or above the beds or waters of a navigable lake, river or stream, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation. It also includes float homes and floating toys. The term "encroachments not in aid of navigation" is used interchangeably with "non-navigational encroachments." ()

10. Market Value. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. ()

11. Natural or Ordinary High Water Mark. The line that the water impresses upon the soil by covering it for a sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes. If, however, the soil, configuration of the surface, or vegetation has been altered by man's activity, the ordinary high water mark is located where it would have been if the alteration had not occurred. ()

12. Person. An individual, corporation, partnership, limited liability company, association, trust, unincorporated organization or other legal entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government. ()

13. Riparian or Littoral Rights. The rights of owners or lessees of land adjacent to navigable lakes, rivers or streams to maintain their adjacency to the lake, river, or stream and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters. ()

14. Single-Family Dock. A structure providing noncommercial moorage that serves one (1) waterfront owner whose waterfront footage is no less than twenty-five (25) feet. ()

15. State-Owned Navigable Waterways and Navigable Waterways. As used in these rules, the beds of all navigable waterways up to the natural or ordinary high water mark as of the date Idaho was admitted into statehood. This includes any such bed that was formerly submerged and subsequently filled and is now uplands because of human activity (e.g., dikes, berms, jetties) or by natural processes, and includes islands within navigable waterways resulting from human activity or by natural processes. ()

16. Submerged Lands. The state-owned beds of navigable lakes, rivers, and streams below the natural or ordinary high water marks. ()

17. Temporary Permit. A revocable instrument authorizing a specific use on navigable waterways usually issued for five (5) years or less, but that may be issued for up to ten (10) years. ()

18. Two-Family Dock. A structure providing noncommercial moorage that serves two (2) adjacent waterfront owners having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is

located on the common littoral property line. ()

19. Uplands. The land bordering on navigable waterways. ()

011. -- 019. (RESERVED)

020. APPLICABILITY.

Leases are required for all encroachments defined in subsections 010.08 and 010.09 that are above, across, over, in, through, upon, and under the beds of navigable waterways except: ()

01. Single -Family Docks. Single-family docks constructed: ()

a. On or before July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area, and for which all required permits and approvals have been obtained. ()

b. After July 1, 1993, that occupy less than seven hundred (700) square feet of dock surface area, and for which all required permits and approvals have been obtained. ()

02. Two-Family Docks. Two-family docks that occupy less than eleven hundred (1,100) square feet of dock surface area, and for which all required permits and approvals have been obtained. ()

03. Noncommercial Encroachments Free to the Public. Noncommercial encroachments owned by any municipality, county, state, or federal agency for which the complete use is offered free to the public. ()

04. Temporary Permits or Easements. Uses or encroachments that are customarily authorized by temporary permits or easements, such as roads, railroads, overhead utility lines, submerged cables, and pipelines. Information on easements can be found in IDAPA 20.03.09, "Easements on State-Owned Navigable Waterways." ()

021. -- 024. (RESERVED)

025. POLICY.

01. Policy of the State of Idaho. It is the policy of the state of Idaho to regulate and control the use and disposition of the beds of navigable waterways so as to provide for their commercial, navigational, recreational or other public use; provided that the Board will take no action in derogation of or seeking to interfere with the riparian or littoral rights of upland landowners. ()

02. Director May Grant Leases. The Director may grant leases for uses that are in the public interest and consistent with these rules. ()

03. Requests or Inquiries Regarding Navigability. The State owns the beds of all lakes, rivers, and streams that were navigable in fact at statehood. Information about lakes, rivers, and streams deemed navigable by the State of Idaho is available from the Department. ()

04. Stream Channel Alteration Permit or Encroachment Permit. Issuance of a lease is contingent upon the applicant obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources, pursuant to Title 42, Chapter 38, Idaho Code, or an encroachment permit if required by the Department pursuant to the Lake Protection Act, Title 58, Chapter 13, Idaho Code. ()

05. Submerged Lands Lease Required Upon Notification. All persons using submerged lands in a manner that requires a submerged land lease must obtain such a lease from the Director when notified to do so. ()

06. Term of Lease, Renewal of Lease. Leases are issued for a term of ten (10) years or as determined by the Board. Leases may be renewed for additional periods as determined by the Department based upon satisfactory performance during the present term. Renewals will be processed with a minimum of procedural requirements and

will not be denied except in the most unusual circumstances or noncompliance with the terms and conditions of the previous lease. A lease application fee is required for leases that are renewed upon expiration. Lease renewals are initiated by the Department. ()

07. Rights Granted. The lease grants only such rights as are specified in the lease. The right to use the navigable waterways for all other purposes that do not interfere with the rights authorized in the lease remains with the state. ()

08. Waiver of Lease Requirements. The Director may, in his discretion, waive lease requirements for single-family or two-family dock encroachments whose dock surface areas exceed square footages described in Subsections 020.01 through 020.02 of these rules when the additional dock surface area square footage is necessary to gain or maintain access to water of sufficient depth to sustain dock use. ()

09. Private Moorage at Commercial Marinas. ()

a. This Subsection does not apply to community docks. ()

b. Private moorage at commercial marinas is allowed as long as the requirements of IDAPA 20.03.04.015.03 are met. ()

c. The sale, lease, or rental of private moorage is not an encumbrance on navigable waterways. All transactions related to private moorage are subject to the submerged lands lease's terms. ()

d. Acquisition of private moorage must be documented with a disclosure that the transaction does not convey navigable waterways and only conveys the right to use the designated portion of the marina. ()

e. The Department does not regulate the cost of private moorage or resolve disputes between a marina and private moorage owners. ()

026. -- 029. (RESERVED)

030. LEASE APPLICATION, FEE, AND PROCEDURE.

01. Fee. The non-refundable lease application fee is four hundred twenty-five dollars (\$425) for new and existing encroachments. ()

02. Application to Lease and Fee. The lease application and fee must be submitted with the following information, in sufficient detail for the Department to determine an appropriate lease rate: ()

a. A completed application form. ()

b. A scale drawing of the proposed lease area with plans detailing all intended improvements, including reference to the nearest known property corner(s). An encroachment or stream channel alteration permit may satisfy this requirement. ()

03. Notification of Approval or Denial. The Department will notify the applicant in writing if the lease application is approved or denied, and if any additional requirements will be included. ()

031. -- 034. (RESERVED)

035. RENTAL.

Rental rates for submerged land leases are set by Board policy, which is available on the Department website at <http://www.idl.idaho.gov/>. ()

01. Standardized Rental Rates. The Board sets standard submerged land lease rental rates for common uses such as commercial marinas, community docks, float homes, restaurants, and retail stores. Rental rates for commercial marinas and other uses that produce revenue for the lessee will commonly be calculated as a

percentage of gross receipts, however, other methods may be used as the Board deems appropriate. ()

02. Nonstandard Rental Rates. The Board directs the Department to use a percentage of market value or gross receipts, or other methods determined appropriate by the Board, as the submerged lands lease rental rate for non-navigational encroachments or other uncommon uses. ()

036. YEARLY REPORTING.

01. Annual Report. Lessees must provide an annual report to the Department that includes: ()

a. A schedule of moorage rental rates, including moorage sizes and types. ()

b. The number and size of all public boat and float home moorages. ()

c. The number and size of all private boat and float home moorages. ()

d. Current proof of insurance as required by the lease. ()

02. Failure to Report. Failure to provide the annual report information is a violation of these rules. ()

037. -- 039. (RESERVED)

040. LATE PAYMENT.

01. Late Payment of Rent. Rent not paid by the due date is considered late and will result in the following monthly charges. ()

a. A late charge of \$25.00 or 1% of the unpaid principal obligation, whichever is greater. ()

b. An interest charge of 1% on the unpaid principal obligation. ()

02. Late Charge Accrual. The Department will send monthly statements with the outstanding balance that will remain on the account and will continue to accrue late charges and interest each month, or any portion of a month, until the balance is paid in full. All payments will be applied first to accrued interest and late charges, and then to principal. ()

041. -- 044. (RESERVED)

045. APPRAISAL PROCEDURES.

Appraisals may be used to determine the market value of adjacent uplands for calculating submerged lease rental rates. An appraisal will be conducted by a licensed appraiser selected by the Department, although the applicant may propose an appraiser to the Department. The Department will provide appraisal instructions. The appraisal will be performed in a timely manner, and a copy sent to the Department and the applicant. The expense of the appraisal will be borne by the applicant. ()

046. -- 049. (RESERVED)

050. LEASE AMENDMENT.

01. Encroachment Amendment. A lease amendment must first be authorized through a lake encroachment or stream alteration permit or permit amendment, if required. ()

02. Amendment of Existing Lease. Amendment of an existing lease will be processed in the same manner as a new lease application, but no fee will be required. Amendment includes change of use, location, size or scope of the lease site, but does not include ordinary maintenance, repair or replacement of existing structures or facilities. ()

03. Modification of Interior Facilities. If the proposed changes to a facility do not require a new encroachment permit, a lease amendment may still be needed as described in Subsection 050.02 of these rules. The lessee must give written notice to the Department at least ten (10) days in advance of making such changes. The Department will determine if a lease amendment is needed due to the proposed changes. When requested, the lessee must also furnish one (1) set of as-built plans to the Department within thirty (30) days following completion of changes. ()

051. -- 054. (RESERVED)

055. ASSIGNMENTS, ASSIGNMENT FEE.

01. Assignment of Lease. Leases may be assigned upon approval of the Director provided that the lease conforms with Subsection 025.02 and all other provisions of these rules. The assignor and assignee must complete the Department's standard assignment form and forward it to any Department office. ()

02. Assignment Fee. The assignment fee is two hundred dollars (\$200). ()

03. Permit Assignment. The encroachment permit/stream alteration permit pertinent to a lease must be assigned to a purchaser simultaneously with a lease assignment. A lease assignment will not be approved unless the permit is assigned. ()

04. Approval Required for Assignment. An assignment is not valid until it has been approved by the Director. ()

056. -- 059. (RESERVED)

060. CANCELLATION AND ADDITIONAL REMEDIES.

01. Cancellation of Lease for Violation of Terms. Any violation of the lease by the lessee, including non-payment of rent or any violation by lessee of any rule now in force or hereafter adopted by the Board may subject the lease to cancellation. The Department will provide the lessee with written notification specifying the violation, corrective action necessary, and a reasonable time to make the correction. If the corrective action is not taken within the specified time, the Department will notify the lessee of cancellation of the lease no later than thirty (30) days prior to the cancellation's effective date. ()

02. Lease Reinstatement. A lease may be reinstated within ninety (90) days after cancellation for non-payment by paying the rental, plus interest, and a reinstatement fee to be determined by the Board. ()

03. Cancellation of Lease for Use Other Than Intended Purpose. A lease not used for the purpose for which it was granted may be canceled. The Department will notify the lessee in writing of any proposed cancellation. The lessee has thirty (30) days to reply in writing to the Department to show cause why the lease should not be canceled. Within sixty (60) days, the Department will notify the lessee of the Department's decision in writing. The lessee has thirty (30) days to appeal an adverse decision to the Director. ()

04. Removal of Improvements Upon Cancellation. Upon cancellation, the Director will provide the lessee with a specific amount of time, not to exceed six (6) months from the date of final notice, to remove any facilities and improvements. Failure to remove any facilities or structures within such time period established by the Director will be deemed a trespass on navigable waterways. ()

05. Additional Remedies Available. In addition to termination of the lease for the material default of the lessee, the lease may provide for other remedies to non-monetary breach of the lease including, but not limited to: ()

a. Civil penalties as determined by the Board and to be collected as additional rent; ()

b. The reasonable costs of remedial action undertaken by the Department as a result of the lessee's

failure to perform a requirement of the lease. These costs will be collected as additional rent; and ()

c. Such other remedies as the Board deems appropriate. ()

061. -- 064. (RESERVED)

065. BOND.

01. Bond Requirement Determined by Director. Bonds may be required for commercial navigational, community dock, and nonnavigational leases. The need for bond will be at the discretion of the Director, who will consider the potential for abandonment of the facility, harm to state-owned submerged land and water resources, the personal and real property of adjacent upland owners and the personal and real property owned by the encroachment owner that is appurtenant to and supportive of the encroachment. ()

02. Performance Bond. In the event a bond is necessary, the lessee must submit a performance bond in favor of the state of Idaho and in a format acceptable to the Director before a lease is issued. Acceptable bonds include surety, collateral, and letters of credit. The amount of bond is the estimated cost of restoration as established by the Director in consultation with the lease applicant on a case by case basis. To determine restoration costs, the Director may consider the potential for damage to land, to improvements, and the cost of structure removal. ()

066. -- 074. (RESERVED)

075. OTHER RULES AND LAWS.

The lessee must comply with all applicable state, federal, and local rules and laws insofar as they affect the use of the lands described in the lease. ()

076. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 24-3501-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 39-4113, 39-8007, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

***MEETINGS SET FOR PUBLIC PARTICIPATION
IN PERSON, TELEPHONE, AND WEB CONFERENCING***

24.35.01 – Rules of the Outfitters and Guides Licensing Board	
Tuesday, September 20, 2022	Monday, October 3, 2022
DOPL Board Conference Room Chinden Campus – Building #4 11341 W Chinden Blvd Boise ID 83714 <i>Scheduled time is 9:00 a.m. (MT) for the meeting</i>	

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

Under Executive Order 2020-01, Zero-Based Regulation, the Outfitters and Guides Licensing Board (OGLB) is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and [Executive Order 2020-01: Zero-Based Regulation](#).

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

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 24-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 73-77](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tim Frost, Deputy Administrator at (208) 577-2491.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 5, 2022.

DATED this 1st day of September, 2022.

Tim Frost
Deputy Administrator
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: tim.frost@dopl.idaho.gov
Website: <https://dopl.idaho.gov/>

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3501-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

000. LEGAL AUTHORITY.

These rules have been promulgated pursuant to authority granted in the Outfitters and Guides Act. ()

001. SCOPE.

The rules implement, administer, and enforce the Act to establish uniform standards for licensing outfitted and guided activities to protect the public and protect, enhance, and facilitate management of Idaho's fish, wildlife, and recreational resources. ()

002. DEFINITIONS.

The definitions set forth in Section 36-2102, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: ()

01. Act. Title 36, Chapter 21, Idaho Code, commonly known as the Outfitters and Guides Act, as amended. ()

02. Authorized Person. An investigator or inspector in the employ of the Board, a conservation officer of the IFGC, or any local, state, or federal law enforcement officer. ()

03. Classified River. For the purpose of these rules, specific sections of some whitewater river or streams which are considered more hazardous than others have been designated "classified." Classified rivers are denoted by an asterisk (*) in the list of rivers contained in Subsection 259.01. ()

04. Compensation. The receipt, exchange or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party is not deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. ()

05. Facilities and Services. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in

Section 36-2102(b), Idaho Code. ()

06. Fishing. Fishing activities on those waters and for those species described in the rules of the IFGC, IDAPA 13.01.11, “Rules Governing Fish,” general fishing seasons and any anadromous fishing rules and as authorized in the Outfitter’s Operating Plan. ()

07. Float Boats. Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. ()

08. Hazardous Desert or Mountain Excursions. Outfitted or guided activities conducted in a desert or mountainous environment that may constitute a potential danger to the health, safety, or welfare of participants involved and are known to involve inherent risk. These activities include day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, animal pack trips, snowmobiling, ATV, paragliding, motored and non-motored cycling, wagon rides, sleigh rides, and dog sled rides. ()

09. Hunting. The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. ()

10. IFGC. The Idaho Department of Fish and Game or the Idaho Fish and Game Commission. ()

11. Major Activity. A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. ()

12. Major Amendment. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. ()

13. Minor Amendment. All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. ()

14. Operating Area. The area assigned by the Board to an outfitter for the conduct of outfitting activities. ()

15. Operating Plan. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. ()

16. Out-of-Pocket Expenses. The direct expenses attributable to a recreational activity. Such direct expenses do not include: ()

a. Compensation for either sponsors or participants; ()

b. Amortization or depreciation of debt or equipment; or ()

c. Costs of non-expendable supplies. ()

17. Power Boats. All motorized watercraft used on Idaho waters open to commercial outfitting activities. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. ()

18. Watercraft. A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices.

()

003. – 099. (RESERVED)

100. OUTFITTER OR DESIGNATED AGENT LICENSE OR AMENDMENT APPLICATION.

A complete application for a new outfitter or designated agent license, outfitter license major amendment, or new landowner statement in existing areas must, in addition to all other requirements, include: ()

01. Name. The name(s) registered with the Idaho Secretary of State as an assumed business name, the name of the business entity, or both. ()

02. Other Signatures. Signed landowner or land manager statement from: ()

a. The affected state and federal land managers in all areas where an outfitter plans to utilize lands administered by the state or federal government (this may involve memorandum of understanding procedures as applicable to proposed operation on national forest or public domain lands); and ()

b. Private land owners, or their agents, where an outfitter applicant proposes to use such private lands in his operation. ()

03. Examinations. All new applicants applying for an outfitter or designated agent license must successfully pass a Board-approved examination on the Act, the rules, and general outfitting procedures germane to the license applied for. An applicant who fails the test may retake it after a five (5) day waiting period. ()

04. Operating Plan. An operating plan required by the germane land management agency or on a Board approved form. ()

05. Insurance. Current certificate or proof of insurance covering licensed activities. ()

06. Designated Agent. When the applicant is a corporation, firm, partnership, or other organization or combination thereof, the designation at least one (1) designated agent who is a qualified outfitter, covered by the outfitter's bond, and who will be responsible for the outfitting business. The designated agent must apply for and be granted a license. ()

07. Hearing. If more than one (1) applicant submits a complete application with landowner statement(s), the Board has the discretion to decide the successful applicant. ()

08. Existing Operating Area. A licensed outfitter may be given priority for any opportunities within the outfitter's existing operating area boundaries. ()

09. Operating Area Limitations. To safeguard the health, safety, and welfare of the public and for the conservation of wildlife and fish resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. ()

101. OUTFITTER AND DESIGNATED AGENT LICENSE RENEWAL.

01. Outfitter Licensing Priority. Priority for licensure in any outfitter's operating area may be maintained by submitting a complete application for a license for the ensuing license period before the expiration date of the current license. ()

02. Renewal. All licenses expire on March 31 and every application for license renewal for an outfitter and designated agent must be complete and include a use report containing an activity, use, and harvest report on the actual use during the preceding year and other information as required by the Board. ()

03. Penalty Fee. When a completed renewal application is filed with the Board after the due date, a penalty fee must be paid before the license is issued. ()

04. License Expired and Reinstatement. Reinstatement of an expired license will be governed by Section 67-2614, Idaho Code. If an application for reinstatement is not received within six (6) months of expiration of the license, the Board may consider the operating area and activities as an available opportunity. ()

102. OUTFITTER OR DESIGNATED AGENT RESPONSIBILITIES.

An outfitter or designated agent is responsible for maintaining the standards set forth in the Operating Plan and for the actions of all guides and other employees while in the scope of their employment. ()

103. GUIDE LICENSE APPLICATION REQUIREMENTS.

All new applicants for a Guide license must submit a completed application on Board approved forms along with the required fee. ()

01. General Qualifications. The applicant must provide the following: ()

a. Documentation of requisite training and experience sufficient to perform the services and activities provided on the license; and ()

b. A current American Red Cross first aid certification or other comparable certification that is acceptable to the Board; ()

02. Activity-Specific Qualifications. In addition to the general qualifications, the applicant must provide evidence of activity-specific training submitted with application or amendment. ()

a. Hunting. ()

i. Experience in the outfitter's operating area(s) for at least ten (10) days and is knowledgeable of trails, terrain, drainages, and game habits and habitat. ()

ii. Ability to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. ()

iii. Training and experience caring for meat and trophies, including the ability to correctly cape an animal and ability to instruct and assist clients in the proper care of meat. ()

b. Float Boating on Classified Water. ()

i. Three (3) complete float boat trips on each of the classified rivers applied for under the supervision of an outfitter or guide licensed for that river. Allowances may be made for experience gained as a commercial boat operator on selected whitewater rivers with characteristics similar to Idaho's classified rivers, provided the applicant has logged at least five hundred (500) miles as a commercial float boat operator on one (1) or more of those rivers. ()

ii. To document this experience, a statement signed by the applicant under oath or affirmation be recorded on a Board-approved form that includes precise put-in and take-out points, miles logged for each trip, and the names and addresses of the boat operators who have employed them. ()

c. Power Boating on Classified Water. ()

i. Fifty (50) hours on the total length of the river or section of water applied for. ()

d. Float or Power Boating on Unclassified Water. ()

i. At least one (1) complete commercial float or power boat trip on each of the sections or lakes applied for. ()

e. ATV-UTV-Snowmobiling. ()

i. Experience in the outfitter’s operating area for at least ten (10) days and is knowledgeable of the area’s drainages, rideable terrain, and unique avalanche or other hazards as well as the machines being utilized by the outfitter. ()

ii. When operating in winter conditions in terrain with avalanche potential, must have Recreation level 1 avalanche training, American Avalanche Association or similar consisting of twenty-four (24) hours of training with over fifty percent (50%) in the field, and Avalanche Rescue through American Avalanche Association or similar, consisting of eight (8) hours of training with a minimum of five (5) hours in the field. ()

f. Snow-Based Non-Motorized Travel in Avalanche Terrain (backcountry skiing, Nordic skiing, or snow shoeing on non-groomed trails). ()

i. Experience in the outfitter’s operating area(s) for at least ten (10) days and is knowledgeable of the area’s drainages, rideable terrain, and unique avalanche hazards. ()

ii. Recreation level 1 avalanche training, American Avalanche Association or similar consisting of twenty-four (24) hours of training with over fifty percent (50%) in the field, and Avalanche Rescue through American Avalanche Association or similar, consisting of eight (8) hours of training with a minimum of five (5) hours in the field. ()

g. Rock Climbing/Mountaineering. ()

i. Experience in the outfitter’s operating area for at least ten (10) days and is knowledgeable of the area’s routes, navigable terrain, and unique hazards. ()

ii. When operating in winter conditions in terrain with avalanche potential, must have Recreation level 1 avalanche training, American Avalanche Association or similar consisting of twenty-four (24) hours of training with over fifty (50%) in the field, and Avalanche Rescue through American Avalanche Association or similar, consisting of eight (8) hours of training with a minimum of five (5) hours in the field. ()

h. Equestrian Activities. ()

i. Experience in the outfitter’s operating area for at least ten (10) days and is knowledgeable of horsemanship and the area’s routes, trails, terrain, drainages, and unique hazards. ()

03. Validity. A guide license is valid only while the guide is under the employment of an Idaho licensed outfitter. ()

04. Amendment. To add authorized activities to the license, a guide must submit a completed license amendment request on a Board-approved form, along with supplemental documentation of training and experience for each newly requested activity. ()

05. Renewal. A license must be renewed before it expires by submitting a complete application for renewal on Board-approved forms together with the renewal fee. A license expires biennially on the license holder’s birth date. Licenses not timely renewed will be immediately canceled in accordance with Section 67-2614, Idaho Code. ()

104. – 199. (RESERVED)

200. LICENSE PRODUCTION.

A license or proof of licensure must be made available within fourteen (14) days of a request from an Authorized Person. ()

201. THIRD-PARTY AGREEMENT.

An outfitter shall not allow, condone, or abet any third-party agreement involving activities for which they are licensed. An employee of the licensed outfitter acting in the scope of employment is not a third party. ()

202. STANDARDS FOR NON-USE.

The Board may annually review the outfitter's use reports for the preceding three (3) years to determine whether any licensed activity or operating area fall within non-use. If the outfitter falls within non-use, a "notice of non-use" may be issued to the outfitter. ()

01. Definitions. ()

a. Non-use. When an outfitter is making zero (0) or negligible use of major licensed activities for any two (2) of the three (3) preceding years unless the lack of use is due to an act of nature or because of state or federal agency restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients; ()

b. Zero (0) use. No recorded use by an outfitter of their licensed area or activities; ()

c. Negligible use. An unreasonable lack of use as determined by the Board for any one (1) or more of the particular activities in the assigned operating area. Typically, use may be determined by comparison of use levels for the same activity(s) in similar operating areas. ()

02. Required Records. Outfitters shall maintain records sufficient to demonstrate to the Board use of their licensed activities and areas. ()

203. OPERATING AREA.

An outfitter's operating area may be adjusted for reasons of wildlife and fish conservation, where territorial conflict exists, or for the safety of persons utilizing the services of outfitters. Special circumstances may also warrant short term modification of an outfitters operating area. ()

01. Environmental Considerations. Any changes in wildlife population health, environmental conditions and/or new government regulation may result in the adjustment of an outfitter's operating area. ()

02. Conflict Considerations. An incident(s) of territorial conflict, particularly one that leads to public safety concerns, may result in the adjustment of an outfitter's operating area. ()

03. Safety Considerations. Any change(s) in the environmental condition(s), in the manner or amount of public use of the operating area and/or in a licensee's manner of operation within the operating area, that pose a threat to the health and safety of persons using the operating area may result in a change in the outfitters operating area. ()

04. Hot Pursuit. The Board may approve a minor amendment of an outfitters license to allow an outfitter licensed for bear and cougar hunting to enter into an adjacent area with a client for hot pursuit of bear and cougar hunting when hunting with hounds, provided that the pursuit starts inside the outfitter's licensed area. ()

05. Controlled Hunts Outside Operating Area. The Board may authorize an outfitter who is licensed for hunting moose, bighorn sheep, or mountain goat to conduct a one-time hunt outside of the outfitter's licensed area when the outfitter submits a request on a Board-approved form. ()

a. For changes of operation under Subsections 04 and 05 of this Rule, written permission from all outfitters licensed for the species in the hunt area being requested and all applicable landowners or land managers will be provided to the Board. ()

b. For changes under Subsection 04 and 05 of this Rule, under special circumstances the Board may waive the requirement of approval from the overlapping outfitter(s). ()

c. For changes under Subsection 05 of this Rule, no compensation is permitted between outfitters participating in the conduct of a controlled hunt in another outfitter's area, unless the outfitter supplies a service for that compensation. ()

06. Overlap Predator Areas. The Board may authorize outfitters to enter into a standing agreement

with each other and the appropriate land manager(s) allowing the outfitters to hunt wolf, mountain lion, or black bear across multiple operating areas. ()

204. OUTFITTER BUSINESS PURCHASE, LICENSE CONSIDERATIONS.

The sale of an outfitting business requires an application for a new outfitter license by the purchaser, provided that the Board may give priority for licensure to an applicant who has negotiated an agreement related to a sale with a licensee if the applicant meets all other requirements or upon documentation from a court. The Board may consider prior non-use of licensed operating area or activities when evaluating priority for licensure or placing conditions on a license. ()

205. AVAILABILITY OF OUTFITTING OPPORTUNITIES.

Except as provided in other sections of this chapter, when a new opportunity or existing opportunity which had previously been licensed to another outfitter becomes available, the Board may use a competitive application process through a waiting list, public notice, or both to select a qualified applicant. A competitive application process may be coordinated with another governmental agency that has management or permitting authority over the opportunity. ()

01. Waiting List. The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 259 and for each specific IFGC unit listed in IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals." ()

02. Placement on Waiting List. A written request, in a form specified by the Board, must be submitted to be placed on the waiting list, and a name on the waiting list will be maintained for a period of five (5) years or until December 31 of the fifth year that the name is placed on the list, whichever comes first. ()

03. Notification. When public notice is used when an opening occurs, a public announcement will be made via the Board's website and may be made in conjunction with notice by another governmental agency. Persons on the waiting list will be notified of the available opportunity in any competitive application process. ()

04. Application Period and Consideration. Anyone wishing to apply for the opportunity must submit a complete application or amendment, including all applicable fees, by the date specified in the notice. The Board will consider the qualifications of all applicants and in its discretion select the best qualified applicant. ()

206. BOAT EQUIPMENT REQUIREMENTS.

Each float or power boat used by an outfitting operation must be identified as follows: ()

01. Identification. Identification recorded with the Board on the outfitter application consisting of words, names, or letters not less than three (3) inches in height and be of a contrasting color indicating the current licensed outfitter and that is placed above the water line on each side of the bow or stern of the boat utilized by that outfitter in letters. ()

02. Clearwater. On Sections CL2 and CL3 of the Clearwater River, a sticker affixed to the surface of any boat used for anadromous fishing that is not less than eight (8) inches in height and placed immediately adjacent to the identification words, names or letters on each side of the boat towards the bow, identifying the boat as operated by a licensed outfitter. Stickers will be provided and sold annually by the Board or a vendor designated by the Board. ()

207. BOAT TRANSPORT OF HUNTING CLIENTS.

A boatman licensee (either power or float) must not transport big game hunters to any big game hunting area unless licensed to outfit for big game hunting in that area or has entered into an agreement with the licensed outfitter hunting for that area. ()

208. – 256. (RESERVED)

257. DESIGNATION OF ALLOCATED DEER AND ELK TAGS.

For the purposes of this section, an outfitting operation is an outfitter licensee whose licensed activities include hunting for the species in the area of the allocated tag being designated. When IFGC allocates tags, the allocated tags

will be designated pursuant to Section 36-2120, Idaho Code, and this rule. The designation applies for the next season unless IFGC adjusts the number of allocated tags for the hunt. ()

01. Notification. All notices, orders, or other documents may be made to the email address on file with the Board. ()

02. Outfitted Hunter Tag Use History. Each outfitter's hunter tag use history will be determined from the use recorded by IFGC pursuant to Section 36-408(4), Idaho Code, and as may be adjusted as a result of a tag transfer or hardship request that is approved by the Board. ()

a. Transfers. An outfitting operation is credited for use of an allocated tag that it transfers to another outfitting operation for use that year in the same hunt. The receiving outfitting operation is not credited for using the transferred tag. ()

b. Surrenders. An outfitting operation may surrender a designated allocated tag(s) to the undesignated tag pool for use by any outfitting operation in the same hunt. The surrendering outfitting operation is not credited for use of the surrendered tag unless it later uses the tag from the pool. ()

03. New Hunt Allocated Tag Designation. When the IFGC allocates tags for a newly capped or controlled hunt, the allocated tags will be designated proportionately as follows: ()

a. Divide each outfitting operation's base allocation by the total of all base allocations in the hunt, resulting in a percentage of total use. Truncate the decimal at the hundredths place. ()

b. Multiply the percentage of total use from Subsection 257.03.a. of these rules by the total number of allocated tags for the hunt, which determines the number of allocated tags designated to the outfitting operation. ()

04. Use of Previously Designated Allocated Tags. For established capped or controlled hunts, allocated tags will first be designated to each outfitting operation in an amount equal to the outfitting operation's use of the allocated tags previously designated to it for the same hunt. ()

a. In a capped hunt, the use of previously designated allocated tags is the average use of allocated tags in the preceding two (2) years; in the event that IFGC adjusts the number of allocated tags in a hunt where there is only one (1) year of allocation, the Board will not average the use. ()

b. In a controlled hunt, the use of previously designated allocated tags is the highest year of use of allocated tags in the preceding two (2) years. ()

05. Remaining or Additional Allocated Tags. Allocated tags not designated above will be designated proportionately as follows: ()

a. Subtract each outfitting operation's use of previously designated allocated tags from Subsection 257.04 from its base allocation number to determine the number of non-allocated tags it used for a capped hunt or the matching hunt with non-allocated tags for a controlled hunt, when necessary to determine non-allocated tag use; then ()

b. Divide the result by the total number of non-allocated tags used by all outfitting operations, resulting in a percentage of the total non-allocated tags used by outfitting operations in that hunt. Truncate the decimal at the hundredths place; and finally ()

c. Multiply the percentage of total use from Subsection 257.05.b. by the number of allocated tags yet to be designated, which determines the number of allocated tags designated to the outfitting operation. ()

06. Rounding. If allocated tag designation results in a partial tag, the calculation will be rounded up when a decimal equals or exceeds six tenths (0.6) and rounded down when a decimal is less than six tenths (0.6). When calculating after a reduction of allocated tags pursuant to Section 36-2120(4), Idaho Code, the calculation will

be rounded up when a decimal equals or exceeds five tenths (0.5) and rounded down when a decimal is less than five tenths (0.5). ()

07. Tie-breaker. If, after applying Subsections 257.03 through 06, there is a surplus or deficit of allocated tags to be designated, the unrounded proportion from Subsection 257.05, with as many decimal places as necessary, will be used, and then as follows: ()

a. After a reduction in allocated tags, surplus tags will first be designated in amounts to restore outfitter operations to the number of tags that would have otherwise been designated pursuant to Subsection 257.04 or as close thereto as practicable. ()

b. If a surplus, the outfitting operation whose unrounded proportion is the greatest will be designated one (1) tag, and if there are additional surplus tags, the outfitter with the next greatest unrounded proportion will be designated one (1) allocated tag, and repeated in descending unrounded proportions until all surplus tags are designated. In the event there is more than one outfitting operation with the same unrounded proportion and there are insufficient undesignated tags to designate to each outfitter, the undesignated tag will be designated based on a random drawing between those outfitting operations. ()

c. A deficit will be resolved from the outfitting operation whose unrounded proportion is closest to six tenths (0.6), and then next closest to six tenths (0.6) when there is a deficit of more than one (1) allocated tag. If there is more than one (1) outfitting operation with the same unrounded proportion, a random drawing will be held between those outfitters. ()

08. Stipulation by Outfitters. Outfitting operations in a hunt may submit to the Board a written stipulation determining the number of allocated tags designated to each outfitting operation in that hunt. The stipulation must be signed by all eligible outfitting operations for the hunt; however, under special circumstances, the Board may waive the requirement of approval from all other outfitting operations. If the Board approves the stipulation, the stipulation will be effective until the next designation of allocated tags for the hunt. On or before November 1 preceding the hunt, any outfitting operation may petition the Board to vacate the stipulation for good cause that would make it unconscionable or unjust to enforce the stipulation. If the Board vacates the stipulation, the allocated tags in that hunt will be designated pursuant to Section 36-2120, Idaho Code, and this rule. ()

09. Undesignated Tag Pool. Any designated allocated tags that are surrendered or have not been utilized by an outfitting operation on or before July 16 or the next business day for a capped hunt, or on or before September 10 or the next business day for a controlled hunt, will be available in an undesignated pool for any outfitting operation, as follows: ()

a. Beginning April 10 preceding the hunt, an outfitting operation may submit a request for an allocated tag from the pool. The request must be on a Board-approved form. ()

b. Beginning April 20 preceding the hunt or next business day, an allocated tag will be designated from the pool on a first-come, first-served basis to an outfitting operation without any designated allocated tags or which has utilized all of its designated allocated tags, using a waiting list when necessary. A maximum of two (2) allocated tags will be designated to each requesting outfitting operation until all other requesting outfitting operations have been served, then a requesting outfitting operation is eligible to receive a maximum of two (2) additional allocated tags from the pool, repeated until all requesting outfitting operations are served or until no tags remain. ()

10. Objection to Calculation. If an outfitting operation believes the calculation is incorrect, it may object by filing a petition with the Board within fourteen (14) days from the date the notification was sent and in accordance with the Idaho Administrative Procedures Act. The petition will include any supporting information or documentation. ()

a. All outfitting operations in the hunt in question will be notified of the petition. ()

b. The outfitting operation bears the burden of establishing that the calculation was incorrect. ()

11. Hardship Request. An outfitting operation may submit a written hardship request to maintain all or a portion of previous outfitted hunter tag use history when the outfitting operation shows good cause that its use of allocated designated tags was impacted by circumstances beyond the outfitting operation’s control. The request must be submitted on or before a deadline set by the Board. The outfitting operation must provide information or documentation as requested by the Board to substantiate the request. ()

12. Change in Operating Area or Owner of Business. When an outfitting operation is sold or when an operating area is adjusted through a sale and designated allocated tags are associated with the affected operating area, the associated designated allocated tags and tag use history will transfer to the new owner. ()

258. NUMBER OF OUTFITTERS AND GUIDES LIMITED.
 Big Lost and Little Lost Rivers and the Big Wood and the Little Wood Rivers – All reaches from headwaters to the termination of the flow of the Big Lost and the Little Lost Rivers and all reaches of the Big Wood and Little Wood Rivers are limited to a maximum of five (5) outfitters on both rivers combined. ()

259. RIVER, LAKE, AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.
 For the express purpose of safeguarding the health, safety and welfare of the public, for the conservation of wildlife and range resources, and to enable the outfitted and non-outfitted public to enjoy the recreational value of Idaho’s rivers, streams, lakes, reservoirs and other natural resources, the Board has discretion to limit the number of outfitters licensed on waters that lie totally or partially within the State of Idaho. Pursuant to Section 36-2107(e), Idaho Code, the Board may cooperate with federal and state government to evaluate relevant factors in decisions related to setting outfitter licensure limits on navigable waterways. The following rivers and streams or sections that lie totally or partially within the state of Idaho are open to commercial boating operations by outfitters and guides. ()

01. Licensable Waters – River Sections (BL1) Blackfoot River through (PR1) Priest River – Table:

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
<p>(BL1) Blackfoot River - Blackfoot Reservoir/Government Dam to Trail Creek Bridge. For each license/permit issued, no more than two (2) boats per section/ per day may be used by any outfitter at any one time in each of the following river sections:</p> <p>a) Blackfoot Reservoir/Government Dam to Sage Hen Flats/Cutthroat Campground b) Sage Hen Flats/Cutthroat Campground to Morgan Bridge c) Morgan Bridge to Trail Creek Bridge</p> <p>No outfitter may have more than six (6) boats on the BL1 in any one (1) day.</p> <p>OGLB licenses are for the entire BL1 segment; a section of BL1 cannot be separated from BL1 for the purposes of selling a portion of an outfitter's business.</p>	none	2
<p>(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman. No overnight camping or walk-and-wade fishing allowed.</p>	none	2

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(BO1A) Boise River - Eckert Road Bridge to Main Street Bridge.	none	
(BO1B) Boise River - Main Street Bridge to West side of Garden City limits.	none	
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. Each outfitter may use at any time a maximum of four (4) boats for boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	6
(CF1) Clark Fork River - Montana state line to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
(CL1) Clearwater River - Lowell to the Lower Bridge at Kooskia. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. Fishing may not be conducted downstream from the Upper Bridge at Kooskia by CL1 outfitters. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5
(CL2) Clearwater River - The Upper Bridge at Kooskia to the Orofino Bridge. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	6	10
(CL3) Clearwater River - The Orofino Bridge to the mouth of the Clearwater River with the Snake River at Lewiston. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	10	10
* (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
(CDNF) Headwaters of North Fork Coeur d'Alene - Including tributaries (Independence and Tee Pee Creeks) upstream from Devils Elbow Campground. Three (3) walk and wade only licenses. Up to four (4) clients on the river at one time per license.	none	none

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence. Fishing limit is two (2) float boats per license with a maximum of two (2) clients at a time per boat. Two (2) additional walk and wade licenses can be issued. Walk and wade limited to a maximum of two (2) clients at a time per license.	none	1
(CD2) Coeur d'Alene River - South Fork confluence downstream to Cataldo Mission Boat Ramp. Fishing limit is one (1) float boat per license with a maximum of two (2) clients or two walk and wade clients per license at a time. Walk and wade activities do not have to be initiated from a float boat.	none	1
(CD3) Lateral (Coeur d'Alene chain) Lakes - Connected by the Coeur d'Alene River. Cataldo Mission Boat Ramp to Highway 97 Bridge. A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) guide per license and two (2) float tubes at a time or two (2) clients walking and wading. The walk and wade activities must be associated with the power boating.	3	none
* (JB1) Jarbidge/Bruneau Rivers	none	4
(KO1) Kootenai River - Montana state line to Canada boundary	5	5
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.	none	2
* (LO1) Lochsa River	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
* (OW1) Owyhee River - Nevada state line to Oregon state line or South Fork to confluence with Owyhee River and continuing on to a take-out point.	none	6
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge	none	5
(PS1) Payette River, South Fork - Grandjean to Deadwood River	none	5
* (PS2) Payette River, South Fork - Deadwood River to Banks	none	5
(PA1) Payette River - Banks to Black Canyon Dam	none	5
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City	none	5

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02. Licensable Waters – River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River – Table:

River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River

River/Section	Maximum No. Power	Maximum No. Float
###(MF1) Salmon River, Middle Fork - Boundary Creek to Cache Bar on the Salmon River	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	5
(SA3) Salmon River - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6

River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River

River/Section	Maximum No. Power	Maximum No. Float
(SA4A) Salmon River - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
(SA4B) Salmon River - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
(SA5) Salmon River - North Fork to Corn Creek	3	9
###(SA6) Salmon River - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer.	14	31
* (SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26
* (SA7B) Salmon River - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer.	6	12
* (SA7C) Salmon River - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
###(SA8) Salmon River - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
* (SE1) Selway River - Paradise Campground to Selway Falls	none	4

River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River

River/Section	Maximum No. Power	Maximum No. Float
<p>(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.</p>	none	5

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03. Licensable Waters – River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River – Table:

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>(SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.</p>	none	7
<p>(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony. Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing, no more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Stone Bridge, Stone Bridge to Ashton Dam, and Ashton Dam to Chester Dam, and Chester Dam to St. Anthony, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.</p>	none	8

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>(SH3) Snake River, Henry’s Fork - No more than three (3) boats for fishing may be used by an outfitter at any one (1) time in each of the following river sections:</p> <p>a) St. Anthony to Red Road Bridge Boat Access (i.e., Parker/Salem or Fort Henry) b) Red Road Bridge Boat Access to Warm Slough Boat Access c) Warm Slough Boat Access to Menan Boat Access</p> <p>No outfitter may have more than six (6) boats on the SH3 in any one (1) day.</p> <p>When permitted by the BLM and with the notification to and concurrence of the Board Executive Officer, each outfitter may be allowed adjustments to the maximum boat limits in order to accommodate non-fishing boating activities (e.g., canoeing, paddle boards, and kayaks) and hazardous excursions that are part of an outfitter’s operating plan. These adjustments must be reviewed and approved annually.</p> <p>OGLB licenses are for the entire SH3 segment; a section of SH3 cannot be separated from SH3 for the purposes of selling a portion of an outfitter’s business.</p>	<p>none</p>	<p>4</p>

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>(SS1) Snake River - South Fork - No more than four (4) boats per section/per day may be used by an outfitter at any one (1) time in each of the following river sections:</p> <p>a) Palisades Dam Boat Access to the Spring Creek Boat Access (Swan Valley Bridge) or Conant Boat Access. Exception: Not more than eight boats would be permitted between Spring Creek Boat Access and Conant Boat Access to allow for the flexibility to launch/take-out boats.</p> <p>b) Spring Creek or Conant Boat Access to Fullmer Boat Access. Exception: Not more than eight (8) boats would be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m. due to overnight use at designated outfitter camps.</p> <p>c) Fullmer Boat Access to Byington Boat Access.</p> <p>d) Byington Boat Access to Lorenzo Boat Access.</p> <p>e) Lorenzo Boat Access to Menan Boat Access.</p> <p>Additionally, no outfitter may have more than twelve (12) boats on the SS1 in any one day.</p> <p>A one-time per year exception after July 15 may be granted from Conant Boat Access to Byington Boat Access that would allow two (2) additional boats per section to accommodate large client groups. During this one-time exception, if the two (2) additional boats do not accommodate the large client group, additional boats must come from slots allocated to other outfitters. The maximum daily boat limit for SS1 may not be exceeded. This would require written concurrence from the BLM/USFS and the Board Executive Officer.</p> <p>Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor.</p> <p>OGLB licenses are for the entire SS1 segment; a section of SS1 cannot be separated from SS1 for the purposes of selling a portion of an outfitter's business.</p>	<p>None*</p>	<p>8**</p>

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>* Each licensed float boat outfitter may use one (1) supply boat (float or power) that does not carry clients. During periods of preparing overnight camps (i.e., setting up tents and portable toilet facilities, boating in grills and other cooking supplies) for the season, usually May or June of each year; and removing the same items listed above from overnight camps at the end of the season, usually October or November; multiple supply boats may be used.</p> <p>** One (1) license additional for waterfowl hunting covering both BLM and USFS managed lands and waters for the South Fork (Palisades Dam to Wolf Flats Boat Access may be issued. This license opportunity is in addition to the eight (8) float licenses and is limited to providing waterfowl hunting during waterfowl hunting season as defined by Idaho Fish and Game Rules and where no more than two (2) float or power boat boats per day per section a and b only can be used by the outfitter at any one time for that purpose. Fishing may not be provided or conducted unless the outfitter is also licensed and permitted as one (1) of the eight (8) outfitters addressed in this rule who may not provide hunting activities. This business opportunity may be sold separately.</p>		
<p>(SN1) Snake River - For each license/permit issued, no more than four (4) boats per section/per day may be used by an outfitter at any one time in each of the following river sections:</p> <p>a) Menan Boat Access to Mike Walker Boat Access (includes Federally managed lands).</p> <p>b) Mike Walker Boat Access to Gem State Power Plant (includes non-Federal lands).</p> <p>Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor.</p> <p>OGLB licenses are for the entire SN1 segment; a section of SN1 cannot be separated from SN1 for the purposes of selling a portion of an outfitter's business.</p>	<p>3 outfitters either float or power or combination thereof</p>	

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
<p>(SN2) Snake River - Gem State Power Plant. Idaho Falls, downstream to headwaters of American Falls Reservoir. For each license/permit issued, no more than four (4) boats per section/per day may be used by any outfitter at any one time in each of the following river sections:</p> <ul style="list-style-type: none"> a) Gem State Power Plant to Shelley/Firth b) Shelley/Firth to Porterville c) Porterville to Blackfoot (Boating limited, walk-wade if there is access) d) Blackfoot to Tilden Bridge e) Tilden Bridge to the headwaters of American Falls Reservoir <p>No outfitter may have more than twelve (12) boats on the SN2 in any one day.</p> <p>OGLB licenses are for the entire SN2 segment; a section of SN2 cannot be separated from SN2 for the purposes of selling a portion of an outfitter’s business.</p>	<p>3 outfitters either float or power or combination thereof</p>	
<p>(SN3) Snake River - American Falls Dam to Massacre Rocks State Park. For each license/permit issued, no more than five (5) boats per section/per day may be used by any outfitter at any one time in each of the following river sections:</p> <ul style="list-style-type: none"> a) American Falls Dam to Pipeline (includes federally and non- federally managed lands) b) Pipeline to Vista (includes federally and non- federally managed lands) c) Vista to Eagle Rock (includes non-federally managed lands) d) Eagle Rock to Massacre Rocks (includes non-federally managed lands) <p>No outfitter may have more than ten (10) boats on the SN3 in any one day.</p> <p>Float boats may use motors (5HP or less) for downstream steerage only. Downstream steerage does not include holding or upstream travel of watercraft with a motor.</p> <p>Sturgeon Fishing: Pipeline to Massacre Rocks, no more than five (5) boats per section/per day may be used by any outfitter at any one time in each of the river sections between Pipeline to Massacre Rocks.</p> <p>American Falls Dam to Pipeline, one (1) boat within this section/two (2) weekdays per week/two (2) weekend days per month. Idaho Department of Fish and Game, Southeast Region (Pocatello) needs to be notified prior to Sturgeon Fishing.</p> <p>OGLB licenses are for the entire SN3 segment; a section of SN3 cannot be separated from SN3 for the purposes of selling a portion of an outfitter’s business.</p>	<p>3 outfitters either float or power or combination thereof</p>	

River Sections (SH1) Henry's Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
(SN4) Snake River - Massacre Rocks State Park to Milner Dam	3	3
* (SN5) Snake River - Milner Dam to Star Falls	none	3
* (SN6) Snake River - Star Falls to Twin Falls	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing, two (2) one-day float trips only	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters.)	
(SJ1) St. Joe River - St. Joe River Headwaters to Red Ives. No outfitted boating. One (1) walk and wade only fishing outfitter.	none 2	none
(SJ2) St. Joe River - Red Ives to Avery. In addition to one (1) float boat license, three (3) walk and wade only outfitters. No fishing from float boats, boat clients may fish via walk and wade.	none	1
(SJ3) St. Joe River - Avery to St. Joe City Bridge	none	2
(SJ4) St. Joe River - St. Joe City Bridge to Lake Coeur d'Alene	2	none

River Sections (SH1) Henry’s Fork Snake River through (TE3) Teton River

River/Section	Maximum No. Power	Maximum No. Float
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge, motors not to exceed 10 hp	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge, motors not to exceed 10 hp	6 outfitters for either power or float or combination thereof	
<p>(TE3) Teton River - No more than two (2) boats per section/per day may be used by an outfitter at any one time in each of the following river sections: a), b), d), e) and f). No more than four (4) boats per section/per day may be used by an outfitter at any one time on river section c) and where two (2) boats from same outfitter must be spaced at three-hour (3) intervals:</p> <p>a) Harrop Bridge Boat Access to Felt Dam Boat Access. b) Felt Dam Boat Access to Spring Hollow Boat Access. c) Spring Hollow Boat Access to Teton Dam Site Boat Access. d) Teton Dam Site Boat Access to Hog Hollow Bridge Boat Access. e) Hog Hollow Bridge Boat Access to Teton Highway. f) Teton Highway to confluence with the Henrys Fork of the Snake River. Note: No boat access exists at the confluence with the Henrys Fork of the Snake River. Outfitters would utilize Hibbard Bridge or Warm Slough Access on SH3. No fishing on SH3.</p> <p>No outfitter may have more than eight (8) boats on the TE3 in any one day.</p> <p>Float boats may use motors not to exceed 10 hp in section a) (Harrop Bridge to Felt Dam Access) only. Float boats may use motors (5HP or less) for downstream steerage only in sections d), e) and f). Motors are not allowed in other sections. Downstream steerage does not include holding or upstream travel of watercraft with a motor.</p> <p>OGLB licenses are for the entire TE3 segment; a section of TE3 cannot be separated from TE3 for the purposes of selling a portion of an outfitter's business.</p>	none	5

* Classified rivers

Floatboat and powerboat outfitters on these sections are considered within their area of operations when hiking from the river or fishing in tributaries away from the river but does not include overnight activities. Conflicts with land-based outfitters will be handled on a case-by-case basis. ()

04. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho are open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

()

05. Other Lakes and Reservoirs. All other Idaho lakes and reservoirs are limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. ()

260. – 299. (RESERVED)

300. UNETHICAL AND UNPROFESSIONAL CONDUCT.

The Board may refuse to issue or renew a license or otherwise discipline a license holder for any of the following: ()

01. Harass. Harassment of the public in their use of Idaho’s outdoor recreational opportunities. ()

02. Endanger. Operating in a manner which endangers the health, safety, or welfare of the public. ()

03. Interfere. Interference with private landowners, public land management agencies, and/or stockmen and their rights and privileges. ()

301. – 399. (RESERVED)

400. INSPECTIONS.
The Board has the authority to inspect outfitter facilities and equipment. ()

401. – 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD

DOCKET NO. 24-3910-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-1001, 54-1005, 54-1006, 54-1007, 54-1009, 54-1018, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

***MEETINGS SET FOR PUBLIC PARTICIPATION
IN PERSON, TELEPHONE, AND WEB CONFERENCING***

24.39.10 – Rules of the Idaho Electrical Board	
Monday, September 12, 2022	Wednesday, September 14, 2022
DOPL Board Conference Room Chinden Campus – Building #4 11341 W Chinden Blvd Boise ID 83714 <i>Scheduled time is 2:00 p.m. (MT) for all meetings</i>	

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

Under Executive Order 2020-01, Zero-Based Regulation, the Idaho Electrical Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statutes and [Executive Order 2020-01: Zero-Based Regulation](#).

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

The fees for electrical permits and inspections as designated in IDAPA 24.39.10.500 of this proposed rule are authorized in Section 54-1005, Idaho Code. None of the fees are being changed as a result of this rulemaking and since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 24-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 73-77](#).

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

Per Idaho Code 54-1001, the Board adopted the 2020 National Electrical Code with amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tim Frost, Deputy Administrator at (208) 577-2491.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 5, 2022.

DATED this 1st day of September, 2022.

Tim Frost
Deputy Administrator
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: tim.frost@dopl.idaho.gov
Website: <https://dopl.idaho.gov/>

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3910-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Sections 54-1001, 54-1005, 54-1006, 54-1007, 54-1009, 54-1018, 67-2604, 67-2614, 67-9406 and 67-9409, Idaho Code. ()

001. SCOPE.

The rules prescribe criteria and fees for issuance of licenses, electrical permits, and inspections of electrical installations, civil penalties, and adoption and amendment of the National Electrical Code. ()

002. DEFINITIONS.

01. Associated Buildings. All buildings, structures, and fixtures used for domestic purposes and in connection with the primary or secondary residence, such as garages, sheds, barns, or shops. ()

02. Person. Includes an individual, company, firm, partnership, corporation, association or other organization. ()

003. – 099. (RESERVED)

100. LICENSURE AND REGISTRATION.

01. Journeyman. An applicant must pass an examination designated by the Board and either (a) submit evidence of a minimum of six thousand (6,000) hours of work experience as an apprentice making electrical

installations in accordance with the requirements of the jurisdiction in which the applicant obtained the experience and satisfactory completion of a four-year sequence of instruction approved by the Idaho Division of Career-Technical Education, or (b) submit proof of sixteen thousand (16,000) hours of electrical experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ()

a. Examination. An applicant may sit for the exam after showing proof of completion of either the approved 4-year sequence of instruction or 16,000 hours of electrical experience. ()

b. Provisional Journeyman License. A provisional journeyman license can be issued to an applicant who has completed the 16,000 hours of electrical experience but has not yet passed the examination. ()

c. Work experience in appliance repair, motor winding, or communications will not count towards the requirements to take the journeyman examination or obtain a provisional journeyman or journeyman license. ()

d. No more than two thousand (2,000) hours of work experience gained while engaged in the practice of a limited electrical installer or trainee may be counted toward the satisfaction of the experience requirements for journeyman licensure. ()

02. Master. A master electrician does not need to also hold a journeyman license. ()

03. Limited Electrical Installer. An applicant must submit evidence of a minimum of four thousand (4,000) hours of work experience in the same limited category in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ()

04. Electrical Contractor and Limited Electrical Contractor. Applicant or its entity designee must pass an examination designated by the Board and submit an application signed by the applicant or an official representative of the entity making the application and countersigned by the supervising electrician. ()

a. An entity applicant (such as, corporation, partnership, company, firm, or association) must designate in writing an individual to represent it for examination purposes. Any such designee shall be a supervisory employee and may not represent any other applicant for a contractor's license. ()

b. In the event the working relationship between a contractor and its designee terminates, the contractor will notify the Division in writing within ten (10) days of the date of termination. The contractor may not purchase permits or make electrical installations unless another duly qualified designee passes the contractor's examination on behalf of the contractor. ()

05. Continuing Education.

a. To renew, journeymen and master electricians must provide proof of completion, during the prior three-year license cycle, of twenty-four (24) hours of continuing education instruction consisting of eight (8) hours of code update covering changes included in the latest edition of the National Electrical Code and sixteen (16) hours of any combination of code-update training, code-related training, or industry-related training. ()

b. To renew, an apprentice who has completed the education (if applicable) and experience requirements but has not passed the journeyman examination within two (2) years of completion of the education (if applicable) and experience requirements must provide proof of completion of twenty-four (24) hours of continuing education instruction consisting of eight (8) hours of NFPA 70E training and sixteen (16) hours of code update training, code-related training, or industry-related training. ()

101.–199. (RESERVED)

200. PRACTICE STANDARDS.

01. Electrical Contracting Work. Contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code.

()

02. Contractor Scope. A contractor's allowable scope of work is the same as the scope of its licensed employee. ()

03. Supervision. ()

a. The master, journeyman, or limited electrical installer shall be designated the supervising electrician; must be available during working hours to carry out the duties of supervising, as set forth herein; and will be responsible for supervision of electrical installations made by said contractor as provided by Section 54-1010, Idaho Code. ()

i. A master electrician, journeyman, or limited electrical installer is not qualified for one (1) year as the supervising electrician if his contractor license was revoked. ()

ii. An individual contractor may act as his own supervising master, journeyman, or limited electrical installer upon the condition that he holds an active master, journeyman, or limited electrical installer license. ()

b. The employing contractor or limited electrical contractor must ensure each apprentice, trainee, and provisional journeyman performs electrical work only under the constant on-the-job supervision and training of a master, journeyman, or installer. ()

c. Journeyman-to-Apprentice Ratio. One (1) journeyman shall not supervise more than four (4) apprentices performing electrical work on one- and two-family dwelling units. One (1) journeyman shall not supervise and train more than two (2) apprentices performing electrical work on all other types of electrical installations. ()

i. The journeyman-to-apprentice ratio may be adjusted on a case-by-case basis by a showing by an electrical contractor of special circumstances that are peculiar to the work done by that electrical contractor and that allow for effective supervision and training by each journeyman electrician. An electrical contractor must obtain permission from the Division to adjust the journeyman-to-apprentice ratio. Failure to comply with this requirement will be grounds for suspension or revocation of the electrical contractor's license. ()

d. A journeyman who is an employee of a company, corporation, firm, or association with a facility account may sign as supervising electrician for that facility account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner. ()

04. Temporary Installations Connected Prior to Inspection. Only a licensed electrical contractor may have a power supply company connect and energize a temporary service for construction prior to an inspection being performed. Any contractor energizing a temporary service prior to inspection shall assume full responsibility for the installation of the temporary service. A power supply company may only connect and energize a temporary service upon receipt of a copy of an electrical permit and if the power supply company deems the connection and energization necessary to preserve life or property. The contractor shall request the Division conduct an inspection on the next business day after the temporary service is energized. ()

05. Limited Electrical Installations. A limited electrical installer must be employed by an electrical contractor or limited electrical contractor in the same restricted category and may only countersign a limited electrical contractor's license application as supervising limited electrical installer for work within the same restricted category. Limited electrical installations must comply with the National Electrical Code, as amended herein. The following categories of electrical installations constitute limited electrical installations, the practice of which shall require an electrical contractor or limited electrical contractor license and supervision by a journeyman, master electrician, or limited electrical installer: ()

a. Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical. An elevator electrical limited licensee is only authorized to install, maintain, repair, and replace equipment, controls, and wiring beyond the disconnect switch in the machine room of the elevator and pertaining directly to the operation and control thereof when located in the elevator shaft and machine room. ()

b. Sign Electrical. A sign electrical limited licensee is only authorized to install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; provided the disconnecting means is located on the sign or within sight therefrom. ()

c. Manufacturing or Assembling Equipment. A licensed limited electrical manufacturing or assembling equipment installer is only authorized to install, maintain, repair, and replace equipment, controls, and accessory wiring, integral to the specific equipment, on the load side of the equipment disconnecting means. Electrical service and feeder are to be installed by others. The licensee may also install circuitry in modules or fabricated enclosures for the purpose of connecting the necessary components which individually bear a label from a nationally recognized testing laboratory when such equipment is designed and manufactured for a specific job installation. ()

i. This subsection does not apply to a limited electrical manufacturing or assembling equipment installer installing electrical wiring, equipment, and apparatus in modular buildings as that phrase is defined in Section 39-4105, Idaho Code. Only journeyman electricians and electrical apprentices, employed by an electrical contractor, may perform such installations. ()

d. Limited Energy Electrical. Limited energy systems are defined as fire and security alarm systems, class 2 and class 3 signaling circuits, key card operators, nurse call systems, motor and electrical apparatus controls and other limited energy applications covered by the NEC. Unless exempted by Section 54-1016, Idaho Code, any person who installs, maintains, replaces or repairs electrical wiring and equipment for limited energy systems in facilities other than one (1) or two (2) family dwellings shall be required to have a valid limited energy limited electrical license. ()

i. Limited energy systems do not include, and no license of any type is required for, the installation of landscape sprinkler controls or communication circuits, wires and apparatus that include telephone systems, telegraph facilities, outside wiring for fire and security alarm systems which are used for communication purposes, and central station systems of a similar nature, PBX systems, audio-visual and sound systems, public address and intercom systems, data communication systems, radio and television systems, antenna systems and other similar systems. ()

e. Irrigation Sprinkler Electrical. An irrigation system electrical limited licensee is only authorized to install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. ()

f. Well Driller and Water Pump Installer. A license holder in this category is only authorized to perform the following types of installations: ()

i. Single or three (3) phase water pumps: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

ii. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt, single phase, sixty (60) amps or less: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. ()

iii. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. ()

iv. Individual residential wastewater pumping units. Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device for systems that serve one-family, two-family, or three-family residential installations. ()

g. Refrigeration, Heating, and Air-Conditioning Electrical Installer. A license holder in this category

is only authorized to perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: ()

i. Heating Units (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

ii. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

iii. Refrigeration, Air-Conditioning and Heating Systems (three (3) phase): install, maintain, and repair all electrical equipment and accessories up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. ()

h. Outside Wireman. Applicants for this license category shall provide documentation of having completed an electrical lineman apprenticeship program or similar program approved by the U.S. Department of Labor, Office of Apprenticeship. Any person currently licensed in this category is only authorized to perform the following types of installation ()

i. Overhead distribution and transmission lines in excess of six hundred (600) volts ()

ii. Underground distribution and transmission lines in excess of six hundred (600) volts. ()

iii. Substation and switchyard construction in excess of six hundred (600) volts. ()

i. Solar Photovoltaic. Applicants for this license category shall provide proof of photovoltaic installer certification by the North American Board of Certified Energy Practitioners (NABCEP) or equivalent. Any person licensed in this category is only authorized to perform the following types of installations: ()

i. Solar Photovoltaic DC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the inverter. ()

ii. Solar Photovoltaic micro-inverter/AC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the AC combiner box. ()

06. Certification and Approval of Electrical Products and Materials. All materials, devices, fittings, equipment, apparatus, luminaires, and appliances installed or to be used in installations that are supplied with electric energy must be approved as provided in one (1) of the following methods: ()

a. Testing Laboratory. Be tested, examined, and certified (Listed) by a Nationally Recognized Testing Laboratory (NRTL). ()

b. Field Evaluation. Non-listed electrical equipment may be approved for use through a field evaluation process performed in accordance with recognized practices and procedures such as those contained in the 2012 edition of NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA). Such evaluations shall be conducted by: ()

i. A field evaluation body approved by the authority having jurisdiction. The field evaluation body shall meet minimum recognized standards for competency, such as NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies, 2012 edition, published by the National Fire Protection Association (NFPA); or ()

ii. In the case of industrial machinery only, as defined by NFPA 79 - Electrical Standard for Industrial Machinery, 2012 edition, a field evaluation may be performed by a professional engineer currently licensed to practice electrical engineering by the state of Idaho and who is not involved in the design of the equipment being evaluated or the facility in which the equipment is to be installed. ()

c. Availability of NFPA Standards. The most recent edition of NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies and NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA) are available at the Division. ()

201. – 299. (RESERVED)

300. CIVIL PENALTIES.

The acts described in this section subject the violator to a civil penalty not to exceed one thousand dollars (\$1,000) for each separate count or offense. ()

01. Statute or Rule. Failure to comply with any provision of Chapter 10, Title 54, Idaho Code or Board Rule. ()

02. Licensure or Registration. Except as provided by Section 54-1016, Idaho Code, performance of electrical work without an active license or registration as required by Chapter 10, Title 54, Idaho Code. General contractors registered pursuant to Section 54-1016, Idaho Code who submit a bid on a multi-trade construction project which includes a licensed electrical contractor's pricing is not considered as acting or attempting to act as an electrical contractor. ()

03. Performance Outside Scope. Performance of any electrical installation, alteration, or maintenance by a limited electrical contractor, limited electrical installer, or trainee outside the scope of the limited electrical license or registration. ()

04. Employees. Knowing employment of a person who does not hold an active license or registration to perform electrical work. ()

05. Supervision. Working as an apprentice or limited electrical installer trainee without the required journeyman, master, or installer supervision or employing an apprentice or trainee without providing the required supervision. ()

06. Fees, Permits, and Inspections. Failure to obtain a required permit, pay applicable fees, properly post a permit, or request an inspection of any electrical work. ()

07. Corrections. Failure to make corrections in the time allotted in the notice on any electrical work. ()

08. Misrepresentation of Fees. Misrepresentation of the permit or inspection fees to the customer. ()

09. Advertising. Advertising to engage in the business, trade, practice, or work of an electrical contractor as defined in Sections 54-1003A and 54-1010, Idaho Code, without holding a current and valid electrical contractor license issued by the Division or advertising without including the contractor license number in the advertisement. Advertising includes, but is not limited to: newspaper, telephone directory, community flier ads or notices; telephone, television, radio, internet, or door-to-door solicitations. ()

10. Order. Failure to comply with any lawful order of the Board or Division administrator. ()

301. – 499. (RESERVED)

500. PERMITS AND INSPECTIONS.

01. Permits and Inspections. ()

a. Permits. All electrical permits shall be purchased before work is commenced. Payment of the total permit fee shall be made prior to a final inspection. ()

i. No wiring or equipment may be concealed in any manner from access or sight until the work has been inspected and approved for cover by the electrical inspector except for those installations pursuant to Section 54-1005(3), Idaho Code. ()

b. Completion of Installation. Each installation made by a permit holder or his authorized representative shall request an inspection from the Division. ()

c. Expiration of Permits. Every permit issued shall expire and become null and void after three hundred sixty-five (365) days from the purchase date. A permit may be renewed for an additional year upon receipt of Division approval and payment of a sixty-five dollar (\$65) renewal fee. ()

d. Transferring a Permit. A permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself and assigning all responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the electrical work is to be performed and for which the permit was issued or such owner’s designated legal agent in cases where such owner has terminated his legal relationship with the electrical contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of the permit shall be assessed by the Division. ()

02. Fee Schedule. ()

a. Residential Permits. Includes associated buildings with wiring being constructed on each property. ()

i. New residential construction permits: ()

New One- Family Dwelling Unit	
Up to 1,500 square feet of living space	\$130
1,501 to 2,500 square feet of living space	\$195
2,501 to 3,500 square feet of living space	\$260
3,501 to 4,500 square feet of living space	\$325
Over 4,500 square feet of living space	\$325 plus \$65 for each additional 1,000 square feet or portion thereof
New Two- and Multi- Family Dwelling Unit	
Two-family dwellings	\$260
Multi-family dwellings	\$130 per building plus \$65 per unit

ii. Existing Dwelling Unit Permit: sixty-five dollars (\$65) per inspection. ()

b. Other Installations Including Industrial and Commercial Permits. The following fees shall apply to industrial and commercial installations and installations not specifically mentioned elsewhere in this Fee Schedule.

The electrical cost shall be the cost to the owner of all labor charges and all other costs that are incurred to complete the installation of all wiring and equipment installed as part of the system. Factory assembled industrial machinery to be operated by electrical energy shall not be included in calculating these fees. ()

i. Wiring cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of total wiring cost. ()

ii. Wiring cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of wiring cost in excess of ten thousand dollars (\$10,000). ()

iii. Wiring cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one-half of one percent (.5%) of the portion of wiring costs exceeding one hundred thousand dollars (\$100,000). ()

iv. Small work not exceeding five hundred dollars (\$500) in cost and not involving a change in service connections: ten dollars (\$10). ()

03. Requested Inspection Permit. A sixty-five dollar (\$65) fee per inspection. ()

04. Reinspection Fees. A fee of sixty-five dollars (\$65) per reinspection will be assessed for work not being ready for inspection, inaccurate description of jobsite locations or directions, or failure to respond to notice of correction. ()

05. Virtual Inspection Request. Forty-five dollar (\$45) fee for Contractors and Specialty Contractors requesting a virtual inspection of qualified installations. ()

06. Plan Check Fee. Sixty-five dollar (\$65) minimum for one (1) hour or less. Over one (1) hour: sixty-five dollars (\$65) plus sixty-five dollars (\$65) for each hour, or portion thereof, in excess of one (1) hour. ()

501. – 599. (RESERVED)

600. IDAHO ELECTRICAL CODE.

Pursuant to Section 54-1001, Idaho Code, the Board adopts the 2020 National Electrical Code (herein NEC) with the following amendments: ()

01. Article 110.3(A) and 110.3(B). Shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ()

02. Article 210.8 (A). Delete reference to 250-volt receptacles. ()

03. Article 210.8(A)(7) Sinks. Delete article 210.8(A)(7) and replace with the following: Sinks - located in areas other than kitchens where receptacles are installed within one and eight tenths (1.8) meters (six (6) feet) of the outside edge of the sink. ()

04. Article 210.8(A)(10). Delete article 210.8(A)(10) Laundry Areas. ()

05. Article 210.8 (F). Delete Article 210.8 (F) for GFCI protection for outdoor outlets. ()

06. Article 210.12 Arc-Fault Circuit-Interrupter Protection. Shall apply in full. Exception: In dwelling units Arc-Fault Circuit-Interrupter Protection shall only apply to all branch circuits and outlets supplying bedrooms. All other locations in dwelling units are exempt from the requirements of Article 210.12. ()

07. Article 210.52(E)(3). Delete article 210.52(E)(3) and replace with the following: Balconies, Decks, and Porches. Balconies, decks, and porches having an overall area of twenty (20) square feet or more that are

accessible from inside the dwelling unit shall have at least one (1) receptacle outlet installed within the perimeter of the balcony, deck, or porch. The receptacle shall not be located more than two (2.0) meters (six and one half (6½) feet) above the balcony, deck, or porch surface. ()

08. Article 230.67 Surge Protection. Delete NEC Article 230.67. ()

09. Article 230.85 Emergency Disconnects. Delete Article 230.85. ()

10. Article 314.27(C) Boxes at Ceiling-Suspended (Paddle) Fan Outlets. Delete second paragraph. ()

11. Article 320.23. Where the height of a crawl space does not exceed one and four tenths (1.4) meters or four and one half (4.5) feet, it shall be permissible to secure NM cables, that run at angles with joist, to the bottom edge of joist. NM cables that run within two and one tenth (2.1) meters or seven (7) feet of crawl space access shall comply with Article 320.23. ()

12. Article 334.10(3). Delete and replace with the following: Other structures permitted to be of Types III, IV, and V construction. Cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a fifteen (15)-minute finish rating as identified in listings of fire-rated assemblies. For the purpose of this section, cables located in attics and underfloor areas that are not designed to be occupied shall be considered concealed. ()

13. Pole Lighting. Poles used as lighting standards along roadways only (parking areas are not roadways) that are forty (40) feet or less in nominal height and that support no more than four (4) luminaires operating at a nominal voltage of three hundred (300) volts or less to ground, shall not be considered a structure as it is defined as equipment by the NEC. The disconnecting means may be mounted to the pole or elsewhere in accordance with NEC, Article 225.32, exception 3. Special purpose fuseable connectors (model SEC 1791-DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to Article 230- Services. Overcurrent protection shall be provided by a (fast-acting – minimum - 100K RMS Amps 600 VAC) rated fuse. Wiring within the pole for the luminaires shall be protected by supplementary overcurrent device (time-delay – minimum - 10K RMS Amps 600 VAC) in break-a-way fuse holder accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, may be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire- supporting poles shall be appropriately grounded and bonded per the NEC. A service may not need a Watt Hour Meter. ()

14. Article 422.5 (A)(7). Delete Article 422.5 (A)(7) GFCI protection for dwelling unit dishwashers. ()

15. Article 480.7(B) Battery Emergency Disconnect. Delete. ()

16. Article 675.8(B). Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. ()

17. Article 682.10. Shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. ()

18. Article 682.11. Add the following exception: This article shall not apply to service equipment that is located on or at the dwelling unit and which is not susceptible to flooding. ()

19. Article 682.13. Add the following exceptions: ()

a. Exception No 1. Wiring methods such as HDPE schedule eighty (80) electrical conduit or its equivalent or greater and clearly marked at a minimum “Caution Electrical” to indicate that it contains electrical

conductors shall be approved. It shall be buried whenever practical, and in accordance with the requirements of the authority having jurisdiction. The use of gray HDPE water pipe rated at two hundred (200) PSI (e.g. SIDR-7 or DR-9) is suitable for use as a chase only when the following conditions are met: ()

- i. When internal conductors are jacketed submersible pump cable. ()
- ii. When used in continuous lengths, directly buried, or secured on a shoreline above and below the water line. ()
- iii. When submersible pump wiring terminations in the body of water according to 682.13 Exception No. 2 are met. ()

b. Exception No 2. Any listed and approved splices required to be made at the submersible well pump itself, outside of a recognized submersed pump sleeve or housing, when wires are too large to be housed inside such sleeve, shall be covered with a non-metallic, impact resistant material, no less than one quarter (.25) inches thick, such as heavy-duty heat shrink or other equivalent method approved by the authority having jurisdiction. (e.g. install a heat shrink over the sleeve or housing that the submersible well pump is installed in, and then recover (apply heat) the heat shrink over both the HDPE and the water line). At least six (6) inches shall be over the sleeve and at least twelve (12) inches over the HDPE and water line. ()

c. Exception No. 3. Pipe, conduit, PVC well casing, or other electrically unlisted tubing may be used as a chase, but not as a raceway, to protect conductors or cables from physical damage. Conductors or cables within a chase shall be rated for the location. ()

20. Article 682.14. Add the following additional exception: For installations of submersible well pumps installed in public swimming and marine areas, submersible well pumps shall be considered directly connected and shall be anchored in place. Ballast is an acceptable form of anchoring. ()

21. Article 682.14(A). Add the following exception: For installations of submersible well pumps installed in public swimming and marine areas, motor controller circuits such as remotely located stop pushbutton/s, disconnect/s, relay/s or switches shall be permitted as a required disconnecting means. Such circuits shall be identified at a minimum as “Emergency Pump Stop”, or “Emergency Stop” with other obvious indications on the visible side of the enclosure, that it controls a submersible pump in the body of water. ()

22. Article 682.15. Add the following exceptions: ()

a. Exception No. 1. Submersible pumps, and their motor leads, located in bodies of water, and that are rated sixty (60) amperes maximum, two hundred fifty (250) volts maximum of any phase, shall have GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, protected by means selected by a licensed installer, meeting listing or labeling requirements, and inspected by the AHJ prior to submersion in bodies of water. ()

b. Exception No. 2. Installations or repair and replacement of submersible pumps located in bodies of water, that are rated over sixty (60) amperes, and rated at any voltage, shall be evaluated by a qualified designer or experienced licensed contractor, or involve engineering or be engineered, for each specific application, with the goal of public safety. Whenever possible, GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, meeting listing or labeling requirements, shall be installed, and inspected by the AHJ prior to submersion in bodies of water. ()

23. Article 690.12 Rapid Shut Down. Add following Exemptions: ()

a. PV systems not installed on or in buildings, PV output circuits and dc to dc converter output circuits that are installed in metallic raceways or metal clad cables, or installed in enclosed metallic cable trays, or are underground shall not be required to comply with Article 690.12. Detached structures whose sole purpose is to house PV system equipment shall not be considered buildings and thus may have roof mounted PV systems without rapid shutdown equipment according to this exception. ()

b. PV system circuits installed on or in buildings without the presence of a utility supplied power source shall not be required to comply with Article 690.12 where all of the following exist: ()

i. The minimum distance to bring electric utility power lines or service conductors to the building is one thousand (1,000) feet or greater; ()

ii. The building has a minimum setback distance of one hundred (100) feet from any building or structure located on adjacent properties; ()

iii. A lockable service entrance rated AC disconnect is installed outside at a readily accessible location; and ()

iv. The AC disconnect has a permanent placard or label with the following words or equivalent:

WARNING
SOLAR PV SYSTEM IS NOT EQUIPPED WITH RAPID SHUTDOWN

The warning placard or label shall comply with Article 110.21(B). ()

24. Article 706.15 Off Grid Systems. Replace 706.15 with the following. For one-family and two-family dwellings, a disconnecting means or its remote control shall be located at a readily accessible location. ()

601. – 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.30 – RULES OF BUILDING SAFETY (BUILDING CODE RULES)

DOCKET NO. 24-3930-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2604, Idaho Code; and Sections 33-356, 39-4107, 39-4109, 39-4109A, 39-4112, and 39-4113, Idaho Code.

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

***MEETINGS SET FOR PUBLIC PARTICIPATION
IN PERSON, TELEPHONE, AND WEB CONFERENCING***

24.39.30 – Rules of Building Safety (Building Code Rules)	
Tuesday, September 13, 2022	Tuesday, November 15, 2022
DOPL Board Conference Room Chinden Campus – Building #4 11341 W Chinden Blvd Boise ID 83714 <i>Scheduled time is 9:00 a.m. (MT) for all meetings</i>	

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

Under Executive Order 2020-01, Zero-Based Regulation, the Idaho Building Code Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statutes and [Executive Order 2020-01: Zero-Based Regulation](#).

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

The fees for building permits, annual inspections, and plan review as designated in IDAPA 24.39.30.500 of this proposed rule are authorized in Sections 39-4107, 39-4112, and 39-4113, Idaho Code. None of the fees are being changed as a result of this rulemaking and since being previously reviewed by the Idaho legislature.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 24-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 73-77](#).

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

Per Idaho Code 39-4109 and 39-4109A, the Board adopts the following building safety codes with amendments as set forth in Rule: 2018 International Building Code, 2021 International Building Code related to mass timber construction, Parts I, II, III, and IX of the 2018 of the International Residential Code, 2018 International Existing Building Code, and 2018 International Energy Conservation Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tim Frost, Deputy Administrator at (208) 577-2491.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 15, 2022.

DATED this 1st day of September, 2022.

Tim Frost
Deputy Administrator
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: tim.frost@dopl.idaho.gov
Website: <https://dopl.idaho.gov/>

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3930-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

24.39.30 – RULES OF BUILDING SAFETY (BUILDING CODE RULES)

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Sections 33-356, 39-4107, 39-4109, 39-4109A, 39-4112, 39-4113, Idaho Code. ()

001. SCOPE.

The rules prescribe the criteria for enforcement and administration of the Idaho Building Code Act by the Idaho Building Code Board and the Division of Occupational and Professional Licenses and the integrated design and fundamental commissioning of public school facilities. ()

002. DEFINITIONS.

01. Listing Agency. A person, firm, association, partnership or corporation which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed materials, and which makes available, not less frequently than annually, a published report of such listing in which specific information is included that the product has been tested to nationally approved standards and found safe for use in a specified manner. ()

02. Minor Alteration. The following definition is used for the purpose of administering annual permits. ()

a. Minor alterations shall include, but are not limited to, the following: partition walls constructed within a defined room; relocation of or existing openings or installation of new doors and windows in non-load bearing walls and not in construction meant to compartmentalize fire; window replacement in unaltered existing openings; roof repairs involving installation of less than one hundred (100) square feet of new roof covering; and new suspended ceilings that are not part of a required fire resistive assembly. ()

b. Minor alterations shall not include: work that alters the fire resistive characteristics of the building or fire suppression systems; work that creates new openings in construction meant to compartmentalize fire such as fire walls, fire barriers, fire partitions, smoke barriers, smoke partitions, horizontal assemblies, shaft enclosures, stair enclosures; work that increases the floor area or height of the building; work that changes the structural load path of the building for gravity or horizontal loads; work that reduces the thermal resistant capacity of the building envelop; changes in the occupancy classification of the building or space; increases in the floor loads. ()

003. – 199. (RESERVED)

200. INTEGRATED DESIGN AND FUNDAMENTAL COMMISSIONING OF PUBLIC SCHOOL FACILITIES.

01. Technical and Educational Information. Technical and educational information related to integrated design and fundamental commissioning in the form of the American Institute of Architects Integrated Project Delivery Guide; Portland Energy Conservation, Inc. (PECI) Commissioning Guides; ASHRAE Guideline 0-2005-The Commissioning Process; and the Northwest Energy Efficiency Alliance Integrated Design Special Focus on Energy Performance Guide is available on the Division’s website. A building commissioned under the prescriptive approaches defined by any of the above-named national organizations is deemed to have completed the Fundamental Commissioning process. ()

02. Commissioning Agents. The Division has compiled and made available for public examination a list of all known third party building commissioning agents in Idaho and its contiguous states. The Division has ensured that all such commissioning agents appearing on this list have been certified by the Building Commissioning Association (BCA) or other similar certifying entity. ()

03. Fundamental Commissioning Requirements. ()

a. School districts seeking to qualify a building for the building replacement value calculation shall engage a building commissioning agent. ()

b. The commissioning agent must document the owner’s requirements for each commissioned system in the facility. All HVAC and controls systems, duct work and piping, renewable and alternative technologies, lighting controls and day lighting, waste heat recovery, and any other advanced technologies incorporated in the building must be commissioned. Building envelope systems must also be verified. The owner’s requirements for these systems may include efficiency targets and other performance criteria such as temperature and lighting levels that will define the performance criteria for the functional performance testing which occurs prior to acceptance. ()

c. The commissioning agent shall include commissioning requirements in the project construction documents. This includes the scope of commissioning for the project, the systems to be commissioned, and the various requirements related to schedule, submittal reviews, testing, training, O & M manuals, and warranty reviews. ()

d. The commissioning agent shall develop and utilize a commissioning plan. This plan must include an overview of the commissioning process for the project, a list of commissioned systems, primary commissioning participants and their roles, a communication and management plan, an outline of the scope of commissioning tasks, a list of work products, a schedule, and a description of any commissioning testing activities. ()

e. The commissioning agent must submit a report to the owner once the commissioning plan has been executed. ()

04. Annual Optimization Review. ()

a. The third-party commissioning agent who performed the initial fundamental commissioning for a public school building must provide the school district with a written report identifying the systems which will be subject to the Idaho Code Section 33-356 annual optimization review and identifying the system requirements and/or other relevant measuring criteria. The commissioning agent's written report shall, at a minimum, include the following: ()

i. Verification that the heating, ventilation, and air conditioning (HVAC) controls, dampers, valves, sensors and other equipment used to control the system are functioning as they were at the commissioning of the building; ()

ii. Verification that the lighting controls are functioning as they were at the commissioning of the building; and ()

iii. The requirement that any changes made to any of the controls contained on the agent's list after the initial commissioning be re-set back to the commissioned settings unless it can be demonstrated that the new settings result in greater energy efficiency. ()

b. The Idaho Code Section 33-356 annual optimization review must be performed by persons qualified to make the required determinations and adjustments. ()

c. Following the annual optimization review, the school district must submit to the Division written verification (1) indicating the systems identified by the commissioning agent, including those identified in Subsection 200.04.a., are functioning as they were at the initial commissioning; and (2) identifying the persons performing the optimization and their qualifications. ()

04. Commissioning Anniversary Date. The date upon which the commissioning agent provides the school district with the required written report described in Subsection 200.04.a. is the commissioning anniversary date for purposes of this section. If a school district seeks to qualify a building for the building replacement value calculation, the annual optimization review shall be performed within thirty (30) days of the annual commissioning anniversary date following the first year the building is in operation. The written verification required by Subsection 200.04.c. is due to the Division no later than sixty (60) days after the annual commissioning anniversary date. ()

201. – 499. (RESERVED)

500. PERMITS AND PLAN REVIEW.

01. Annual Permit. In lieu of an individual permit for each minor alteration to an already approved building, the Division may issue an annual permit upon application therefor to any state agency or state governmental organization regularly employing one (1) or more qualified trade persons in the building, structure or on the premises or campus owned or operated by the applicant for the permit. The agency to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Division shall be allowed access to such records upon request or such records shall be filed with the Division as designated. The permit holder shall request inspections and make the work accessible for inspection as required by the adopted codes and herein. ()

02. Plans Not Required. Plans are not required for group U occupancies of Type V conventional light-frame wood construction. ()

03. Fee Schedule. ()

a. Technical Service Fee. One hundred dollars (\$100) per hour. ()

b. Building Permit Fees. The determination of value or valuation will be made by the administrator and includes the total value of all construction work for which a permit is issued.

BUILDING PERMIT FEES	
Total Valuation	Fee
\$1 to \$500	= \$23.50
\$501 to \$2,000	= \$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	= \$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	= \$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	= \$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	= \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	= \$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 to \$5,000,000	= \$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof, to and including \$5,000,000
\$5,000,001 to \$10,000,000	= \$20,208.75 for the first \$5,000,000 plus \$2.75 for each additional \$1,000, or fraction thereof, to and including \$10,000,000
\$10,000,001 and up	= \$33,958.75 for the first \$10,000,000 plus \$2 for each additional \$1,000, or fraction thereof

()

c. Fees for Annual Permits. A fee for inspections performed on annual permits shall be charged at the rate of one hundred dollars (\$100) per inspection. The Division shall bill the applicant for annual permits and failure of the applicant to pay the fee within sixty (60) days may result in cancellation of the annual permit. ()

d. Plan Review Fees. Plan review fees shall be charged at an hourly rate of one hundred dollars (\$100) per hour up to a maximum of sixty-five percent (65%) of the calculated building permit fee with a minimum required fee of forty percent (40%) of the calculated building permit fee. All requests for plan review services shall be accompanied by a payment in the amount of at least forty percent (40%) of the calculated building permit fee. Upon completion of the plan review, any additional fees, above the minimum required, are due to the Division by the requesting party. ()

e. Refund of Plan Review Fees. Plan review fees are non-refundable. ()

501. – 599. (RESERVED)

600. IDAHO BUILDING CODE.

Pursuant to Sections 39-4109 and 39-4109A, Idaho Code, the Board adopts, as the Idaho Building Code, the following international codes with identified amendments: ()

01. International Building Code. The 2018 Edition, including appendices pertaining to building accessibility, with the following amendments: ()

a. Section 305.2.3. Replace the word “five” with the word “twelve (12)”. ()

b. Section 310.4. Add the following: Dwelling units providing day care for twelve (12) or fewer children. ()

c. Section 310.4.1. Delete and replace with the following: Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving personal care or custodial care that are within a one- or two-family dwelling are permitted to comply with the International Residential Code. ()

d. Add new Section 602.1.2. Alternative provisions. As an alternative to the construction types defined in Sections 602.2 through 602.5, buildings and structures erected or to be erected, altered, or extended in height or area may be classified as construction type IV-A, IV-B, or IV-C in accordance with the provisions adopted in Paragraph 004.01.h of these rules. Buildings and structures classified as construction type IV-A, IV-B, or IV-C shall comply with the provisions adopted in Paragraph 004.01.h of these rules and all other applicable provisions of this code. ()

e. Table 2902.1 Minimum Number of Required Plumbing Fixtures. Delete footnote e and replace with the following: e For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. ()

f. Table 2902.1 Minimum Number of Required Plumbing Fixtures. Delete footnote f reference from current cell and place in column header labeled “Drinking Fountains”. Delete footnote f and replace with the following: f Drinking fountains are not required for an occupant load of thirty (30) or fewer. ()

g. Section 3113. Relocatable Buildings. Delete. ()

02. International Building Code. The following provisions of the 2021 Edition related to mass timber construction: ()

a. In Section 202, the definitions of the terms MASS TIMBER; NONCOMBUSTIBLE PROTECTION (FOR MASS TIMBER); SECONDARY STRUCTURAL MEMBERS; and WALL, LOAD BEARING; ()

b. Sections 403.3.2, 508.4.4.1, 509.4.1.1, 602.4 through 602.4.3.6, 703.6, 703.7, 704.4, 722.7 through 722.7.2.2, 1705.5.3, 1705.20, 2304.10.1, 3313.1 through 3313.3.3, 3313.5, and 3314.1; ()

c. Tables 504.3, 504.4, 506.2, 601, 705.5, 722.7.1(1), 722.7.1(2), and 1705.5.3, including any footnote following each table adopted in this subparagraph; and ()

d. In Chapter 35, the referenced standards ANSI/APA PRG 320—2019: Standard for Performance-rated Cross-laminated Timber, referenced in Sections 602.4 and 2303.1.4, and ASTM D3498—03(2011): Standard Specification for Adhesives for Field-Gluing Plywood to Lumber Framing for Floor Systems, referenced in Section 703.7. ()

03. International Residential Code. Parts I, II, III, and IX of the 2018 Edition for one (1)- and two (2)- family dwellings, with the following amendments: ()

a. Section R101.2 Scope. Delete the exception and replace with the following: Exception: The following shall also be permitted to be constructed in accordance with this code: 1. Owner-occupied lodging houses with five (5) or fewer guestrooms and ten (10) or fewer total occupants. 2. A care facility with five (5) or fewer persons receiving custodial care within a dwelling unit or single-family dwelling. 3. A care facility for five (5) or fewer persons receiving personal care that are within a dwelling unit or single-family dwelling. 4. A care facility with twelve (12) or fewer children receiving day care within a dwelling unit or single-family dwelling. ()

b. Section R105.2. Item 7 under “Building” subheading: Replace the words “24 inches (610 mm)” with “four (4) feet (1219 mm)”. ()

c. Section R105.2. Add the following exemption under the “Building” subheading of: Flag poles. ()

d. Section R109.1.3. Delete and replace with the following: R109.1.3 Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in Section R322. ()

e. Section R301.2.1.2 Protection of Openings. Delete. ()

f. Table R302.1(1). Delete and replace with the following:

TABLE R302.1(1) - EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour-tested in accordance with ASTM E 119, UL263, or Section 703.3 of the International Building Code with exposure from both sides	< 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Projections	Fire-resistance rated	1 hour on the underside, or heavy timber, or fire retardant-treated wood ^{a,b}	≥ 2 feet to < 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Openings in Walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area	0 hours	≥ 3 feet to < 5 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	≥ 3 feet

For SI: 1 foot = 304.8 mm.

N/A = Not Applicable

^a The fire-resistance rating shall be permitted to be reduced to zero (0) hours on the underside of the eave overhang if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

^b The fire-resistance rating shall be permitted to be reduced to zero (0) hours on the underside of the rake overhang where gable vent openings are not installed. ()

- g.** Section R302.13 Fire protection of floors. Delete. ()
- h.** Section R303.4. Delete and replace with the following: R303.4 Mechanical Ventilation. Dwelling units shall be provided with whole-house mechanical ventilation in accordance with Section M1505.4. ()
- i.** Section R313.1 Townhouse automatic fire sprinkler systems. Delete the exception and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where either two (2) one (1)-hour fire-resistance-rated walls or a common two (2)-hour fire-resistance rated wall, as specified in item number 2 of Section R302.2.2 is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. ()
- j.** Section R313.2 One- and two-family dwellings automatic fire sprinkler systems. Delete. ()
- k.** Section R314.2.2 Alterations, repairs and additions. Amend Exception 1 to add the words “but not limited to,” after the words “such as” and before the words “the replacement”. ()
- l.** Section R315.2.2 Alterations, repairs and additions. Amend Exception 1 to add the words “but not limited to,” after the words “such as” and before the words “the replacement”. ()
- m.** Section R322.1.10 As-built elevation documentation. Delete. ()
- n.** Tables R403 Minimum Depth (D) and Width (W) of Crushed Stone Footings (inches), R403.1(1) Minimum Width and Thickness for Concrete Footings for Light-Frame Construction (inches), R403.1(2) Minimum Width and Thickness for Concrete Footings for Light-Frame Construction and Brick Veneer (inches), and R403.1(3) Minimum Width and Thickness for Concrete Footings with Cast-In-Place or Fully Grouted Masonry Wall Construction (inches). Delete. ()
- o.** Add the following as Table R403.1:

TABLE R403.1
MINIMUM WIDTH OF CONCRETE, PRECAST, OR MASONRY FOOTINGS (inches)^a

	LOAD-BEARING VALUE OF SOIL (psf)			
	1,500	2,000	3,000	≥ 4,000
Conventional light-frame construction				
1-Story	12	12	12	12
2-Story	15	12	12	12
3-Story	23	17	12	12
4-inch brick veneer over light frame or 8-inch hollow concrete masonry				
1-Story	12	12	12	12
2-Story	21	16	12	12
3-Story	32	24	16	12
8-inch solid or fully grouted masonry				
1-Story	16	12	12	12
2-Story	29	21	14	12
3-Story	42	32	21	16

For SI: 1 inch = 25.4 mm, 1 pound per square foot = 0.0479 kPa.

^a Where minimum footing width is twelve (12) inches, use of a single wythe of solid or fully grouted twelve (12)-inch nominal concrete masonry units is permitted. ()

p. Section R403.1.1. Delete and replace with the following: R403.1.1 Minimum size. Minimum sizes for concrete and masonry footings shall be as set forth in Table R403.1 and Figure R403.1(1). The footing width (W) shall be based on the load bearing value of the soil in accordance with Table R401.4.1. Spread footings shall be at least six (6) inches in thickness (T). Footing projections (P) shall be at least two (2) inches and shall not exceed the thickness of the footing. The size of footings supporting piers and columns shall be based on the tributary load and allowable soil pressure in accordance with Table R401.4.1. Footings for wood foundations shall be in accordance with the details set forth in Section R403.2 and Figures R403.1(2) and R403.1(3). ()

q. Section R602.10. Add the words “or the most current edition of APA System Report SR-102 as an alternate method” after the words “Section R602.12”. ()

04. International Existing Building Code. 2018 Edition. ()

05. International Energy Conservation Code. 2018 Edition with the following amendments: ()

a. Add new Section C101.5.2. Industrial, electronic, and manufacturing equipment. Buildings or portions thereof that are heated or cooled exclusively to maintain the required operating temperature of industrial, electronic, or manufacturing equipment shall be exempt from the provisions of this code. Such buildings or portions thereof shall be separated from connected conditioned space by building thermal envelope assemblies complying with this code. ()

b. Section C402.5 Air leakage—thermal envelope (Mandatory). Add Exception: For buildings having over fifty thousand (50,000) square feet of conditioned floor area, air leakage testing shall be permitted to be conducted on less than the whole building, provided the following portions of the building are tested and their measured air leakage is area-weighted by the surface areas of the building envelope: 1. The entire floor area of all stories that have any spaces directly under a roof. 2. The entire floor area of all stories that have a building entrance or loading dock. 3. Representative above-grade wall sections of the building totaling at least twenty-five percent (25%) of the above-grade wall area enclosing the remaining conditioned space. Floor area tested under subparagraphs 1. or 2. of this exception shall not be included in the twenty-five percent (25%) of above-grade wall sections tested under this subparagraph. ()

c. Section C403 Building Mechanical Systems. Delete. ()

d. Section C404 Service Water Heating (Mandatory). Delete. ()

e. Section C405 Electrical Power and Lighting Systems. Delete. ()

f. Section C406 Additional Efficiency Package Options. Delete. ()

g. Section C407 Total Building Performance. Delete. ()

h. Section C408 Maintenance Information and System Commissioning. Delete. ()

i. Section C502.2.3 Building mechanical systems. Delete. ()

j. Section C502.2.4 Service water-heating systems. Delete. ()

k. Section C502.2.6 Lighting power and systems. Delete. ()

l. Section C503.4 Heating and cooling systems. Delete. ()

m. Section C503.5 Service hot water systems. Delete. ()

- n. Section C503.6 Lighting systems. Delete. ()
- o. R202 General Definitions. Add the following to the definition of “Conditioned Space”: This definition shall not apply to garage spaces where supplemental heating or cooling is installed. ()
- p. Table R402.1.2 Insulation and Fenestration Requirements by Component. Delete the rows in climate zones “5 and Marine 4” and “6” and replace with the following:

TABLE R402.1.2
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a

Climate Zone	Fenestration U- Factor ^b	Skylight ^b U-factor	Glazed Fenestration SHGC ^{b, e}	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value ⁱ	Floor R-Value	Basement ^c Wall R-Value	Slab ^d R-Value & Depth	Crawlspace ^c Wall R-Value
5	0.32	0.55	NR	38	20 or 13+5 ^h	13/17	30 ^g	15/19	10, 2 ft	15/19
6	0.30	0.55	NR	49	22 or 13+5 ^h	15/20	30 ^g	15/19	10, 4 ft	15/19

()

- q. Table R402.1.2 - Insulation and Fenestration Requirements by Component: Add the following as footnote k to the table title: k. For residential log home building thermal envelope construction requirements see Section R402.6. ()
- r. Table R402.1.4 Equivalent U-Factors. Delete the rows in climate zones “5 and Marine 4” and “6” and replace with the following:

TABLE R402.1.4
EQUIVALENT U-FACTORS^a

Climate Zone	Fenestration U-factor	Skylight U-factor	Ceiling U-factor	Frame Wall U-factor	Mass Wall U-factor ^b	Floor U-factor	Basement Wall U-factor	Crawlspace Wall U-factor
5	0.32	0.55	0.030	0.060	0.082	0.033	0.050	0.055
6	0.30	0.55	0.026	0.057	0.060	0.033	0.050	0.055

()

- s. Section R402.4.1.2 Testing. Delete and replace with: Visual inspection. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. Where required by code official, an approved party independent from the installer of the insulation shall inspect the air barrier and insulation. ()
- t. Add new Section R402.6. Residential log home thermal envelope. Residential log home construction shall comply with Section R401 (General), Section R402.4 (Air leakage), and Table R402.6 (Log Home Prescriptive Thermal Envelope Requirements by Component). ()
- u. Add new Table R402.6:

TABLE R402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT

For SI: 1 foot = 304.8 mm.

Climate Zone	Fenestration U-factor ^a	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-value	Min. Average Log Size In Inches	Floor R-value	Basement Wall R-value ^d	Slab R-value & Depth ^b	Crawlspace Wall R-value ^d
5, 6 - High efficiency equipment path ^c	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

^a The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

^b R-5 shall be added to the required slab edge R-values for heated slabs.

^c 90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).

^d “15/19” means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. “15/19” shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. “10/13” means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

- ()
- v. Section R403 Systems. Delete. ()
- w. Section R404 Electrical Power and Lighting Systems. Delete. ()
- x. Section R405 Simulated Performance Alternative (Performance). Delete. ()
- y. Section R406.3 Energy Rating Index. Delete and replace with the following: R406.3 Energy Rating Index. The Energy Rating Index (ERI) shall be determined in accordance with RESNET/ICC 301. Energy used to recharge or refuel a vehicle used for transportation on roads that are not on the building site shall not be included in the ERI reference design or the rated design. ()
- z. Table R406.4 Maximum Energy Rating Index. Delete and replace with the following:

Table R406.4 - Maximum Energy Rating Index

Climate Zone	Energy Rating Index^a
5	68
6	68

^a Where on-site renewable energy is included for compliance using the ERI analysis of Section R406.4, the building shall meet the mandatory requirements of Section R406.2, and the building thermal envelope shall be greater than or equal to the levels of efficiency and SHGC in Table R402.1.2 or Table R402.1.4 of the 2015 International Energy Conservation Code. ()

601. – 999. (RESERVED)

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.30 – IDAHO SAFE BOATING RULES

DOCKET NO. 26-0130-2201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5226, 67-4223, and Title 67 Chapter 70 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

This temporary and proposed rule rescinds IDAPA 26.01.30, “Idaho Safe Boating Rules.” All rules in this chapter were moved to Idaho statutes Title 67, Chapter 70 by the 2022 Idaho Legislature.

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 confers a benefit on its citizens. The temporary rule repealing the chapter implements the duly enacted laws of the state of Idaho, provides citizens with one location for the standards for complying with those laws, and assists in the orderly execution and enforcement of those laws.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 26-ZBRR-2101. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 2, 2021, Idaho Administrative Bulletin, [Vol. 21-6, pages 59-60](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Seth Hobbs at (208) 514-2427.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 11th day of August 2022.

Seth Hobbs, Rules Review Officer
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue

Boise, ID 83716
Phone: 208-514-2427
Seth.hobbs@idpr.idaho.gov

IDAPA 26.01.30 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

38.04.06 – RULES GOVERNING USE OF STATE PROPERTY IN THE CAPITOL MALL, MULTI-AGENCY FACILITIES, AND OTHER STATE PROPERTIES

DOCKET NO. 38-0406-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5709, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. The Department is rewriting this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes being contemplated are not considered substantive and are expected to affect only the rule's format and duplication with other related rules.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this August 5, 2022.

Steve Bailey, Deputy Director
Department of Administration
650 W. State Street
Room 100
Boise, Idaho 83720
steven.bailey@adm.idaho.gov
(208) 332-1825

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 38-0406-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

**38.04.06 – RULES GOVERNING USE OF STATE PROPERTY IN THE CAPITOL MALL,
MULTI-AGENCY FACILITIES, AND OTHER STATE PROPERTIES**

SUBCHAPTER A – GENERAL PROVISIONS

000. LEGAL AUTHORITY.

Section 67-5709, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing the state properties in the Capitol Mall, Multi-agency Facilities, and Other State Properties. ()

001. SCOPE.

These rules contain the provisions for use of the Capitol Mall Office Properties, the Capitol Annex, the Parking Facilities, the Other State Properties, and the Multi-agency Facilities. ()

002. -- 009. (RESERVED)

010. GENERAL DEFINITIONS.

The definitions in this section may be supplemented or modified by definitions in separate subchapters. ()

01. Camping. Any activity prohibited under Section 67-1613, Idaho Code. ()

02. Capitol Annex. The Interior and Exterior of the real property located at 514 West Jefferson Street, Boise, Idaho and occupying block 65 as shown on the Boise City original townsite plat filed in the Ada County Recorder's office in Book 1 on page 1. ()

03. Capitol Mall Office Properties. The Interior and Exterior of the real property set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Office Properties do not include the Idaho State Capitol or its grounds or the Capitol Mall Annex. ()

04. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. ()

05. Common Space. The portion of a State Facility that is not Tenant Space. Common Space includes, but is not limited to, interior lobbies not within Tenant Space and restrooms not accessed through Tenant Space. Common Space does not include Tenant Space or any area marked "private," "no admission," "staff only," or similarly designated as not open to the public. ()

06. Department. The Department of Administration. ()

07. Director. The Director of the Department of Administration or his designee. ()

08. Display. An attended exhibition or installation of physical items during an Event. ()

09. Event. Any activity including, but not limited to, arts or cultural presentations, weddings, dinners, award ceremonies, memorials, and seminars. ()

10. Exhibit. Exhibitions or installations of physical items outside of an Event including, but not limited to, commemorative installations, floral displays, art objects, historical artifacts, and cultural objects. ()

11. **Exterior.** The exterior of a State Facility, including the real property, the grounds, and the improvements on the exterior of the State Facility. ()
12. **Interior.** The interior spaces within a State Facility. ()
13. **Multi-Agency Facilities.** The Interior and Exterior of the properties set forth in Section 102 of these rules. ()
14. **Other State Properties.** The Interior and Exterior of the properties property set forth in Section 101 of these rules. ()
15. **Parking Facilities.** The Interior and Exterior of the properties set forth in Section 67-5709(2)(b), Idaho Code. ()
16. **Private Event or Private Exhibit.** Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. ()
17. **Public Use.** Use that is not: ()
- a. A State Event or Exhibit; ()
- b. Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; ()
- c. State Maintenance and Improvements; or ()
- d. Use by a Tenant. ()
18. **Security Personnel.** A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. ()
19. **State Business Day.** Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. ()
20. **State Events and Exhibits.** All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. ()
21. **State Facilities.** The Capitol Mall Office Properties, the Capitol Annex, the Multi-agency Facilities, the Parking Facilities and the Other State Properties. Use of the phrase “at the State Facilities” includes the Exterior and Interior of the State Facilities. Use of the singular “State Facility” means any of the properties within the definition of State Facilities. ()
22. **State Maintenance and Improvements.** Maintenance or improvement of the State Facilities by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, turf installation and repair, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and window re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. ()
23. **Tenant.** A state of Idaho officer, official, agency, board or commission or a public agency or a private individual or entity with a license or lease to use a State Facility. ()
24. **Tenant Space.** The portion of the Exterior licensed or leased to a private individual or entity and

the portion of the Interior occupied by a state of Idaho officer, official, agency, board or commission or leased to a public agency or a private individual or entity. ()

011. -- 100. (RESERVED)

**SUBCHAPTER B – APPLICATION TO OTHER STATE PROPERTIES
AND MULTI-AGENCY FACILITIES**

101. OTHER STATE PROPERTIES.

These rules apply to the following Other State Properties pursuant to the request of the state of Idaho public entity owning or controlling the property: ()

01. Idaho State Historical Society Properties. ()

a. The following properties owned or operated by the Idaho State Historical Society are Other Properties under these rules: ()

i. Idaho State Historical Museum, located at 610 North Julia Davis Drive, Boise, Idaho. ()

ii. Old U.S. Assay Office, located at 210 Main Street, Boise, Idaho. ()

iii. Old Penitentiary site located in Boise, Idaho and defined in Section 58-337, Idaho Code. ()

iv. Idaho History Center, located at 2205 Old Penitentiary Road, Boise, Idaho. ()

v. Franklin Historic Properties, located in Franklin, Idaho. The Franklin Historic Properties include the Franklin Co-operative Mercantile Institution Building, the Hatch House, the Doney House, and the Relic Hall. ()

vi. Pierce Courthouse, located in Pierce, Idaho. ()

vii. Rock Creek Station and Stricker Homesite, located at 3715 Stricker Cabin Road, Hansen, Idaho. ()

b. The following sections of these rules apply to the Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules only as modified by this Paragraph 101.01.b.: ()

i. Subsection 010.07. “Director” means the Executive Director of the Idaho State Historical Society when these rules are applied to the Idaho State Historical Society Properties. ()

ii. Subsection 200.01. “Authorized Uses by the Public” applies except that the Director may authorize Private Events or Exhibits and the exclusion of members of the public from attending Private Events and Exhibits. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public from a Private Event or Exhibit. ()

iii. Section 302. “Maintenance and Improvements” applies as if the Idaho State Historical Properties were Capitol Mall Office Properties unless otherwise designated at the property, or posted on the Idaho State Historical Society website. ()

iv. Subsection 305.02. “Domestic Animals” applies unless a sign at the property specifies that domestic animals are not permitted. ()

c. The Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules may be licensed or leased and such license or lease may vary the provisions of these rules applicable to use of the property under this chapter, including but not limited to the following: commercial use; Public Use; Private Events or Exhibits; consumption and distribution of alcohol; affixing of materials to the Idaho State Historical Society Properties; use of sound amplification; fireworks displays; and, use of utilities. ()

- 02. Idaho Division of Veterans Services Properties.** ()
- a.** The following properties owned or operated by the Idaho Division of Veterans Services are “Other State Properties” under these rules: ()
- i. Idaho Division of Veterans Services Central Support Office, located at 351 Collins Road, Boise, Idaho. ()
- ii. Idaho State Veterans Home – Boise, located at 351 Collins Road, Boise, Idaho. ()
- iii. Idaho State Veterans Home – Lewiston, located at 821 21st Avenue, Lewiston, Idaho. ()
- iv. Idaho State Veterans Home – Pocatello, located at 1957 Alvin Ricken Drive, Pocatello, Idaho. ()
- v. Idaho State Veterans Home – Post Falls, located at 590 S. Pleasant View Road 101, Post Falls, Idaho. ()
- vi. Idaho State Veterans Cemetery – Boise, located at 10100 N. Horseshoe Bend Road, Boise, Idaho. ()
- vii. Idaho State Veterans Cemetery – Blackfoot, located at 2651 Cromwell Lane, Blackfoot, Idaho. ()
- b.** The following subsections of these rules apply to the Idaho Division of Veterans Services properties set forth in Paragraph 101.02.a. of these rules only as modified by this Paragraph 101.02.b.: ()
- i. Subsection 010.07. “Director” means the Chief Administrator of the Division of Veterans Services when these rules are applied to the Idaho Division of Veterans Services properties set forth in Paragraph 101.02.a. of these rules. ()
- ii. Subsection 200.01. “Public Use” shall not apply to the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. Such properties include the exterior courtyards, patios, gardens, outside yards, and other similar residential spaces directly adjacent to the homes. ()
- iii. Subsection 200.02.a. “Prohibited Uses” applies except those concessions at the Idaho Division of Veterans Services properties authorized by the Director are not commercial activity prohibited by these rules. ()
- iv. Subsection 200.02.b. “Prohibited Uses” applies except those activities conducted by residents or staff of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules may include the indicia of camping set forth in Section 67-1613, Idaho Code. ()
- v. Subsection 200.02.c. “Prohibited Uses” applies except as set forth in this subsection. ()
- (1) The Director may authorize Private Events or Exhibits and the exclusion of members of the public from attending Private Events and Exhibits. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public from a Private Event or Exhibit. ()
- (2) Burial services conducted by the Idaho State Veterans Cemeteries set forth in Paragraphs 101.02.a.vi. and vii. exclude the public. The public may not use portions of such cemeteries during burial services as directed by cemetery staff. ()
- vi. Subsection 305.01.b. “Wildlife” applies except that the Director may authorize residents and staff of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules to feed wildlife. ()
- vii. Subsection 305.02. “Domestic Animals” applies except that the Director may authorize domestic

animals in the interior of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. ()

viii. Subsection 307.02. “Alcohol” applies except as authorized by the Director for the prescribed medical treatment of a resident of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. ()

ix. Subsection 309. “Fire, Candles, and Flames” applies except that the Director may authorize the use of flames for the cooking of food by staff, contractors, and lessees or licensees. ()

x. Subsection 310.08 “Surface Markings” applies except transitory chalk may be used in areas and at times designated by the Director at the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. ()

x. Subsection 317.04 “Fireworks” applies except fireworks displays authorized by the Director. ()

03. Idaho Department of Labor Properties. ()

a. The following properties owned or operated by the Idaho Department of Labor are “Other State Properties” under these rules: ()

i. 600 N. Thornton Street, Post Falls, Idaho. ()

ii. 613 Ridley Village Road, Suite C, Sandpoint, Idaho. ()

iii. 1158 Idaho Street, Lewiston, Idaho. ()

iv. 4514 Thomas Jefferson Street, Caldwell, Idaho. ()

v. 317 W. Main Street, Boise, Idaho. ()

vi. 219 W. Main Street, Boise, Idaho. ()

vii. 420 Falls Avenue, Twin Falls, Idaho. ()

viii. 127 West 5th Street North, Burley, Idaho. ()

ix. 430 North 5th Avenue, Pocatello, Idaho. ()

x. 1515 East Lincoln Road, Idaho Falls, Idaho. ()

b. Subsection 010.07. “Director” means the Director of the Department of Labor when these rules are applied to the Idaho Department of Labor properties set forth in Paragraph 101.03.a. of these rules. ()

102. MULTI-AGENCY FACILITIES.
These rules apply to the following Multi-agency Facilities managed and administered by the Department. ()

01. Lewiston State Office Building. Lewiston State Office Building, 1118 F Street, Lewiston, Idaho 83501. ()

02. Idaho Falls State Office Building. Idaho Falls State Office Building, 150 Shoup Avenue, Idaho Falls, Idaho 83401. ()

03. Chinden Office Complex. The Chinden Office Complex is located in Boise, Idaho and bounded to the north by West Chinden Boulevard, to the west by North Cloverdale Road, to the east by North Five Mile Road, and to the south by the Jones-Stiburek, Orchid Point, De Meyer Estates No. 7, Hickories No. 1, 9 and 12, Hickories East and EMS Avenue Subdivisions. The Chinden Office Complex includes Buildings 1 through 8 and the grounds

adjacent to such buildings. ()

103. -- 199. (RESERVED)

SUBCHAPTER C – GENERAL RULES FOR PUBLIC USE

200. USE OF STATE FACILITIES.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Facilities are available for Public Use. ()

02. Prohibited Uses. The following uses are prohibited at the State Facilities: ()

a. Commercial Activity. The State Facilities shall not be used for any activity conducted for profit and persons may not solicit to sell any merchandise or service at the State Facilities. The following are not commercial activity prohibited by this subsection: ()

i. Meetings or conferences for public employees or their relatives describing employee benefits and approved by a state of Idaho agency. ()

ii. Concessions authorized by law. ()

iii. Vaccinations may be provided in exchange for a fee without the prior written permission of the Director where approved by a state of Idaho agency, board, commission or elected official. ()

iv. The conduct of business by a Tenant. ()

b. Camping. ()

c. Private Events and Exhibits. ()

03. Priority of Uses. State Maintenance and Improvements have priority over all other use of the State Facilities. ()

04. Limitations on Public Access and Use. ()

a. Public Access to the Interior. Public access to the Interior and to Tenant Space is limited to the conduct of business with a Tenant. ()

b. Common Space. The public shall not use the Common Space for Events, Exhibits, or Displays. ()

c. Hours of Use. ()

i. Unless otherwise provided in these rules or when extended hours are posted at the public entrance to a State Facility, the hours for public access to the Interior of the State Facilities are 8 a.m. to 5 p.m. on State Business Days. ()

ii. The hours of use of the Parking Facilities are governed by IDAPA 38.04.04, “Capitol Mall Parking Rules.” ()

iii. The hours for public access to the Exterior of the Chinden Office Complex are from sunrise to sunset. ()

d. Restricted Areas. Areas of the State Facilities marked “private,” “no admission,” “staff only,” or similarly designated as not open to the public are not available for public use. ()

201. (RESERVED)

202. EQUIPMENT AND SUPPLIES.

Except as provided in these rules, the Department will not provide equipment or supplies for use of the State Facilities. ()

203. ESTABLISHMENT OF PERIMETERS.

Security Personnel and law enforcement may establish perimeters separating participants in Public Use of the State Facilities or State Events and Exhibits. Participants in and observers of any Public Use or State Events and Exhibits shall observe perimeters set pursuant to this section. ()

204. AREA CLOSURES.

The Director may direct that any portion of the State Facilities be closed for Public Use upon a finding that the closed portion of the State Facilities has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Facilities closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Facilities. Circumstances presenting an imminent danger of damage to the State Facilities include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. ()

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.

The restrictions and limitations on use of the State Facilities set forth in Sections 301 through 399 of these rules apply to all Public Use of the State Facilities. The lease or license of Tenant Space may vary from these rules for use by the Tenant, its employees, and its invited guests. Subchapters of these rules applicable to a State Facility may vary from the rules in Sections 200 through 399 of these rules for Public Use of the State Facility. ()

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference with Primary Use of Facility or Real Property. Public Use of the State Facilities shall not interfere with the primary use of the facility or real property adjoining the facility. The primary uses of the State Facilities include, but are not limited to, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the affected facility or the real property adjoining the facility. The primary use of the State Facilities also includes the conduct of business by Tenants leasing or licensing a portion of the State Facility. ()

02. Interference with Access. Public Use of the State Facilities shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Facilities. ()

302. MAINTENANCE AND IMPROVEMENTS.

Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the Department's website. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. ()

303. MOTORIZED VEHICLES.

01. Operation on Designated Areas. Motorized vehicles not owned or operated by the state of Idaho or law enforcement must remain on designated roadways and parking areas. ()

02. Parking. Parking of motorized vehicles at the Capitol Mall is governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Except as provided in IDAPA 38.04.04, Public Use of the State Facilities for parking is limited to the period the operator or passengers are using the State Facility in compliance with these rules. Unless approved by the Director, the public shall not park motorized vehicles overnight at the State Facilities. Public parking

may be limited to designated parking areas. ()

03. Towing. Motorized vehicles parked outside of designated parking areas and times may be towed without notice at the vehicle owner's expense. ()

04. Excluded Vehicles. Wheelchairs, motorized scooters, and other equipment providing individual mobility to the disabled are not motorized vehicles for the purposes of this section. ()

304. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.

Bicycles, skates, skateboards, and scooters may not be used at the State Facilities. Users of all other non-motorized transportation must remain on designated pathways during use. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising a State Facility, users must store non-motorized transportation in a designated storage area on the exterior of a State Facility. Wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. ()

305. ANIMALS.

The following apply to animals at the State Facilities: ()

01. Wildlife. Unless authorized by the Director, persons may not: ()

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot, or throw any object at a wild animal at the State Facilities. ()

b. Feed, give, or offer food or any noxious substance to a wild animal at the State Facilities. ()

02. Domestic Animals. ()

a. Domestic animals are not allowed at the State Facilities unless leashed and under the control of the person bringing the animal to the State Facility. ()

b. The person bringing the animal to the Exterior of the State Facilities shall have in his possession the equipment necessary to remove the animal's fecal matter and immediately remove all fecal matter deposited by the animal. ()

c. Animals are not allowed at the Interior unless the animal is a service animal necessary to assist individuals with disabilities or an animal in the service of Law Enforcement. The person bringing the animal to the Interior shall have in his possession the equipment necessary to remove the animal's urine and feces and immediately remove all urine and feces deposited by the animal. ()

306. LANDSCAPING.

Unless authorized by the Director, no person shall: ()

01. Plants. Damage, cut, carve, transplant or remove any plant, including but not limited to trees, at the State Facilities. ()

02. Grass. Dig in or otherwise damage grass areas at the State Facilities. ()

03. Irrigation Equipment. Interfere with, damage or remove irrigation equipment at the State Facilities. ()

04. Landscaping Materials. Move or alter landscaping materials at the State Facilities including, but not limited to, rock, edging materials, and bark or mulch. ()

05. Climbing. Climb or scale buildings, memorials, statues, trees, fences, or improvements at the State Facilities. ()

307. FOOD AND BEVERAGES.

Consumption of food and beverages at the State Facilities is subject to the following: ()

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the State Facilities. ()

02. Alcohol. Alcohol may not be consumed or distributed at the State Facilities. ()

308. SMOKING.

All persons shall observe the smoke free entrance notices and smoke or vape only in designated Exterior areas. Smoking and vaping is not allowed in the Interior. ()

309. FIRES, CANDLES, AND FLAMES.

No fires, candles, or other sources of open flame are permitted at the State Facilities. ()

310. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. ()

02. Railings and Stairways. Items may not be placed on railings or stairways and no persons shall sit or stand on railings or stairways. ()

03. Tossing or Dropping Items. Items may not be tossed or dropped over railings or from one level of a facility to another level or to the ground. ()

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and Displays shall be located so as to block ingress or egress to any portion of the State Facilities, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. ()

05. Attaching, Affixing, Leaning, or Propping Materials. Posters, placards, banners, signs, and Displays, including any printed materials, shall not be affixed on any exterior surface of the State Facilities not designed for that purpose or on any permanent Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and Displays must be free-standing or supported by individuals. Items may not be leaned or propped against any exterior surface of the State Facilities or embedded into the ground, including, but not limited to, placement of a stake, post, or rod into the ground to support materials. ()

06. Materials Causing Damage to Exterior Surface. Stages, risers, chairs, tables, sound equipment, props, materials, Displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface at the State Facilities or any systems or utilities of the State Facilities including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. ()

07. Free Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the State Facilities that such material is not discarded outside of designated trash receptacles. ()

08. Surface Markings. Users shall not use any material to mark on any surface of the State Facilities including chalk, paint, pens, ink, or dye. ()

311. ITEMS SUBJECT TO SEARCH.

To enhance security and public safety, Security Personnel or law enforcement may inspect: ()

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. ()

02. Items. Items brought to the State Facilities, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property at the State Facilities. ()

312. PROHIBITED ITEMS.

The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the State Facilities: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or law enforcement may direct that any person at the State Facilities immediately remove from the State Facilities any club, bat, or other item that can be used to injure, damage, or harm persons or property. ()

313. (RESERVED)

314. UTILITY SERVICE.

The public may not use the utility services of the State Facilities other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Facilities or the equipment or apparatus using utility service fails to comply with applicable rules or codes. ()

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, Security Personnel and state employees or officials may direct all persons off of the State Facilities and delay or postpone any activity until the emergency or threat is abated. ()

316. COMPLIANCE WITH LAW.

All use of the State Facilities shall comply with applicable law including, but not limited to, fire and safety codes. ()

317. HEALTH, SAFETY, AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the State Facilities in reasonably clean condition after use, including depositing all trash in designated receptacles. ()

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the use. ()

03. Public Health. No person shall excrete human waste at the State Facilities except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. ()

04. Fireworks. No person shall possess or use fireworks at the State Facilities. ()

318. REMOVAL OF ITEMS.

All items brought to the State Facilities by the public shall be removed at the conclusion of the person's use of the State Facility and prior to the expiration of each day's hours of use by the public. Unless items are subject to report and transfer to the state treasurer as unclaimed property pursuant to Idaho law, the Director may authorize disposal of items left at the State Facilities. ()

319. -- 399. (RESERVED)

400. LIABILITY.

01. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. ()

02. No Endorsement. Action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the State Facilities. ()

401. -- 499. (RESERVED)

SUBCHAPTER D – RULES FOR PUBLIC USE OF THE CHINDEN OFFICE COMPLEX

500. ADDITIONAL DEFINITIONS.

The following additional definitions apply to Public Use of the Chinden Office Complex: ()

01. Recreational Facilities. Facilities designated by the Director for Recreational Use. ()

02. Recreational Use. Use for leisure or athletic purposes such as picnicking and sports practices or informal sports games. ()

501. USE OF RECREATIONAL FACILITIES.

The Director may authorize reservation of Recreational Facilities under this section by a Tenant and the exclusion of members of the public from use of Recreational Facilities during reserved periods. Unless reserved by a Tenant, Recreational Facilities are available for Recreational Use by the public on a first-come, first-used basis from sunrise to sunset daily. ()

502. ALCOHOL.

Section 307 of these rules is modified by this section. Alcohol may be consumed or distributed in the Tenant Space at the Chinden Office Complex if such space is licensed or leased to a private individual or entity. ()

503. FIRES, CANDLES, AND FLAMES.

Section 309 of these rules is modified by this section. Fires and other sources of open flame are permitted in designated barbecue facilities at the Chinden Office Complex. ()

504. USE OF WATERWAYS.

No person shall swim, fish, or wade in waterways at the Chinden Office Complex. Persons bringing domestic animals to the Chinden Office Complex shall not permit the animal to swim or wade in waterways at the Chinden Office Complex. Waterways include ponds, ditches, and canals. ()

505. -- 999. (RESERVED)

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

38.04.07 – RULES GOVERNING USE OF THE INTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

DOCKET NO. 38-0407-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5709, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. As a result of the review, the Department has made the determination to repeal this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#). Necessary provisions have been retained and included in companion docket no. 38-0406-2201 published in this bulletin.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the repeal of this chapter will result in the reduction of regulatory burden.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this August 5, 2022.

Steve Bailey, Deputy Director
Department of Administration
650 W. State Street
Room 100
Boise, Idaho 83720
steven.bailey@adm.idaho.gov
(208) 332-1825

IDAPA 38.04.07 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 38 – DEPARTMENT OF ADMINISTRATION
38.04.08 – RULES GOVERNING USE OF IDAHO STATE CAPITOL
DOCKET NO. 38-0408-2202 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-1604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. The Department is rewriting this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes being contemplated are not considered substantive and are expected to affect only the rule's format and duplication with other related rules.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this August 5, 2022.

Steve Bailey, Deputy Director
Department of Administration
650 W. State Street
Room 100
Boise, Idaho 83720
steven.bailey@adm.idaho.gov
(208) 332-1825

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 38-0408-2202
(Zero Based Regulation (ZBR) Chapter Rewrite)

38.04.08 – RULES GOVERNING USE OF IDAHO STATE CAPITOL

000. LEGAL AUTHORITY.

Section 67-1604, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing access to and use by the public of the capitol building and its grounds after consultation with the governor, the presiding officers of the senate and house of representatives, and the Capitol Commission. Section 67-5709, Idaho Code, gives the Director authority to promulgate rules governing certain public facilities, subject to the provisions of Section 67-1602, Idaho Code, which determines the control and allocation of space in the Idaho State Capitol, and after making the consultations required in Section 67-1604, Idaho Code. ()

001. SCOPE.

These rules contain the provisions for use of the Idaho State Capitol. ()

01. Application to Space Controlled by the Idaho Legislature. The Idaho legislature is exempt from the application of the Idaho Administrative Procedure Act, pursuant to Section 67-5201(2), Idaho Code. Space within the Idaho State Capitol controlled by the Idaho legislature is governed by Section 67-1602(3), Idaho Code, and rules enacted under the procedures of the Idaho legislature. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Camping. Any activity prohibited under Section 67-1613, Idaho Code. ()

02. Capitol Commission. The Idaho State Capitol Commission established in Section 67-1606, Idaho Code. ()

03. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. ()

04. Department. The Department of Administration. ()

05. Director. The Director of the Department of Administration or his designee. ()

06. Display. An attended exhibition or installation of physical items during an Event. ()

07. Event. Any activity including, but not limited to, arts or cultural presentations, weddings, dinners, award ceremonies, memorials, and seminars. ()

08. Exhibit. Exhibitions or installations of physical items outside of an Event including, but not limited to, commemorative installations, floral displays, art objects, historical artifacts, and cultural objects. ()

09. Exterior. The exterior of the Idaho State Capitol, the real property, the grounds, and the improvements on the exterior of the Idaho State Capitol or on its grounds. ()

10. Idaho State Capitol. The building and grounds governed by chapter 16, title 67, Idaho Code, and located at capitol square as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The Idaho State Capitol is bounded by the following streets: State Street, Sixth Street,

- Jefferson Street, and Eighth Street. ()
11. **Interior.** The interior spaces within the Idaho State Capitol. ()
12. **Jefferson Steps.** The building entrance at the second floor of the Idaho State Capitol, the steps extending from the entrance, and the hard surface extending between the steps and the sidewalk along Jefferson Street. ()
13. **Law Enforcement.** An officer of the Idaho state police, Ada County sheriff's office, or Boise City police granted authority to enforce the laws of the state of Idaho and ordinances for the Idaho State Capitol pursuant to Section 67-1605, Idaho Code, or any peace officer as defined in Section 19-5101, Idaho Code, or an equivalent law enforcement officer in the service of the United States who is authorized by law or the Idaho State Police to exercise jurisdiction at the Idaho State Capitol. ()
14. **Legislative Galleries.** The areas of the Interior overlooking the Senate and the House and accessed from the fourth floor of the Interior. ()
15. **Legislative Hearing Rooms.** A room in the Interior holding a meeting of a committee of the Idaho legislature. ()
16. **Permit.** A written authorization issued by the Director allowing use of the Idaho State Capitol as set forth in the Permit. A Permit serves as a reservation to use a portion of the Idaho State Capitol with the priority for use set forth in Subsection 200.04 of these rules. ()
17. **Presiding Officer.** The Presiding Officer of the Senate is the President Pro Tempore. The Presiding Officer of the House is the Speaker. The Presiding Officer of a standing, joint, or special legislative committee is the legislator chairing the committee hearing. ()
18. **Private Event or Private Exhibit.** Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. ()
19. **Private Space.** The portion of the Interior that is not Public Space. ()
20. **Public Space.** The portion of the Interior that is maintained by the Department pursuant to Section 67-1602(1), Idaho Code, and is not designated as closed to the public by being marked "private," "no admission," "staff only," or similarly designated as not open to the public. ()
21. **Public Use.** Use that is not: ()
- a. A State Event or Exhibit; ()
 - b. Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; or ()
 - c. State Maintenance and Improvements. ()
22. **Security Personnel.** A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. ()
23. **State Business Day.** Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. ()
24. **State Events and Exhibits.** All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. ()
25. **State Maintenance and Improvements.** Maintenance or improvement of the Idaho State Capitol

by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting; and structural maintenance such as pressure washing, painting, window cleaning, and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. ()

011. -- 199. (RESERVED)

200. USE OF IDAHO STATE CAPITOL.

01. Authorized Uses by the Public. ()

a. Except as provided otherwise in these rules, the Exterior and the Public Space is available for Public Use. ()

b. Public access to Private Space occupied by a state of Idaho officer, official, agency, board or commission, including an elected official other than a legislator, is limited to the conduct of business with the occupant of the space. ()

c. Unless otherwise directed by the Presiding Officer, public access to space controlled by the Idaho legislature is limited to the Legislative Galleries, Legislative Hearing Rooms, and the conduct of legislative business with a legislator. ()

d. Temporary and permanent placement of Exhibits in the Public Space shall be reviewed by the Capitol Commission in accordance with Section 67-1608(3), Idaho Code. Placement of Exhibits does not include Displays during a Public Use permitted by these rules. ()

02. Prohibited Uses. The following uses are prohibited at the Idaho State Capitol: ()

a. Commercial Activity. The Exterior and the Public Space shall not be used for any activity conducted for profit and persons may not solicit to sell any merchandise or service on the Exterior or in the Public Space. Events promoting an industry, product or service in the Public Space under a Permit are not prohibited by this rule if the Event is limited to Displays, distribution of information, including literature, or both and participants are not soliciting orders or contracts for a product or service. ()

b. Camping. ()

c. Private Events and Private Exhibits. ()

03. Priority of Uses. State Maintenance and Improvements has priority over all other use of the Idaho State Capitol. The conduct of business by the public entity or official occupying or controlling Private Space shall have priority over Public Use of the Idaho State Capitol. Public Use held under a Permit has priority over other Public Use. ()

04. Use of Space Controlled by the Idaho Legislature. Use of space controlled by the Idaho legislature, including Public Use, is governed by chapter 16, title 67, Idaho Code, and the rules adopted by the Idaho legislature as described in Subsection 001.03 of these rules. ()

201. (RESERVED)

202. EQUIPMENT AND SUPPLIES.

Except as provided in these rules, the Department will not provide equipment or supplies for use on the Idaho State Capitol. Where requested in a Permit application for use of the Jefferson Street Steps or the Public Space, the Department shall provide a podium and a public address system, unless such equipment is being repaired or replaced. ()

203. ESTABLISHMENT OF PERIMETERS.

Security Personnel and Law Enforcement may establish perimeters separating participants in Public Use of the Idaho State Capitol or State Events or Exhibits. Participants in and observers of any Public Use or State Events or Exhibits shall observe perimeters set pursuant to this section. ()

204. AREA CLOSURES.

The Director may direct that any portion of the Idaho State Capitol be closed for Public Use upon a finding that the closed portion of the Idaho State Capitol has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the Idaho State Capitol closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the Idaho State Capitol. Circumstances presenting an imminent danger of damage to the Exterior include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. ()

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.

The restrictions and limitations on use of the Idaho State Capitol set forth in Sections 301 through 399 of these rules shall apply to all Public Use of the Idaho State Capitol. ()

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference With Primary Use of Idaho State Capitol. Events, Exhibits, and Public Use of the Idaho State Capitol shall not interfere with the primary use of the Idaho State Capitol. The primary uses of the Idaho State Capitol are legislative proceedings, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the Idaho State Capitol. ()

02. Interference With Access. Public Use of the Idaho State Capitol shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the Idaho State Capitol. ()

302. LOCATIONS AND HOURS.

01. Interior Hours. The hours for Public Use and public access to the Interior shall include the periods in which public meetings and other activities open to the public are held within the Interior. The hours for Public Use will be posted, where feasible, to the website containing official Idaho State Capitol information. Participants in Public Use of the Interior shall exit the Interior at the conclusion of the hours for Public Use. Public hours shall not be reduced during Public Use authorized under these rules unless an emergency or threat exists under Section 315 of these rules. ()

02. Exterior Use Locations. In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire, health, and safety codes, Public Use on the Exterior shall be: ()

a. On the Jefferson Street Steps or on hard surfaces, including concrete and granite, on the Exterior; and ()

b. At least fifteen (15) feet from the exterior walls and windows of the Idaho State Capitol. ()

303. MAINTENANCE AND IMPROVEMENTS.

Public Use shall not interfere with State Maintenance and Improvements. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes. ()

304. MOTORIZED VEHICLES.

Motorized vehicles not owned or operated by the state of Idaho or Law Enforcement must remain on designated roadways and parking areas. Parking of motorized vehicles is governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Wheelchairs, motorized scooters, and other equipment providing individual mobility to individuals with a disability are not motorized vehicles for the purposes of this section. ()

305. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.

Bicycles, skates, skateboards, and scooters may not be used at the Idaho State Capitol. Users of all other non-motorized transportation must remain on designated pathways during use of the Exterior. Where indicated by a posted notice or where requested by Security Personnel, Law Enforcement or a state employee or agent supervising the Idaho State Capitol, users must store non-motorized transportation in a designated storage area on the Exterior. Wheelchairs and other equipment providing individual mobility to individuals with a disability are not non-motorized transportation for the purposes of this section. ()

306. ANIMALS.

The following apply to animals on the Idaho State Capitol: ()

01. Wildlife. Unless authorized by the Director persons may not: ()

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot or throw any object at a wild animal on the Exterior. ()

b. Feed, give or offer food or any noxious substance to a wild animal on the Exterior. ()

02. Domestic Animals. ()

a. Domestic animals are not allowed on the Exterior unless leashed and under the control of the person bringing the animal to the Exterior. ()

b. Domestic animals are not allowed in the Interior unless the animal is a service animal necessary to assist individuals with disabilities or an animal in the service of Law Enforcement. Animals allowed under this rule must be leashed and under the control of the person bringing the animal to the Interior. ()

c. The person bringing the domestic animal to the Exterior Idaho State Capitol shall have in his possession the equipment necessary to remove the animal's fecal matter and immediately remove all fecal matter deposited by the animal. The person bringing the animal to the Interior shall have in his possession the equipment necessary to remove the animal's urine and feces and immediately remove all urine and feces deposited by the animal. ()

307. LANDSCAPING AND IMPROVEMENTS.

Persons other than state employees or contractors designated by the Director may not: ()

01. Plants. Damage, cut, carve, transplant or remove any plant including, but not limited to, trees, on the Exterior. ()

02. Grass. Dig in or otherwise damage grass areas on the Exterior. ()

03. Irrigation Equipment. Interfere with, damage or remove irrigation equipment on the Exterior. ()

04. Landscaping Materials. Move or alter landscaping materials on the Exterior including, but not limited to, rock, edging materials, and bark or mulch. ()

05. Climbing. Climb or scale buildings, Commemorative Installations, trees, fences, posts or other improvements at the Idaho State Capitol. ()

308. FOOD AND BEVERAGES.

Consumption of food and beverages at the Idaho State Capitol is subject to the following: ()

01. Consumption May Be Prohibited. The consumption of food and beverages, including water, may be prohibited by a notice posted at the entrance to all or a portion of the Exterior. Each authority granted control of a portion of the Interior as described in Section 67-1602, Idaho Code, may prohibit the consumption of food and beverages, including water, in that portion of the Interior by posting a notice at one (1) or more of the entrances to the portion of the Interior under its control. ()

02. Alcohol. Alcohol may not be consumed or distributed on the Exterior or the Public Space. ()

309. SMOKING AND VAPING.

All persons shall observe the smoke free entrance notices and shall smoke or vape only in designated areas of the Exterior. Smoking and vaping is not allowed in the Interior. ()

310. FIRES, CANDLES, AND FLAMES.

No fires, candles or other sources of open flame are permitted at the Idaho State Capitol. ()

311. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. ()

02. Railings. Items may not be placed on railings and persons may not sit or stand on railings. ()

03. Tossing or Dropping Items. Items may not be tossed or dropped over railings or from one (1) level of the Idaho State Capitol or improvements at the Idaho State Capitol to another level or to the ground. ()

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the Idaho State Capitol, or to restrict the flow of individuals using the facility, or to restrict emergency egress or ingress. ()

05. Attaching, Affixing, Leaning or Propping Materials. Posters, placards, banners, signs, and Displays, including any printed materials, shall not be affixed on any surface of the Idaho State Capitol or on any Exhibit or Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and Displays must be free-standing or supported by individuals. Items may not be leaned or propped against any surface of the Idaho State Capitol or embedded into the ground including, but not limited to, placement of a stake, post or rod into the ground to support materials. ()

06. Materials Causing Damage to Surfaces. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface on the Idaho State Capitol or any systems or utilities of the Idaho State Capitol including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. ()

07. Free Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the Idaho State Capitol that such material is not discarded outside of designated trash receptacles. ()

08. Surface Markings. Users shall not use any material to mark on any surface of the Idaho State Capitol including chalk, paint, pens, ink, or dye. ()

09. Capacity. The number of users in the Interior is limited to the capacity designated by health and safety officials including, but not limited to, the state fire marshal, the division of building safety, and the department of health and welfare. ()

10. Moving Furniture and Items. The public shall not move furnishings owned by the state of Idaho

or placed by agents or employees of the state of Idaho at the Idaho State Capitol, including chairs, benches, tables, signs, art, memorials, statues, or Exhibits. ()

11. Sound Amplification. Except for amplification provided by the Department under a Permit and use by Law Enforcement or Security Personnel or by state employees and officials under Subsection 315.01 of these rules, sound amplification devices shall not be used in the Interior. ()

312. ITEMS SUBJECT TO SEARCH.

To enhance security and public safety, Security Personnel and Law Enforcement may inspect: ()

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by law, including these rules. ()

02. Items. Items brought to the Idaho State Capitol, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property at the Idaho State Capitol of disrupting the primary uses of the Idaho State Capitol in violation of law, including these rules. ()

313. PROHIBITED ITEMS.

The following, as defined in title 18, chapter 33, Idaho Code, are not permitted at the Idaho State Capitol: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or Law Enforcement may direct that any person at the Idaho State Capitol immediately remove from the Idaho State Capitol any club, bat, or other item that can be used in violation of law, including these rules, to injure, damage, or harm persons or property or to disrupt the primary uses of the Interior. ()

314. UTILITY SERVICE.

The public may not use the utility services of the Idaho State Capitol other than restrooms and drinking fountains; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the Idaho State Capitol or the equipment or apparatus using utility service fails to comply with applicable rules or codes. ()

315. LAW ENFORCEMENT AND FACILITY EXIGENCY – REMOVAL FOR NON-COMPLIANCE.

01. Emergency or Threat. In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, Law Enforcement, Security Personnel and state employees or officials may direct all persons off of or out of the Idaho State Capitol and delay or postpone any activity until the emergency or threat is abated. ()

02. Removal. The Director, the Presiding Officer, or their designees are authorized to request that Law Enforcement remove or exclude any person from the Interior who engages in any of the following: ()

a. Violation of law, including these rules, where such violation: ()

i. Interferes with the primary uses of the Idaho State Capitol, injures persons or property, or is likely to injure persons or property, or, ()

ii. Law Enforcement, Security Personnel, the Presiding Officer, or the Director or his designee has requested compliance with the applicable law, including provisions of these rules, and the person has refused to comply. ()

b. Engaging in a riot, unlawful gathering or a gathering designed to impede the business of the state of Idaho in violation of Sections 18-6401 or 18-6404, Idaho Code. ()

316. COMPLIANCE WITH LAW.

All use of the Idaho State Capitol shall comply with applicable law including, but not limited to, fire, health, and safety codes. ()

317. HEALTH, SAFETY AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the Idaho State Capitol in reasonably clean condition after use, including depositing all trash in designated receptacles. ()

02. Return of Items to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of use. ()

03. Public Health. Persons may not excrete human waste at the Idaho State Capitol except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. ()

04. Fireworks. Persons may not possess or use fireworks at the Idaho State Capitol. ()

05. Attire. Persons in the Interior shall be fully clothed. Fully clothed means wearing shoes and one (1) or more garments extending from the wearer's shoulders to the wearer's legs. ()

318. REMOVAL OF ITEMS.

All items brought to the Idaho State Capitol by the public shall be removed at the conclusion of the person's use of the Idaho State Capitol. Unless items are subject to report and transfer to the state treasurer as unclaimed property pursuant to Idaho law, the Director may authorize disposal of items left at the Idaho State Capitol. ()

319. -- 399. (RESERVED)

400. PERMITS.

01. Use Without a Permit. A Permit grants a reservation providing priority for use of the area specified in the Permit as set forth in Subsection 200.04 of these rules. Applicants desiring to obtain a Permit for use of the Exterior or the Public Space outside of the Permit areas, hours or duration or who have not submitted an application within the application period may use the Exterior or the Public Space, subject to the provisions of these rules, on a first-come, first used basis. Permits will be issued to groups of two (2) or more people. ()

02. Permit Areas, Hours and Duration, and Number of Participants. ()

a. The Director will consider and grant Permits only for: ()

i. Public Use of the Jefferson Street Steps; and ()

ii. Public Use of the Public Space on the second floor rotunda. ()

b. The Director will issue Permits for the following periods: ()

i. Reserving use of the Jefferson Street Steps only for the period between the hours of 7 a.m. and 6 p.m.; and ()

ii. Reserving the Public Space on the second floor rotunda during the hours of use in Section 302 of these rules. ()

c. The duration of a Permit for the Jefferson Street Steps will not exceed four (4) consecutive hours. The duration of a Permit for the Public Space will not exceed eight (8) consecutive hours. ()

d. The Director will issue a Permit only for Public Use involving two (2) or more persons. ()

03. Application Period. Permit applications must be received and complete at least two (2) State Business Days prior to the requested date and time period of the Permit. The Department will not accept applications

submitted more than six (6) months prior to the requested date of the Permit. ()

04. Validity. Permits are valid only for the dates, times, and locations specified on the Permit as approved by the Director. ()

05. Distribution. Permits shall be granted by the Director on a first-come, first-served basis, subject to Subsection 200.03 of these rules. Only one (1) Permit will be granted for the Jefferson Street Steps or the Public Space during any period of time. ()

06. Application Requirements. Applications for a Permit shall be in writing on a form prescribed by the Director and available at the office of the Division of Public Works and the Department's [website](#). The Director will only process applications that are complete and signed by the individual making a request or an authorized representative of the entity or organization making the request. The Director may make reasonable inquiry to confirm the accuracy of the application and the authority of the party signing the application. ()

07. Conditions. The Director may impose reasonable conditions on the use of the Idaho State Capitol in the Permit for the purpose of protecting persons and property. ()

08. Transferability. Permits are non-transferable. ()

401. APPROVALS AND DENIALS OF A PERMIT APPLICATION.

01. Period for Approval or Denial. The Department will approve or deny a complete application within two (2) State Business Days of the submission of the application. ()

02. Basis for Denial. Permits may be denied for one (1) or more of the following: ()

a. A Permit has been granted for all or part of the requested location during all or part of the requested time period. ()

b. A public entity or official will be using all or part of the requested location during all or part of the requested time period. ()

c. The requested use would violate any provision of these rules or applicable law. ()

d. These rules do not authorize the use for the location or times requested or do not authorize the issuance of a Permit for the location requested. ()

e. The Permit application is incomplete, contains a material falsehood, or contains a material misrepresentation. ()

f. The Permit applicant has not certified that the applicant will comply with these rules or applicable law. ()

g. The party signing the application is not legally competent to bind themselves or the organization or entity submitting the application. ()

h. The individual, organization or entity submitting the application: ()

i. Failed to pay costs or damages arising from an earlier use of any state facility; ()

ii. Made a material misrepresentation regarding the nature or scope of the use on a prior Permit application; ()

iii. Violated the terms of prior Permits issued to the individual, organization or entity; or ()

iv. Violated any applicable law in the course of previous Public Use of state of Idaho facilities. ()

- ()
- i. The requested use would cause a clear and present danger to the orderly processes of state of Idaho government or to the use of the Idaho State Capitol due to advocacy of: ()
- i. The violent overthrow of the government of the United States, the state of Idaho, or any political subdivision thereof; ()
- ii. The willful damage or destruction, or seizure and subversion of public property; ()
- iii. The forcible disruption or impairment of or interference with the regularly scheduled functions of the state of Idaho; ()
- iv. The physical harm, coercion, intimidation or other invasions of the lawful rights of public officials or the public; or ()
- v. Other disorders of a violent nature. ()

402. REVOCATION OF A PERMIT.

A Permit may be revoked by the Director for the violation of any term or condition of the Permit or the violation of law including, but not limited to, the violation of any provision of these rules. ()

403. APPEALS.

01. Time for Appeal. The individual or the organization or entity submitting an application may request that the Department initiate a contested case within the period set forth below. The Department will not initiate a contested case after the following periods: ()

- a. Seven (7) State Business Days following the written denial of an application for a Permit; ()
- b. Seven (7) State Business Days following the revocation of a Permit; and ()
- c. Seven (7) State Business Days following the date the Department was required to approve or deny the application for a Permit pursuant to Section 401 of these rules. ()

02. Requesting an Appeal. The individual or the organization or entity submitting an application shall request an appeal in writing, with a physical copy delivered to the Director at the street address set forth on the Department's [website](#) containing the following: ()

- a. The name, address, and contact information of the appellant; ()
- b. A concise statement of the reason the appeal should be granted; ()
- c. Whether the appellant requests informal disposition to expedite the contested case; and ()
- d. A description of the Permit sought. ()

03. Informal Disposition. If an appellant requests informal disposition, the Director will accept written evidence submitted within five (5) State Business Days of the appeal request, or as otherwise agreed by the Director and the appellant. The Director will issue a final written order affirming, reversing or modifying the denial or revocation of the Permit. ()

04. Contested Cases. If an appellant does not request informal disposition, the Director will schedule a hearing and proceed as set forth in chapter 52, title 67, Idaho Code. Contested cases will be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

05. Judicial Review. Judicial review of orders issued in an appeal is provided as set forth in chapter 52,

title 67, Idaho Code. ()

404. -- 499. (RESERVED)

500. LIABILITY.

01. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, chapter 9, title 6, Idaho Code. ()

02. No Endorsement. The grant of a Permit and any action or inaction of the Department does not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the Idaho State Capitol. ()

501. -- 999. (RESERVED)

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

38.04.09 – RULES GOVERNING USE OF THE CHINDEN OFFICE COMPLEX

DOCKET NO. 38-0409-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5709, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. As a result of the review, the Department has made the determination to repeal this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#). Necessary provisions have been retained and included in companion docket no. 38-0406-2201 published in this bulletin.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the repeal of this chapter will result in the reduction of regulatory burden.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this August 5, 2022.

Steve Bailey, Deputy Director
Department of Administration
650 W. State Street
Room 100
Boise, Idaho 83720
steven.bailey@adm.idaho.gov
(208) 332-1825

IDAPA 38.04.09 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

38.05.01 – RULES OF THE DIVISION OF PURCHASING

DOCKET NO. 38-0501-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-9204, 67-9205, 67-9206, 67-9215, 67-9219, 67-9226, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

The Department of Administration will perform a critical and comprehensive review of the statutes and existing rules chapter. The Department will rewrite this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [volume 22-7, pages 247-248](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Bailey at (208) 332-1825.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this August 5, 2022.

Steve Bailey, Deputy Director
Department of Administration
650 W. State Street
Room 100
Boise, Idaho 83720
steven.bailey@adm.idaho.gov
(208) 332-1825

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 38-0501-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

38.05.01 – RULES OF THE DIVISION OF PURCHASING

SUBCHAPTER A – GENERAL PROVISIONS

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Section 67-9205(11), Idaho Code, by the administrator of the division of purchasing. ()

001. SCOPE.

These rules govern any other state agency acquiring property under these rules or through delegated authority. These rules also govern the contested case hearing process. ()

002. CONSTRUCTION.

“Include,” “Includes,” and “Including” are terms of enlargement and not of limitation or exclusive enumeration. Unless otherwise specified in a rule, lists and examples are illustrative and not exhaustive. ()

003. -- 010. (RESERVED)

011. DEFINITIONS.

Unless defined otherwise in these rules, the definitions set forth in Section 67-9203, Idaho Code, apply to this chapter. ()

01. Alternate. Property or services that are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard. ()

02. Brand Name or Equal Specification. A specification that uses a brand name to describe the standard of quality, performance or other characteristics being solicited and that invites the submission of equivalent property. ()

03. Brand Name Specification. A specification calling for property by manufacturers’ names or catalogue numbers. ()

04. Buyer. An employee of the division of purchasing designated as a buyer, contract-administrator, purchasing agent, contracting officer, or similar designation by the administrator, including, where appropriate, the administrator and other management personnel. The term also includes authorized employee(s) of a purchasing authority. ()

05. Competitive Negotiation. Procedure by which the buyer negotiates with one (1) or more responsive offerors in accordance with the provisions of an invitation to negotiate. ()

06. Consultant Services. Work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis or advice in formulating or implementing programs or services or improvements in programs or services, including such areas as management, personnel, finance, accounting and planning. The consultant’s services, opinions or recommendations will be performed according to the consultant’s methods without being subject to the control of the agency except as to the result of the work. ()

- 07. Contract Administration.** Actions taken related to changes to contracts, including amendments, renewals, and extensions; receipt, review and retaining of the contract and contract-related documents; and exercise of remedies. ()
- 08. Contract Management.** Actions taken to ensure that both the agency and contractor comply with the requirements of the contract. Includes regular monitoring of the contractor's performance, evaluation of deliverables, invoice review, payment approval, progress tracking, regular status meetings, and management of state-owned property and other resources used in contract performance management. ()
- 09. Division.** The division of purchasing of the department of administration as established by Section 67-9204, Idaho Code. ()
- 10. Document.** When used in these rules, may include electronic documents. ()
- 11. E-procurement.** Use of the division's electronic procurement system. ()
- 12. Equal.** Property that meets or exceeds the quality, performance and use of the brand, model or specifications in the informal or formal solicitation. ()
- 13. Formal Sealed Procedure.** Procedure by which the buyer solicits sealed bids or competitive sealed proposals by means of a formal solicitation. ()
- 14. Formal Solicitation.** An invitation to bid, request for proposal, or invitation to negotiate. ()
- 15. Informal Solicitation.** Procedure by which the buyer solicits informal competitive quotes by means of a request for quote. ()
- 16. Invitation to Bid or ITB.** All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids. ()
- 17. Invitation to Negotiate or ITN.** All documents, whether attached or incorporated by reference, utilized for soliciting proposals for a competitive negotiation. ()
- 18. Offeror.** A vendor who has submitted a response to a request for proposals or invitation to negotiate for property to be acquired by the state. ()
- 19. Professional Services.** Work rendered by a contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, actuarial, veterinarian, information technology and research. The knowledge is founded upon extensive and specialized intellectual training that enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills. ()
- 20. Proposal.** A written response including pricing information to a request for proposals that describes the solution or means of providing the property requested and which proposal is considered an offer to perform a contract in full response to the request for proposals. ()
- 21. Purchase.** The act of acquiring or procuring property for state use or the result of an acquisition. ()
- 22. Purchase Order.** Notification to the contractor to provide the stated property under the terms and conditions set forth in the purchase order. It may include the form of the state's acceptance of a vendor's quote, proposal or bid. See also definition of contract. ()
- 23. Purchasing Authority.** The division or an agency exercising authority based on a delegation of authority by the administrator to an individual or an agency; or as otherwise provided under these rules to engage in

the conduct of purchasing. ()

24. Quote. An offer to supply property in response to a request for quote and generally used for informal solicitation procedures. ()

25. Request for Proposals or RFP. Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals as a component of the formal sealed procedure and is generally utilized in the acquisition of services or other complex purchases. ()

26. Request for Quote. The document, form or method generally used for purchases solicited in accordance with informal solicitation procedures. ()

27. Requisition. A standard state or agency specific form that serves as a purchasing request and that requests that the purchasing authority acquire the property. ()

28. Sealed. A bid or proposal physically or electronically sealed and submitted in accordance with requirements of a formal solicitation. ()

29. Sealed Procedure Limit. That dollar amount, as established by these rules, above which the formal sealed procedure will be used. The amount may be lowered by the administrator to maintain full disclosure or competitive purchasing or otherwise achieve overall state efficiency and economy. ()

30. Small Purchase. An acquisition that costs less than the sealed procedure limit. ()

31. Signature. A manual signature or an electronic signature, as defined in Section 28-50-102, Idaho Code, of an individual authorized to bind a person or entity. ()

32. State. The state of Idaho including each agency unless the context implies other states of the United States. ()

33. Telecommunications. All present and future forms of hardware, software or services used or required for transmitting voice, data, video or images. ()

34. Total Cost. The acquisition cost of property, including all components, options, and add-ons available under the contract, related services, and, in the case of ongoing services, the cost of the full term of the contract, including all authorized renewals. Unless a different total term is provided in the contract, the term used for purposes of total cost is five (5) years. ()

35. Written. When used in these rules, may include an electronic writing and communication. ()

SUBCHAPTER B – RULES GOVERNING PURCHASING

012. PRESERVATION OF RECORDS.

Records of a purchasing authority, which are created or held pursuant to these rules, may be kept in such format as prescribed by the purchasing authority responsible for record retention; and otherwise in accordance with record preservation and retention policies established by the agency designated by the legislature for such purpose. ()

013. -- 020. (RESERVED)

021. DELEGATION OF AUTHORITY OF ADMINISTRATOR.

The division's purchases on behalf of another agency are as the agent for such agency. The division administers the acquisition of all property for agencies except those specifically exempted from the state procurement act, title 67, chapter 92, Idaho Code. The administrator may delegate in writing such authority to division employees, an agency or employees of an agency. Such delegations remain in effect unless modified or until revoked in writing. All delegations must be given in writing prior to the acquisition of the property. Designees shall make purchases according to these purchasing rules, the policies developed by the division, and the conditions established by the administrator in the delegation. Delegations are subject to periodic reporting and review as directed by the

administrator. ()

01. Manner of Submission. Request for delegated purchasing authority must be submitted in writing, on a form and in a manner established by the administrator. ()

02. Policy. The administrator’s delegated purchasing authority policy is applicable to all designees; and may place additional conditions on the agency or individual delegated authority. ()

03. Failure to Comply. A designee’s failure to comply with the policy, the conditions included in the written authorization provided by the administrator, or the instructions of the administrator regarding activities delegated pursuant to this rule may result in immediate rescission of delegated authority, increased monitoring, reduced authority level, additional training, or other action deemed appropriate by the administrator. ()

022. -- 033. (RESERVED)

034. PUBLIC NOTICE.

Notice of informal and formal solicitations are posted electronically unless the administrator exempts the acquisition from e-procurement. Notice of sole source acquisitions are posted electronically, and otherwise in accordance with Section 67-9221, Idaho Code. ()

035. -- 040. (RESERVED)

041. ACQUISITION PROCEDURES.

Except as otherwise provided in statute or these rules, the acquisition of property shall be by competitive solicitation. Acquisition requirements shall not be artificially divided to avoid bid statutes, rules, or policies. The procedure followed for acquisitions shall be as follows: ()

01. Small Purchases. ()

a. Acquisitions of the following property are small purchases: ()

i. Services with a total cost less than twenty-five thousand dollars (\$25,000) ()

ii. Software, regardless of the delivery method (e.g. on-premise, cloud, software as a service, etc.), with a total cost less than fifteen thousand dollars (\$15,000); ()

iii. Property, excluding services, with a total cost less than fifteen thousand dollars (\$15,000); ()

iv. A mix of property including services and other property, with a total cost less than fifteen thousand dollars (\$15,000). ()

b. Small purchases do not require acquisition through competitive solicitation. Agencies must comply with the division’s small purchase policy. Property available under single agency or open contracts shall be purchased under such contracts and are not a small purchase under this rule unless otherwise authorized by the administrator. ()

02. Informal Purchases. ()

a. Acquisition of property with a total cost exceeding the dollar limits established in this rule for a small purchase and less than the formal sealed procedure limit are informal purchases. ()

b. Informal purchases may be made using: ()

i. An informal solicitation issued through e-procurement, unless exempted by the administrator; or ()

ii. The formal sealed procedure, when the purchasing authority makes a written determination that

using a formal solicitation is in the best interest of the state, including where selection based solely on cost is not appropriate. ()

c. Agencies procuring property under this rule shall maintain a purchasing file containing: ()

i. The informal or formal solicitation document posted and quotes received. If the acquisition was not publicly posted, the agency shall include a statement describing the justification for determining that posting was impractical or impossible, along with the administrator's authorization. ()

ii. If not using e-procurement, the agency shall document the quotes received (or its attempt to obtain quotes) from at least three (3) vendors having a significant Idaho economic presence as defined in Section 67-2349, Idaho Code. ()

03. Formal Sealed Procedure. ()

a. The sealed procedure limit is one hundred fifty thousand dollars (\$150,000). ()

b. Purchases of property in excess of the sealed procedure limit are made using the formal sealed procedure, unless exempted by these rules or the administrator. ()

042. EXCEPTIONS TO COMPETITION REQUIRING ADMINISTRATOR APPROVAL.

The administrator may exempt the following purchases from the requirement for competitive solicitation by issuing a written determination to the purchasing authority. ()

01. Emergency Purchases. An emergency purchase is a purchase required to address an emergency condition, which is a situation that creates a threat to public health, welfare, or safety, such as may arise from floods, epidemics, riots, equipment failure, or similar circumstances. The existence of such condition must create an immediate and serious need for property that cannot be met through normal acquisition methods. The buyer must send a written explanation stating the emergency condition and the basis for the supplier selection, if applicable, to the administrator for review and written approval that the purchase be undertaken as an emergency purchase. Emergency purchases are limited to only that property required to address the emergency. The director or administrator may delegate authority in writing to an agency or purchasing authority to make emergency purchases and may impose conditions in the delegation. ()

02. Sole Source Purchases. Sole source purchases are authorized only if the required property is reasonably available from a single supplier. A requirement for a proprietary property does not justify a sole source purchase if there is more than one (1) potential supplier that can provide the required property. In cases of reasonable doubt, competition should be solicited. The buyer must send a written request to the administrator justifying the purchase and the basis to conclude that no other supplier is reasonably available. Sole source purchases require written approval of the administrator. The administrator may condition an approval. ()

03. Rehabilitation Agency Acquisitions. Acquisitions of property that is provided by non-profit corporations and public agencies operating rehabilitation facilities serving the handicapped and disadvantaged and that is offered for sale at fair market price as determined by the administrator in accordance with these rules. The buyer must submit a written request to the administrator to purchase from a rehabilitation agency and a written approval from the administrator. The purchase must comply with the division's policy for rehabilitation agency acquisitions. ()

04. Purchases from General Services Administration Federal Supply Contractors. Acquisitions of property may be made from General Services Administration federal supply contractors without the use of competitive bid upon written approval of the administrator. The administrator shall determine whether the price and terms and conditions of acquisition is advantageous to the state. The administrator shall commemorate the determination in a written statement that shall be incorporated in the applicable file. ()

05. Exempt Purchases. The administrator may, by written policy, exempt from the formal sealed procedure or the requirement for competitive solicitation that property for which bidding is impractical, disadvantageous or unreasonable under the circumstances. ()

- a. Examples include: ()
 - i. Special market conditions; ()
 - ii. Property requiring special contracting procedures due to uniqueness; ()
 - iii. Legal advertising, publication or placement of advertisements by state agency personnel directly with media sources; ()
 - iv. Property for which competitive solicitation procedures are impractical; ()
 - v. Used property; ()
 - vi. Ongoing maintenance, upgrades, support or additional licenses for software or other information technology solutions, including a change in the manner of solution delivery; which software or solution was originally acquired in compliance with the purchasing laws in effect at the time of acquisition; or ()
 - vii. Acquisition of property for direct resale. ()
- b. Such policy shall describe the property exempted, the duration of the exemption, and any other requirements or circumstances appropriate to the situation. ()

043. EXCEPTIONS TO COMPETITION NOT REQUIRING APPROVAL.

Unless the administrator makes a written determination to the contrary, property meeting the following criteria need not be purchased by competitive solicitation. ()

01. Reverse Auction. Purchases through reverse public auctions as authorized by Section 67-9221, Idaho Code. ()

02. Federal Government Acquisitions. Acquisitions from the United State of America or any agency thereof. ()

03. Public Agency Acquisitions. Acquisitions from other public agencies as defined in Section 67-2327, Idaho Code, and authorized by Section 67-2332, Idaho Code. ()

04. Idaho Correctional Industries. Purchases of property marketed directly by Idaho Correctional Industries in accordance with Section 20-245, Idaho Code. ()

05. Open Contracts. Except as provided in these rules or exempted by the administrator, property available under existing open contracts shall be purchased under such contracts in accordance with the provisions or requirements for use thereof. ()

06. Professional or Consultant Services. The acquisition of professional or consultant services for one-time projects costing less than the sealed procedure limit and lasting less than one (1) year in duration. ()

07. Small Purchases. The acquisition of property meeting the criteria in sub-section 041.01 of these rules; provided, however, that acquisitions cannot be artificially divided to meet the small purchase criteria. ()

044. -- 050. (RESERVED)

051. CONTENT OF FORMAL SOLICITATIONS.

The following shall be included in formal solicitations: ()

- 01. Submission Information.** Information regarding the applicable closing date, time and location. ()

02. Specifications. Specifications developed in accordance with Section 111 of these rules. For an ITN, specifications may be limited to those determined by the purchasing authority to be adequate to inform interested vendors of the desired outcome. ()

03. Contract Terms. Terms and conditions applicable to the contract, subject to the provisions of Section 112 of these rules. ()

04. Evaluation and Award Criteria. Any evaluation criteria to be used to determine property acceptability and identification of the lowest responsive and responsible offer. For an ITN, also a summary of evaluation criteria to classify proposals and determine the competitive threshold for negotiations. ()

05. Trade-In Property. If trade-in property is to be included, a description of the property and location where it may be inspected. ()

06. Incorporation by Reference. A brief description of any documents incorporated by reference that specifies where such documents can be obtained. ()

07. Pre-Proposal or Pre-Bid Conference. The date, time and location of the conference. ()

08. Process. A description of the process for the formal solicitation. ()

052. CHANGES TO FORMAL SOLICITATIONS.

A formal solicitation may be changed by the buyer through issuance of an amendment, provided the change is issued in writing prior to the formal solicitation closing date and is made available to all vendors receiving the original formal solicitation. Any material information given or provided to a prospective vendor with regard to a formal solicitation shall be made available in writing by the buyer to all vendors receiving the original formal solicitation. Oral interpretations of specifications or contract terms and conditions shall not be binding on the state unless confirmed in writing by the buyer prior to the date of the closing. Changes to the formal solicitation shall be identified as such and shall require that the vendor acknowledge receipt of all amendments issued. The right is reserved to waive any informality. ()

053. -- 060. (RESERVED)

061. FORM OF SUBMISSION FOR FORMAL SOLICITATIONS.

01. Manual Submissions. Unless otherwise provided in these rules and in addition to any specific requirements set forth in the formal solicitation, bids or proposals submitted manually must be made on the form provided, which form must be properly completed and contain a signature to receive consideration. All changes or erasures on manual submissions shall be initialed in ink. Unsigned or improperly submitted bids or proposals will be rejected. The purchasing authority assumes no responsibility for failure of the United States Postal Service, any private or public delivery service, or any computer or other equipment to deliver all or a portion of the bid or proposal at the time or to the location required by the formal solicitation. ()

02. Electronic Submissions. Unless otherwise provided in these rules and in addition to any specific requirements set forth in the formal solicitation, bids or proposals submitted electronically must be submitted in accordance with and meet all applicable requirements of these rules and contain a signature. Submission of a bid or proposal through e-procurement shall constitute a signature. The purchasing authority assumes no responsibility for failure of any electronic submission process, including any computer or other equipment to deliver all or a portion of the bid or proposal at the time or to the location required by the formal solicitation. ()

062. -- 069. (RESERVED)

070. PRE-PROPOSAL CONFERENCE.

A pre-proposal conference for vendors must be conducted by the purchasing authority for all RFPs and ITNs. The purchasing authority may provide an opportunity for a verbal question and answer period, however, only written questions and answers posted through e-procurement as an amendment to the formal solicitation, have force or effect in the procurement. ()

071. PRE-OPENING WITHDRAWAL OR MODIFICATION.

Bids or proposals submitted manually may be withdrawn or modified prior to closing of the formal solicitation only as follows. ()

01. By written communication containing a signature. ()

02. In person upon presentation of satisfactory evidence establishing the individual's authority to act on behalf of the submitting vendor. ()

03. Any withdrawing or modifying communication, must clearly identify the formal solicitation and should be worded so as not to reveal the amount of the original bid or proposal. ()

072. LATE BIDS/PROPOSALS, LATE WITHDRAWALS AND LATE MODIFICATIONS.

Any bid or proposal, withdrawal, or modification received after the time and date set for closing at the place designated in the formal solicitation is late. No late bid or proposal, late modification or late withdrawal will be considered. All late bids and proposals, will be returned to the submitting vendor. Time of receipt will be determined by the official time stamp or receipt mechanism located at the designated place for receipt of responses. ()

073. RECEIPT, OPENING, AND RECORDING OF BIDS AND PROPOSALS.

Upon receipt, all bids, proposals, and modifications properly marked and identified are time stamped, but not opened. They shall be stored in a secure place until the time specified for opening. Time stamping and storage may be through electronic means. Bids and proposals shall be opened publicly at the date and time specified in the formal solicitation. Opening of proposals shall identify only the names of the offerors unless otherwise stated in the formal solicitation. Bid and proposal openings may be electronic virtual openings. When no manual bids or proposals are received, retaining the e-procurement audit record shall be opening in public view under section 67-9209, Idaho Code. ()

074. MISTAKES.

The following procedures are established relative to claims of a mistake. ()

01. **Mistakes in Submission.** If a mistake is attributable to an error in judgment, the submission may not be corrected. Correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the administrator and to the extent it is not contrary to the interest of the state or the fair treatment of other submitting vendors. ()

02. **Mistakes Discovered Before Opening.** Mistakes discovered by a vendor prior to closing may be corrected by such vendor by submitting a timely modification or withdrawing the original submission and submitting a corrected submission to the purchasing authority before the closing. Vendors who discover a mistake after closing, but prior to opening, may withdraw the submission by a written notification containing a signature to the purchasing authority if such notification is received by the purchasing authority prior to opening. ()

03. **Mistakes Discovered After Opening But Before Award.** This subsection sets forth procedures to be applied in three (3) situations described below in which mistakes are discovered after opening but before award. ()

a. **Minor Informalities.** Minor informalities are matters of form rather than substance evident from the bid or proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other submitting vendors, that is, the effect of the mistake on price, quantity, quality, delivery or contractual conditions is not significant. The buyer may waive such informalities. Examples include the failure of a submitting vendor to: ()

i. Return the required number of signed submissions. ()

ii. Provide a signature, but only if it is clear from the submission that the submitting vendor intended to be bound by its terms. ()

iii. Acknowledge the receipt of an amendment, but only if: ()

(1) It is clear from the submission that the submitting vendor received the amendment and intended to be bound by its terms; or ()

(2) The amendment involved had a negligible effect on price, quantity, quality or delivery. ()

b. Mistakes Where Intended Submission is Evident. If the mistake and the intended submission are clearly evident on the face of the document, the submission shall be corrected to the intended submission and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the document are typographical errors, errors in extending unit prices (unit prices will always govern in event of conflict with extension), transposition errors and arithmetical errors. ()

c. Mistakes Where Intended Submission is not Evident. A vendor may be permitted to withdraw a low bid if: ()

i. A mistake is clearly evident on the face of the submission document but the intended submission is not similarly evident; or ()

ii. The vendor submits timely proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made. ()

04. Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract. ()

05. Written Approval or Denial Required. In the event of a mistake discovered after the opening date, the administrator shall approve or deny, in writing, a request to correct or withdraw a submission. ()

075. -- 080. (RESERVED)

081. EVALUATION AND AWARD.

01. General. The contract is to be awarded to the lowest responsible and responsive bidder or offeror (or for requests for quotes, vendor submitting a quote). The formal or informal solicitation shall set forth the requirements and criteria that will be used to make the lowest responsive and responsible determination. ()

02. Qualification. All vendors submitting responses to informal or formal solicitations issued by the state must be qualified. All vendors are qualified unless disqualified as defined by Section 67-9217, Idaho Code. ()

03. Responsibility. ()

a. Nothing herein shall prevent the buyer from establishing additional responsibility standards for a particular purchase. Factors to be considered in determining whether a vendor is responsible include, whether the vendor has: ()

i. Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability to meet all contractual requirements; ()

ii. A satisfactory record of integrity; ()

iii. Qualified legally to contract with the purchasing authority and qualified to do business in the state of Idaho; ()

iv. Unreasonably failed to supply any necessary information in connection with the inquiry concerning responsibility; ()

v. Requisite experience; or ()

vi. A satisfactory prior performance record, if applicable. ()

b. Information Pertaining to Responsibility. A submitting vendor shall supply information requested by the buyer concerning its responsibility. If such submitting vendor fails to supply the requested information, the buyer shall base the determination of responsibility upon any available information or may find the submitting vendor nonresponsible if such failure is unreasonable. ()

c. Written Determination of Nonresponsibility Required. If a submitting vendor that otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the buyer. ()

04. Extension of Time for Acceptance. After opening, the buyer may request submitting vendors to extend the time during which their bids or proposals may be accepted. The reasons for requesting such extension shall be documented. ()

05. Partial Award. A buyer shall have the discretion to award on an all or nothing basis or to accept any portion of a response to a formal or informal solicitation, excluding other portions of a response and other offers, unless the vendor stipulates all or nothing in its submission. ()

082. TIE RESPONSES.

01. Tie Responses -- Definition. Tie responses are low responsive bids, proposals or quotes from responsible bidders or offerors (or for requests for quotes, from vendors submitting a quote) that are identical in price or score. Responsibility is determined based upon the standards of responsibility set forth in Section 081 of these rules. ()

02. Award. Award shall not be made by drawing lots, except as set forth below, or by dividing business among tie responses. In the discretion of the buyer, award shall be made in any permissible manner that will resolve tie responses. Procedures that may be used to resolve tie responses include: ()

a. If price is considered excessive or for another reason such responses are unsatisfactory, reject all responses, resolicit and seek a more favorable contract in the open market or enter into negotiations pursuant to Section 084 of these rules; ()

b. Award to an Idaho resident or an Idaho domiciled vendor or for Idaho produced property where other tie response(s) are from out of state or to a vendor submitting a domestic property where other tie responses are for foreign (external to Idaho) manufactured or supplied property; ()

c. Award to the vendor with the earliest delivery date. ()

03. Drawing Lots. If no permissible method will be effective in resolving tie responses and a written determination is made so stating, award may be made by drawing lots or tossing a coin in the presence of witnesses if there are only two (2) tie responses. ()

083. PROPOSAL DISCUSSION WITH INDIVIDUAL OFFERORS.

01. Use of Discussions. Discussions may be used in any type of formal solicitation when the solicitation provides for the possibility of discussions and the buyer determines that clarifications or revisions are required to achieve adequate competition. ()

02. Classifying Proposals. For the purpose of conducting proposal discussions under this rule, proposals shall be initially classified as: ()

a. Acceptable; ()

b. Potentially acceptable if clarified or amended under this rule; or ()

c. Unacceptable. ()

03. Conduct of Discussions.

a. The buyer may conduct discussions under this rule with offerors whose proposals are classified as acceptable or potentially acceptable. ()

b. The buyer may clarify any portion of a proposal with an offeror where the clarification does not materially alter the proposal. ()

c. The buyer may conduct discussions with offerors to determine potential revisions to proposals or the formal solicitation. Offerors shall be accorded faith and equal treatment with respect to any opportunity for discussions and revisions of proposals. Auction techniques (revealing one offeror's price to another) and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing and signed by the offeror. ()

d. If the buyer determines material changes to a formal solicitation or a proposal are necessary, the buyer shall establish a common time and date for submission of best and final offers. The buyer may conduct multiple rounds of best and final offers. If an offeror does not submit a notice of withdrawal or a best and final offer, the offeror's immediate previous offer is the offeror's best and final offer. ()

084. NEGOTIATIONS.

In accordance with Section 67-9205(12), Idaho Code, the administrator may negotiate acquisitions as follows: ()

01. Use of Negotiations. Negotiations may be used under these rules when the administrator determines in writing that negotiations may be in the best interest of the state including the following circumstances: ()

a. Negotiations undertaken pursuant to an ITN, in accordance with the provisions of Section 094 of these rules. ()

b. A competitive solicitation has been unsuccessful for reasons including that all offers are unreasonable, noncompetitive, or exceed available funds and the available time and circumstances do not permit the delay required for resolicitation; ()

c. There has been inadequate competition; ()

d. During the evaluation process it is determined that negotiations could secure advantageous terms or a reduced cost for the state; or ()

e. During the evaluation process it is determined that all responsive offers exceed available funds and negotiations could modify the requirements of the formal solicitation to reduce the cost to available funds and avoid the extended time and expenditure of resources for a resolicitation. ()

02. Conditions of Use. Negotiations, as permitted by Subsection 084.01.d., are subject to the following: ()

a. The formal solicitation must specifically allow for the possibility of negotiation and describe, with as much specificity as possible, how negotiations may be conducted; ()

b. Submissions shall be evaluated and ranked based on the evaluation criteria in the formal solicitation; ()

c. Only those vendors whose proposals or bids are determined to be acceptable, in accordance with criteria for negotiations set forth in the formal solicitation, shall be candidates for negotiations; ()

d. Negotiations shall be conducted first with the vendor that is the apparent low responsive and responsible bidder, unless concurrent negotiations are permissible, in accordance with the terms of the solicitation; ()

e. If one (1) or more responsive offers does not exceed available funds, negotiations shall be against the requirements of and criteria contained in the formal solicitation and shall not materially alter those criteria or the specifications; ()

f. Auction techniques (revealing one vendor's price to another) and disclosure of information derived from competing proposals is prohibited; ()

g. Any clarifications or changes resulting from negotiations shall be documented in writing; ()

h. If the parties to negotiations are unable to agree, the administrator shall formally terminate negotiations and may undertake negotiations with the next ranked vendor; and ()

i. If negotiations as provided for in this rule fail to result in a contract, as determined by the administrator, the formal solicitation may be canceled and the administrator may negotiate in the best interest of the state with any qualified vendor. ()

03. Timing of Use. If conducted as part of a small purchase or under the formal sealed procedure, negotiations are the last step in the procurement process. Use of oral interviews or best and final procedures, as provided for in a formal solicitation, must precede negotiations as provided for in this rule, unless the administrator makes a written determination that it is in the state's best interest to proceed directly to negotiations in lieu of first conducting oral interviews and the best and final procedures. ()

04. Termination of Negotiations. The purchasing authority may terminate negotiations at any time, in the best interest of the state. ()

085. PRICE AGREEMENTS.

The administrator may authorize and negotiate price agreements with vendors when such agreements are deemed in the best interest of the state. Price agreements shall provide for termination for any reason upon not more than thirty (30) days' written notice. Price agreements may be in the best interest of the state when: ()

01. Dollar Value. The dollar value of individual procurements of property is less than the maximum dollar value of an exempt small purchase under Section 044 of these rules and multiple individual procurements are anticipated within a state of Idaho fiscal year; ()

02. Property. The property may not be conducive to standard competitive bidding procedures; ()

03. Multiple Agreements. There exists a need to establish multiple agreements with vendors supplying property that is similar in nature or function but is represented by different manufacturers or needed in multiple locations; or ()

04. Non-exclusive Agreements. Non-exclusive agreements for periods not exceeding two (2) years are deemed necessary to establish consistent general business terms, including without limitation, price, use of catalogs, delivery or credit terms. ()

086. -- 090. (RESERVED)

091. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS.

Prior to the issuance of a contract, the administrator shall have the right to accept or reject all or any part of a bid or proposal or any and all bids or proposals when: ()

01. Best Interest. It is in the best interests of the state of Idaho; ()

02. Does Not Meet Specifications. The submission does not meet the minimum specifications; ()

03. Not Lowest Responsible Bid. The submission is not the lowest responsible submission; ()

04. Bidder Is Not Responsible. A finding is made based upon available evidence that a submitting vendor is not responsible or otherwise capable of currently meeting specifications or assurance of ability to fulfill contract performance; or ()

05. Deviations. The item offered deviates to a major degree from the specifications, as determined by the administrator (minor deviations, as determined by the administrator, may be accepted as substantially meeting the requirements of the state of Idaho). Deviations will be considered major when such deviations appear to frustrate the competitive process or provides a submitting vendor an unfair advantage. ()

092. CANCELLATION OF INFORMAL OR FORMAL SOLICITATION.

Prior to the issuance of a contract, the purchasing authority reserves the right to reject all bids, proposals or quotes or to cancel a formal or informal solicitation. In the event a formal or informal solicitation is cancelled, all submitting vendors will be notified. Examples of reasons for cancellation are identification of inadequate or ambiguous specifications, unexpected circumstances that require revised specifications, or determination that cancellation is in the best interest of the state. ()

093. NOTICE OF REJECTION.

Bidders or offerors whose bids or proposals are rejected as non-responsive will be notified in writing of the reasons for such rejection. ()

094. COMPETITIVE NEGOTIATIONS.

Notwithstanding the provisions of Section 041 of these rules applicable to the formal sealed procedure, the administrator may authorize the use of competitive negotiations when it is determined that the use of negotiations may enable the state to more effectively identify and refine potential solutions, especially where the business need is complex or requires innovation. ()

01. Written Authorization. A competitive negotiation may only be used when a determination has been made that another type of formal solicitation would not be in the best interest of the state. Only the division may use competitive negotiation unless the administrator provides written authorization to a purchasing authority. ()

02. Form of Solicitation. Proposals under this rule shall be solicited pursuant to an ITN. ()

03. Applicability of Other Rules. An ITN shall be subject to the rules applicable to a request for proposals, except as otherwise provided. Modifications under Section 072 of these rules will be allowed after closing to the extent authorized within the ITN. Section 083 of these rules, proposal discussion with individual offerors, shall not apply to an ITN, except as specifically provided in the ITN. ()

04. Cost Proposals. The buyer may request cost proposals at any time during the ITN process; and may elect to request cost proposals only from those offerors determined to be in the competitive range for award ("finalists"), in accordance with the instructions contained within the ITN. ()

05. Conduct of Negotiations. Negotiations shall be conducted in accordance with the procedure outlined in the ITN, which may include multiple iterations of submissions and discussions in order to classify proposals; to allow for revisions to the solicitation proposal(s), including any requirements, terms, conditions or specifications; and to determine finalists. The negotiation process ends upon submission of the best and final offer(s) from the finalists, after which time vendors shall not be allowed to make further modifications to their proposal(s). ()

095. -- 100. (RESERVED)

101. LEASES.

01. Lease for Personal Property. A lease for personal property may be entered into provided the lease

is subject to the same requirements of competition that govern the purchase of property. Leases for periods exceeding one (1) year specifically require the approval of the administrator. ()

02. Lease Purchase Option. Unless a specific exemption is granted by the administrator or unless otherwise exempt by these rules, a lease purchase option may be exercised only if the lease containing the purchase option was awarded using the competitive process. Before exercising such an option, the buyer shall meet all applicable requirements of Section 67-9222, Idaho Code, including providing notice of the exercise of option as a sole source or competitively bidding the property by soliciting bids for new or used property. ()

102. -- 110. (RESERVED)

111. SPECIFICATIONS -- POLICIES AND DEVELOPMENT.

01. Purpose. Unless exempted by these rules or by the administrator, all informal and formal solicitations require specifications. Specifications set forth the characteristics of the property to be acquired. Specifications serve as the basis for obtaining property adequate and suitable for the using agency's needs in a cost effective manner, taking into account the costs of ownership and operation as well as initial acquisition costs. Specifications shall be drafted clearly to describe the agency's needs and to enable the vendors to determine and understand the agency's requirements. Specifications shall, as much as practical, be nonrestrictive to provide an equal basis for participation by an optimum number of vendors and to encourage competition. This information may be in the form of a description of the physical, functional or performance characteristics, a reference brand name or both. It may include a description of any required inspection, testing or preparation or delivery. Specifications may be incorporated by reference or contained in an attachment. ()

02. Use of Functional or Performance Descriptions. Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the agency. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of purchase requisitions their principal functional or performance needs. ()

03. Preference for Commercially Available Property. Requirements shall be satisfied by standard commercial property whenever practicable. ()

04. Brand Name or Equal Specification. ()

a. A brand name or equal specifications may be used when the buyer determines that such a specification is in the agency's best interest. ()

b. A brand name or equal specification shall seek to designate as many different brands as are practicable as "or equal" and shall state that property substantially equivalent to those designated will be considered for award. ()

c. Unless the buyer authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design and functional or performance characteristics required. ()

d. Where a brand name or equal specification is used, the document shall contain explanatory language that the use of a brand name is for the purpose of designating the standard of quality, performance, and characteristics desired and is not intended to restrict competition. ()

05. Brand Name Specification. ()

a. Since use of a brand name specification is restrictive, such a specification may only be used when the administrator or designee makes a written determination. Such determination may be in any form, such as a purchase evaluation or a statement of single manufacturer justification. The written statement must state specific reasons for use of the brand name specification. ()

b. The administrator shall seek to identify sources from which the designated brand name property can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one (1) source can supply the requirement, the acquisition shall be made under Section 67-9221, Idaho Code. ()

06. Specification of Alternates May Be Included. A specification may provide alternate descriptions of property where two (2) or more design, functional or performance criteria will satisfactorily meet the agency's requirements. ()

112. CONTRACT TERMS - POLICIES AND LIMITATIONS.

01. Prohibited Terms. Purchasing authorities do not have the authority to bind the state of Idaho or an agency to the following terms. If a contract contains such a term, the term shall be void pursuant to Section 67-9213, Idaho Code. ()

a. Terms waiving the sovereign immunity of the state of Idaho. ()

b. Terms subjecting the state of Idaho or its agencies to the jurisdiction of the courts of other states. ()

c. Terms limiting the time in which the state of Idaho or its agencies may bring a legal claim under the contract to a period shorter than that provided in Idaho law. ()

d. Terms imposing a payment obligation, including a rate of interest for late payments, less favorable than the obligations set forth in Section 67-2302, Idaho Code. ()

02. Terms Requiring Special Consideration. ()

a. Unless specifically authorized by the Idaho legislature, terms requiring an agency or the state of Idaho indemnify a vendor shall be subject to the provisions of Section 59-1015, Idaho Code, and require an appropriation by the Idaho legislature. Indemnification terms not specifically authorized by the Idaho legislature or subject to appropriation shall be void pursuant to Section 67-9213, Idaho Code, and Section 59-1016, Idaho Code. ()

b. Purchasing authorities shall consult with legal counsel prior to accepting terms submitting the contract to arbitration or waiving the state of Idaho's right to a jury trial. ()

113. CONTRACT OVERSIGHT.

01. Contract Management and Contract Administration. ()

a. Agencies which issue their own contracts pursuant to their delegated authority (or as otherwise exempt from the requirements of these rules) will be responsible for all aspects of contract management and contract administration, as those terms are defined in Section 011 of these rules. ()

b. When the division issues a contract on behalf of an agency, in its role as the state's contracting agent, the division is responsible for contract administration and the agency is responsible for contract management. ()

02. Contract Management. Each state agency which manages one (1) or more contracts, whether entered into directly by the agency or by the division acting as the statutory purchasing agency for the agency, will perform the following minimum contract management functions at a level consistent with the dollar value, complexity, and risk associated with each contract ()

a. Designate a competent contract manager as the single point of contact for each agency contract; ()

b. Document the contract manager's responsibilities and reporting requirements relative to the ()

contract, including activities such as management of the invoice and payment process, budget tracking, and invoice review and reconciliation with contract requirements and deliverables, to ensure compliance; ()

c. Document a communication and escalation plan, as between the contract manager, identified agency personnel and the contract administrator, designed to ensure timely and effective contract monitoring and issue resolution (the communication and escalation plan must include the division of purchasing for contracts for which the division of purchasing is acting as the statutory purchasing agent for the agency); ()

d. Develop and implement internal contract monitoring tools, including a reporting structure, based on the dollar value and/or potential risk associated with contract failure; and ()

e. Close out each contract, including, documenting receipt of goods or services in compliance with contract requirements and reviewing vendor performance and lessons learned. ()

03. Service Contracts Exceeding \$1,500,000 in Total Value. For each contract which is valued at more than one million five hundred thousand dollars (\$1,500,000) over the duration of the contract and which consists primarily of the purchases of services, the agency responsible for contract management must develop and implement contract reporting requirements that capture, at a minimum, information on compliance with financial provisions and delivery schedules; the status of any corrective action plans; as well as any liquidated damages assessed or collected under the contract during the current reporting period. Reports will be submitted to the designated agency purchasing representative as well as the division on no less than a biannual basis, with a schedule for each contract determined by the contract manager in consultation with the agency purchasing representative and the division. ()

114. INFORMATION TECHNOLOGY RESALE.

01. Purpose. The use of resellers is common in the acquisition of information technology; however, the use of a reseller to acquire information technology attempts to separate the application of the State Procurement Act from the contract terms required by the information technology owner for use of the information technology. The requirements of this rule are in place to apply Idaho law to the contract terms required by the information technology owner, when information technology is acquired through a reseller. ()

02. Terms. All license, sale, or use terms imposed by the information technology owner shall be subject to the following: ()

a. Licensing, sale, or use terms required by a third party owner of information technology sold through a reseller shall be subject to these rules, specifically including Subsection 112.01 and Paragraph 112.02.a. of these rules. If a contract contains a term prohibited by Section 112 of these rules, the term shall be void pursuant to Section 67-9213, Idaho Code. ()

115. -- 199. (RESERVED)

**SUBCHAPTER C – RULES GOVERNING CONTESTED CASE HEARINGS ON BID APPEALS
AT THE DIVISION OF PURCHASING**

200. RULES OF ADMINISTRATIVE PROCEDURE.

The Idaho Rules of Administrative Procedure of the Attorney General shall govern contested cases under these rules, except as specified in these rules or where these rules differ. Determinations officers shall be considered hearing officers for purposes of the Idaho Rules of Administrative Procedure of the Attorney General. ()

201. NOTICE OF CONTESTED CASE HEARING.

A notice of a contested case hearing shall be provided to the bidder, giving at least ten (10) days' advance notice of the contested case hearing. The contested case hearing will be held in Ada County, at such place as may be designated in the hearing notice. Upon concurrence of the parties and the determinations officer, contested case hearings may be conducted telephonically. ()

202. -- 207. (RESERVED)

208. WITNESSES AND EVIDENCE.

The determinations officer, on his own or upon application of the bidder or the department of administration, may issue subpoenas for the attendance of witnesses and production of documents. ()

209. DETERMINATIONS OFFICER'S ISSUANCE OF A RECOMMENDED ORDER.

Once the matter is fully submitted, the determinations officer shall issue a finding of fact, conclusions of law and recommended order, and provide copies to all parties. ()

210. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.43 – RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

DOCKET NO. 39-0343-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312, 49-201 and 67-5229, Idaho Code.

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

Tuesday, September 20, 2022 3:30 p.m. to 5:00 p.m. (MT)
<i>In-person participation is available at:</i> ITD Headquarters @ Idaho Chinden Campus 11311 Chinden Boulevard, Building 8 Boise, ID 83714 (Enter through the westside of Bldg. 8: American Falls Conference Room)
<i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2457 599 5480 Meeting Password: 1234
<i>Join by phone at: 1-415-655-0003 (USA Toll)</i>

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

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

Per the Idaho Legislature’s passage of [HB640aaS-2022](#), which created the Idaho Broadband Dig Once and Right-of-Way Act, the Idaho Transportation Department (ITD) is working through the rulemaking process to update the policies and procedures impacted by this new law.

ITD incorporates by reference the 2022 edition of the Utility Accommodation Policy (UAP) in IDAPA Title 39: [39.03.43 – Rules Governing Utilities on State Highway Right-of-Way](#). Although the UAP referenced in IDAPA 39.03.43 addresses all utilities, the focus of this rulemaking is to update portions of the UAP that directly relate to fixed broadband permitting, accommodation, criteria, standards and policy.

ITD continues its efforts to address utility accommodation of fixed broadband facilities seeking access to the state’s ROW, while also meeting federal requirements and supporting Governor Little’s initiative to improve broadband access in Idaho.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2022, Idaho Administrative Bulletin, on pages 517-518 of Vol.22-6 and in the July 6, 2022, Idaho Administrative Bulletin, on pages 249-251 of Vol.22-7.

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

The Department's Utility Accommodation Policy (UAP) was incorporated by reference in 1990 with only several updates since then, the most recent in 2022. This is the official policy for governing occupancy of state highway rights-of-way by utility facilities. This policy applies to the maintenance of existing utilities, new utility installations and existing utility installations to be retained or adjusted as a result of highway construction or reconstruction, as well as the relocation of utility facilities that are found to constitute a hazard to the traveling public on all rights-of-way under the jurisdiction of the ITD.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Robert Beachler, Planning Broadband Program Manager, at (208) 772-1216. Materials pertaining to this rulemaking, including rule drafts, can be found on the Idaho Transportation Department's website at the following web address: <https://itd.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th Day of August, 2022.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd., Bldg. 8
Boise, ID 83714
Phone: 208-334-8810
ramon.hobdey-sanchez@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0343-2201
(Only Those Sections With Amendments Are Shown.)

003. INCORPORATION BY REFERENCE.

The Idaho Transportation Department incorporates by reference the 202~~23~~ Edition of the "Utility Accommodation Policy." This publication is available for public review on the Department's website at <http://itd.idaho.gov>.
~~(3-21-22)~~()

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD
57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD
DOCKET NO. 57-0101-2201 (ZBR CHAPTER REWRITE, FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 18-8314, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled to be rewritten in 2022 for review during the 2023 legislative session. The department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The department will review the rule with stakeholders to ensure that it is right-sized. This rulemaking eliminates unnecessary or duplicative information and moves all fee information under the same rule.

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

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

- Seventy-five dollars (\$75) for initial certification applications and fifty dollars (\$50) for biennial certification renewal applications for: senior/approved level psychosexual evaluators, associate/supervised level sexual offender treatment provider, and associate/supervised level post-conviction sexual offender polygraph examiners.
- Fifty dollars (\$50) for initial certification application and thirty dollars (\$30) for annual certification renewal applications for entry-level provisional/supervised psychosexual evaluators and provisional/supervised sexual offender treatment providers.
- Twenty-five dollars (\$25) for 60-day continuing education (CEU) extension.

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

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 3, 2022 Idaho Administrative Bulletin, [Volume 22-8, pages 98-99](#).

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

The Sexual Offender Management Board is legislatively mandated to establish standards, qualifications, and certification procedures for post-conviction psychosexual evaluations/evaluators; sexual offender treatment and the providers who offer these services; and post-conviction sexual offender polygraph examiners. Rulemaking authority was granted to the Board to carry out these provisions.

The practice standards and certification qualifications established by the agency pursuant to Section 18-8314, Idaho Code, are compiled into documents entitled “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices;” “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders;” which are all incorporated by reference into this rulemaking to give them the force and effect of law. These documents, as well as The American Association of Police Polygraphists “Standards and Principles;” and The American Polygraph Association “Standards of Practice” are not being reprinted in this chapter of rules due to their length and format as well as the cost for republication. They can be found on the agency’s website: <http://somb.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Volle at (208) 605-4782.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 17th day of August, 2022.

Nancy Volle, SOMB Program Manager
Sexual Offender Management Board
1299 N Orchard St Ste#110
Boise, ID 83706
Phone: (208) 605-4782
somb@idoc.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 57-0101-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD

000. LEGAL AUTHORITY.
Sections 18-8312 through 18-8316, Idaho Code. ()

001. SCOPE.
These rules provide procedures for the Sexual Offender Management Board. ()

002. (RESERVED)

003. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules: ()

01. The American Association of Police Polygraphists “Standards and Principles,” © AAPP 2018 v.14.110. Available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068, website <https://www.americanassociationofpolicepolygraphists.org/web/public/standards>. ()

02. The American Polygraph Association (APA) “Standards of Practice,” effective August 23, 2019, and “Code of Ethics,” effective September 1, 2015. Available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website <https://www.polygraph.org>. ()

03. “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices,” October 2020 revision. Available from the Board’s office and on the Board website, <https://somb.idaho.gov/>. ()

04. “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders,” October 2020 revision. Available from the Board’s office and on the Board’s website, <https://somb.idaho.gov/>. ()

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. 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. ()

02. 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. ()

03. 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. ()

04. 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. ()

05. Client. An adult or juvenile receiving services from a person certified by the Board pursuant to Section 18-8314, Idaho Code. ()

06. 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 these rules and established pursuant to Section 18-8314, Idaho Code. ()

07. 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. ()

08. 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. ()

09. 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. ()

10. Supervision. ()

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 ()

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 ()

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. ()

11. 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. ()

011. ABBREVIATIONS.

01. 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. ()

02. SOMB. The Sexual Offender Management Board. ()

012. -- 019. (RESERVED)

020. RECORDKEEPING.

01. Certificate Holders. Records on all applicants and certifications issued, renewed, denied, suspended, revoked, or otherwise monitored will be maintained for a period not less than five (5) years. ()

02. Violent Sexual Predators. The file on a sexual offender who was designated as a violent sexual predator by the SOCB is maintained by the Board and is considered the official file for all purposes. ()

021. -- 039. (RESERVED)

040. CERTIFIED EVALUATOR QUALIFICATIONS.

01. Certified Evaluators. Each evaluator who conducts or assists with the conduct of a psychosexual evaluation pursuant to Section 18-8316, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. Certification approval is specific to adult or juvenile clients, but a certificate holder may be separately approved to provide services to both adult and juvenile clients. ()

041. LEVELS OF PSYCHOSEXUAL EVALUATOR CERTIFICATION.

The Board issues certificates within three (3) levels reflective of a person's training and experience specific to the population to be served: ()

01. Senior/Approved Psychosexual Evaluator. ()

a. Possesses a valid Idaho license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. ()

b. Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of one thousand five hundred (1,500) hours. Of this requirement, a minimum of five hundred (500) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; and ()

c. Has conducted a minimum of nine (9) psychosexual evaluations within the three (3) years preceding an initial application for certification at this level. ()

02. Associate/Supervised Psychosexual Evaluator. ()

a. Possesses a valid Idaho license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. ()

b. Has engaged in a combination of supervised direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of five hundred (500) hours. Of this requirement, a minimum of three hundred (300) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; ()

c. Has conducted a minimum of six (6) psychosexual evaluations within the three (3) years preceding an initial application for certification at this level; and ()

d. May only conduct psychosexual evaluations under the clinical practice supervision of a Board-approved supervisor as defined in Paragraph 010.15.a. of these rules, and under the terms of a formal clinical supervision agreement. ()

03. Provisional/Supervised Psychosexual Evaluator. ()

a. Possesses or is currently enrolled in a graduate program of study toward the attainment of a master's or doctoral degree, preferably with an emphasis on the application of forensic clinical practice; ()

b. Possesses or is pursuing a valid license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist; ()

c. May assist with the conduct of psychosexual evaluations only under the clinical supervision of a Board-approved supervisor as defined in Paragraph 010.15.b. of these rules, and under the terms of a formal clinical supervision agreement. Face-to-face supervision is required when providing direct clinical services to sex offenders. ()

042. -- 079. (RESERVED)

080. SEXUAL OFFENDER TREATMENT PROVIDER QUALIFICATIONS.

01. Certified Sexual Offender Treatment Provider. Each person who provides treatment to sexual offenders as ordered or required by the court, Idaho Department of Correction, Idaho Commission for Pardons and Parole, or the Idaho Department of Juvenile Corrections, in accordance with Section 18-8314, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. ()

- a. Certification approval is specific to adult or juvenile clients. ()
- b. A certificate holder may be separately approved to provide services to both adult and juvenile clients. ()

081. LEVELS OF SEXUAL OFFENDER TREATMENT PROVIDER CERTIFICATION.

The Board issues certificates within three (3) levels reflective of a person's training and experience specific to the population to be served: ()

01. Senior/Approved Sexual Offender Treatment Provider. ()

- a. Possesses a valid license to practice in this state or another state or jurisdiction as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist; and ()
- b. Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of one thousand five hundred (1,500) hours. Of this requirement, a minimum of five hundred (500) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board. ()

02. Associate/Supervised Sexual Offender Treatment Provider. ()

- a. Possesses a valid license to practice in this state or another state or jurisdiction as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. ()
- b. Has engaged in a combination of supervised direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of five hundred (500) hours. Of this requirement, a minimum of three hundred (300) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; and ()

c. May only provide treatment services under the clinical practice supervision of a Board-approved supervisor as defined in Paragraph 010.15.a. of these rules, and under the terms of a formal clinical supervision agreement. ()

03. Provisional/Supervised Sexual Offender Treatment Provider. ()

- a. Possesses or is currently enrolled in a graduate program of study toward the attainment of a master's or doctoral degree, preferably with an emphasis on the application of forensic clinical practice; and ()
- b. Possesses or is pursuing a valid license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. ()
- c. May only provide treatment services under the clinical supervision of a Board-approved supervisor as defined in Paragraph 010.15.b. of these rules, and under the terms of a formal clinical supervision agreement. Face-to-face supervision is required when providing direct clinical services to sex offenders. ()

082. -- 099. (RESERVED)

100. SPECIALIZED TRAINING FOR PSYCHOSEXUAL EVALUATORS AND SEXUAL OFFENDER TREATMENT PROVIDERS.

For initial certification as a psychosexual evaluator or sexual offender treatment provider, an applicant must have participated in specialized training in the field of sexual abuse, as set forth in the established standards issued by the Board. Sources for such training may be formal conferences, symposia, seminars and workshops in areas such as: ()

01. Sexually Abusive Behavior. Contemporary research regarding the etiology of sexually abusive behavior; ()

02. Offending Behavior. Research-identified risk factors for the development and continuation of sexually abusive/offending behavior; ()

03. Assessment, Treatment, and Management of Adult or Juvenile Sex Offenders. Contemporary research and practice in the areas of assessment, treatment, and management of adult or juvenile sex offenders; ()

04. Specific Risk Assessment Tools. Research-supported, sex offender-specific risk assessment tools; and ()

05. Deviant Sexual Arousal and/or Interests. Physiological assessment of deviant sexual arousal and/or interests. ()

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. ()

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 only two (2) years. ()

03. Frequency. A conditional waiver request may 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)

152. RECIPROCITY.

Applications for certification based on reciprocity will be processed in accordance with section 67-9409, Idaho Code and the established standards issued by the Board. ()

153. EXCLUSION.

Each mental health employee of the Idaho Department of Correction or Idaho Department of Juvenile Corrections who conducts psychosexual evaluations or provides sexual offender treatment is exempt from the certification process. This exemption only applies while the employee is acting within the course and scope of his employment with the applicable agency. ()

154. (RESERVED)

155. APPLICATION FOR CHANGE IN CERTIFICATION LEVEL.

Application for change in certification level may be made at any time during an effective certification. The application must be submitted on a form provided by the Board with required supporting documentation and non-refundable fee. The application fee will be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. ()

156. -- 199. (RESERVED)

200. POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER QUALIFICATIONS.

01. Certified Examiner. Each person who conducts post conviction sexual offender polygraphs as ordered or required by the court, Idaho Department of Correction, or Idaho Commission for Pardons and Parole, in accordance with Section 18-8314, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. There is not a separate certification specific to adult or juvenile clients. ()

201. LEVELS OF POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER CERTIFICATION.

The Board issues certificates within two (2) levels reflective of a person's experience in conducting post conviction sexual offender polygraphs. ()

01. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner. ()

a. Has graduated from an APA-accredited polygraph school; ()

b. Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; and ()

c. Has successfully completed a minimum of one hundred (100) polygraph examinations. Of this requirement, a minimum of ten (10) sexual history polygraph examinations and a minimum of ten (10) PCSOT maintenance polygraph examinations shall have been conducted within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; ()

02. Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner. ()

a. Has graduated from an APA-accredited polygraph school; ()

b. Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; and ()

c. Shall only conduct polygraphs under the supervision of a Board-approved supervisor as defined in Paragraph 010.15.c. of these rules, and under the terms of a formal supervision agreement. ()

202. -- 230. (RESERVED)

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 Board for a sixty-day extension to submit proof of meeting continuing education requirements. ()

232. -- 299. (RESERVED)

300. STANDARDS FOR PROFESSIONAL CONDUCT AND CLIENT RELATIONS.

01. General Considerations for Certified Evaluators and Certified Treatment Providers. Each person who is certified by the Board to conduct or assist with the conduct of psychosexual evaluations or provide sexual offender treatment shall: ()

a. Adhere to the ethical principles and codes, and all practice standards and guidelines for the person's respective discipline and area of professional licensure; ()

b. Be knowledgeable of statutes and scientific data relevant to specialized sexual offender evaluation and sexual offender treatment; ()

c. Be familiar with the statutory requirements for assessments and reports for the courts, pursuant to Section 18-8316, Idaho Code; ()

d. Be committed to community protection and safety; ()

e. Provide services in a manner that ensures humane and ethical treatment of clients; ()

f. Conduct testing in accordance with the person's licensing body, qualifications and experience, and in a manner that ensures the integrity of testing data; ()

g. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; and ()

h. Have no sexual relationships with any client. ()

02. General Considerations for Certified Post Conviction Sexual Offender Polygraph Examiners. Each person who is certified by the Board to conduct post conviction sexual offender polygraph examinations shall: ()

a. Adhere to the ethical principles and codes, and all practice standards and guidelines for the person's discipline, area of professional practice, or licensure as promulgated by any applicable regulatory board or licensing authority; ()

b. Adhere to the standards and guidelines specific to post conviction sexual offender testing as promulgated by the APA; ()

c. Adhere to the ethical principles and codes, and all practice standards and guidelines for the administration of polygraph examinations generally, as promulgated by the APA or the American Association of Police Polygraphists, as referenced in Section 003 of these rules; ()

d. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; ()

e. Have no sexual relationships with any client; ()

f. Take factors such as age, mental capacity and co-occurring mental health concerns into ()

consideration when utilizing polygraphy with juvenile offenders; ()

g. Be committed to community protection and safety; and ()

h. Provide services in a manner that ensures humane and ethical treatment of clients. ()

301. -- 329. (RESERVED)

330. INITIAL CERTIFICATION APPLICATION.

An applicant seeking certification by the Board must submit a completed application 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 an initial certification application fee made payable to the Board. ()

331. EXPIRATION AND RENEWAL OF CERTIFICATION.

No certification shall be renewed, except as follows: ()

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. ()

02. Removal from the Roster. A certificate holder who has not renewed his certification will 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: ()

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. ()

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. ()

332. FEES.

The following non-refundable application processing fees are established by the Board: ()

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). ()

b. Associate/Supervised Psychosexual Evaluator, Treatment Provide, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). ()

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Fifty dollars (\$50). ()

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). ()

b. Associate/Supervised Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). ()

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Thirty dollars (\$30). ()

03. Change in Certification Level. Application processing fees for a change in certification level are: ()

a. Advance to Senior/Approved Level of Certification- Fifty dollars (\$50). ()

b. Advance to Associate/Supervised Level of Certification- Thirty dollars (\$30). ()

c. Change to a Less Independent Level of Certification - Fifty dollars (\$50). ()

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: ()

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. ()

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. ()

334. APPLICABILITY AND NOTIFICATION OF CHANGES.

Certification only applies to the person named therein and is not transferable. The Board must be notified in writing within thirty (30) days of any change in the certificate holder’s name, business address or phone number. ()

335. REQUEST FOR PLACEMENT ON INACTIVE STATUS.

Any certificate holder may request placement on inactive status by submitting a written request to the SOMB specifying the reasons for the request and indicating the inactive status effective date. A certificate holder who is placed on inactive status will be removed from the central roster. A person who has been placed on inactive status may reapply for certification in accordance with the established standards issued by the Board. ()

336. -- 379. (RESERVED)

380. DENIAL AND GROUNDS FOR DISCIPLINE.

The Board may deny, suspend, revoke, restrict, or otherwise monitor certification of an applicant or certificate holder

if the individual fails to comply with Section 18-8316, Idaho Code, any portion of this chapter, or the established standards issued by the Board. ()

01. Mirroring Orders. If a state licensing board with authority over a certificate holder's professional license takes action against the professional license which suspends, restricts, limits, or affects the certificate holder's ability to provide services pursuant to their SOMB certification, the SOMB is authorized to issue an order suspending, restricting, limiting, or otherwise affecting the certificate holder's SOMB certification in the same fashion as the professional licensing board's action. ()

02. Emergency Suspension. Pursuant to Section 67-5247, Idaho Code, if the Board finds that public health, safety or welfare requires immediate emergency action the Board may take such action necessary to prevent or avoid the immediate danger as outlined in the established standards issued by the Board. ()

03. Levels of Discipline. The levels of disciplinary action utilized by the Board against a certificate holder may generally include formal discipline, informal discipline or withholding formal discipline and probation. ()

381. REAPPLICATION FOLLOWING CERTIFICATION DENIAL OR DISCIPLINARY ACTION.

01. Denial. An applicant whose certification was denied may reapply when evidence is available confirming that he meets the required qualifications for the respective area of practice as referenced in Sections 040, 080 or 200 of these rules; ()

02. Suspension. A person whose certification has been suspended may apply for reinstatement after the suspension period has expired and following completion of any remedial steps or corrective action ordered by the Board, as outlined in the established standards issued by the Board; ()

03. Restriction. A person whose certification has been restricted or otherwise monitored may request removal of the restrictions after the restriction period has expired. If no period of restriction was established, the request may be made following completion of any remedial steps or corrective action ordered by the Board, as outlined in the established standards issued by the Board; ()

04. Revocation. A person whose certification has been revoked may request reinstatement after the revocation period has expired, as outlined in the established standards issued by the Board. The Board shall have discretion to impose any monitoring conditions upon a certificate holder whose certification has been reinstated following revocation; ()

05. Withheld Discipline and Probation. A certificate holder whose formal discipline was withheld and placed on probationary status may request reinstatement after the probationary period has expired and any conditions imposed have been met, as outlined in the established standards issued by the Board. ()

382. -- 384. (RESERVED)

385. WITHHOLDING FORMAL DISCIPLINE AND PROBATION.

The Board may withhold the imposition of formal discipline and place the certificate holder on a period of probation not to exceed two (2) years. The Board may impose any conditions of probation as deemed necessary to ensure compliance with the established standards issued by the Board. Such probationary conditions may include attendance at specialized training, review of the certificate holder's work product by the Board or its designee, or supervised practice by a senior level certificate holder. Failure to comply with a probationary condition imposed by the Board may result in the imposition of any suspended disciplinary action. ()

386. -- 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. ()

401. -- 449. (RESERVED)

450. PSYCHOSEXUAL EVALUATIONS.

01. Adult Psychosexual Evaluations. Pre-sentence psychosexual evaluations on adult sexual offenders shall be conducted pursuant to the established standards issued by the Board and written utilizing the "Required Format for Psychosexual Evaluation Reports," found in the Idaho Sexual Offender Management Board Standard and Guidelines for Adult Sexual Offender Management Practices incorporated by reference in Subsection 003.03 of these rules. ()

02. Juvenile Psychosexual Evaluations. Psychosexual evaluations on juveniles adjudicated for sexual offenses shall be conducted in accordance with the established standards issued by the Board and written utilizing the "Required Format for Juvenile Psychosexual Evaluation Reports," found in the Idaho Sexual Offender Management Board Standard and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders incorporated by reference in Subsection 003.04 of these rules. ()

03. Testing. The evaluator shall utilize testing instrumentation and assessment measures as outlined in the established standards issued by the Board. ()

04. Client Participation. The client being evaluated may refuse or decline to participate in any testing, assessment measure, or physiological measure used for the pre-sentence psychosexual evaluation. The evaluator shall document the client's refusal or declination in the psychosexual evaluation report. ()

451. -- 479. (RESERVED)

480. POLYGRAPH EXAMINATIONS.

Post conviction sexual offender polygraph examinations performed pursuant to an order or requirement by the court or requested by the Idaho Department of Correction or Idaho Commission for Pardons and Parole shall be conducted by a person certified by the Board to conduct such examinations and follow the established standards issued by the Board. ()

481. -- 499. (RESERVED)

500. SEXUAL OFFENDER TREATMENT.

Specialized sexual offender treatment conducted pursuant to an order or requirement by the court, the Idaho Department of Correction, the Idaho Commission for Pardons and Parole, or the Idaho Department of Juvenile Corrections shall be conducted by a person certified by the Board to conduct such treatment and follow the established standards issued by the Board. ()

501. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2101 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Sections 39-105, 39-107, 39-114, and 39-115. This rulemaking updates federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho’s Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho’s delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222, Idaho Code, a public hearing has been scheduled and will be held as follows:

Public Hearing Tuesday, October 11, 2022 2:30 p.m. (MT)
<i>In-person participation is available at:</i> DEQ State Office 1410 N Hilton St Conference Center Boise, ID Or Join Zoom Meeting The meeting link is available at: https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2101/

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. To request accommodations for language translation, contact the undersigned by October 6, 2022.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01](#), Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a [schedule](#) established by the Division of Financial Management, Office of the Governor (DFM). This is one of the DEQ rule chapters up for review in 2022.

The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

This rulemaking updates federal regulations incorporated by reference with the July 1, 2022 Code of Federal Regulations (CFR) effective date. The July 1, 2022 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2022. To ensure that the state rules remain consistent with federal regulations, the Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with the federal regulations implementing the Clean Air Act.

This rulemaking also includes the revised fee structure of a Clean Air Act mandated air permitting program negotiated under [Docket No. 58-0101-1902](#). Sections 387 – 397. Major industrial sources of air pollution are required to have a Title V operating permit. In Idaho, the Title V permitting program is administered by DEQ. The Clean Air Act requires these industrial sources to pay on-going annual fees to cover all reasonable costs associated with the Title V permitting program (Clean Air Act 42 USC 7661a(b)(3) and implementation regulation at 40 CFR 70.9). In January 2018, the Idaho National Laboratory (INL) decreased its emissions such that it will no longer be required to

have a Title V operating permit and, therefore, will no longer pay Title V permitting fees. Since the inception of the Title V permitting program, the INL has paid a Title V permitting fee of \$500,000, which covered far more than its share of program costs. Without this significant sum, it was necessary for DEQ to negotiate a revision to the current fee structure to ensure there is sufficient funding to cover the costs of administering the Title V program in Idaho.

Other than the incorporation by reference update and the Title V fee structure changes, no substantive changes were made in this proposed rule docket. Because this is the promulgation of a new rule chapter, the proposed rule does not contain strike-out/underline text. A document prepared by DEQ showing the proposed rule revisions in strike-out/underline format can be viewed [here](#).

Members of the regulated community who may be subject to Idaho's air quality rules, facilities with Title V permits, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2022 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2023 legislative session if adopted by the Board and approved by the Idaho Legislature.

NEGOTIATED RULEMAKING: The revised Title V fee structure was negotiated under [Docket No. 58-0101-1902](#). In May 2019, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, and the preliminary draft rule was posted on DEQ's website. Meetings were held on May 7, 2019, August 24, 2021, and October 5, 2021.

In October 2021, the Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking for Docket No. 58-0101-2101 was published in the Idaho Administrative Bulletin, and the preliminary draft rule was posted on DEQ's website. Meetings were held on October 28, 2021; November 30, 2021; and March 29, 2022.

Stakeholders and members of the public participated by receiving email notifications, reviewing DEQ's presentations and supporting information, attending meetings, and submitting comments. Key information was posted on DEQ's website and distributed to persons who participated in the negotiated rulemaking.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding the development of the rule. At the conclusion of the negotiated rulemaking process, DEQ inserted the revised Title V fee structure negotiated under Docket No. 58-0101-1902 and submitted the draft rule to DFM for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2101/>.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at <https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2101/>.

IDAHO CODE SECTION 39-107D STATEMENT: There are no changes to this proposed rule that regulate an activity not regulated by the federal government, nor are broader in scope or more stringent than federal regulations.

FEE SUMMARY: With exception of the revised Title V permitting fees, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. The fee categories and statutory authorities are crop residue burn fee, Idaho Code § 39-114(4); and application fee for industrial or commercial air pollution source permits, Idaho Code § 39-115(3).

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Carl Brown at carl.brown@deq.idaho.gov or (208) 373-0206.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 11, 2022. Submit comments to:

Carl Brown
Air Quality Rules & Planning Coordinator
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
carl.brown@deq.idaho.gov

Dated this 7th day of September, 2022

Caroline Moores
Operations Senior Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0149
caroline.moores@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 58-0101-2101
(Zero Based Regulation (ZBR) Chapter Rewrite)

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

000. LEGAL AUTHORITY.

The Board of Environmental Quality is authorized to promulgate rules for the Department of Environmental Quality governing air pollution pursuant to Sections 39-105, 39-107, 39-114, and 39-115, Idaho Code. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 58.01.01, Rules of the Department of Environmental Quality, IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho” and provide for the control of air pollution in Idaho. ()

002. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality has written statements that pertain to the interpretation or compliance of these rules at 1410 N. Hilton, Boise, Idaho, the Department regional offices, and <https://www.deq.idaho.gov>. ()

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” ()

004. (RESERVED)

005. DEFINITIONS.

Definitions in federal statute, federal regulation, and Idaho Code are incorporated by reference unless otherwise listed below. The terms “air contaminant or contamination,” “air pollution,” “board,” “department,” “director,” “emission,” and “person” have the meaning provided for those terms in [Section 39-103, Idaho Code](#). ()

006. GENERAL DEFINITIONS.

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. ()

02. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined below: ()

a. Actual emissions as of a particular date equal the average rate, in tons per year, at which the unit emitted the pollutant during a consecutive 24-month period that precedes the particular date and is representative of normal source operation. The Department will allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions must be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. ()

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. ()

c. For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions equal the potential to emit of the unit on that date. ()

d. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. ()

03. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. ()

04. Allowable Emissions. The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits that restrict the operating rate, or hours of operation, or both) and the most stringent of the following: ()

a. The applicable standards set forth in 40 CFR Parts 60, 61, and 63. ()

b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or ()

c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. ()

05. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. ()

06. Ambient Air Quality Violation. Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. ()

07. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. ()

08. Commence Construction or Modification. Initiation of physical on-site construction activities on an emissions unit that are permanent. Such activities include, but are not limited to, fabrication, erection, installation, or modification of a stationary source or facility, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, that mark the initiation of the change. ()

09. Control Equipment. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. ()

10. Controlled Emission. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. ()

11. Criteria Air Pollutant. Any of the following: PM10; PM2.5; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. ()

12. Emission. Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. ()

13. Emission Standard. A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. ()

14. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. ()

15. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and has an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition limits remediation projects to five (5) years or less of total operation. ()

16. Existing Stationary Source or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. ()

17. Facility. All of the pollutant-emitting activities that belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities are considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions are not considered in determining whether a permit is required unless required by federal law. ()

18. Federal Land Manager. The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). ()

19. Federally Enforceable. All limitations and conditions which are enforceable by EPA and the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to

40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60, or 63. ()

20. Fuel-Burning Equipment. Any furnace, boiler, or other apparatus, including all stacks and appurtenances thereto, that burns fuel for the primary purpose of producing heat or power by indirect heat transfer. ()

21. Fugitive Dust. Fugitive emissions composed of particulate matter. ()

22. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. ()

23. Gasoline. Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motorboats. Gasoline also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels, which is defined as fuel suitable for diesel engines; a compressed or liquefied gas obtained as a by-product in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles. ()

24. Gasoline Cargo Tank. Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. ()

25. Gasoline Dispensing Facility (GDF). Any facility with underground gasoline storage tanks used for dispensing gasoline. ()

26. Hazardous Air Pollutant (HAP). Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. ()

27. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. ()

28. Integral Vista. A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. ()

29. Mandatory Class I Federal Area. Any area identified in 40 CFR 81.400 through 81.437. ()

30. Mercury Best Available Control Technology (MBACT). An emission standard for mercury (including elemental mercury and mercury compounds) based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis considering energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT is valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review is not triggered if the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification will be subject to a new MBACT review. ()

31. Modification. ()

a. Any physical change in, or change in the method of operation of, a stationary source or facility that: ()

i. Results in an emission increase as defined in Section 007 or that would result in the emission of any regulated air pollutant not previously emitted; and ()

ii. Would result in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. ()

b. Fugitive emissions are not considered in determining whether a permit is required for a modification unless required by federal law. ()

c. Routine maintenance, repair and replacement are not considered physical changes and the following are not considered a change in the method of operation: ()

i. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; ()

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and ()

iii. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material before January 6, 1975, and use of such fuel or raw material is not specifically prohibited in a permit. ()

32. National Ambient Air Quality Standard (NAAQS). National primary and secondary ambient air quality standards under Section 109 of the Clean Air Act (CAA) are set forth in 40 CFR Part 50 and incorporated by reference in Section 107. Primary standards define levels of air quality that EPA has determined, with an adequate margin of safety, to protect public health. Secondary standards define levels of air quality necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. Pollutants subject to a NAAQS are termed criteria pollutants. Geographic areas are designated as unclassifiable, attainment, or nonattainment of the NAAQS. Section 110 of the CAA and 40 CFR Parts 51 and 52, incorporated by reference in Section 107, requires states to submit state implementation plans to meet, attain, and maintain the NAAQS. ()

33. New Stationary Source or Facility. ()

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or ()

b. The restart of a non-operating facility is considered a new stationary source or facility if: ()

i. The restart involves a modification to the facility; or ()

ii. If after the facility has been in a non-operating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing non-operating facility, then the Department will, within five (5) working days of receipt of the application notify the facility of receipt of the application for a Permit to Construct. To not be considered a new stationary source or facility within thirty (30) working days upon receipt of this notification, the facility must provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. ()

34. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. ()

35. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. Emissions are measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. PM10 is all particulate matter in the ambient air with an aerodynamic diameter less than or equal to ten (10) micrometers. PM2.5 is all particulate matter in the ambient air with an aerodynamic diameter less than or equal to two point five (2.5) micrometers. ()

36. Potential to Emit/Potential Emissions. The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, is treated as part of its design if the

limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a facility or stationary source. ()

37. Portable Equipment. Equipment designed to be dismantled and transported from one (1) job site to another. ()

38. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. ()

39. Regulated Air Pollutant.

a. For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., “regulated air pollutant” has the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; ()

b. For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 409, the federal definition of “regulated air pollutant” as defined in Subsection 006.39.a. also applies; ()

c. For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 227, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., “regulated air pollutant” means those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and ()

d. For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 227, except Section 214, “regulated air pollutant” means those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq. ()

40. Replicable. Any SIP procedures for applying emission trading must be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. ()

41. Responsible Official. One (1) of the following: ()

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: ()

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or ()

ii. The delegation of authority to such representative is approved in advance by the Department. ()

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. ()

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or

ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). ()

d. For Phase II sources: ()

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and ()

ii. The designated representative for any other purposes under 40 CFR Part 70. ()

42. Secondary Emissions. Emissions that occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification that causes the secondary emissions. Secondary emissions include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions that come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. ()

43. Significant. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: ()

a. Criteria Pollutant Significant emission rate.

Criteria Pollutant	Emission Rate (tons/year)
CO	100
NO _x	40
SO ₂	40
Ozone as NO _x	40
Ozone as VOC	40
PM	25
PM ₁₀	15
PM _{2.5}	10
PM _{2.5} as SO ₂	40
PM _{2.5} as NO _x	40
Pb	0.6

Criteria Pollutant	Emission Rate (tons/year)
Any regulated air pollutant not listed in this definition.	Greater than 0

()

b. Non criteria pollutant significant emission rate.

Non-Criteria Pollutant	Emission Rate (tons/year)
H2S	10
TRS (including H2S)	10
Reduced sulfur compounds (including H2S)	10
H2SO4 mist	7
Fluorides	3
Any regulated pollutant not listed in this definition and not a TAP	Greater than zero

()

c. Other pollutants with a significant emission rate.

Other	Measured as	Emission rate (tons/year)
Municipal waste combustor organics	total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans	3.5×10^{-6}
Municipal waste combustor metals	Particulate matter	15
Municipal waste combustor acid gases	SO ₂ and hydrogen chloride	40
Municipal solid waste landfills	Nonmethane organic compounds	50
Any new or modified major source within 10 kilometers of a Class I area	Any regulated air pollutant	Any rate or net increase with a 24-hour impact of $\geq 1 \mu\text{g}/\text{m}^3$

()

44. Significant Contribution. Any increase in ambient concentrations which would exceed the following:

Pollutant	Annual	Averaging time (hours)			
		24	8	3	1
SO ₂	1.0 µg/m ³	5 µg/m ³		25 µg/m ³	
PM ₁₀	1.0 µg/m ³	5 µg/m ³			
PM _{2.5}	0.3 µg/m ³	1.2 µg/m ³			
NO ₂	1.0 µg/m ³				
CO			0.5 mg/m ³		2 mg/m ³

- ()
45. **Source.** A stationary source. ()
46. **Source Operation.** The last operation preceding the emission of air pollutants when this operation: ()
- a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and ()
 - b. Is not an air cleaning device. ()
47. **Stack.** Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. ()
48. **Stationary Source.** Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. ()
49. **Tier I Source.** Any of the following: ()
- a. Any source located at any major facility as defined in Section 008; ()
 - b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; ()
 - c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); ()
 - d. Any Phase II source; and ()
 - e. Any source in a source category designated by the Department. ()
50. **Toxic Air Pollutant.** An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. ()

51. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. ()

52. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. ()

53. Uncontrolled Emission. An emission which has not been treated by control equipment. ()

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. ()

02. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: ()

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Department will allow the use of a different time period upon a determination that it is more representative of normal source operation. The average rate must: ()

i. Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ()

ii. Be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ()

iii. For a regulated air pollutant, when a project involves multiple emissions units, use only one (1) consecutive twenty-four (24) month period to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ()

iv. Not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.02.a.ii. ()

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required under these rules, whichever is earlier, except that the ten (10) year period must not include any period earlier than November 15, 1990. The average rate must: ()

i. Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ()

ii. Be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ()

iii. Be adjusted downward to exclude any emission limitation with which the source must currently

comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. ()

iv. For a regulated air pollutant, when a project involves multiple emissions units, use only one (1) consecutive twenty-four (24) month period to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ()

v. Not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 007.02.b.ii. and 007.02.b.iii. ()

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit must: equal zero (0) and, thereafter, for all other purposes, equal the unit's potential to emit. ()

d. For a plant-wide applicability limit (PAL) for a stationary source, the baseline actual emissions must be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.02.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.02.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.02.c. ()

03. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. ()

04. Net Emissions Increase. For purposes of Sections 204 and 205, a net emissions increase is defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase is an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: ()

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; ()

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification and is federally enforceable at and after the time that construction of the modification commences. ()

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: ()

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or ()

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or ()

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and IDAPA 58.01.05, "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. ()

05. Projected Actual Emissions. ()

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. ()

b. In determining the projected actual emissions, the owner or operator of the stationary source: ()

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and ()

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and ()

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or ()

iv. In lieu of using the method set out in Subsections 007.05.b.i. through 007.05.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. ()

06. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. ()

07. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health-based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. ()

08. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. ()

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: ()

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or ()

b. That are within fifty (50) miles of the Tier I source. ()

02. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): ()

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. ()

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections

200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. ()

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; ()

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; ()

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; ()

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128; ()

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; ()

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and ()

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. ()

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 336. ()

03. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. ()

04. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. ()

05. General Permit. A Tier I permit issued pursuant to Section 335. ()

06. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria. ()

a. For hazardous air pollutants, the facility emits or has the potential to emit: ()

i. Ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility; or ()

ii. Twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station must not be aggregated with emissions from other similar emission units within the facility. ()

b. For non-attainment areas, the facility is located in: ()

i. A “serious” particulate matter (PM10 or PM2.5) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM10 or PM2.5; ()

ii. A “serious” carbon monoxide nonattainment area in which stationary sources are significant

contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide; ()

iii. An ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds; or ()

iv. An ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen are not included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate,” one hundred (100) tpy or more, if the area is “serious,” fifty (50) tpy or more, if the area is “severe,” twenty-five (25) tpy or more, and if the area is “extreme,” ten (10) tpy or more. ()

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions are not considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: ()

i. Designated facilities. ()

ii. All other source categories regulated by 40 CFR Part 60, 61 or 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. ()

009. -- 106. (RESERVED)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 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 which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. ()

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: ()

a. All federal publications: U.S. Government Printing Office at <http://www.ecfr.gov/cgi-bin/ECFR>; and; ()

b. Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and ()

c. All documents herein incorporated by reference: ()

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at www.deq.idaho.gov. ()

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051 at www.isll.idaho.gov. ()

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: ()

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, **40 CFR Part 51** revised as of July 1, 2022. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, are excluded from incorporation except 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules. ()

- b. National Primary and Secondary Ambient Air Quality Standards, [40 CFR Part 50](#), revised as of July 1, 2022. ()
- c. Approval and Promulgation of Implementation Plans, [40 CFR Part 52](#), Subparts A and N and Appendices D and E, revised as of July 1, 2022. ()
- d. Ambient Air Monitoring Reference and Equivalent Methods, [40 CFR Part 53](#), revised as of July 1, 2022. ()
- e. Ambient Air Quality Surveillance, [40 CFR Part 58](#), revised as of July 1, 2022. ()
- f. Standards of Performance for New Stationary Sources, [40 CFR Part 60](#), revised as of July 1, 2022. ()
- g. National Emission Standards for Hazardous Air Pollutants, [40 CFR Part 61](#), revised as of July 1, 2022. ()
- h. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, [40 CFR Part 62, Subpart HHH](#), revised as of July 1, 2022. ()
- i. Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014, [40 CFR Part 62, Subpart OOO](#), revised as of July 1, 2022. ()
- j. National Emission Standards for Hazardous Air Pollutants for Source Categories, [40 CFR Part 63](#), revised as of July 1, 2022. ()
- k. Compliance Assurance Monitoring, [40 CFR Part 64](#), revised as of July 1, 2022. ()
- l. State Operating Permit Programs, [40 CFR Part 70](#), revised as of July 1, 2022. ()
- m. Permits, [40 CFR Part 72](#), revised as of July 1, 2022. ()
- n. Sulfur Dioxide Allowance System, [40 CFR Part 73](#), revised as of July 1, 2022. ()
- o. Protection of Stratospheric Ozone, [40 CFR Part 82](#), revised as of July 1, 2022. ()
- p. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). ()

108. OBLIGATION TO COMPLY.

Receiving a permit to construct, a Tier I operating permit, a Tier II operating permit, a Permit by Rule, or a Certificate of Registration for portable equipment does not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal statutes, rules and regulations. ()

109. -- 120. (RESERVED)

121. COMPLIANCE REQUIREMENTS BY DEPARTMENT.

Any person engaged in an activity that may violate the air quality provisions of the Act, violate an air quality order issued or entered in accordance with the Act or these rules, or violate any of these rules, may be required by the Department to do any of the following: ()

01. Schedule. Prepare a proposed schedule whereby the unlawful activity will be brought into compliance over a specified period of time. ()

02. Report. Submit periodic reports to the Department indicating progress in achieving compliance. ()

- 03. Records.** Submit, keep and maintain appropriate records. ()
- 04. Monitoring.** Monitor air pollutants at the source, in the ambient air, or in vegetation to demonstrate compliance. ()
- 05. Episode Plans.** Develop emergency episode plans to help prevent ambient air pollution concentrations from reaching levels which would cause substantial endangerment to health or the environment. ()
- 122. INFORMATION ORDERS BY THE DEPARTMENT.**
The Department may issue information orders as follows: ()
- 01. Purpose.** For the purpose of: ()
- a.** Developing or assisting in the development of any implementation plan, any standard of performance, any emission standard or any rule; ()
- b.** Determining whether any person is in violation of any standard of performance, any emission standard, any implementation plan or any rule; or ()
- c.** Carrying out any air quality provisions of the Act, any air quality order issued or entered in accordance with the Act or rules, or any of these rules. ()
- 02. Persons.** The Department may issue an information order to any person who: ()
- a.** Owns or operates any emission source; ()
- b.** Manufactures emission control equipment; ()
- c.** The Department believes may have information necessary to meet the intent of these rules; or ()
- d.** Is subject to any requirement of these rules. ()
- 03. Procedures.** The information order may require the following on a one-time, periodic or continuous basis: ()
- a.** Establish, maintain and submit records; ()
- b.** Make reports; ()
- c.** Install, use, and maintain monitoring equipment, and use audit procedures or methods; ()
- d.** Sample emissions in accordance with procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Department prescribes; ()
- e.** Keep records on control equipment parameters, production variables or other indirect data when the Department determines that direct monitoring of emissions is impractical; ()
- f.** Submit compliance certifications including: ()
- i.** Identification of the applicable requirement that is the basis of the certification; ()
- ii.** The method(s) or other means used by the owner or operator for determining the compliance status for each applicable requirement, and whether such methods or other means provide continuous or intermittent data; and ()

iii. The status of compliance with each applicable requirement, based on the method or means designated in Subsection 122.03.f.ii. The certification must identify each deviation and take it into account in the compliance certification. The certification must also identify, as possible exceptions to compliance, any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and ()

g. Provide such other information as the Department may require. ()

123. CERTIFICATION OF DOCUMENTS.

All documents, including but not limited to, application forms for permits to construct, application forms for operating permits, progress reports, records, monitoring data, supporting information, requests for confidential treatment, testing reports or compliance certifications submitted to the Department must contain a certification by a responsible official. The certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. ()

124. (RESERVED)

125. FALSE STATEMENTS.

Persons are prohibited from knowingly making any false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto. ()

126. TAMPERING.

Persons are prohibited from knowingly interfering with any monitoring device or method required under any permit, or any applicable rule or order in force pursuant thereto. ()

127. (RESERVED)

128. CONFIDENTIAL INFORMATION.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code and Section 39-111, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." If the information for which the person is requesting confidential treatment is submitted to the Department under Sections 300 through 386 or the terms or conditions of a Tier I operating permit, the person must also submit the same information directly to the EPA. ()

129. (RESERVED)

130. STARTUP, SHUTDOWN, SCHEDULED MAINTENANCE, SAFETY MEASURES, UPSET AND BREAKDOWN.

Sections 130 through 136 establish procedures to be implemented in all excess emissions events and establish criteria to be applied by the Department in determining whether to take enforcement action to impose penalties for an excess emissions event where the excess emissions are caused by startup, shutdown, scheduled maintenance, upset, or breakdown of any emissions unit or that occur as a direct result of the implementation of any safety measure. Startup is defined as the normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. Shutdown is defined as the normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. Upset is defined as an unplanned disruption in the normal operations of any equipment or emissions unit that may cause excess emissions. Breakdown is defined as an unplanned failure of any equipment or emissions unit that may cause excess emissions. Scheduled maintenance is defined as planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. Safety measure is defined as any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. ()

131. EXCESS EMISSIONS.

01. Applicability. The owner or operator of a facility or emissions unit generating excess emissions must comply with Sections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136, as applicable. If the owner or operator anticipates requesting consideration under Subsection 131.02, then the owner or operator must also comply with the applicable provisions of Subsections 133.02, 133.03, 134.04, and 134.05. ()

02. Enforcement Action Criteria. Where an excess emissions event occurs as a direct result of startup, shutdown, or scheduled maintenance, or an unavoidable upset or unavoidable breakdown, or the implementation of a safety measure, the Department will consider the sufficiency of the information submitted and the following criteria to determine if an enforcement action to impose penalties is warranted: ()

a. Whether prior to the excess emissions event, the owner or operator submitted and implemented procedures pursuant to Subsections 133.02 and 133.03 or Subsections 134.04 and 134.05, as applicable; ()

b. Whether the owner or operator complied with all relevant portions of Subsections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136;

c. Whether the excess emissions event was part of a recurring pattern of excess emissions events indicative of inadequate design, operation or maintenance of the facility or emissions unit; and ()

d. Where appropriate, whether the excess emissions event was caused by an activity necessary to prevent loss of life, personal injury or severe property damage. ()

03. Effect of Determination. Any decision by the Department under Subsection 131.02 will not excuse the owner or operator from compliance with the relevant emission standard and will not preclude the Department from taking an enforcement action to enjoin the activity causing the excess emissions. Any decision made by the Department under Subsection 131.02 does not preclude the Department from taking an enforcement action for future or other excess emission events. The affirmative defense for emergencies under Section 332 may be applied in addition to the provisions of Sections 130 through 136. ()

132. CORRECTION OF CONDITION.

The person responsible for, or in charge of a facility during, an excess emissions event must, with all practicable speed, initiate and complete appropriate and reasonable action to correct the conditions causing such excess emissions event; to reduce the frequency of occurrence of such events; to minimize the amount by which the emission standard is exceeded; and must, as provided below or upon request of the Department, submit a full report of such occurrence, including a statement of all known causes, and of the scheduling and nature of the actions to be taken. ()

133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.

The requirements in Subsection 133.01 apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions must demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. ()

01. General Provisions. The following pertains to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions. The owner or operator of a source of excess emissions must: ()

a. Ensure that no scheduled startup, shutdown, or maintenance resulting in excess emissions occurs during any period in which an Air Quality Advisory has been declared by the Department within an area designated by the Department as a PM10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar

situations. ()

b. Notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification must identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification must be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03; ()

c. Report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance and ()

d. Make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. ()

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator must prepare, implement and file with the Department specific procedures that will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) must be established or documented for each piece of equipment or emissions unit and must include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable). ()

a. Identification of the specific equipment or emissions unit and the type of event anticipated. ()

b. Identification of the specific emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. ()

c. The estimated amount of excess emissions expected to be released during each event. ()

d. The expected duration of each excess emissions event. ()

e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). ()

f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. ()

g. For scheduled maintenance, the owner or operator must also document detailed explanations of: ()

i. Why the maintenance is needed; ()

ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period; ()

iii. Why the excess emissions are not reasonably avoidable through better scheduling of the maintenance or through better operation and maintenance practices; and ()

iv. Why, where applicable, it is necessary to by-pass, take offline, or operate equipment or emissions unit at reduced efficiency while the maintenance is being performed. ()

h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions that occur during startup, shutdown, and scheduled maintenance. ()

i. Detailed specification of the procedures to be followed by the owner or operator that will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. ()

03. Amendments. The owner or operator must amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. ()

04. Filing Procedures. ()

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 is not a violation of these rules. ()

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, fulfills the requirement under this Section to file plans and procedures with the Department. ()

134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.

The requirements in Subsections 134.01, 134.02, and 134.03 apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions must demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department will exercise its enforcement discretion on a case-by-case basis. ()

01. Routine Maintenance and Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator must: ()

a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and ()

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime must be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. ()

02. Excess Emissions Minimization and Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator must: ()

a. Immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health; ()

b. Notify the Department of any upset/breakdown/safety event that results in excess emissions. Such notification must identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification must be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary; and ()

c. Report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. ()

03. Discretionary Reduction or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department will be taken upon consideration of the following factors and after consultation with the facility owner or operator: ()

a. Potential risk to the public or the environment. ()

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. ()

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. ()

d. The effect of the increase in pollution resulting from the shutdown and subsequent restart of the equipment or emissions unit or facility. ()

e. The owner or operator is not required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. ()

04. Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, events that can reasonably be anticipated to occur periodically but that cannot be reasonably avoided or predicted with certainty, the owner or operator must prepare, implement, and file with the Department specific procedures that will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/breakdown/safety event: ()

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. ()

b. The specific emissions in excess of applicable emission standards during the event. ()

c. The estimated amount of excess emissions expected to be released during each event. ()

d. The expected duration of each excess emissions event. ()

e. An explanation of why the excess emissions are reasonably unavoidable. ()

f. The frequency of the type of event, based on historic occurrences. ()

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. ()

h. Detailed specification of the procedures to be followed by the owner or operator that will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. ()

05. Amendments to Procedures. The owner or operator must amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. ()

06. Filing Procedures. ()

a. Failure to follow procedures filed with the Department does not preclude the Department from

making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. ()

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 is not a violation of these rules in and of itself. ()

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, fulfills the requirement under this Section to file plans and procedures with the Department. ()

135. EXCESS EMISSIONS REPORTS.

01. Submission Deadline. A written report for each excess emissions event must be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. ()

02. Report Contents. Each report must contain the following information: ()

a. The time period during which the excess emissions occurred; ()

b. Identification of the specific equipment or emissions unit that caused the excess emissions; ()

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; ()

d. An estimate of the emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); ()

e. A description of the activities carried out to eliminate the excess emissions; and ()

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. ()

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. ()

136. EXCESS EMISSIONS RECORDS.

01. Record Retention. The owner or operator must maintain excess emissions records at the facility for the most recent five (5) calendar year period. ()

02. Record Availability. The excess emissions records must be made available to the Department upon request. ()

03. Record Contents. The excess emissions records must include the following: ()

a. An excess emissions logbook for each emissions unit or piece of equipment containing copies of all reports that have been submitted to the Department pursuant to Section 135 for the particular emissions unit or equipment; and ()

b. Copies of all startup, shutdown, and scheduled maintenance procedures and upset/breakdown/safety preventative maintenance plans which have been developed by the owner or operator in accordance with Sections 133 and 134, and facility records as necessary to demonstrate compliance with such procedures and plans. ()

137. -- 154. (RESERVED)

155. CIRCUMVENTION.

No person may willfully cause or permit the installation or use of any device or use of any means that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of emissions. ()

156. TOTAL COMPLIANCE.

Where more than one (1) section of these rules applies to a particular situation, all such rules must be met for total compliance, unless otherwise provided for in these rules. ()

157. TEST METHODS AND PROCEDURES.

This section establishes procedures and requirements for test methods and results unless otherwise specified in these rules, permit, order, consent decree, or prior written approval by the Department: ()

01. General Requirements. If a source test is performed to satisfy a performance test requirement or a compliance test requirement imposed by state or federal regulation, rule, permit, order or consent decree, then the test methods and procedures must be conducted in accordance with the requirements of this section. ()

a. Prior to conducting any emission test, owners or operators are encouraged to submit to the Department in writing, at least thirty (30) days in advance, the following for approval: ()

i. The type of method to be used; ()

ii. Any extenuating or unusual circumstances regarding the proposed test; and ()

iii. The proposed schedule for conducting and reporting the test. ()

b. Without prior Department approval, any alternative testing is conducted solely at the owner's or operator's risk. If the owner or operator fails to obtain prior written approval by the Department for any testing deviations, the Department may determine the test does not satisfy the testing requirements. ()

02. Test Requirements. Tests must be conducted in accordance with the following requirements. ()

a. The test must be conducted under operational conditions specified in the applicable state or federal regulation, rule, permit, order, consent decree or by Department approval. If the operational requirements are not specified, the source must test at worst-case normal operating conditions. Worst-case normal conditions are those conditions of fuel type, and moisture, process material makeup and moisture and process procedures that are changeable or that could reasonably be expected to be encountered during the operation of the facility and that would result in the highest pollutant emissions from the facility. ()

b. The Department may impose operational limitations or require additional testing in a permit, order or consent decree if the test is conducted under conditions other than worst-case normal. ()

c. The Department will accept the methods approved for the applicable pollutants, source type and operating conditions found in 40 CFR Parts 51, 60, 61, and 63 in determining the appropriate test method for an emission limit where one is not otherwise specified. ()

d. The following requirements apply to owners or operators requesting minor changes in the test method. ()

i. For federal emission standards codified at 40 CFR Parts 60, 61, and 63, the Department will accept those minor changes that have received written approval of the U.S. EPA Administrator if the Department determines they are appropriate for the specific application. ()

ii. For all other emission standards in these rules or for permit requirements, the Department will accept those minor changes that the Department determines are appropriate for the specific application. ()

e. An owner or operator proposing to use an alternative test method not considered a minor change in Subsection 157.02.d. above, must: ()

i. Demonstrate to the Department by comparative testing or sufficient analysis, that the alternative method is comparable and equivalent to the designated test method. ()

ii. Submit the request for approval to use an alternative test method to the Department at least thirty (30) days in advance of a scheduled test. ()

iii. Obtain, and submit to the Department, EPA approval for use of the alternative test method for emission standards in these rules (except for state only toxic air pollutant standards) or for federal emission standards codified at 40 CFR Parts 60, 61, and 63. ()

iv. Obtain verification that any prior approval of an alternative test method by the Department continues to be acceptable. Alternative methods may cease to be acceptable if new or different information indicates that the alternative test method is less accurate, less reliable, or not comparable with any current state or federal regulation, rule order, permit, or consent decree. ()

f. Prior approval by the Department may not constitute Department approval for subsequent tests if new or different information indicates that a previously Department approved test method is less accurate, less reliable or not comparable with any current state or federal regulation, rule, order, permit or consent decree. ()

03. Observation of Tests by Department Staff. The owner or operator must provide notice of intent to test to the Department at least fifteen (15) days prior to the scheduled test, or shorter time period as provided in a permit, order, consent decree or by Department approval. The Department may, at its option, have an observer present at any emissions tests conducted on a source. ()

04. Reporting Requirements. If the source test is performed to satisfy a performance test requirement imposed by state or federal regulation, rule, permit, order, or consent decree, a written report must: ()

a. Be submitted to the Department within sixty (60) days of the completion of field sample collection; ()

b. Meet the format and content requirements specified by the Department in any applicable rule, regulation, guidance, permit, order, or consent decree. Any deviations from the format and contents specified require prior written approval from the Department. Failure to obtain such approval may result in the rejection of the test results; and ()

c. Include all data required to be noted or recorded in any referenced test method. ()

05. Test Results Review Criteria. The Department will make every effort to review test results within a reasonable time. The Department may reject tests as invalid for: ()

a. Failure to adhere to the approved/required method; ()

b. Using a method inappropriate for the source type or operating conditions; ()

c. An incomplete written report; ()

d. Computational or data entry errors; ()

e. Clearly unreasonable results; ()

f. Failure to comply with the certification requirements of Section 123; or ()

g. Failure of the source to conform to operational requirements in orders, permits, or consent decrees ()

at the time of the test. ()

158. -- 160. (RESERVED)

161. TOXIC AIR POLLUTANTS.

Any contaminant that is by its nature toxic to human or animal life or vegetation must not be emitted in such quantities or concentrations as to alone, or in combination with other contaminants, injure or unreasonably affect human or animal life or vegetation. ()

162. --163. (RESERVED)

164. POLYCHLORINATED BIPHENYLS (PCBS).

01. Prohibition on Burning. Burning any material containing greater than five (5) parts per million of polychlorinated biphenyls (PCBs) is prohibited, except for incineration for the purpose of disposal. Incineration for disposal must comply with the following provisions: ()

a. No person may commence construction or modification of a PCB incinerator without a permit issued according to Sections 200 through 225. ()

b. The Department will provide opportunity for public comments prior to a final decision for a permit to construct or modify a new PCB incinerator. ()

c. A permit issued according to Sections 200 through 225 for construction or modification of a PCB incinerator will require, as a minimum, best available control technology and monitoring instrumentation. ()

02. Prohibition on Sales. No person may sell, distribute or provide any materials containing greater than five (5) parts per million PCBs for home or commercial heating equipment. ()

165. -- 174. (RESERVED)

175. PROCEDURES AND REQUIREMENTS FOR PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

Sections 176 through 181 establish uniform procedures to obtain a Facility Emissions Cap (FEC) for stationary sources or facilities (hereinafter referred to as facility or facilities). A permit establishing a FEC will be issued pursuant to Sections 200 through 227 or Sections 400 through 409. ()

176. FACILITY EMISSIONS CAP.

01. Optional Facility Emissions Cap. An owner or operator of a facility may request a FEC to establish an enforceable facility-wide emission limitation. ()

02. Applicability. ()

a. The owner or operator of any facility, which is not a major facility as defined in Sections 204 or 205, may apply to the Department for a permit to establish a FEC. ()

b. FECs are available for new and existing facilities that are not major as defined in Section 204 or 205 or existing facilities undergoing a modification that does not make the facility a major facility as defined in Section 204 or 205. ()

c. Facilities that become major facilities as defined in Section 204 or 205 are no longer eligible for a FEC under Section 176. ()

03. Definitions. For the purposes of Sections 175 through 181, the following terms are defined as below. ()

- a. Baseline actual emissions. As defined in Section 007. ()
- b. Design concentration. The ambient concentration used in establishing the FEC. ()
- c. Facility emissions cap (FEC). A facility-wide emission limitation expressed in tons per year, for any criteria pollutant or hazardous air pollutant established in accordance with Sections 176 through 181. A FEC is calculated using baseline actual emissions plus an operational variability component and a growth component. A FEC, which is defined in tons per year on a twelve (12) month rolling basis, must be set below major facility thresholds as defined in Sections 204 and 205. ()
- d. FEC pollutant. The pollutant for which a FEC is established. ()
- e. Growth component. The level of emissions requested by the applicant and approved by the Department to allow for potential future business growth or facility changes that may increase emissions above baseline actual emissions plus the operational variability component. ()
- f. Operational variability component. The level of emissions up to the significant emission rate (SER) minus one (1) ton per year but no more than the facility's potential to emit (PTE). If the proposed FEC pollutant does not have a SER listed in Section 006 or has a SER less than or equal to ten (10) tons per year, the operational variability component is the level of emissions requested by the applicant and approved by the Department. The operational variability component cannot be more than the facility's PTE. ()

177. APPLICATION PROCEDURES.

In addition to the information required pursuant to Sections 202 or 402, whichever is applicable, applications requesting a FEC must include the information required under Sections 176 through 181 and Subsections 177.01 through 177.03. ()

01. Estimates of Emissions. A proposed FEC for each pollutant requested by the facility, including the basis for calculating the FEC. ()

02. Estimates of Ambient Concentrations. ()

a. Estimates of ambient concentrations will be determined as described in Subsection 202.02. ()

b. Estimates of ambient concentrations may include projections of alternative future changes within the proposed FEC. ()

c. For a new, existing, or modified facility, a demonstration that for each FEC pollutant, the FEC will not cause or significantly contribute to a violation of any ambient air quality standard. ()

d. For renewal of terms and conditions establishing a FEC, it is presumed that the previous permitting analysis is satisfactory, unless the Department determines otherwise. ()

03. Monitoring and Recordkeeping. The application must include proposed means for the facility to determine facility emissions on a rolling twelve (12) month consecutive basis. ()

178. STANDARD CONTENTS OF PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

In addition to the elements required by Sections 203 and 211 or Sections 403 and 405, whichever is applicable, the Department has the authority to impose, implement and enforce the terms in Subsections 178.01 through 178.05 and conditions establishing a FEC. ()

01. Emission Limitations and Standards. All permits establishing use of a FEC will contain annual facility wide emissions limitations for each FEC pollutant. ()

02. Monitoring. All permits establishing a FEC will contain sufficient monitoring to ensure compliance with the FEC on a rolling twelve (12) month consecutive basis. ()

- 03. Recordkeeping.** All permits establishing a FEC will include the following: ()
- a.** Sufficient recordkeeping to assure compliance with the FEC. ()
 - b.** Retention of required monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes, but is not limited to, calibration and maintenance records and original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit. ()
- 04. Reporting.** All permits establishing a FEC will include the following: ()
- a.** Sufficient reporting to assure compliance with the permit establishing the FEC. ()
 - b.** Submittal of an annual report each year on or before the anniversary date of permit issuance. All required reports must be certified in accordance with Section 123. ()
- 05. Duration.** Each permit establishing a FEC will state that the terms and conditions establishing the FEC are effective for a fixed term of five (5) years. ()

179. PROCEDURES FOR ISSUING PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

- 01. General Procedures.** Procedures for issuing permits establishing a FEC will follow Sections 209 or 404, whichever is applicable. ()
- 02. Renewal.** The renewal of the terms and conditions establishing a FEC are subject to the same procedural requirements for issuing permits (Subsection 179.01) and Subsections 179.02.a. through 179.02.d.: ()
- a.** The permittee must submit a complete application to the Department for a renewal of the terms and conditions establishing the FEC at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. ()
 - b.** If a timely and complete application for a renewal of the terms and conditions establishing the FEC is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit remain in effect until the renewal permit has been issued or denied. ()
 - c.** Expiration of the terms and conditions establishing a FEC may be grounds to terminate the facility's right to operate pursuant to Sections 176 through 181, unless a timely and complete renewal application has been submitted. ()
 - d.** On renewal, the Department may adjust a FEC with an unused growth component in accordance with the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ()
- 03. Reopening the FEC.** The Department may reopen a FEC to: ()
- a.** Reduce the FEC to reflect newly applicable federal requirements' compliance dates after the issuance of the permit establishing the FEC. ()
 - b.** Reduce the FEC consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the facility under the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ()
- 04. FEC Termination.** The Department may approve a revision of a permit establishing a FEC to terminate the FEC, provided the permittee complies with Subsections 209.04 or 404.04, as applicable, and

Subsections 179.04.a. through 179.04.c.: ()

a. The permittee may request a revision of the permit establishing the FEC to terminate the FEC at any time prior to the expiration of the permit. The permittee is encouraged to submit an application for a permit to construct or Tier I operating permit, as applicable, six (6) months prior to the time the permittee wishes to terminate the FEC. ()

b. The FEC established in the permit remains in effect until the Department issues a new permit to construct or Tier I operating permit, as applicable. ()

c. Nothing in Section 179 prohibits a permittee from requesting a permit revision to terminate the FEC during the permit renewal process. ()

180. REVISIONS TO PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

Section 180 requires revisions to terms and conditions establishing a FEC. The permittee is exempt from Sections 200 through 227 unless the permittee chooses to use those rules to process any change to the permit, except as provided in Subsection 180.02. ()

01. Criteria. A permit revision is required for the following: ()

a. A change to existing monitoring, reporting or recordkeeping requirements in the permit establishing the FEC; ()

b. A change to the FEC; or ()

c. A change to the facility that would impose new requirements not included in the permit establishing the FEC. ()

02. Permit Revision Application Procedures. A permittee may initiate a permit revision by submitting a permit revision application to the Department or by complying with other applicable sections (Sections 200 or 400). For revision of terms and conditions establishing the FEC, it is presumed that the previous permitting analysis is satisfactory unless the Department determines otherwise. A permit revision application must: ()

a. Meet the standard application requirements of Section 177; ()

b. Describe the proposed permit revision; ()

c. Describe and quantify the change in emissions above the FEC permit limit; and ()

d. Identify new requirements resulting from the change. ()

03. Permit Revisions. The Department will process permit revisions pursuant to Section 209 or Section 404. ()

181. NOTICE AND RECORD-KEEPING OF ESTIMATES OF AMBIENT CONCENTRATIONS.

Section 181 authorizes facility changes that comply with the terms and conditions establishing the FEC, but that are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC. No permit revision is required for facility changes implemented in accordance with Section 181. ()

01. Notice. For facility changes that comply with the terms and conditions establishing the FEC but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee must review the estimate of ambient concentration analysis. ()

a. In the event that the facility change would result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC but does not cause or significantly contribute to a violation to any ambient air quality standard, the permittee must provide notice to the Department in accordance with Subsection 181.01.b. ()

b. Notice procedures. The permittee may make a facility change under Section 181 if the permittee provides written notification to the Department so that the notification is received at least seven (7) days in advance of the proposed change or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. For each such change, the written notification must: ()

- i. Describe the proposed change; ()
- ii. Describe and quantify expected emissions; and ()
- iii. Provide the estimated ambient concentration analysis. ()

02. Recordkeeping. For facility changes that comply with the terms and conditions establishing the FEC but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee must review the estimate of ambient concentration analysis. In the event the facility change would not result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee must record and maintain documentation on-site of the review. ()

03. Estimates of Ambient Concentrations. Estimates of ambient concentrations must be determined during the term of this permit using the same model and model parameters as used with the estimate of ambient concentration analysis approved for the permit establishing the FEC. The permittee must include any changes to the facility that are not included in the originally approved estimate of ambient concentration analysis. ()

182. -- 199. (RESERVED)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.

Sections 200 through 227 establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 227 and 578 through 581, major facility is defined as major stationary source in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference in Section 107, and major modification is defined as in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR which is available at <https://www.ecfr.gov/current/title-40>. ()

201. PERMIT TO CONSTRUCT REQUIRED.

No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department that satisfies the requirements of Sections 200 through 227 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule. ()

202. APPLICATION PROCEDURES.

Application for a permit to construct must be made using forms furnished by the Department, or by other means approved by the Department. The application must be certified by the responsible official in accordance with Section 123 and be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 227. ()

01. Required Information. Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct must include all the information required by one or more of the following provisions: ()

- a. For any new or modified stationary source or facility: ()
 - i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. ()

- ii. A schedule for construction of the stationary source, facility, or modification. ()
- b.** For any new major facility or major modification in a nonattainment area that would be major for the nonattainment regulated air pollutant(s): ()
- i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. ()
- ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources, mobile sources, or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. ()
- iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance. ()
- iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques that demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. ()
- v. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department). ()
- c.** For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. ()
- i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. ()
- ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. ()
- iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. ()
- iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth that has occurred since August 7, 1977, in the area the new major facility or major modification would affect. ()
- v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. ()
- vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. ()
- vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each regulated air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. ()

viii. Ambient analyses as specified in Subsections 202.01c.vii., 202.01c.ix., 202.01c.x., and 202.01c.xii., may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular regulated air pollutant in any area that the new major facility or major modification would affect are less than the amounts listed under 40 CFR 52.21(i)(5)(i), or the regulated air pollutant is not listed therein. ()

ix. For any regulated air pollutant that has an ambient air quality standard, the analysis must include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that regulated air pollutant would cause or contribute to a violation of the ambient air quality standard or any prevention of significant deterioration (PSD) increment. ()

x. For any regulated air pollutant that does not have an ambient air quality standard, the analysis must contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. ()

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. ()

xii. Operation of monitoring stations must meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. ()

02. Estimates of Ambient Concentrations. All estimates of ambient concentrations must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models). Where an air quality model specified in the "Guideline on Air Quality Models," is inappropriate, the model may be modified or another model substituted, subject to written approval of the EPA Administrator and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. ()

03. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request ()

203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES.
No permit to construct will be granted for a new or modified stationary source unless the applicant shows to the satisfaction of the Department all of the following: ()

01. Emission Standards. The stationary source or modification would comply with all applicable local, state or federal emission standards. ()

02. NAAQS. The stationary source or modification would not cause or significantly contribute to a violation of any ambient air quality standard. ()

03. Toxic Air Pollutants. Using the methods provided in Section 210, the emissions of toxic air pollutants from the stationary source or modification would not injure or unreasonably affect human or animal life or vegetation as required by Section 161. Compliance with all applicable toxic air pollutant carcinogenic increments and toxic air pollutant non-carcinogenic increments demonstrates preconstruction compliance with Section 161 with regards to the pollutants listed in Sections 585 and 586. ()

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.

New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the

federal nonattainment NSR rule requirements. ()

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165 are incorporated by reference in Section 107. Requirements contained in the following subparts of 40 CFR 52.21, are incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR at <https://www.ecfr.gov/current/title-40>.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii) - 51.165(a)(3)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 52.21(aa)	Actual PALs

()

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: ()

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: ()

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit that emits the nonattainment regulated air pollutant; and ()

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit that has a net emissions increase of the nonattainment regulated air pollutant. ()

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit that satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct will not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification will not be effective before the date the offsetting reductions are achieved. ()

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. ()

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from Section 204 by the Department. ()

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 227 apply, including the exemptions in Sections 220 through 223. ()

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.

The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. ()

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21 are incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR which is available at <https://www.ecfr.gov/current/title-40>.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(aa)	Actual PALS

()

02. Effect on Visibility. The applicant must demonstrate that the effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from this requirement by the Department. ()

03. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator

in 40 CFR 52.21 means the Department except for the following provisions, where the reference remains to the EPA Administrator: 40 CFR 52.21(b)(17), 52.21(b)(43), 52.21(b)(48)(ii)(c), 52.21(b)(50)(i) and 52.21(l)(2). ()

04. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 227 apply, including the exemptions in Sections 220 through 223. ()

206. OPTIONAL OFFSETS FOR PERMITS TO CONSTRUCT.

The owner or operator of any proposed new or modified stationary source, new major facility, or major modification, that cannot meet the requirements of Subsections 202.01.c.vi., 203.02, 203.03, 204.02.d., 205.01 (40 CFR 52.21(k)), and 209.02.b.vi., may propose the use of an emission offset to meet those requirements and thereby obtain a permit to construct. Any proposed emission offset must satisfy the requirements for emission reduction credits, Section 460, and demonstrate, through appropriate dispersion modeling, that the offset will reduce ambient concentrations sufficiently to meet the requirements at all modeled receptors that could not otherwise have met the requirements. ()

207. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.

In order to be credited in a permit to construct, any emission reduction credit must satisfy the requirements of Section 460. ()

208. DEMONSTRATION OF NET AIR QUALITY BENEFIT.

The demonstration of net air quality benefit must: ()

01. VOCs. For trades involving volatile organic compounds, show that total emissions are reduced for the air basin in which the stationary source or facility is located; ()

02. Other Regulated Air Pollutants. For trades involving any other regulated air pollutant, show through appropriate dispersion modeling that the trade will not cause an increase in ambient concentrations at any modeled receptor; ()

03. Mobile Sources. For trades involving mobile sources, show a reduction in the ambient impact of emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for adverse ambient impact where the major facility or major modification would otherwise cause or significantly contribute to a violation of any national ambient air quality standard. ()

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. ()

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department will determine whether the application is complete or whether more information is needed and will notify the applicant of its findings in writing. ()

b. Within sixty (60) days after the application is determined to be complete the Department will: ()

i. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. ()

ii. Notify the applicant in writing of the approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department will describe reasons for any denial; or ()

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment will be provided on an application for any new major facility or major modification, any new facility or modification that would affect any Class I area, any application that uses an interpollutant trade

pursuant to Subsection 210.17, any application that the Department determines an opportunity for public comment is needed, and any application upon which the applicant or public so requests. ()

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, will be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. ()

ii. The availability of such materials will be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. ()

iii. A copy of such notice will be sent to the applicant and to appropriate federal, state and local agencies. ()

iv. There will be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. ()

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Department deems that additional time is required to evaluate comments and information received, the Department will notify the applicant in writing of approval, or denial of the permit. The Department will describe the reasons for any denial. ()

vi. All comments and additional information received during the comment period, together with the Department's final determination, will be made available to the public at the same location as the preliminary determination. ()

d. A copy of each permit will be sent to EPA. ()

02. Additional Procedures for Specified Sources. ()

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. ()

i. The public notice issued pursuant to Subsection 209.01.c.ii. will indicate the degree of increment consumption that is expected from the new major facility or major modification; and ()

ii. The public notice issued pursuant to Subsection 209.01.c.ii. will indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. ()

b. For any new major facility or major modification that would affect a federal Class I area or an integral vista of a mandatory federal Class I area. ()

i. If the Department is notified of the intent to apply for a permit to construct, it will notify the appropriate Federal Land Manager within thirty (30) days; ()

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, will be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; ()

iii. Notice of every action related to the consideration of the permit will be sent to the EPA Administrator ()

iv. The public notice issued pursuant to Subsection 209.01.c.ii. will indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. ()

v. The notice of public hearing, if required, will explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. ()

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Department may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. ()

03. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 227. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Department. ()

04. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator must either: ()

a. Submit only the information required by Sections 200 through 214 for a permit to construct, in which case: ()

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. ()

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. ()

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. ()

iv. Unless a different time is specified by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, must file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. ()

v. The application or minor or significant permit modification request will be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. ()

vi. The final Tier I operating permit action will incorporate the relevant terms and conditions from the permit to construct; or ()

b. Submit all information required by Sections 200 through 214 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: ()

- i. Completeness of the application will be determined within thirty (30) days. ()
- ii. The Department will prepare a proposed permit to construct or denial in accordance with Sections 200 through 214 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. ()
- iii. The Department will provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. ()
- iv. Except as otherwise provided by these rules, the Department will prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. ()
- v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification will be sent for review in accordance with Section 366. ()
- vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or ()
- c.** Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: ()
 - i. Completeness of the application will be determined within thirty (30) days. ()
 - ii. The Department will prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. ()
 - iii. The Department will provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. ()
 - iv. The Department will prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. ()
 - v. Except as otherwise provided by these rules, the Department will prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. ()
 - vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. ()
- 05. Transfer of Permits to Construct.** ()
 - a.** Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.04. ()
 - b.** Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may

be automatically transferred if: ()

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ()

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ()

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 209.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. ()

210. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE WITH TOXIC STANDARDS.

In accordance with Subsection 203.03, the applicant must demonstrate preconstruction compliance with Section 161 to the satisfaction of the Department. The accuracy, completeness, execution and results of the demonstration are all subject to review and approval by the Department. For purposes of this section, Toxic Air Pollutant Reasonably Available Control Technology (T-RACT) is an emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. ()

01. Identification of Toxic Air Pollutants. The applicant may use process knowledge, raw materials inputs, EPA and Department references and commonly available references approved by EPA or the Department to identify the toxic air pollutants emitted by the stationary source or modification. ()

02. Quantification of Emission Rates. ()

a. The applicant may use standard scientific and engineering principles and practices to estimate the emission rate of any toxic air pollutant at the point(s) of emission. ()

i. Screening engineering analyses use unrefined conservative data. ()

ii. Refined engineering analyses utilize refined and less conservative data including, but not limited to, emission factors requiring detailed input and actual emissions testing at a comparable emissions unit using EPA or Department approved methods. ()

b. The uncontrolled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design without the effect of any physical or operational limitations. ()

i. Examples of physical and operational design include but are not limited to the amount of time equipment operates during batch operations and the quantity of raw materials utilized in a batch process. ()

ii. Examples of physical or operational limitations include but are not limited to shortened hours of operation, use of control equipment, and restrictions on production that are less than design capacity. ()

c. The controlled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of any physical or operational limitation that has been specifically described in a written and certified submission to the Department. ()

d. The T-RACT emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect

of: ()

i. Any physical or operational limitation other than control equipment that has been specifically described in a written and certified submission to the Department; and ()

ii. An emission standard that is T-RACT. ()

03. Quantification of Ambient Concentrations. ()

a. The applicant may use the modeling methods provided in Subsection 202.02 to estimate the ambient concentrations at specified receptor sites for any toxic air pollutant emitted from the point(s) of emission. ()

b. The point of compliance is the receptor site that is estimated to have the highest ambient concentration of the toxic air pollutant of all the receptor sites that are located either at or beyond the facility property boundary or at a point of public access; provided that, if the toxic air pollutant is listed in Section 586, the receptor site is not considered to be at a point of public access if the receptor site is located on or within a road, highway or other transportation corridor transecting the facility. ()

c. The uncontrolled ambient concentration of the source or modification is estimated by modeling the uncontrolled emission rate. ()

d. The controlled ambient concentration of the source or modification is estimated by modeling the controlled emission rate. ()

e. The approved net ambient concentration from a modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources at the facility contributing an approved creditable decrease at the receptor site from the estimated ambient concentration from the modification at the receptor. ()

f. The approved offset ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources contributing an approved offset at the receptor from the estimated ambient concentration for the source or modification at the receptor. ()

g. The T-RACT ambient concentration of the source or modification is estimated by using refined modeling and the T-RACT emission rate. ()

h. The approved interpollutant ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated as follows: ()

i. Step 1: Calculate the estimated decrease in ambient concentrations for each toxic air pollutant from each source contributing an approved interpollutant trade at the receptor by multiplying the approved interpollutant ratio by the overall decrease in the ambient concentration of the toxic air pollutant at the receptor site. ()

ii. Step 2: Calculate the total estimated decrease at the receptor by summing all of the individual estimated decreases calculated in Subsection 210.03.h.i. for that receptor. ()

iii. Step 3: Calculate the approved interpollutant ambient concentration by subtracting the total estimated decrease at the receptor from the estimated ambient concentration for the source or modification at the receptor. ()

04. Preconstruction Compliance Demonstration. The applicant may use any of the Department approved standard methods described in Subsections 210.05 through 210.08 and may use any applicable specialized method described in Subsections 210.09 through 210.12 to demonstrate preconstruction compliance for each identified toxic air pollutant. ()

- 05. Uncontrolled Emissions.** ()
- a.** Compare the source's or modification's uncontrolled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. ()
- b.** If the source's or modification's uncontrolled emission rate is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()
- 06. Uncontrolled Ambient Concentration.** ()
- a.** Compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ()
- b.** If the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()
- 07. Controlled Emissions.** ()
- a.** Compare the source's or modification's controlled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. ()
- b.** If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level, no further procedure for demonstrating preconstruction compliance is required for that toxic air pollutant as part of the application process. ()
- 08. Controlled Ambient Concentration.** ()
- a.** Compare the source's or modification's controlled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ()
- b.** If the source's or modification's controlled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()
- c.** The Department will include an emission limit for the toxic air pollutant in the permit to construct that is equal to or, if requested by the applicant, less than the emission rate that was used in the modeling. ()
- 09. Net Emissions.** ()
- a.** As provided in Section 007 (definition of net emissions increase) and Sections 460 and 461, the owner or operator may net emissions to demonstrate preconstruction compliance. ()
- b.** Compare the modification's approved net emissions increase (expressed as an emission rate) for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. ()
- c.** If the modification's approved net emissions increase is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()
- d.** The Department will include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ()
- 10. Net Ambient Concentration.** ()

a. As provided in Section 007 (definition of net emission increase) and Sections 460 and 461, the owner or operator may net ambient concentrations to demonstrate preconstruction compliance. ()

b. Compare the modification's approved net ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ()

c. If the modification's approved net ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()

d. The Department will include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ()

11. Toxic Air Pollutant Offset Ambient Concentration. ()

a. As provided in Sections 206 and 460, the owner or operator may use offsets to demonstrate preconstruction compliance. ()

b. Compare the source's or modification's approved offset ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. ()

c. If the source's or modification's approved offset ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()

d. The Department will include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ()

12. T-RACT Ambient Concentration for Carcinogens. ()

a. As provided in Subsections 210.12 and 210.13, the owner or operator may use T-RACT to demonstrate preconstruction compliance for toxic air pollutants listed in Section 586. This method may be used in conjunction with netting (Subsection 210.09), and offsets (Subsection 210.11). ()

b. Compare the source's or modification's approved T-RACT ambient concentration at the point of compliance for the toxic air pollutant to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000) (which amount is equivalent to ten (10) times the applicable acceptable ambient concentration listed in Section 586). ()

c. If the source's or modification's approved T-RACT ambient concentration at the point of compliance is less than or equal to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000), no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()

d. The Department will include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ()

13. T-RACT Determination Processing. ()

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application, or the applicant may request the Department to review a complete initial application to determine if Subsection 210.12 may be applicable to the source or modification. ()

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.12 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action will be reinitiated. ()

14. T-RACT Determination. T-RACT will be determined on a case-by-case basis by the Department as follows: ()

a. The applicant must submit information to the Department identifying and documenting which control technologies or other requirements the applicant believes to be T-RACT. ()

b. The Department will review the information submitted by the applicant and determine whether the applicant has proposed T-RACT. ()

c. The technological feasibility of a control technology or other requirements for a particular source will be determined considering several factors including, but not limited to: ()

i. Process and operating procedures, raw materials and physical plant layout. ()

ii. The environmental impacts caused by the control technology that cannot be mitigated, including, but not limited to, water pollution and the production of solid wastes. ()

iii. The energy requirements of the control technology. ()

d. The economic feasibility of a control technology or other requirement, including the costs of necessary mitigation measures, for a particular source will be determined considering several factors including, but not limited to: ()

i. Capital costs. ()

ii. Cost effectiveness, which is the annualized cost of the control technology divided by the amount of emission reduction. ()

iii. The difference in costs between the particular source and other similar sources, if any, that have implemented emissions reductions. ()

e. If the Department determines that the applicant has proposed T-RACT, the Department will determine which of the options, or combination of options, will result in the lowest emission of toxic air pollutants, develop the emission standards constituting T-RACT and incorporate the emission standards into the permit to construct. ()

f. If the Department determines that the applicant has not proposed T-RACT, the Department will disapprove the submittal. If the submittal is disapproved, the applicant may supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210. If the applicant does not supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210, the Department will deny the permit. ()

15. Short Term Source Factor. For short term sources, the applicant may utilize a short-term adjustment factor of ten (10). For a carcinogen, multiply either the applicable acceptable ambient concentration (AACC) or the screening emission rate, but not both, by ten (10), to demonstrate preconstruction compliance. This method may be used for TAPs listed in Section 586 only and may be utilized in conjunction with standard methods for quantification of emission rates (Subsections 210.05 through 210.08). ()

16. Environmental Remediation Source. ()

a. For Remediation sources subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the “Idaho Rules and Standards for Hazardous Waste,” (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, if the estimated ambient concentration at the point of impact is greater than the acceptable ambient impacts listed in Sections 585 and 586, Best Available Control Technology will be applied and operated until the estimated uncontrolled emissions from the remediation source are below the acceptable ambient concentration. ()

b. For Remediation sources not subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the “Idaho Rules and Standards for Hazardous Waste,” (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, will, for the purposes of these rules, be considered the same as any other new or modified source of toxic air pollution. ()

c. For an environmental remediation source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, the Department may waive the requirements of Section 513. ()

17. Interpollutant Trading Ambient Concentration. ()

a. As provided in Subsections 209.01.c., 210.17 through 210.19, the owner or operator may use interpollutant trading to demonstrate preconstruction compliance. This method may be used in conjunction with netting (Subsection 210.10), and offsets (Subsection 210.11) ()

b. Compare the source's or modification's approved interpollutant ambient concentration at the point of compliance for the toxic air pollutant emitted by the source or modification to the applicable acceptable ambient concentration listed in Sections 585 or 586. ()

c. If the source's or modification's approved interpollutant ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration listed in Sections 585 or 586, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. ()

d. The Department will include emission limits for all of the toxic air pollutants involved in the trade in the permit to construct. The Department will also include other permit terms in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. ()

18. Interpollutant Trading Determination Processing. ()

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application, or the applicant may request the Department to review a complete initial application to determine if Subsection 210.17 may be applicable to the source or modification. ()

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.17 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action will be reinitiated. ()

19. Interpollutant Determination. ()

a. The applicant may request an interpollutant trade if the Department determines that: ()

i. The facility complies with an emission standard at least as stringent as best available control technology (BACT); and ()

ii. The owner or operator has instituted all known and available methods of pollution prevention at the

facility to reduce, avoid or eliminate toxic air pollution prior to its generation including, but not limited to, recycling, chemical substitution, and process modification provided that such pollution prevention methods are compatible with each other, and the product or service being produced; and ()

iii. The owner or operator has taken all available offsets; and ()

iv. The owner or operator has identified all geographical areas and populations that may be impacted by the proposed interpollutant trade. ()

b. Interpollutant trades will be approved or denied on a case-by-case basis by the Department. Approvals will be granted only if: ()

i. The Department of Health and Welfare's Division of Health approves the interpollutant trade; and ()

ii. The Department of Environmental Quality determines that the interpollutant trade will result in a overall benefit to the environment; and ()

iii. An EPA approved database or other EPA approved reference provides relative potency factors, or comparable factors, or other data that is sufficient to allow for adequate review and approval of the proposed trade is submitted for all of the toxic air pollutants being traded; and ()

iv. The reductions occur at the same facility where the proposed source or modification will be constructed; and ()

v. The interpollutant trade will not cause an increase in the ambient concentrations of the carcinogenic toxic air pollutants involved in the particular interpollutant trade at any receptor site; and ()

vi. The total cancer risk with the interpollutant trade will be less than the total cancer risk without the interpollutant trade; and ()

vii. The total non-cancer health risk with the interpollutant trade will be less than the total non-cancer health risk without the interpollutant trade. ()

20. 40 CFR Parts 60, 61 and 63 Sources. No demonstration of compliance with the toxic air pollutant provisions is required to obtain a permit to construct or to demonstrate permit to construct exemption criteria for a new source or for modification of an existing source if the toxic air pollutant is also a listed hazardous air pollutant from: ()

a. The equipment or activity covered by a 40 CFR Part 60, 61, or 63 rule; or ()

b. The source category of equipment or activity addressed by a 40 CFR Part 60, 61, or 63 rule even if the equipment or activity is not subject to compliance requirements under the federal rule. ()

211. CONDITIONS FOR PERMITS TO CONSTRUCT.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: ()

a. Sampling ports of a size, number, and location as the Department may require; ()

b. Safe access to each port; ()

c. Instrumentation to monitor and record emissions data; ()

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility;

and ()

e. Any other sampling and testing facilities as may be deemed reasonably necessary. ()

02. Cancellation. The Department may cancel a permit to construct if the construction is not begun within two (2) years from the date of issuance, or if during the construction, work is suspended for one (1) year. ()

03. Notification to The Department. Any owner or operator of a stationary source or facility subject to a permit to construct must furnish the Department written notifications as follows: ()

a. A notification of the anticipated date of initial start-up of the stationary source or facility not more than sixty (60) days or less than thirty (30) days prior to such date; and ()

b. A notification of the actual date of initial start-up of the stationary source or facility within fifteen (15) days after such date. ()

04. Performance Test. Within sixty (60) days after achieving the maximum production rate at which the stationary source or facility will be operated but not later than one hundred eighty (180) days after initial start-up of such stationary source or facility, the owner or operator of such stationary source or facility may be required to conduct a performance test in accordance with methods and under operating conditions approved by the Department and furnish the Department a written report of the results of such performance test. ()

a. Such test will be at the expense of the owner or operator. ()

b. The Department may monitor such test and may also conduct performance tests. ()

c. The owner or operator of a stationary source or facility must provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. ()

212. RELAXATION OF STANDARDS OR RESTRICTIONS.

At such time that a particular facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable emission standard or restriction on the operating rate, hours of operation or on the type or amount of material combusted, stored or processed, that was used to exempt the facility or modification from certain requirements for a permit to construct, the requirements for new major facilities or major modifications will apply to the facility or modification as though construction had not yet commenced. ()

213. PRE-PERMIT CONSTRUCTION.

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. ()

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for new sources and modifications that are not considered major as defined in 40 CFR 52.21 proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator must: ()

a. Apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. ()

b. Consult with Department representatives prior to submitting a pre-permit construction approval application. ()

c. Submit a pre-permit construction approval application that must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models must be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. ()

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. ()

02. Permit to Construct Procedures for Pre-Permit Construction. ()

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator must hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting must be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice must be included in the application. ()

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department will notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. ()

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. will become enforceable. The owner or operator must not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. ()

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department will issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator will have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator may not contest the final permit to construct decision based on the fact that they have already begun construction. ()

214. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE FOR NEW AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS.

01. Compliance with Federal MACT. All owners or operators of major sources of hazardous air pollutants that are subject to an applicable Maximum Available Control Technology (MACT) standard promulgated by EPA pursuant to Section 112 of the Clean Air Act and 40 CFR Part 63 must comply with the applicable MACT standard and such owners or operators are not subject to Subsections 214.04 and 214.05. ()

02. Requirement to Obtain Preconstruction MACT Determination from the Department. No owner or operator may construct or reconstruct a major source of hazardous air pollutants unless such owner or operator has obtained a MACT standard determination from the Department. The Department will make the MACT standard determination on a case-by-case basis and in accordance with Section 112(g)(2)(B) of the Clean Air Act and 40 CFR 63.40 through 63.44 as incorporated by reference in Section 107. ()

03. Development of MACT by the Department After EPA Deadline. In the event that EPA fails to promulgate a MACT standard for a category or subcategory of major sources of hazardous air pollutants identified by the EPA under the Clean Air Act by the date established under Section 112(e) of the Clean Air Act, the owner or operator of any major source of hazardous air pollutants in such category or subcategory must submit an application to the Department for a MACT standard determination. The Department will make the MACT standard

determination on a case-by-case basis and in accordance with Section 112(j) of the Clean Air Act and 40 CFR 63.50 through 63.56 as incorporated by reference in Section 107. ()

215. MERCURY EMISSION STANDARD FOR NEW OR MODIFIED SOURCES.

No owner or operator may commence construction or modification of a stationary source or facility that results in an increase in annual potential emissions of mercury of twenty-five (25) pounds or more unless the owner or operator has obtained a permit to construct under Sections 200 through 227. The permit to construct application must include an MBACT analysis for the new or modified source or sources for review and approval by the Department. A determination of applicability under Section 215 will be based upon the best available information. Fugitive emissions are not included in a determination of applicability under Section 215. ()

01. Exemptions. New or modified stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Section 215. ()

02. Applicability. Except as provided in Subsection 215.01, Section 215 applies to all new or modified sources. ()

216. -- 219. (RESERVED)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections precludes an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions are not considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221 and 223 or 222 and 223 (as required): ()

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: ()

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. ()

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. ()

b. The source is not part of a proposed new major facility or part of a proposed major modification. ()

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., must maintain documentation on site that identifies the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation must be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, whichever is greater, or until such time as a permit to construct or an operating permit is issued that covers the operation of the source. The owner or operator must submit the documentation to the Department upon request. ()

221. CATEGORY I EXEMPTION.

No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following: ()

01. Below Regulatory Concern. The maximum capacity of a source to emit an air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed

must be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. ()

02. Radionuclides. The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ()

03. Toxic Air Pollutants. The source complies with Section 223. ()

04. Mercury. The source has potential emissions that are less than twenty-five (25) pounds per year of mercury. Fugitive emissions are not to be included in the calculation of potential mercury emissions. ()

222. CATEGORY II EXEMPTION.

No permit to construct is required for the following sources. ()

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and is specified below: ()

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source must: ()

i. Comply with Section 223. ()

ii. Not be required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. ()

b. Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. ()

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and that are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline may not be used. To qualify for this exemption, the source must be operated in accordance with the following: ()

i. One hundred (100) horsepower or less -- unlimited hours of operation. ()

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. ()

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. ()

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. ()

d. Stationary internal combustion engines used exclusively for emergency purposes that are operated less than five hundred (500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline may not be used. ()

e. A pilot plant is defined as a stationary source located at least one quarter (1/4) mile from any sensitive receptor; functions to test processing, mechanical, or pollution control equipment's full-scale feasibility; and does not produce products for sale except in developmental quantities. It uses a slip stream of no more than ten percent (10%) from an existing process stream and satisfies the following: ()

i. The source must comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short-term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the

screening emissions level, but not both, by ten (10); ()

ii. The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H; and ()

iii. The exemption for a pilot plant terminates one (1) year after the commencement of operations and may not be renewed. ()

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: ()

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. ()

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. ()

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquefied petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. ()

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. ()

e. Mobile internal combustion engines, marine installations and locomotives. ()

f. Agricultural activities and services. ()

g. Retail gasoline, natural gas, propane gas, liquefied petroleum gas, distillate fuel oils and diesel fuel sales. ()

h. Used Oil Fired Space Heaters which comply with all the following criteria: ()

i. The used oil-fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; ()

(1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. ()

(2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. ()

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; ()

iii. The used oil-fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; ()

iv. The combustion gases from the used oil-fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and ()

v. The used oil-fired space heater is of modern commercial design and manufacture, except that a homemade used oil-fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. ()

i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. ()

j. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at the DEQ website at <http://www.deq.idaho.gov>, to help assist sources in this exemption determination. ()

k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. ()

223. EXEMPTION CRITERIA AND REPORTING REQUIREMENTS FOR TOXIC AIR POLLUTANT EMISSIONS.

No permit to construct for toxic air pollutants is required for a source that satisfies any of the exemption criteria below, the recordkeeping criteria in Subsection 220.02, and reporting criteria in Subsection 223.04: ()

01. Below Regulatory Concern (BRC) Exemption. The source qualifies for a BRC exemption if the uncontrolled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. ()

02. Level I Exemption. To obtain a Level I exemption, the source must satisfy the following criteria:

a. The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants must be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or ()

b. The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance must be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. ()

03. Level II Exemption. To obtain a Level II exemption, the maximum capacity of a source to emit a toxic air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed at the point of compliance is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. ()

04. Toxic Air Pollutant Exemption Report. The owner or operator of a source claiming a Level I or II exemption must submit a certified report, on or before May 1 for the previous calendar year, to the Department for each Level I or II exemption determination. The owner or operator is not required to annually submit a certified report for a Level I or II exemption determination previously claimed and reported. The report must state the date construction has or will commence and must include copies of all exemption determinations completed by the owner or operator for each Level I and II exemption. ()

224. PERMIT TO CONSTRUCT APPLICATION FEE.

All applicants for a permit to construct must submit a permit to construct application fee of one thousand dollars (\$1,000) to the Department at the time of the original submission of the application. The permit to construct application fee is not required to be submitted for: ()

01. Exemption Applicability Determinations. Exemption applicability determinations set forth in Sections 220 through 223; ()

02. Typographical Errors. Changes to correct typographical errors; or ()

03. Name or Ownership Change. A change in the name or ownership of the holder of a permit to construct when the Department determines no other review or analysis is required. ()

225. PERMIT TO CONSTRUCT PROCESSING FEE.

A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, must be paid to the Department by the person receiving the permit. The applicable processing fee category is determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation does not include fugitive emissions.

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	\$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	\$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	\$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year or more	\$7,500
New major facility or major modification	\$10,000
Permit modifications where no engineering analysis is required	\$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	\$0.00

()

226. PAYMENT OF FEES FOR PERMITS TO CONSTRUCT.

01. Fee Submittal. The permit to construct application fee must be submitted with the application. The permit to construct processing fee is payable upon receipt of an assessment sent to the person receiving a permit by the Department. Information for making payments is available at <http://www.deq.idaho.gov>. ()

02. Delinquency. No application for a permit to construct will be processed by the Department unless accompanied by a permit to construct application fee. No permit to construct will be issued by the Department until the Department has received the permit to construct processing fee. ()

227. RECEIPT AND USAGE OF FEES.

Permit to construct application and processing fee receipts will be deposited by the Department into a stationary source permit account. Monies from this account will be used solely toward technical, legal and administrative support of the Department's permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act. The permit to construct application fee payable under Section 227 will be retained by the Department regardless of whether a permit to construct is issued by the Department in response to an application. ()

228. -- 299. (RESERVED)

300. PROCEDURES AND REQUIREMENTS FOR TIER I OPERATING PERMITS.

Sections 300 through 397 establish requirements and procedures for the issuance of Tier I operating permits. Unless specifically identified in this Chapter, definitions for the Tier I operating permit program are located in 40 CFR Part 70, incorporated by reference in Section 107. ()

301. REQUIREMENT TO OBTAIN TIER I OPERATING PERMIT.

01. Prohibition. No owner or operator may operate any Tier I source without an effective Tier I operating permit. ()

02. Exceptions. No Tier I operating permit is required if the owner or operator is in compliance with Sections 311 through 315 and the Department has not taken final action on the application. ()

302. OPTIONAL TIER I OPERATING PERMIT.

Any facility listed in Section 301 not required to obtain a Tier I operating permit may opt to apply for a Tier I operating permit. ()

303. -- 310. (RESERVED)

311. STANDARD PERMIT APPLICATIONS.

Sections 311 through 315 establish standard Tier I operating permit application procedures. ()

312. DUTY TO APPLY.

For each Tier I source, the owner or operator must submit a timely and complete permit application in accordance with Sections 311 through 315. ()

313. TIMELY APPLICATION.

01. New Tier 1 Operating Permits. For sources that become Tier I sources located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source must submit to the Department a complete application for a Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. ()

02. Renewals of Tier I Operating Permits. The owner or operator of the Tier I source must submit a complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration. ()

03. Changes to Tier I Operating Permits. Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits. ()

314. REQUIRED STANDARD APPLICATION FORM AND REQUIRED INFORMATION.

01. General Requirements. ()

a. Applications must be submitted on a form or forms provided by the Department or by other means

specified by these rules or the Department. The application must be certified by the responsible official in accordance with Section 123. ()

i. If the Tier I source is regulated under 42 U.S.C. Sections 7651 through 7651o, the owner or operator must also submit nationally standardized acid rain forms provided by EPA. ()

b. All information must be in sufficient detail so that the Department may efficiently and effectively determine the applicability of requirements and make all other necessary evaluations and determinations. ()

02. General Information for the Facility. ()

a. Provide identifying information, including the name, address and telephone number of: ()

i. The owner; ()

ii. The operator; ()

iii. The facility where the Tier I source is located; ()

iv. The registered agent of the owner, if any; ()

v. The registered agent of the operator, if any; ()

vi. The responsible official, if other than the owner or operator; and ()

vii. The contact person. ()

b. Provide a general description of the processes used and products produced by the facility where the Tier I source is located, including any associated with each requested alternative operating scenario and trading scenario. The description must include narrative and applicable SIC codes. ()

c. Provide a general description of each process line affecting a Tier I source. ()

03. Specific Information for Each Emissions Unit. The owner or operator must provide, in an itemized format, all of the information identified in Subsections 314.04 through 314.11 for each emissions unit, unless the emissions unit is an insignificant activity. ()

04. Emissions. ()

a. Identify and describe all emissions of pollutants for which the source is major and all emissions of regulated air pollutants from each emissions unit. Fugitive emissions must be included in the application in the same manner as stack emissions, regardless of whether the source category is included in the list of sources contained in the definition of major facility (Section 008). ()

b. Emissions rates must be quantified in tons per year (tpy) and in such additional terms as are necessary to determine compliance consistent with the applicable test method. ()

c. Identify and describe all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of the Clean Air Act. ()

d. To the extent it is needed to determine or regulate emissions, identify and quantify all fuels, fuel use, raw materials, production rates, and operating schedules. ()

e. Identify and describe all air pollution control equipment and compliance monitoring devices or activities. ()

f. Identify and describe all limitations on source operation or any work practice standards affecting

emissions. ()

g. Provide the calculations on which the information provided under Subsections 314.04.a. through 314.04.e. is based. ()

05. Applicable Requirements. ()

a. Cite and describe all applicable requirements affecting the emissions unit; and ()

b. Describe or reference all methods required by each applicable requirement for determining the compliance status of the emissions unit with the applicable requirement, including any applicable monitoring, recordkeeping and reporting requirements or test methods. ()

06. Other Requirements. Other specific information that may be necessary to determine the applicability of, implement or enforce any requirement of the Act, these rules, 42 U.S.C. Sections 7401 through 7671q or federal regulations. ()

07. Proposed Determinations of Nonapplicability. Identify requirements for which the applicant seeks a determination of nonapplicability and provide an explanation of why the requirement is not applicable to the Tier I source. ()

08. Alternative Operating Scenarios. ()

a. Identify all requested alternative operating scenarios. ()

b. Provide a detailed description of all requested alternative operating scenarios. Include all the information required by Section 314 that is relevant to the alternative operating scenario. ()

09. Compliance Certifications. ()

a. Provide a compliance certification regarding the compliance status of each emissions unit at the time the application is submitted to the Department that: ()

i. Identifies all applicable requirements affecting each emissions unit. ()

ii. Certifies the compliance status of each emissions unit with each of the applicable requirements. ()

iii. Provides a detailed description of the method(s) used for determining the compliance status of each emissions unit with each applicable requirement, including a description of any monitoring, recordkeeping, reporting and test methods that were used. Also provide a detailed description of the method(s) required for determining compliance. ()

iv. Certifies the compliance status of the emissions unit with any applicable enhanced monitoring requirements. ()

v. Certifies the compliance status of the emissions unit with any applicable enhanced compliance certification requirements. ()

vi. Provides all other information necessary to determining the compliance status of the emissions unit. ()

b. Provide a schedule for submission of compliance certifications during the term of the Tier I operating permit. The schedule must require compliance certifications to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. ()

10. Compliance Plans. ()

- a. Provide a compliance description as follows: ()
- i. For each applicable requirement with which the emissions unit is in compliance, state that the emissions unit will continue to comply with the applicable requirement. ()
- ii. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not contain a more detailed schedule, state that the emissions unit will meet the applicable requirement on a timely basis. ()
- iii. For each applicable requirement that will become effective during the term of the Tier I operating permit that contains a more detailed schedule, state that the emissions unit will comply with the applicable requirement on the schedule provided in the applicable requirement. ()
- iv. For each applicable requirement with which the emission unit is not in compliance, state that the emissions unit will be in compliance with the applicable requirement by the time the Tier I operating permit is issued or provide a compliance schedule in accordance with Subsection 314.10.b. ()
- b. All compliance schedules must: ()
- i. Include a schedule of remedial measures leading to compliance, including an enforceable sequence of actions and specific dates for achieving milestones and achieving compliance. ()
- ii. Incorporate the terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. ()
- iii. Be supplemental to, and not sanction noncompliance with, the applicable requirements on which it is based. ()
- c. Provide a schedule for submission to the Department of periodic progress reports no less frequently than every six (6) months or at a more frequent period if one (1) is specified in the underlying applicable requirement or by the Department. ()
- 11. Trading Scenarios.** ()
- a. Identify all requested trading scenarios authorized by Section 440. ()
- b. Provide a detailed description of all requested trading scenarios. Include all the information required by Section 314 that is relevant to the trading scenario and all the information required by Section 440, if applicable. Emissions trades must comply with all applicable requirements. ()
- c. Provide proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions trades involving emissions units for which the emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trade will not be approved. ()
- 12. Additional Information.** Provide additional information that the Department determines necessary to perform its functions efficiently and effectively. Such functions include, but are not limited to, determining the applicability of requirements for all regulated air pollutants, determining compliance with applicable requirements, developing or defining Tier I operating permit terms and conditions, defining all approved alternative operating scenarios, evaluating excess emissions procedures or making all necessary evaluations and determinations. ()

315. DUTY TO SUPPLEMENT OR CORRECT APPLICATION.

- 01. Failure to Submit.** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. ()

02. Necessary Additional Information. If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, the Department may request such information in writing and set a deadline for a response. The applicant must submit the requested information on or before the deadline set by the Department. ()

03. Additional Information After Completeness. The applicant must promptly provide additional information as necessary to address any requirements that become applicable to the Tier I source after the date a complete application was filed but prior to release of a proposed action. ()

316. EFFECT OF INACCURATE INFORMATION IN APPLICATIONS OR FAILURE TO SUBMIT RELEVANT INFORMATION.

Notwithstanding the shield provisions of Section 325, the owner or operator is subject to enforcement action for operation of the Tier I source without a Tier I operating permit if the owner or operator submitted an incomplete or inaccurate application or the Tier I source is later determined not to qualify for coverage under the conditions and terms of the Tier I operating permit. ()

317. INSIGNIFICANT ACTIVITIES.

01. Applicability Criteria. This Section contains the criteria for identifying insignificant activities for the purposes of the Tier I operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement qualifies as an insignificant emission unit or activity. Applicants may not exclude from Tier I operating permit applications information that is needed to determine whether the facility is major or whether the facility is in compliance with applicable requirements. ()

- a.** Presumptively insignificant emission units. ()
 - i.** Except as provided above, the activities listed in this section may be omitted from the permit application. ()
 - (1) Blacksmith forges. ()
 - (2) Mobile transport tanks on vehicles except for those containing asphalt and not including loading and unloading operations. ()
 - (3) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities. ()
 - (4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, lubricating oil, treater oil, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter. ()
 - (5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. ()
 - (6) Storage of solid material, dust-free handling. ()
 - (7) Boiler water treatment operations, not including cooling towers. ()
 - (8) Vents from continuous emission monitors and other analyzers. ()
 - (9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. ()
 - (10) Internal combustion engines for propelling or powering a vehicle. ()
 - (11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. ()

- (12) Brazing, soldering, and welding equipment and cutting torches for use in cutting metal wherein components of the metal do not generate hazardous air pollutants or hazardous air pollutant precursors. ()
- (13) Atmospheric generators used in connection with metal heat treating processes using non-hazardous air pollutant metals as the primary raw material. ()
- (14) Non-hazardous air pollutant metal finishing or cleaning using tumblers. ()
- (15) Drop hammers or hydraulic presses for forging or metalworking. ()
- (16) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of hazardous air pollutants. ()
- (17) Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compound or hazardous air pollutant. ()
- (18) Process water filtration systems. ()
- (19) Portable electrical generators that can be moved by hand from one (1) location to another. Moved by hand means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device. ()
- (20) Plastic and resin curing equipment, excluding FRP and provided these activities are not related to the source's primary business activity. ()
- (21) Extrusion equipment, metals, minerals, plastics, grain or wood used without solvents containing hazardous air pollutant. ()
- (22) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics without solvents containing hazardous air pollutants present. ()
- (23) Roller mills and calendars for use with rubber and plastics without solvents containing hazardous air pollutants. ()
- (24) Conveying and storage of plastic pellets. ()
- (25) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. ()
- (26) Plastic pipe welding. ()
- (27) Wax application in either a molten state or aqueous suspension. ()
- (28) Plant maintenance and upkeep including routine housekeeping, janitorial activities, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and lawn, landscaping and groundskeeping activities. Provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. ()
- (29) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. ()
- (30) Maintenance of paved streets and parking lots including paving, stripping, salting, sanding, cleaning and sweeping of streets and paved surfaces. Provided these activities are not related to the source's primary business activity, do not otherwise trigger a permit modification, and fugitive emissions are reasonably controlled as

- required in Section 808. ()
- (31) Ultraviolet curing processes. ()
- (32) Hot melt adhesive application with no volatile organic compounds or hazardous air pollutants in the adhesive formula. ()
- (33) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents except for boilers. ()
- (34) Steam cleaning operations. ()
- (35) Steam sterilizers. ()
- (36) Food service activities including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. ()
- (37) Portable drums and totes. ()
- (38) Fluorescent light tube and aerosol can crushing in units designed to reduce emissions from these activities. ()
- (39) Flares used to indicate danger to the public. ()
- (40) General vehicle maintenance including vehicle exhaust from repair facilities provided these activities are not related to the source's primary business activity and do not have applicable requirements under title VI of the Clean Air Act. ()
- (41) Comfort air conditioning or air-cooling systems, not used to remove air contaminants from specific equipment. ()
- (42) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. ()
- (43) Natural and forced air vents for bathroom/toilet facilities. ()
- (44) Office activities. ()
- (45) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used exclusively to withdraw materials for laboratory analyses and testing. ()
- (46) Fire suppression systems and similar safety equipment and equipment used to train firefighters including fire drill pits. ()
- (47) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity except equipment subject to 40 CFR Part 61 for radionuclides. ()
- (48) Satellite Accumulation Areas (SAAs) and Temporary Accumulation Areas (TAAs) managed in compliance with RCRA. ()
- (49) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that these activities are not conducted as part of a manufacturing process. ()
- (50) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. ()

- (51) Slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment. ()
- (52) Ozonation equipment. ()
- (53) Temporary construction activities at a facility provided that the installation or modification of emissions units must comply with all applicable federal, state, and local rules and regulations. ()
- (54) Batch loading and unloading of solid phase catalysts. ()
- (55) Pulse capacitors. ()
- (56) Gas cabinets using only gases that are not regulated air pollutants. ()
- (57) CO2 lasers, used only on metals and other materials that do not emit hazardous air pollutants in the process. ()
- (58) Structural changes not having air contaminant emissions. ()
- (59) Equipment used to mix, package, store and handle soaps, lubricants, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions, provided appropriate lids and covers are utilized. ()
- (60) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche provided these activities are not related to the source's primary business activity. ()
- (61) Pharmaceutical and cosmetics packaging equipment. ()
- (62) Paper trimmers/binders provided these activities are not related to the source's primary business activity. ()
- (63) Bench-scale laboratory equipment and laboratory equipment used exclusively for physical or chemical analysis, including associated vacuum producing devices but excluding research and development facilities. ()
- (64) Repair and maintenance shop activities not related to the source's primary business activity. ()
- (65) Handling equipment and associated activities for glass and aluminum which is destined for recycling, provided these activities are not related to the source's primary business activity. ()
- (66) Hydraulic and hydrostatic testing equipment. ()
- (67) Batteries and battery charging stations, except at battery manufacturing plants. ()
- (68) Porcelain and vitreous enameling equipment. ()
- (69) Solid waste containers. ()
- (70) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants. ()
- (71) Shock chambers. ()
- (72) Wire strippers. ()
- (73) Humidity chambers. ()

- (74) Solar simulators. ()
- (75) Environmental chambers not using hazardous air pollutant gases. ()
- (76) Totally enclosed conveyors not including transfer points. ()
- (77) Steam vents and safety relief valves. ()
- (78) Air compressors, pneumatically operated equipment, systems, and hand tools. ()
- (79) Steam leaks. ()
- (80) Boiler blow-down tank. ()
- (81) Salt cake mix tanks at pulp mills. ()
- (82) Digester chip feeders at pulp mills. ()
- (83) Weak liquor and filter tanks at pulp mills. ()
- (84) Process water and white water storage tanks at pulp mills. ()
- (85) Demineralizer water tanks, demineralization, demineralizer vents, and oxygen scavenging (deaeration) of water. ()
- (86) Clean condensate tanks. ()
- (87) Alum tanks. ()
- (88) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling. ()
- (89) Lime and mud filtrate tanks. ()
- (90) Hydrogen peroxide tanks. ()
- (91) Lime mud washer. ()
- (92) Lime mud filter. ()
- (93) Hydro and liquor clarifiers or filters and storage tanks and associated pumping, piping, and handling. ()
- (94) Lime grits washers, filters, and handing. ()
- (95) Lime silos and feed bins. ()
- (96) Paper forming. ()
- (97) Starch cooking. ()
- (98) Pulp stock cleaning and screening. ()
- (99) Paper winders or other paper converting equipment. ()
- (100) Sludge dewatering and wet sludge handling. ()

- (101) Screw press vents. ()
- (102) Pond dredging. ()
- (103) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation. ()
- (104) Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank. ()
- (105) Lab-scale electric or steam-heated drying ovens and autoclaves. ()
- (106) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems. ()
- (107) Water cooling towers processing exclusively noncontact cooling water. ()
- (108) Paper coating and sizing. ()
- (109) Process wastewater and ponds. ()
- (110) Outdoor firearms practice ranges. ()
- b. Insignificant activities on the basis of size or production rate. ()
- i. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: ()
- (1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity thirty five cubic feet (35cft), heated only to the minimum extend to avoid solidification if necessary. ()
- (2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants, maximum (max.) vp five-hundred fifty (550) mm Hg. ()
- (3) Operation, loading and unloading of volatile organic compound storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than eighty (80) mm Hg at twenty-one (21) degrees C. Operation, loading and unloading of gasoline storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure. ()
- (4) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. ()
- (5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane, propane, and/or LPG. ()
- (6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. ()
- (7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. ()
- (8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. ()

- (9) Welding using not more than one (1) ton per day of welding rod. ()
- (10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. ()
- (11) “Parylene” coaters using less than five hundred (500) gallons of coating per year. ()
- (12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. ()
- (13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. ()
- (14) Combustion turbines, of less than five hundred (500) HP. ()
- (15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. ()
- (16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to wastewater treatment. ()
- (17) Surface coating, using less than two (2) gallons per day. ()
- (18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. ()
- (19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding: ()
- (a) Ninety-nine percent (99%) or greater H₂SO₄ or H₃PO₄. ()
- (b) Seventy percent (70%) or greater HNO₃. ()
- (c) Thirty percent (30%) or greater HCl. ()
- (d) More than one (1) liquid phase where the top phase is more than one percent (1%) volatile organic compounds. ()
- (20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than one hundred fifty (150) degrees C or vapor pressure (vp) not more than five (5) mm Hg at twenty-one (21) degrees C with lids or other appropriate closure. ()
- (21) Smokehouses under twenty (20) square feet. ()
- (22) Milling and grinding activities, using paste-form compounds with less than one percent (1%) volatile organic compounds. ()
- (23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. ()
- (24) Dip-coating operations, using materials with less than one percent (1%) volatile organic compounds. ()
- (25) Surface coating, aqueous solution or suspension containing less than one percent (1%) volatile organic compounds. ()
- (26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) volatile organic compounds by weight. On metallic substrates, acid solutions are not considered for listing as

insignificant. ()

(27) Storage and handling of water-based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). ()

(28) Municipal and industrial wastewater chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. ()

(29) Domestic sewage treatment ponds with average flowrates less than four hundred (400) gpm or treating waste from less than three thousand (3000) people from non-residential sources. ()

(30) An emission unit or activity with potential emissions less than or equal to the significant emission rate as defined in Section 006 and actual emissions less than or equal to ten percent (10%) of the levels contained in Section 006 of the definition of significant and no more than one (1) ton per year of any hazardous air pollutant. ()

318. -- 321. (RESERVED)

322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.

All Tier I operating permits must contain and the Department has the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions must be included in the Tier I operating permit in the same manner as stack emissions. All Tier 1 operating permits must: ()

01. Emission Limitations and Standards. Contain emission limitations and standards, including, but not limited to, those operational requirements and limitations that assure compliance with the applicable requirements identified in the application, or determined by the Department to be applicable to the source; ()

02. Authority for and Form of Terms and Conditions. Specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based; ()

03. Terms or Conditions for Applicable Requirements. Contain at least one (1) permit term or condition for every applicable requirement specifically identified in the application or determined by the Department to be applicable to the source; ()

04. Alternative Operating Scenarios. Contain terms and conditions to ensure compliance with all applicable requirements for each alternative operating scenario that was requested by the applicant and approved by the Department, including, but not limited to, a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) operating scenario to another, record the change in an operating scenario log located and retained at the permitted facility; ()

05. Trading Scenarios. ()

a. Contain terms and conditions for each trading scenario that was requested by the applicant and approved by the Department including, but not limited to, terms and conditions that ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures. ()

b. State that no permit revision is required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit; and ()

c. At a minimum, include a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) trading scenario to another, record the change in a trading scenario log located and retained at the permitted facility and provide notice to the Department in accordance with Section 383; ()

06. Monitoring. Contain the following with respect to monitoring: ()

a. Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit; ()

b. All emissions monitoring and analysis procedures or test methods required under the applicable requirements; ()

c. If the applicable requirement does not require specific periodic testing or monitoring, terms and conditions requiring periodic monitoring, recordkeeping, or both, that is sufficient to yield reliable data for the relevant time periods that are representative of the emissions unit's compliance with the Tier I operating permit, as reported pursuant to Subsection 322.08, and ensuring the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and ()

d. Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods; ()

07. Recordkeeping. Incorporate by reference all applicable recordkeeping requirements and require the following: ()

a. Sufficient recordkeeping to assure compliance with all the terms and conditions of the Tier I operating permit; ()

b. Recording of monitoring information including but not limited to: ()

i. The date, place (as defined in the Tier I operating permit) and time of sampling or measurements; ()

ii. The date(s) analyses were performed; ()

iii. The company or entity that performed the analyses; ()

iv. The analytical techniques or methods used; ()

v. The results of such analyses; and ()

vi. The operating conditions existing at the time of sampling or measurement; and ()

c. Retention of all monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes but is not limited to all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the Tier I operating permit; ()

08. Reporting. Incorporate by reference all applicable reporting requirements and require the following: ()

a. Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit; ()

b. Prompt reporting of deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report must be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report must be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports must describe the probable cause of such deviations and any corrective actions or preventative measures taken; and ()

c. Submittal of reports for any required monitoring at least every six (6) months. All instances of deviations from Tier I operating permit requirements, which include monitoring, recordkeeping, and reporting, must be clearly identified in such reports. All required reports must be certified in accordance with Section 123; ()

09. Testing. Contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit; ()

10. Compliance Schedule and Progress Reports. Contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including: ()

a. For each applicable requirement for which the source is not in compliance at the time of the permit issuance, terms and conditions consistent with the compliance schedule submitted by the applicant including all of the following: ()

i. A schedule of remedial measures leading to compliance including an enforceable sequence of actions and specific dates for achieving the milestones and achieving compliance; ()

ii. A requirement that the permittee submit periodic progress reports to the Department no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department; ()

iii. A requirement that any progress report must include a statement of when the milestones and compliance were or will be achieved, an explanation of why any dates in the compliance schedule submitted by the applicant or in the terms or conditions of the Tier I operating permit were not or will not be met and a detailed description of any preventative or corrective measures undertaken by the permittee; ()

iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment; and ()

v. A statement that the terms and conditions regarding the compliance schedule are supplemental to, and do not sanction noncompliance with, the underlying applicable requirement; ()

b. For each applicable requirement that will become effective during the term of the Tier I operating permit and that requires a detailed compliance schedule, the permit must include such compliance schedule; and ()

c. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not require a detailed compliance schedule, the permit must include a statement that the permittee must meet, on a timely basis, all such applicable requirements; ()

11. Periodic Compliance Certifications. Require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: ()

a. Compliance certifications for all emissions units must be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department; ()

b. The compliance certification for each emissions unit must address all the terms and conditions contained in the Tier I operating permit that are applicable to such emissions unit including emissions limitations, standards and work practices; ()

c. The compliance certification must be in an itemized format providing: ()

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; ()

ii. The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means must include, at a minimum, the methods and means required under Subsections 322.06, 322.07, and 322.08; ()

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification must be based on the method or means designated in Subsection 322.11.c.ii. above, identify each deviation and take it into account in the compliance certification, and also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and ()

iv. Such information as the Department may require to determine the compliance status of the emissions unit; and ()

d. All original compliance certifications must be submitted to the Department and a copy of all compliance certifications submitted to the EPA; ()

12. Permit Conditions Regarding Acid Rain Allowances. Include all requirements for acid rain allowances. ()

a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. ()

b. No limit is placed on the number of allowances held by the source and no permit revisions are required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. ()

c. The source may not use allowances as a defense to noncompliance with any other applicable requirement. ()

d. Any such allowance must be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73; ()

13. Permit Duration. State that it is effective for a fixed term of five (5) years; ()

14. Other Specific Requirements. Include any terms or conditions determined by the Department to be necessary for approval of the Tier I operating permit; and ()

15. General Requirements. Contain provisions stating: ()

a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit revocation, termination, revocation and reissuance, or revision; or for denial of a permit renewal application; ()

b. It is not a defense in an enforcement action that it would have been necessary to halt or reduce any activity in order to maintain compliance with the terms and conditions of this permit; ()

c. This permit may be revised, revoked, reopened and reissued, or terminated for cause; ()

d. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition; ()

e. This permit does not convey any property rights of any sort, or any exclusive privilege; ()

f. The permittee must furnish all information requested by the Department, within a reasonable time, that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing or terminating the permit or to determine compliance with the permit; ()

g. Upon request, the permittee must furnish to the Department copies of records required to be kept by this permit; ()

- h.** The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit is not affected thereby; ()
- i.** The permittee must comply with Sections 380 through 386 as applicable; ()
- j.** Unless specifically identified as a “State Only” provision, all terms and conditions in the permit, including any terms and conditions designed to limit a source’s potential to emit, are enforceable: ()
- i.** By the Department in accordance with State law; and ()
- ii.** By the United States or any other person in accordance with Federal law; ()
- k.** Provisions specifically identified as a “State Only” provision are enforceable only in accordance with State law. “State Only” provisions are those that are not required under the Federal Clean Air Act or under any of its applicable requirements or those provisions adopted by the State prior to federal approval; ()
- l.** Upon presentation of credentials, the permittee must allow the Department or an authorized representative of the Department to do the following: ()
- i.** Enter upon the permittee’s premises where a Tier I source is located or emissions-related activity is conducted, or where records are kept under the conditions of this permit; ()
- ii.** Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit; ()
- iii.** Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and ()
- iv.** Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements; ()
- m.** Nothing in this permit alters or affects the following: ()
- i.** Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; ()
- ii.** The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; ()
- iii.** The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); and ()
- iv.** The owner or operator’s duty to provide information; ()
- n.** The owner or operator of a Tier I source must pay registration fees to the Department in accordance with Sections 387 through 397, which are hereby incorporated by reference; ()
- o.** All documents submitted to the Department must be certified in accordance with Section 123; ()
- p.** If a timely and complete application for a Tier I operating permit renewal is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit including any permit shield that may have been granted pursuant to Section 325 remains in effect until the renewal permit has been issued or denied; and ()

q. The permittee must promptly report deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report must be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report must be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports must describe the probable cause of such deviations and any corrective actions or preventative measures taken. ()

323. -- 324. (RESERVED)

325. ADDITIONAL CONTENTS OF TIER I OPERATING PERMITS -- PERMIT SHIELD.

Each Tier I operating permit will include provisions stating: ()

01. General Permit Shield. Compliance with the terms and conditions of the Tier I operating permit, including those applicable to all alternative operating scenarios and trading scenarios, will be deemed compliance with all of the following: ()

a. Applicable requirements as of the date of permit issuance that are specifically identified in the Tier I operating permit and have a corresponding term or condition in the Tier I operating permit. ()

b. Non-applicable requirements. For a requirement to be a non-applicable requirement, all of the following criteria must be met: ()

i. The permittee must have provided the information required by Subsection 314.08.b. in the application. ()

ii. The requirement must be specifically identified in the Tier I operating permit as a non-applicable requirement. ()

iii. The requirement must have been determined by the Department, in writing and in acting on the permit application or revision, to not be applicable to the Tier I source. ()

iv. Tier I operating permit must include the Department's determination or a concise summary thereof. ()

02. Limitation on Permit Shield. Permit revisions and other actions authorized by Sections 300 through 386 may eliminate, modify or suspend the permit shield. ()

326. -- 331. (RESERVED)

332. EMERGENCY AS AN AFFIRMATIVE DEFENSE REGARDING EXCESS EMISSIONS.

01. General. An emergency, defined as any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency, constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitation if the conditions of Subsection 332.02 are met. An emergency will not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. ()

02. Demonstration of Emergency. The affirmative defense of emergency must be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that: ()

a. An emergency occurred and that the permittee can identify the cause(s) of the emergency; ()

b. The permitted facility was at the time being properly operated; ()

c. During the period of the emergency, the permittee took all reasonable steps, as determined by the

Department, to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and ()

d. The permittee submitted written notice of the emergency to the Department within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Compliance with this section satisfies the written reporting requirements under Section 135 and Subsection 322.15.q. ()

03. Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. ()

04. Applicability. Section 332 is in addition to any emergency or upset provision contained in any applicable requirement. ()

333. -- 334. (RESERVED)

335. GENERAL TIER I OPERATING PERMITS AND AUTHORIZATIONS TO OPERATE.

01. Issuance of General Tier I Operating Permits. The Department may, after notice and opportunity for public participation provided in accordance with Section 364, issue a general Tier I operating permit covering numerous similar sources. ()

02. Contents of General Tier I Operating Permits. Each general Tier I operating permit will: ()

a. Include all terms and conditions identified in Sections 322 and 325. ()

b. Include specific criteria by which sources may qualify for coverage under the general Tier I operating permit; and ()

c. May provide for applications that deviate from the requirements of Sections 311 through 315, provided that such applications meet all other requirements of 42 U.S.C. 7661 through 7661f and include all information necessary to determine qualification for, and to ensure compliance with, the general Tier I operating permit. ()

03. Applications for Authorizations to Operate. The owner or operator of a Tier I source may apply for an authorization to operate under the terms and conditions of a general Tier I operating permit by: ()

a. Stating in the application submitted pursuant to Sections 311 through 315 that the owner or operator has determined that the Tier I source qualifies for coverage under a specifically identified general Tier I operating permit and that the owner or operator requests that operations of the Tier I source be authorized under a specifically identified general Tier I operating permit; or ()

b. Complying with the specific application requirements, if any, provided in the general Tier I operating permit. ()

04. Procedures for Issuing Authorizations to Operate. Without repeating the public participation procedures required under Section 364, the Department will issue an authorization to operate a Tier I source under a specifically identified general Tier I operating permit if the Department determines that the Tier I source qualifies for coverage. ()

05. Review of Authorizations to Operate. The issuance of an authorization to operate is a final agency action for purposes of administrative and judicial review of the authorization. The general Tier I operating permit is not subject to administrative or judicial review upon the issuance of an authorization to operate. ()

06. Phase II Sources. General Tier I operating permits are not authorized for Phase II sources under the acid rain program unless otherwise provided in 40 CFR Part 72. ()

336. TIER I OPERATING PERMITS FOR TIER I PORTABLE SOURCES.

01. Portable Tier I Source Permit Issuance. ()

a. The Department may issue a single Tier I operating permit authorizing emissions from similar operations of a portable Tier I source by the owner or operator at multiple temporary locations. ()

b. The operation must be temporary and involve at least one (1) change of location for the portable Tier I source during the term of the Tier I operating permit. ()

02. Phase II Sources. No Phase II source may be permitted as a portable Tier I source. ()

03. Portable Tier I Source Permit Content. Tier I operating permits for portable Tier I sources will include the following: ()

a. Terms and conditions that will ensure compliance with all applicable requirements at all authorized locations; ()

b. Requirements that the owner or operator notify the Department at least ten (10) days in advance of each change in location in accordance with Section 500; and ()

c. All terms and conditions identified in Sections 322,325, and 332. ()

337. -- 359. (RESERVED)

360. STANDARD PROCESSING OF TIER I OPERATING PERMIT APPLICATIONS.

Sections 360 through 369 establish standard procedures and requirements for processing Tier I operating permits. ()

361. COMPLETENESS OF APPLICATIONS.

01. Criteria. Except as otherwise provided by these rules, the application must comply with Section 314 including that the information must be in sufficient detail. ()

02. Timelines for Completeness Determinations. The Department will send written notice to the applicant of whether the application is complete within sixty (60) days of receiving the application and, if the Department fails to send the written notice, the application will be deemed complete. ()

03. Effects of Completeness Determination. ()

a. The submittal of a complete application activates the application shield provided by Subsection 361.02. ()

b. The submittal of a complete Tier I operating permit application does not affect the permit to construct requirements of Sections 200 through 225 or 42 U.S.C. Sections 7401 through 7515. ()

c. The timelines for final agency action provided in Subsections 367.02 and 367.03 begin on the date of the completeness determination. ()

362. STATEMENT OF BASIS FOR TIER I OPERATING PERMITS.

01. Statement of Basis for Draft Permit. As part of its review of the Tier I operating permit application, the Department will prepare a statement of basis that sets forth the legal and factual basis for the draft Tier I operating permit terms and conditions (including references to the applicable statutory or regulatory provisions) or the draft denial. ()

02. Revised Statement of Basis for Proposed Permit. If the Department revises its analysis, its

conclusions or the terms or conditions of the Tier I operating permit in response to public comment, the Department may revise the statement of basis for the proposed permit or the proposed denial. ()

03. Release of Statement of Basis. The statement of basis will be made available to the public in accordance with Section 364 and sent to the EPA with the proposed Tier I operating permit or proposed denial. ()

363. PREPARATION OF DRAFT PERMIT OR DRAFT DENIAL.
Except as otherwise provided in these rules, the Department will prepare a draft permit or draft denial as promptly as practicable or one hundred twenty (120) days before the deadline for final action, whichever is earlier. ()

364. PUBLIC NOTICES, COMMENTS AND HEARINGS.

01. Generally. Except as otherwise provided in these rules, all Tier I operating permit proceedings will provide for public notice and public comment, including offering an opportunity for a hearing, on a draft permit or on a draft denial. ()

02. Public Comment Package. A public comment package including the draft permit or draft denial, the technical memorandum and the application will be prepared and distributed to appropriate public locations, the applicant and affected States. ()

03. Giving Notice. Notice will be given: by publication in a newspaper of general circulation in the area where the Tier I source is located or in a State publication designed to give general public notice; by mailing the notice to persons on a mailing list developed by the Department, including those who request in writing to be on the list; by mailing the notice to all affected States; and by other means if necessary to ensure adequate notice to the affected public. ()

04. Content of the Notice. The notice will identify the affected facility; provide the name and address of the permittee; provide the name and address of the Department processing the application; identify the draft permit action; identify the emissions change if the permit action is a permit revision or reopening; provide the locations where the public may locate a copy of the public comment package; provide the name, address, email address, and telephone number of a person from whom interested persons may obtain additional information that is relevant to the permit decision by filing a written public documents request and paying any costs; provide a brief description of the comment procedures, including the deadline for comments and the name and address of the person to whom written comments must be delivered; and state the time and place of any hearing that has been scheduled or provide information regarding how a person may request a hearing. ()

05. Public Comment Procedures. ()

a. The Department will provide at least thirty (30) days for public comment. ()

b. The Department will give notice of any public hearing at least thirty (30) days in advance of the hearing. ()

c. The public hearing, if any, is an informal meeting, conducted by a hearing officer designated by the Department and transcribed. Written comments or supporting documents may be submitted during the hearing. ()

d. The public comments and additional information received during the comment period are available to the public upon the filing of a written public documents request and the payment of any costs. ()

365. PREPARATION OF PROPOSED PERMIT OR PROPOSED DENIAL.

01. Timeline. Except as otherwise provided by these rules, the Department will prepare a proposed permit or proposed denial within thirty (30) days after the close of the public comment period, unless the Department determines that additional time is required to evaluate comments and information received. ()

02. Availability. The proposed permit or proposed denial will be available to the public upon the filing a written public documents request and the payment of any costs. ()

03. Notice to Affected States. If the Department refuses to accept all recommendations that an affected State submitted during the public comment period, the Department will send a copy of the notice sent to EPA in accordance with Subsection 366.01.d. to the affected State that submitted the recommendation. ()

366. EPA REVIEW PROCEDURES.

01. Submittal of Proposal to EPA. Except as otherwise provided in these rules and unless EPA waives its opportunity to review a proposed permit, the Department will transmit the following to EPA: ()

a. The proposed permit or proposed denial. ()

b. The statement of basis, as revised if appropriate. ()

c. The application including all supplements and corrections submitted by the applicant, unless the applicant has submitted the information under a claim of confidentiality or unless the Department has entered an agreement with EPA to submit only a summary form and relevant portions of the permit application. ()

d. Notice of any refusal by the Department to accept all recommendations for the proposal that any affected State submitted during the public comment period. The notice will include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements. ()

02. Opportunity for EPA Objection. ()

a. EPA may submit to the Department a written objection to the proposal within forty-five (45) days of receipt of the transmittal identified in Subsection 366.01. ()

b. The written objection must state the EPA's reasons for the objection and provide the terms and conditions that the Tier I operating permit must include to respond to the objection or state that the permit must be denied. ()

c. EPA must provide a copy of the written objection to the applicant. ()

03. Response to EPA Objections. Within ninety (90) days of receiving a written objection from EPA, the Department will prepare a revised proposal and submit it to EPA in accordance with Subsection 366.01. If EPA determines that the revised proposal is objectionable, the Department will review the permit action taken by EPA and take a comparable final permit action in accordance with Section 367. ()

04. Public Petitions to EPA. ()

a. If the EPA does not object in writing under Subsection 366.02, any person may petition the EPA within sixty (60) days after the expiration of the EPA's forty-five (45) day review period to make such objection. ()

b. Any such petition must be based only on objections to the draft permit or draft denial that were raised with specificity during the public comment period provided for in Section 364 unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. ()

c. If the EPA objects to the proposal in accordance with Subsection 366.02 as a result of a petition filed under Subsections 366.04.a. and 366.04.b., the Department will: ()

i. Not issue a permit action until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a Tier I operating permit or its requirements pending EPA's review of the petition

and Department review of the objection if the Tier I operating permit was issued by the Department after the end of the forty-five (45) day review period and prior to an EPA objection initiated by a petition. ()

- ii. Process the objection in accordance with Subsection 366.03. ()

367. ACTION ON APPLICATION.

01. Issuance Conditions. Except as otherwise provided by these rules, a Tier I operating permit, or any portion thereof, may be issued only if all of the following conditions have been met: ()

- a. The owner or operator has submitted a complete application in accordance with Section 361. ()
- b. The public has been provided notice and opportunities for comment and a hearing in accordance with Section 364. ()
- c. Affected States have been provided notice in accordance with Section 364 and Subsection 365.03. ()
- d. The terms and conditions of the Tier I operating permit comply with Sections 321 through 336 including providing for compliance with all applicable requirements. ()
- e. The EPA has been provided with the proposal and an opportunity to object and the Department has responded as required by Section 366. ()

02. Copy to EPA. The Department will send a copy of the final Tier I operating permit to EPA. ()

03. Original to Permittee. The Department will send the original Tier I operating permit to the permittee. ()

368. EXPIRATION OF PRECEDING PERMITS.

If a timely and complete Tier I permit application is received by the Department and is not acted upon in a timely manner as prescribed by these rules, the permit to construct, Tier I operating permit or Tier II operating permit, if any, that has been previously issued to the owner or operator of the Tier I source by the Department or EPA continues in full force until the Department has completed action of the permit application. No Tier I operating permit will be considered to have expired due solely to the Department's inaction on a timely Tier I operating permit application. ()

369. TIER I OPERATING PERMIT RENEWAL.

01. Renewal Procedures. Tier I operating permits being renewed are subject to the same procedural requirements, including those for public participation, including affected State review, and EPA review, that apply to initial Tier I operating permit issuance. ()

02. Expiration and Renewal Application Shield. Tier I operating permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted. ()

370. -- 379. (RESERVED)

380. CHANGES TO TIER I OPERATING PERMITS.

01. Applicability. Sections 380 through 397 establish procedures and requirements for permit revisions and changes requiring notice. These provisions do not alter the requirements for permits to construct set forth at Sections 200 through 227. ()

02. Changes Requiring Permit Revisions. Sections 381 through 383 establish procedures and

requirements for Tier I operating permit revisions. A permit revision is required for changes that are not addressed or prohibited by the Tier I operating permit if such changes are subject to any requirements under Title IV of the Clean Air Act or are modifications under any provision of Title I of the Clean Air Act. ()

03. Changes Requiring Notice. Sections 384 and 385 establish procedures and requirements for providing notice by the permittee to the Department and EPA of certain emission trades and changes that contravene a permit term (Section 384), or certain changes that are not addressed or prohibited by the permit (Section 385). ()

04. Reopening. Section 386 establishes procedures for reopening the permit for cause by the Department, EPA, or the permittee. ()

05. Acid Rain. Changes regulated under Title IV of the Clean Air Act, 42 U.S.C. Sections 7651 through 7651o, are governed by regulations promulgated under Title IV of the Act. ()

381. ADMINISTRATIVE PERMIT AMENDMENTS.

01. Criteria. An administrative permit amendment is a permit revision that: ()

a. Corrects typographical errors; ()

b. Identifies a change in the name, address, or phone number of any person identified in the Tier I operating permit, or provides a similar minor administrative change at the Tier I source; ()

c. Requires more frequent monitoring or reporting by the permittee; ()

d. Allows for a change in ownership or operational control of a Tier I source where the Department determines that no other change in the Tier I operating permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; ()

e. Incorporates into the Tier I operating permit the requirements from a permit to construct that was issued by the Department in accordance with Subsection 209.05.c.; or ()

f. Is any other type of change that EPA and the Department have determined as part of the Part 70 program to be similar to those in Subsections 381.01.a. through 381.01.d. ()

02. Administrative Permit Amendment Application Procedures. ()

a. If initiated by the permittee, the permittee must submit a request to the Department that: ()

i. States at the beginning of the request that it is a “REQUEST FOR ADMINISTRATIVE PERMIT AMENDMENT.” ()

ii. Describes the proposed administrative permit amendment including any permit to construct to be incorporated; ()

iii. States the date on which the proposed administrative amendment will occur at the facility; ()

iv. Identifies any Tier I operating permit term or condition that is no longer applicable as a result of the change; and ()

v. Identifies any applicable requirement that would apply to the Tier I source as a result of the change. ()

b. If initiated by the Department, the Department will notify the permittee that the Department is initiating an administrative permit amendment and provide a brief summary of the proposed administrative permit

amendment including all of the information required by Subsection 381.02.a.i. through 381.02.a.v. ()

c. The Department will, within sixty (60) days of the receipt of a request for an administrative permit amendment, take final action on the request and may incorporate such changes without providing notice to the public or affected States provided that the Department designates any such administrative permit amendment as having been made pursuant to Section 381. The Department will submit a copy of the revised permit, or an addendum, to the EPA and send the original to the permittee. ()

03. Implementation Procedures. ()

a. The permittee may implement the changes addressed in the request for an administrative permit amendment under Subsections 381.01.a. through 381.01.f. immediately upon submittal of the request. ()

b. If the permittee obtains a permit to construct under Subsection 209.05.c., then so long as the change does not violate any terms or conditions of the existing Tier I operating permit, the permittee may operate the source described in the permit to construct immediately upon submittal of the request for an administrative permit amendment. ()

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 extends only to administrative permit amendments identified in Subsection 381.01.e. ()

382. SIGNIFICANT PERMIT MODIFICATION.

01. Criteria. Significant modification procedures are used for applications requesting permit revisions that do not qualify as minor permit modifications or as administrative amendments. Nothing herein will be construed to preclude the permittee from making changes consistent with this chapter that would render existing permit compliance terms and conditions irrelevant. A significant permit modification is a permit revision for changes that: ()

a. Violate an existing Tier I permit term or condition derived from an applicable requirement; ()

b. Involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit. Every significant change in existing monitoring terms or conditions (except more frequent monitoring or reporting under Subsection 381.01.c.) and every relaxation of reporting or recordkeeping terms or conditions is considered significant; ()

c. Require or change a case-by-case determination of an emission limitation or other standard; a source-specific determination for temporary sources of ambient impacts; or a visibility or increment analysis; ()

d. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act or an alternative emissions limit for an early reduction of hazardous air pollutants that was approved pursuant to regulations promulgated under 42 U.S.C. Section 7412(i)(5) of the Clean Air Act; ()

e. Constitute a modification under any provision of Title I of the Clean Air Act; or ()

f. Could be processed as an administrative amendment or as a minor modification, except the permittee has requested the change be processed as a significant modification, including incorporating the requirements of a permit to construct that was issued by the Department in accordance with Subsection 209.05.a. ()

02. Significant Permit Modification Application Procedures. A permittee may initiate a significant permit modification by submitting a complete significant permit modification application to the Department. The application must: ()

- a. Request the use of significant permit modification procedures and state at the beginning of the request that it is a “REQUEST FOR SIGNIFICANT PERMIT MODIFICATION”; ()
- b. Meet the standard application requirements of Sections 314 and 315; ()
- c. Provide a summary sheet; ()
 - i. Describing the proposed significant permit modification; ()
 - ii. Describing and quantifying any change in emissions resulting from the significant permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; ()
 - iii. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the significant permit modification; and ()
 - iv. Identifying new applicable requirement resulting from the change. ()
- d. Significant permit modifications will be issued in accordance with all procedural requirements as they apply to Tier I operating permit issuance and renewal, including those for applications (Sections 314 and 315), public participation (Section 364), review by affected States (Sections 364 and 365), and review by EPA (Section 366). ()
- e. The Department will process the majority of significant permit modifications within nine (9) months of receiving a complete application. The Department will determine which significant permit modification applications will be processed within nine (9) months. ()

03. Implementation Procedures. The permittee must comply with Sections 200 through 223 as applicable, including Subsection 209.05 governing permit to construct procedures for Tier I sources. ()

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 will extend to significant permit modifications. ()

383. MINOR PERMIT MODIFICATION.

01. Criteria. ()

a. Minor permit modification procedures may be used for permit modifications involving economic incentives, marketable permits, emissions trading, and other similar approaches explicitly provided for in the SIP or applicable requirements promulgated by EPA. A permittee may not use minor modification procedures for changes described in Subsections 382.01.a. through 382.01.e. ()

b. Any other permit modification that is not required to be processed as a significant permit modification under Section 382. ()

c. Groups of a permittee’s applications eligible for processing as minor permit modifications may be processed under minor permit modification procedures if collectively, the changes proposed in the minor modification applications do not exceed the lesser of: ()

- i. Ten percent (10%) of the emissions allowed by the existing Tier I operating permit for the emissions unit for which the change is requested; ()
- ii. Twenty percent (20%) of the major facility criteria in Section 008; or ()
- iii. Five (5) tons per year. ()

02. Minor Permit Modification Application Procedures. A permittee may initiate a minor permit modification by submitting a complete standard application described in Section 314 to the Department. The application must: ()

a. Request the use of minor permit modification procedures and state at the beginning of the request that it is a “REQUEST FOR MINOR PERMIT MODIFICATION,” designate either “INDIVIDUAL” or “GROUP” processing, and provide a summary sheet; ()

i. Describing the proposed minor permit modification; ()

ii. Stating the date on which the proposed minor permit modification will occur at the facility; ()

iii. Describing and quantifying any change in emissions resulting from the minor permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; ()

iv. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the minor permit modification; ()

v. Identifying any new applicable requirement that is applicable to the Tier I source as a result of the minor permit modification; ()

vi. Certifying by a responsible official under Section 123 that the proposed permit modification meets the criteria for a minor permit modification and, if applicable, the use of group processing procedures; and ()

vii. Listing the permittee’s other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with the other applications, equals or exceeds the thresholds under Subsection 383.01.c. above; ()

b. Include completed forms for the Department to use to notify the EPA and affected States as required under Sections 364 and 366; and ()

c. Include the applicant’s suggested draft Tier I permit with the minor permit modification. ()

03. EPA and Affected State Notification Procedures. ()

a. Within five (5) working days of receipt of a complete minor permit modification application, the Department will notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review will occur simultaneously. ()

b. On a quarterly basis or within five (5) working days of receiving an application demonstrating that the aggregate of a permittee’s pending applications equals or exceeds the threshold level established in Subsection 383.01.c. above, whichever is earlier, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. ()

c. The Department will promptly notify EPA and any affected States in writing including its reasons for not accepting any such recommendation if the Department refuses to accept all the timely recommendations submitted by affected States. ()

d. The Department may not issue a final permit modification until after EPA’s forty-five (45) day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first; although the Department can approve the permit modification prior to that time. ()

e. Within ninety (90) days of the Department’s receipt of a complete minor permit modification application or within fifteen (15) days after the end EPA’s forty-five (45) day review period, whichever is later, the

Department will take one (1) of the following actions: ()

- i. Issue the minor permit modification as proposed; ()
- ii. Deny the minor permit modification application; ()
- iii. Determine that the requested minor permit modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or ()
- iv. Revise the proposed minor permit modification, transmit the revised proposal to the EPA in accordance with Section 366, and notify the permittee. ()

f. Within one hundred and eighty (180) days of the Department’s receipt of a complete application for modifications eligible for group processing or within fifteen (15) days after the end of EPA’s forty-five (45) day review period, whichever is later, the Department will take one (1) of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., 383.03.e.iii., or 383.03.e.iv. ()

04. Implementation Procedures. ()

a. The permittee may make the change proposed in its minor permit modification immediately upon submittal of a complete application to the Department before final action by the Department. ()

b. After the source makes the allowed change and until the Department takes any of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., or 383.03.e.iii., the permittee must comply with both the applicable requirements governing the change and the proposed terms and conditions. ()

c. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify; provided that, if the source fails to comply with the applicable requirements governing the change and the proposed revisions, the existing permit terms and conditions it seeks to modify may be enforced against it. ()

05. Permit Shield. The permit shield described in Section 325 does not apply to any minor permit modification. ()

384. SECTION 502(B)(10) CHANGES AND CERTAIN EMISSION TRADES.

01. Criteria. This section authorizes emission changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of the Title I of the Clean Air Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or total emissions). ()

a. Changes authorized are changes that: ()

i. Are Section 502(b)(10) changes; ()

ii. Are changes involving trades of increases and decreases of emissions within the permitted facility where the State Implementation Plan provides for such emissions trades without requiring a permit revision. SIP trades are allowed in compliance with this Section even if the Tier I operating permit does not already provide for such emission trading; or ()

iii. Are changes made under the terms and conditions of the Tier I permit that authorize the trading of emissions increases and decreases within the permitted facility for the purpose of complying with a federally enforceable emissions cap that is established by the Department in the Tier I operating permit independent of otherwise applicable requirements. ()

b. Changes constituting a modification under Title I of the Clean Air Act or subject to a requirement under Title IV of the Clean Air Act are not authorized by this Section. ()

02. Notice Procedures. The permittee may make a change under this Section if the permittee provides written notification to the Department and EPA so that the notification is received at least seven (7) days in advance of the proposed change; or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. The permittee, the Department, and EPA will attach the notification to their copy of the Tier I operating permit. ()

a. For each such change, the written notification must: ()

i. State at the beginning of the notification “NOTIFICATION OF SECTION 502(b)(10) CHANGE” or “NOTIFICATION OF EMISSION TRADE”; ()

ii. Describe the proposed change; ()

iii. Provide the date on which the proposed change will occur; ()

iv. Describe and quantify any expected change in emissions including identification of any new regulated air pollutant(s) that will be emitted; ()

v. Identify any permit term or condition that is no longer applicable as a result of the change; ()

vi. Specifically identify and describe the emergency, if any; and ()

vii. Identify any new applicable requirement that would apply to the Tier I source as a result of the change. ()

b. For changes described in Subsection 384.01.a.ii., the written notification must also include: ()

i. Identification of the provisions in the SIP that provide for the emissions trade; ()

ii. All of the information required by the provision in the SIP authorizing the emissions trade; ()

iii. Specific identification of the provisions in the SIP with which the permittee will comply; and ()

iv. The pollutants subject to the trade. ()

c. For changes described in Subsection 384.01.a.iii., the written notification must also describe how the change will comply with the terms and conditions of the permit. ()

03. Permit Shield. The permit shield described in Section 325 only extends to changes made in accordance with Subsection 384.01.a.iii. ()

385. OFF-PERMIT CHANGES AND NOTICE.

01. Criteria. This section authorizes changes that are neither addressed nor prohibited by the Tier I operating permit to be made without a permit revision if each such change meets all applicable requirements and does not violate any existing permit terms or conditions. Changes constituting a modification under Title I of the Clean Air Act, or subject to a requirement under Title IV of the Clean Air Act are not off-permit changes. ()

02. Notice Procedure. Sources must provide written notice to the Department and EPA of each such change except changes that qualify as insignificant under Section 317, within seven (7) days of making the off-permit change. ()

a. The written notification provided to the Department and EPA must: ()

i. State at the beginning of the notification “NOTIFICATION OF OFF-PERMIT CHANGE”; ()

- ii. Describe the off-permit change; ()
 - iii. State the date on which the off-permit change will occur or has occurred; ()
 - iv. Describe and quantify any change in emissions resulting from the off-permit change including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; and ()
 - v. Identify any new applicable requirement that is applicable to the Tier I source as a result of the off-permit change. ()
- b. The permittee must keep a record at the facility describing all off-permit changes made at the Tier I source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and identifying the emissions resulting from those changes. ()

03. Permit Shield Applicability. The permit shield described in Section 325 does not apply to any off-permit change. ()

386. REOPENING FOR CAUSE.

The Department will reopen a Tier I permit if cause exists. ()

01. Criteria. Cause for reopening exists under any of the following circumstances: ()

a. Additional applicable requirements become applicable to a major Tier I source with a remaining permit term of three (3) or more years; provided that no such reopening is required if the original effective date of the applicable requirement is later than the date on which the Tier I operating permit is due to expire and the original Tier I operating permit or any of its terms and conditions has not been extended pursuant to Section 368; provided further that the permittee must comply with the additional applicable requirement no later than the effective date; ()

b. Whenever additional applicable requirements become applicable to an affected source, as defined for the purposes of the acid rain program; ()

c. The Department or EPA determines that the Tier I operating permit contains a material mistake or inaccurate statements were used or considered in establishing the emissions standards or other terms or conditions of the Tier I operating permit; or ()

d. The Department or EPA determines that the Tier I operating permit does not ensure compliance with the applicable requirements. ()

02. Procedures for Reopenings. ()

a. The Department will follow the same procedures for reopening as they apply to initial permit issuance and will affect only those parts of the permit for which cause to reopen exists. Reopenings will be made as expeditiously as practicable in accordance with Sections 360 through 379. ()

b. The Department will notify the permittee in writing of reopening and provide a brief summary of the reason for the reopening at least thirty (30) days prior to the reopening. ()

c. The EPA may initiate reopenings for circumstances listed in Subsections 386.01.a. through 386.01.d. by providing written notification to the Department and the permittee. ()

i. The Department will within ninety (90) days after receipt of notification from EPA, forward to EPA a proposed determination of termination, revocation, revision, or revocation and reissuance, as appropriate. The Administrator may extend the ninety (90) day period for an additional ninety (90) days if EPA finds that a new or revised permit application is necessary or that the Department must require the permittee to submit additional information. ()

ii. The EPA will review the proposed determination from the Department within ninety (90) days of receipt. ()

iii. The Department will have ninety (90) days from receipt of an EPA objection to resolve any EPA objection and to terminate, modify, or revoke and reissue the permit. ()

iv. If the Department fails to submit a proposed determination or fails to resolve any EPA objection, the EPA may terminate, modify, revoke and reissue the permit after taking the following actions: ()

(1) Providing at least thirty (30) days' notice to the permittee in writing of the reason for such action, and ()

(2) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing. ()

387. TIER I REGISTRATION FEE.

Sections 387 through 397 set the procedures for the annual registration and fee assessment for Tier I sources, including facilities that obtained air quality permits that limited potential emissions below Tier I source levels during the previous year. Any person owning or operating a Tier I source during the previous calendar year must by April 1 of each year, register with the Department and submit the following information using forms available at <http://www.deq.idaho.gov>: ()

01. Facility Information. The name, address, telephone number and location of the facility; ()

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; ()

03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; and ()

04. Pollutant Registration. The actual emissions from the previous calendar year for oxides of sulfur (SOx), oxides of nitrogen (NOx), particulate matter (PM10), and volatile organic compounds (VOC) calculated using methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, or the types of materials processed, stored, or combusted. ()

388. – 389. (RESERVED)

390. TIER I ANNUAL FEE.

A Tier I annual fee includes the following three components: ()

01. Fixed Annual Fee. A fixed annual fee for Tier I sources emitting regulated air pollutants listed in Subsection 387.04 as follows:

Emissions (tons/year)	Fixed Annual Fee
4500 and above	\$70,785
3000 – 4499	\$47,190
1000 – 2999	\$37,540

Emissions (tons/year)	Fixed Annual Fee
500 – 999	\$18,235
200 – 499	\$11,800
0 – 199	\$5,900

()

02. Fee Based on Presumptive Minimum. A fee based on the 40 CFR Part 70 presumptive minimum (<https://www.epa.gov/title-v-operating-permits/permit-fees>) is calculated by multiplying the presumptive minimum fee in effect on April 1 of each year by the sum of all air pollutant emissions listed in Subsection 387.04, but not to exceed the following maximum values:

Emissions (tons/year)	Maximum Fee
4500 and above	\$181,000
3000 – 4499	\$91,000
1000 – 2999	\$44,400
500 – 999	\$31,500
200 – 499	\$13,500
0 – 199	\$4,550

()

03. Fee-for-Service. A fee for service that the Department will assess based on actual time expended and expenses incurred by the Department in the previous calendar year for 40 CFR Part 70 program activities in an amount not to exceed forty five thousand dollars (\$45,000) per year. ()

391. (RESERVED)

392. REGISTRATION FEE ASSESSMENT.

All applicable facilities must pay to the Department an annual registration fee based on the information supplied by the registrant using the methods described in Section 390. If the facility fails to submit registration information, the Department will calculate the fee and assess both the fee and the costs of calculating the fee. No later than May 15 of each year, the Department will send to each registrant an assessment of the annual fee. ()

393. PAYMENT OF TIER I REGISTRATION FEE.

The fee must be paid to and received by the Department no later than July 1 of each year. Information for making payments is available at <http://www.deq.idaho.gov>. ()

394. EFFECT OF DELINQUENCY ON APPLICATIONS.

No permit to construct or operate will be processed by the Department for any facility or person having Tier I operating permit fees delinquent in full or in part. ()

395.—396. (RESERVED)

397. LUMP SUM PAYMENTS OF REGISTRATION FEES.

01. Agreement. The Department may enter an agreement with any person for the lump sum payment of all, or any addition to, the registration fees in Section 390. ()

02. Minimum Amount. The minimum amount for any lump sum agreement is three hundred thousand dollars (\$300,000). ()

03. Payment Waiver. Upon the execution and full performance of the agreement by the person, the Department will waive the payment requirements of Section 390. All other provisions of Sections 387 through 397 remain applicable to the person. ()

398. -- 399. (RESERVED)

400. PROCEDURES AND REQUIREMENTS FOR TIER II OPERATING PERMITS.

Sections 400 through 409 establish uniform procedures for the issuance of “Tier II Operating Permits.” ()

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility not subject to (or wishes to accept limitations on the facility’s potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: ()

a. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; ()

b. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; ()

c. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements; and ()

d. Bank an emission reduction credit pursuant to Section 461. ()

02. Required Tier II Operating Permits. ()

a. A Tier II operating permit is required for any stationary source or facility that has annual actual mercury emissions in excess of sixty-two (62) pounds. Fugitive emissions are not included in a determination of the actual mercury emissions. The owner or operator of the stationary source or facility must submit a Tier II permit application for review and approval by the Department, no later than twelve (12) months after becoming subject to Subsection 401.02.a., that includes an MBACT analysis for all sources that emit mercury. A determination of applicability under Subsection 401.02 will be based upon best available information. An MBACT analysis for review and approval by the Department must be included in a Tier II renewal application for any mercury emitting source not otherwise subject to MBACT. ()

b. Stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Subsection 401.02.a. ()

03. Tier II Operating Permits Required by the Department. The Department may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: ()

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or ()

b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. ()

04. Tier II Operating Permits Establishing a Facility Emissions Cap. The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. ()

402. APPLICATION PROCEDURES.

Application for a Tier II operating permit must be made using forms furnished by the Department, or by other means approved by the Department. The application must be certified by the responsible official and be accompanied by all information necessary to perform any analysis or make any determination required under Sections 400 through 410. ()

01. Required Information. Site information, plans, description, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. ()

02. Additional Specific Information. ()

a. For emission reduction credits, a description of the emission reduction credits proposed for use, including descriptions of the stationary sources or facilities providing the reductions, a description of the system of continuous emission control that provides the emission reduction credits, emission estimates, and other information necessary to determine that the emission reductions satisfy the requirements for emission reduction credits (Section 460). ()

b. For emission offsets, information on the air quality impacts of the traded emissions as necessary to determine the change in ambient air quality that would occur. ()

c. For restrictions on potential to emit, a description of the proposed potential to emit limitations including the proposed monitoring and recordkeeping requirements that will be used to verify compliance with the limitations. ()

03. Estimates of Ambient Concentrations. All estimates of ambient concentrations must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51 Appendix W (Guideline on Air Quality Models). Where an air quality model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted, subject to written approval of the EPA Administrator and public comment pursuant to Subsection 404.01.c. ()

04. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 400 through 409 shall be furnished upon request. ()

403. PERMIT REQUIREMENTS FOR TIER II SOURCES.

No Tier II operating permit will be granted unless the applicant shows to the satisfaction of the Department that: ()

01. Emission Standards. The stationary source would comply with all applicable local, state or federal emission standards. ()

02. NAAQS. The stationary source would not cause or significantly contribute to a violation of any ambient air quality standard. ()

404. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for Tier II operating permits. ()

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department will determine whether the application is complete or whether more information must be submitted and will notify the applicant of its findings in writing. ()

b. Within sixty (60) days after the application is determined to be complete the Department will: ()

i. Notify the applicant in writing of the approval or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department will set forth reasons for any denial; or ()

ii. Issue a proposed approval or proposed denial. ()

c. An opportunity for public comment will be provided on an application for any Tier II operating permit pursuant to Subsection 401.01 and any other application that the Department determines an opportunity for public comment should be provided. ()

i. The availability of such materials will be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. ()

ii. A copy of such notice will be sent to the applicant and to appropriate federal, state and local agencies. ()

iii. There will be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. ()

iv. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Department deems that additional time is required to evaluate comments and information received, the Department will notify the applicant in writing of approval or denial of the permit. The Department will set forth the reasons for any denial. ()

v. All comments and additional information received during the comment period, together with the Department's final determination, will be made available to the public at the same location as the preliminary determination. ()

d. A copy of each proposed and final permit will be sent to EPA. ()

02. Specific Procedures. Procedures for Tier II operating permits. ()

a. The Department will send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification will contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, that must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. ()

b. The application and the Department's proposed Tier II operating permit will be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials will be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice will be sent to the applicant. There will be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment must be made in writing to the Department. ()

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request with the Department within ten (10) days of receipt of the notification, or if the Department determines that there is good cause to hold a hearing. ()

d. After consideration of comments and any additional information submitted during the comment

period or at any public hearing, the Department will render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Department may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. ()

e. All comments and additional information received during the comment period, together with the Department's final permit, will be made available to the public at the same location as the proposed Tier II operating permit. ()

04. Permit Revision or Renewal. The Department may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 409. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Department. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Department. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process. The permittee must submit a complete application to the Department for a renewal of the terms and conditions establishing the Tier II operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. ()

05. Transfer of Tier II Permit. ()

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.04. ()

b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if: ()

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ()

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ()

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii. ()

405. CONDITIONS FOR TIER II OPERATING PERMITS.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: ()

a. Sampling ports of a size, number, and location as the Department may require; ()

b. Safe access to each port; ()

c. Instrumentation to monitor and record emissions data; ()

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility;

and ()

e. Any other sampling and testing facilities as may be deemed reasonably necessary. ()

02. Performance Tests. Any performance tests required by the permit must be performed in accordance with methods and under operating conditions approved by the Department. The owner or operator must furnish to the Department a written report of the results of such performance test. ()

a. Such test is at the expense of the owner or operator. ()

b. The Department may monitor such test and may also conduct performance tests. ()

c. The owner or operator of a stationary source or facility must provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. ()

03. Permit Term. Tier II operating permits will be issued for a period not to exceed five (5) years. This five (5) year operating permit restriction does not apply to the provisions contained in Section 461.02. ()

406. (RESERVED)

407. TIER II OPERATING PERMIT PROCESSING FEE.

01. Tier II Operating Permit Processing Fee. A Tier II operating permit processing fee, calculated by the Department pursuant to the categories provided in the following table, must be paid to the Department by the person receiving a Tier II permit or permit renewal. The fee calculation will not include fugitive emissions.

TIER II OPERATING PERMIT CATEGORY	FEE
General permit, no facility specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis.)	\$500
Stationary sources or facilities with permitted emissions of less than one (1) ton per year	\$1,250
Stationary sources or facilities with permitted emissions of one (1) to less than ten (10) tons per year	\$2,500
Stationary sources or facilities with permitted emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Stationary sources or facilities with permitted emissions of one hundred (100) tons or more per year	\$10,000
Synthetic minor stationary sources with permitted emissions below a major threshold level	\$10,000

()

02. Tier II Operating Permit Processing Fee Not Required. If the Department determines no other review or analysis is required, the Tier II operating permit processing fee is not required to be submitted when: ()

()

- a. A permit to construct issued within the last five (5) years is rolled into a Tier II permit; ()
- b. A change to correct typographical errors is requested; ()
- c. A change in the name or ownership of the holder of a Tier II operating permit is requested; or ()
- d. A synthetic minor permit is issued and the Department's processing costs can be charged against fees collected from the person receiving the permit under Title V of the federal Clean Air Act amendments of 1990. ()

408. PAYMENT OF TIER II OPERATING PERMIT PROCESSING FEE.

01. Fee Submittal. The Tier II operating permit processing fee is payable upon receipt of an assessment sent, along with the final permit or permit renewal, to the person receiving a permit or permit renewal by the Department. Information for making payments is available at <http://www.deq.idaho.gov>. ()

02. Delinquency. Failure to submit a Tier II operating permit processing fee within forty-five (45) days of receipt of an assessment by the Department will result in a monthly accrual of interest in the amount of twelve percent (12%) per annum on the outstanding balance until the fee is paid in full. ()

409. RECEIPT AND USAGE OF FEES.

Tier II operating permit processing fee and delinquency interest receipts will be deposited by the Department into a stationary source permit account. Monies from this account are used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. ()

410. -- 459. (RESERVED)

460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.

In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: ()

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions that exceed the allowable emissions of the stationary source(s) or emission unit(s). ()

02. Timing of Emission Reduction. In an attainment or unclassifiable area, any emission reduction that occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular air pollutant. ()

03. Emission Rate Calculation. The emission rate before and after the reduction must be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. ()

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit will be issued to establish a new emission standard for the facility, or restrict the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. ()

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits will not be allowed for emission reduction credits. ()

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits will be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. ()

461. REQUIREMENTS FOR BANKING EMISSION REDUCTION CREDITS (ERC'S).

01. Application to Bank an ERC. The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to bank an emission reduction credit. An application to bank an emission reduction credit must be received by the Department no later than one (1) year after the reduction occurs. The Department may issue or revise such a Tier I or Tier II operating permit and a "Certificate of Ownership" for an emission reduction credit, provided that all emission reductions satisfy the requirements of Section 460. ()

02. Banking Period. Emission reduction credits may be banked with the Department. The banked emission reduction credits may be used for offsets, netting in accordance with the definition of net emissions increase at Section 007, or sold to other facilities. The use of banked emission reduction credits must satisfy the applicable requirements of the program in which they are proposed for use, including approval of a permit to construct or a Tier I or Tier II operating permit. ()

03. Certificate of Ownership. Upon issuing or revising a Tier I or Tier II operating permit for an emission reduction credit, the Department will issue a "Certificate of Ownership" that will identify the owner of the credits, quantify the credited emission reduction and describe the characteristics of the emissions that were reduced and emissions unit(s) that previously emitted them. ()

04. Adjustment by Department. If at any time the Department, or the owner or operator of a facility that has produced an emission reduction credit, finds that the actual reduction in emissions differs from that in the certificate of ownership, the Department will adjust the amount of banked emission reduction credits to reflect the actual emission reduction and issue a revised certificate of ownership. ()

05. Proportional Discounts. If at any time the Department finds that additional emission reductions are necessary to attain and maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment, banked emission reduction credits at facilities in the affected area may be proportionally discounted by an amount that will not exceed the percentage of emission reduction required for that area. ()

06. Transfer of Ownership. Whenever the holder of a certificate of ownership for banked emission reduction credits, sells or otherwise transfers ownership of all or part of the banked credits, the holder must submit the certificate of ownership to the Department. The Department will issue a revised certificate(s) of ownership that reflects the old and new holder(s) and amount(s) of banked emission reduction credits. ()

07. Public Registry. The Department will maintain a public registry of all banked emissions reduction credits, indicating the current holder of each certificate of ownership and the amount and type of credited emissions. ()

462. -- 499. (RESERVED)

500. REGISTRATION PROCEDURES AND REQUIREMENTS FOR PORTABLE EQUIPMENT.

All existing portable equipment must be registered at least ten (10) days prior to relocating, using forms provided by the Department, except that no registration is required for mobile internal combustion engines, marine installations and locomotives. ()

501. -- 509. (RESERVED)

510. STACK HEIGHTS AND DISPERSION TECHNIQUES.

Sections 510 through 514 establish criteria for good engineering practice for stack heights and dispersion techniques and apply to existing, new, and modified stationary sources and facilities. Sections 510 through 514 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources that were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. Definitions for Section 510 through 514 are found in 40 CFR 51.100 incorporated by reference in Section 107.

()

511. REQUIREMENTS.

The required degree of emission control of any regulated or toxic air pollutant must not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique.

()

512. OPPORTUNITY FOR PUBLIC HEARING.

Whenever a new or revised emission limitation is to be based on a good engineering practice stack height that exceeds the height allowed by the GEP stack height formulae, the Department will notify the public of the availability of the demonstration study submitted and will provide an opportunity for public hearing on the demonstration study.

()

513. APPROVAL OF FIELD STUDIES AND FLUID MODELS.

Any field study or fluid model used to demonstrate GEP stack height and any determination of “excessive concentration” must be approved by the EPA prior to an emission limit being established. The construction of any new stack or any increase to the height of any existing stack determined by the GEP stack height formulae without completing a fluid model and a field study, must be approved by the EPA.

()

514. NO RESTRICTION ON ACTUAL STACK HEIGHT.

Sections 510 through 514 do not restrict, in any manner, the actual stack height of any stationary source or facility.

()

515.–516. (RESERVED)

517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.

Note: Senate Bill No. 1254 (2022) repeals Idaho Code § 39-116B on July 1, 2023; Sections 517 through 527 will remain in effect until July 1, 2023.

01. Purpose. The purpose of Sections 517 through 527 is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352.

()

02. Applicability. Sections 517 through 527 apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder.

()

03. Options.

()

a. Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may:

()

i. Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or

()

ii. Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program.

()

b. If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program. ()

04. Governing Authority. For the purpose of Sections 517 through 527, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 527 of these rules. ()

05. Exemptions. Sections 517 through 527 do not apply to the following: ()

a. Electric or hybrid motor vehicles; ()

b. Motor vehicles with a model year less than five (5) years old; ()

c. Motor vehicles with a model year older than 1981; ()

d. Classic automobiles as defined by Section 49-406A, Idaho Code; ()

e. Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds; ()

f. Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code; ()

g. Motorized farm equipment; and ()

h. Registered motor vehicles engaged solely in the business of agriculture. ()

518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.

01. General. ()

a. No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority. ()

b. No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station. ()

02. Applications for License. Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04. ()

03. Requirements for Licensed Inspection Stations. In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements: ()

a. Must have a permanent location; ()

b. Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation; ()

c. Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority; ()

d. Must obtain and maintain in force appropriate business liability insurance; and ()

e. Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test. ()

04. Requirements for Licensed Retest Stations. In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03. ()

05. Approval Procedure. ()

a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review. ()

b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of the governing authority. ()

06. Revocation of Inspection Station or Retest Station License. The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority. ()

519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.

01. Applications for License. Application for a license as an emissions technician shall be filed with the governing authority. Applications for the emissions technician license shall be completed on forms provided by the governing authority. ()

02. Requirements for Issuance of an Emissions Technician License. An applicant must demonstrate the knowledge and skill necessary to perform an emissions test of motor vehicle engines. The governing authority shall require the minimum standards set forth in 40 CFR 51.367, incorporated by reference in Section 107. ()

03. Revocation of Emissions Technician License. The governing authority has the authority to issue warnings and suspend or revoke an emissions technician license upon a showing that emission tests are not being performed in accordance with these rules or any other specifications or procedures enacted by the governing authority. ()

520. INSPECTION FREQUENCY.

The inspection shall occur no more than once every two (2) years. If the owner of the motor vehicle obtains a waiver pursuant to Section 526, the motor vehicle must be inspected the following year. ()

521. TEST PROCEDURE REQUIREMENTS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(a), incorporated by reference in Section 107. ()

522. TEST STANDARDS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(b), incorporated by reference in Section 107. ()

523. TEST EQUIPMENT.

The governing authority shall require the minimum standards set forth in 40 CFR 51.358, incorporated by reference in Section 107. ()

524. INSPECTION FEE.

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 527 and to fund an air quality public awareness and outreach program. ()

525. PUBLIC OUTREACH.

The governing authority shall issue a pamphlet for distribution to owners of motor vehicles. The pamphlet shall include, but not be limited to, the reasons for and the methods of the inspection. The governing authority may also establish and operate an informational hotline, website, or any other means of outreach that is deemed to be efficient and effective by the governing authority. ()

526. WAIVERS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.360(a), incorporated by reference in Section 107. If the owner of the motor vehicle obtains a waiver, the motor vehicle must be inspected the following year. ()

01. Financial Hardship. If repairs required under Section 526 pose a financial hardship on the owner of the motor vehicle, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). Such determination of hardship shall be made on a case-by-case basis by the governing authority. ()

02. Public Service Vehicles Operating Less than 1,000 Miles Per Year. For public service vehicles owned by a governmental entity and operated less than one thousand (1,000) miles per year, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). ()

527. EXTENSIONS.

The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active-duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders. ()

517-527. Discussion: Senate Bill No. 1254 (2022) repeals Idaho Code § 39-116B; these sections will be deleted. Senate Bill No. 1254 was signed by the Governor on 3/22/22.

528. -- 549. (RESERVED)

550. AIR QUALITY EPISODES.

Sections 550 through 562 define requirements for air quality episodes. ()

551. -- 555. (RESERVED)

556. CRITERIA FOR DECLARING AIR QUALITY EPISODES.

An air quality episode will be declared by the Department when pollutant concentrations reach, or are forecasted to reach, and persist, at or above the levels listed below. Pollutant concentrations will be determined by the Department through its analysis of meteorological and ambient air quality monitoring data.

Pollutant	Averaging Period	Advisory ^a	Alert	Warning	Emergency ^b
CO	8 hour	NA	15 ppm	30 ppm	40 ppm
NO ₂	1 hour	NA	0.6 ppm	1.2 ppm	1.6 ppm
	24 hour	NA	0.15 ppm	0.3 ppm	0.4 ppm

Pollutant	Averaging Period	Advisory ^a	Alert	Warning	Emergency ^b
O ₃	1 hour	NA	0.2 ppm	0.4 ppm	0.5 ppm
SO ₂	24 hour	NA	0.3 ppm	0.6 ppm	0.8 ppm
PM _{2.5}	1 hour	80 µg/m ³	NA	NA	NA
	24 hour	50 µg/m ³	NA	NA	NA
PM ₁₀	1 hour	385 µg/m ³	NA	NA	NA
	24 hour	150 µg/m ³	350 µg/m ³	420 µg/m ³	500 µg/m ³

Table Footnotes

a. The Department may call an Advisory, if it determines, after evaluating the pertinent meteorology, weather conditions and air quality conditions such as visibility, and source parameters such as source type, strength, location and projected duration, that an Advisory is required to protect the public health.

b. The Department will only declare an emergency with specific concurrence of Governor.

()

557. REQUIREMENTS DURING AIR QUALITY EPISODES.

All persons in an area under a declared air quality episode must comply with the following requirements. The Department may waive one (1) or more of the requirements at each episode level if, on the basis of information available, the requirement is an inappropriate response to the specific episode conditions that exist. ()

01. Advisory. All open burning, as defined in Sections 600-624, is prohibited. No new ignition of open burning of any kind is allowed after an Advisory is declared. The Department may require, if practicable, or in an emergency situation, the cessation of any open burning. ()

02. Alert. ()

a. All open burning, as defined in Sections 600-624, is prohibited. ()

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste will be prohibited. ()

c. Persons operating fuel-burning equipment that requires boiler lancing or soot blowing must perform such operations between the hours of 12:00 p.m. (noon) and 4:00 p.m. ()

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. ()

03. Warning. ()

a. All open burning, as defined in Sections 600-624, is prohibited. ()

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste is ()

prohibited. ()

c. Persons operating fuel-burning equipment that requires boiler lancing or soot blowing must perform such operations between the hours of 12:00 p.m. (noon) and 4:00 p.m. ()

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to either: ()

i. Switch completely to natural gas or distillate oil; or ()

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. ()

04. Emergency. ()

a. All open burning, as defined in Sections 600-624, is prohibited. ()

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste is prohibited. ()

c. Persons operating fuel-burning equipment that requires boiler lancing or soot blowing must perform such operations between the hours of 12:00 p.m. (noon) and 4:00 p.m. ()

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to either: ()

i. Switch completely to natural gas or distillate oil; or ()

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. ()

558. NOTIFICATION OF AIR QUALITY EPISODE.

01. Method of Communication. When the Department declares an air quality episode, it will utilize appropriate media to ensure that the following information is announced to the public, affected government, and commercial, industrial, institutional, and agricultural entities as practicable. ()

02. Information to Be Given.

a. Level of episode that is declared. ()

b. Location and description of the designated area. ()

c. Description of the cause of degraded air quality. ()

d. Specific warnings and advice to those persons who, because of acute or chronic health problems, may be most susceptible to the effects of the degraded air quality. ()

e. Air quality forecast for the following two (2) days. ()

f. Duration of the episode and when the next statement from the Department will be issued. ()

g. Listing of all requirements applicable to the public, commercial, institutional and industrial sectors. ()

559.—561. (RESERVED)

562. SPECIFIC AIR QUALITY EPISODE ABATEMENT PLANS FOR STATIONARY SOURCES.

In addition to the general rules presented in Section 557, the Department will require that specific stationary sources adopt and implement their own Air Quality Episode Abatement Plans in accordance with the criteria set forth in Section 556. An individual plan can be revised periodically by the Department after consultation between the Department and the owners and/or operators of the source. ()

563 – 576. (RESERVED)

577. AMBIENT AIR QUALITY STANDARDS FOR FLUORIDES.

Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: ()

- 01. Annual Standard.** Forty (40) ppm, dry basis -- annual arithmetic mean. ()
- 02. Bimonthly Standard.** Sixty (60) ppm, dry basis -- monthly concentration for two (2) consecutive months. ()
- 03. Monthly Standard.** Eighty (80) ppm, dry basis -- monthly concentration never to be exceeded. ()

578. (RESERVED)

579. BASELINES FOR PREVENTION OF SIGNIFICANT DETERIORATION.

- 01. Baseline Date(s).** ()
 - a. Major Source Baseline Date.** ()
 - i. In the case of PM10 and sulfur dioxide, January 6, 1975; ()
 - ii. In the case of nitrogen dioxide, February 8, 1988; and ()
 - iii. In the case of PM2.5, October 20, 2010. ()
 - b. Minor Source Baseline Date.** The earliest date after the trigger date on which a major stationary source or a major modification subject to prevention of significant deterioration (PSD) submits a complete application. The trigger date is: ()
 - i. In the case of PM10 and sulfur dioxide, August 7, 1977; and ()
 - ii. In the case of nitrogen dioxide, February 8, 1988. ()
 - iii. In the case of PM2.5, October 20, 2011. ()
 - c. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:** ()
 - i. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d) of the Clean Air Act for the pollutant on the date of its complete prevention of significant deterioration (PSD) application; and ()
 - ii. In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant. ()
 - d. Any minor source baseline date established originally for the TSP increments remains in effect and applies for purposes of determining the amount of available PM10 increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the**

emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM10 emissions. ()

02. Baseline Area. Any intrastate area designated as attainment or unclassifiable under 42 U.S.C. Section 7407(d), in which the major facility or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 µg/m³ (annual average) for SO₂, NO₂, or PM₁₀; or equal or greater than 0.3 µg/m³ (annual average) for PM_{2.5}. ()

03. Baseline Concentration. The ambient concentration for a particular regulated air pollutant which exists in the applicable baseline area on the applicable minor source baseline date. ()

a. The baseline concentration represents: ()

i. The actual emissions from sources in existence on the applicable minor source baseline date; and ()

ii. The allowable emissions of major facilities and major modifications that commenced construction before the applicable major source baseline date, but were not in operation by the applicable minor source baseline date. ()

b. The baseline concentration does not include the actual emissions of new major facilities and major modifications that commenced construction on or after the applicable major source baseline date. ()

580. CLASSIFICATION OF PREVENTION OF SIGNIFICANT DETERIORATION AREAS.

01. Restrictions On Area Classification. Restrictions on classification are listed in 40 CFR 52.21(e). ()

02. Procedures for Redesignation of Prevention of Significant Deterioration (PSD) Areas. The Governor may submit to EPA a proposal to redesignate areas as a revision to the SIP. In preparing any such proposal the Department will: ()

a. Consult with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation; ()

b. Prepare a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposal. This document will be made available for public inspection at least thirty (30) days prior to the public hearing on the proposed redesignation and the notice announcing the hearing will include notification of the availability of the document; ()

c. Provide written notice to the appropriate Federal Land Manager of any federal lands proposed for redesignation and provide at least thirty (30) days for the Federal Land Manager to confer with the Department and to submit written comments and recommendations. If written comments and recommendations are submitted, the Department will publish a list of any inconsistency between the proposed redesignation and the comments and recommendations, including the reasons for making a redesignation against the recommendation of the Federal Land Manager; ()

d. Notify other states, Indian governing bodies, and federal land managers whose land may be affected by the proposed redesignation at least thirty (30) days prior to the public hearing; ()

e. For a redesignation to Class III: After consulting with the appropriate committees of the legislature, if it is in session, or the leadership of the legislature, if it is not in session, obtain specific approval by the Governor and by all general purpose units of local government representing a majority of the residents of the area to be redesignated; demonstrate that the redesignation would not cause, or contribute to, violations of any ambient air quality standard, or violations of PSD increments in any other area; and make available, for public inspection prior to

the public hearing, any permit application and accompanying material for any major facility or major modification which could only be permitted if the area were designated as Class III; and ()

- f. Hold at least one (1) public hearing on the proposed redesignation. ()

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

Section 581 establishes the allowable degree of deterioration for the areas within the State that have air quality better than the ambient standards. ()

01. Incorporated Federal Program Requirements - Class I, II and III Areas. Class I, II, and III area PSD increment requirements contained in 40 CFR 52.21(c) are incorporated by reference in Section 107. These CFR sections have been codified in the electronic CFR at www.ecfr.gov. ()

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. ()

03. Exclusions. The following concentrations will be excluded in determining compliance with the maximum allowable increases: ()

a. Concentrations attributable to the increase in emissions from facilities that have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this does not apply more than five (5) years after the effective date of such order or plan; ()

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; ()

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and ()

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities that are affected by a revision to the SIP approved by EPA; this exclusion may not exceed two (2) years unless a longer time is approved by EPA, is not renewable, and applies only to revisions that: ()

i. Would not affect the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and ()

ii. Require limitations to be in effect at the end of the approved time period that would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. ()

582. -- 584. (RESERVED)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. ()

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	--	0.002	0.0003

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
64-19-7	Acetic acid	25	1.67	1.25
108-24-7	Acetic anhydride	20	1.33	1
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein	0.25	0.017	0.0125
79-10-7	Acrylic acid	30	2	1.5
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22	1.47	1.1
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum Including:			
NA	Metal & Oxide	10	0.667	0.5
NA	Pyro powders	5	0.333	0.25
NA	Soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10
141-43-5	2-Aminoethanol, See Ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fume	10	0.667	0.5
3825-26-1	Ammonium perfluoro-octanoate	0.1	0.007	0.05

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530	35.3	26.5
626-38-0	Sec-Amyl acetate	665	44.3	33.25
7440-36-0	Antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	Arsine	0.2	0.013	0.01
86-50-0	Azinphos-methyl	0.2	0.013	0.01
7440-39-3	Barium, soluble compounds, as Ba	0.5	0.033	0.025
17804-35-2	Benomyl	10	0.67	0.5
7106-51-4	p-Benzoquinone, See Quinone			
94-36-0	Benzoyl peroxide	5	0.333	0.25
92-52-4	Biphenyl	1.5	0.1	0.075
1304-82-1	Bismuth telluride undoped	10	0.667	0.05
NA	Bismuth telluride if selenium doped	5	0.333	0.25
1303-96-4	Borates, tetra odium salts - Including:			
NA	Anhydrous	1	0.067	0.05
NA	Decahydrate	5	0.333	0.25
NA	Pentahydrate	1	0.067	0.05
1303-86-2	Boron oxide	10	0.667	0.5
10294-33-4	Boron tribromide	10	0.667	0.5
7637-07-2	Boron trifluoride	3	0.2	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
314-40-9	Bromacil	10	0.667	0.5
7726-95-6	Bromine	0.7	0.047	0.035
7789-30-2	Bromine penta-fluoride	0.7	0.047	0.035
75-25-2	Bromoform	5	0.333	0.25
109-79-5	Butanethiol, see Butyl mercaptan			
78-93-3	2-Butanone, see Methyl ethyl ketone			
112-07-2	2-butoxyethyl acetate	---	8.33	1.25
111-76-2	2-Butoxyethanol (EGBG)	120	8	6
123-86-4	n-Butyl acetate	710	47.3	35.5
105-46-4	sec-Butyl acetate	950	63.3	47.5
540-88-5	tert-Butyl acetate	950	63.3	47.5
141-32-2	Butyl acrylate	55	3.67	2.75
71-36-3	n-Butyl alcohol	150	10	7.5
78-92-2	Sec-Butyl alcohol	305	20.3	15.25
75-65-0	tert-Butyl alcohol	300	20	15
109-73-9	Butylamine	15	1	.75
124-17-4	Butyl carbitol acetate (ID)	---	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO3	0.1	0.007	.005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
1317-65-3	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25
1305-78-8	Calcium oxide	2	0.133	0.1
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - Including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captafol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	3	0.2	0.15
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde	0.32	0.021	0.015
78-95-5	Chloroacetone	0.38	0.0253	0.019
532-27-4	a-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01
108-90-7	Chlorobenzene	350	23.3	17.5
510-15-6	Chlorobenzilate (PL1)	---	0.047	0.035
2698-41-1	O-Chlorobenzylidene malononitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Ethylene chlorohydrin			
600-25-9	1-Chloro-1-nitro propane	10	0.667	0.5
95-57-8	2-Chlorophenol (and all isomers) (ID)	---	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
126-99-8	B-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin			
2921-88-2	Chlorpyrifos	0.2	0.013	0.01
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
16065-83-1	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1
123-73-9	Crotonaldehyde	5.7	0.38	0.285

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
299-86-5	Cruformate	5	0.333	0.25
98-82-8	Cumene	245	16.3	12.25
420-04-2	Cyanamide	2	0.133	0.1
592-01-8	Cyanide and compounds as CN	5	0.333	0.25
110-82-7	Cyclohexane	1050	70	52.5
108-93-0	Cyclohexanol	200	13.3	10
108-94-1	Cyclohexanone	100	6.67	5
110-83-8	Cyclohexene	1015	67.7	50.75
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075
542-92-7	Cyclopentadiene	200	13.3	10
287-92-3	Cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	Decaborane	0.3	0.02	0.015
8065-48-3	Demeton	0.1	0.007	0.005
123-42-2	Diacetone alcohol	240	16	12
39393-37-8	Dialkyl phthalate (ID)	---	16.4	2.46
107-15-3	1,2-Diaminoethane, See Ethylenediamine			
333-41-5	Diazinon	0.1	0.007	0.005
334-88-3	Diazomethane	0.34	0.023	0.017
19287-45-7	Diborane	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
102-81-8	2-N-Dibutylamino ethanol	14	0.933	0.7
2528-36-1	Dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	Dibutyl phosphate	8.6	0.573	0.43
84-74-2	Dibutyl phthalate	5	0.333	0.25
7572-29-4	Dichloroacetylene	0.39	0.0026	0.0195
95-50-1	o-Dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3-Dichloro-5, 5-dimethyl hydantoin	0.2	0.013	0.025
75-34-3	Dichloroethane	405	27	20.25
540-59-0	1,2-Dichloroethylene	790	52.7	39.5
111-44-4	Dichloroethyl ether	30	2	1.5
75-43-4	Dichlorofluoromethane	40	2.67	2
594-72-9	1, 1-Dichloro-1-nitroethane	10	0.667	0.5
78-87-5	1,2-Dichloropropane, see Propylene dichloride			
75-99-0	2,2-Dichloropropionic acid	6	0.4	0.3
62-73-7	Dichlorvos	1	0.067	0.05
141-66-2	Dicrotophos	0.25	0.017	0.125
77-73-6	Dicyclopentadiene	30	2	1.5
102-54-5	Dicyclopentadienyl iron	10	0.667	0.5
111-42-2	Diethanolamine	15	1	0.75
109-89-7	Diethylamine	30	2	1.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2
60-29-7	Diethyl ether	1200	80	60
96-22-0	Diethyl Ketone	705	47	35.25
84-66-2	Diethyl phthalate	5	0.333	0.25
2238-07-5	Diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	Dihydroxybenzene, see Hydroquinone			
108-83-8	Diisobutyl ketone	145	9.67	7.25
108-18-9	Diisopropylamine	20	1.33	1
127-19-5	Dimethyl acetamide	35	2.33	1.75
124-40-3	Dimethylamine	9.2	0.613	0.46
60-11-7	Dimethyl aminoazo-benzene (NY)	---	0.002	0.0003
1300-73-8	Dimethylamino-benzene, see Xylidine			
121-69-7	Dimethylaniline (N,N-Dimethylaniline)	25	1.67	1.25
1330-20-7	Dimethylbenzene, see Xylene			
300-76-5	Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled			
68-12-2	Dimethylformamide	30	2	1.5
108-83-8	2,6-Dimethyl-4-heptanone, see Diisobutyl ketone			
131-11-3	Dimethylphthalate	5	0.333	0.25
148-01-6	Dinitolmide	5	0.333	0.25
528-29-0	Dinitrobenzene	1	0.067	0.05

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
99-65-0	m (or) 1,3-Dinitrobenzene	1	0.067	0.05
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.2	0.013	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5
	Diphenyl methane diisocyanate, see Methylenediphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1
298-04-4	Disulfoton	0.1	0.007	0.005
128-37-0	2,6-Ditert. butyl-p-cresol	10	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005
13838-16-9	Enflurane	566	37.7	28.3

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1395-21-7	Enzymes, see Subtilisins			
2104-64-5	EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine)	0.5	0.033	0.025
106-88-7	1,2-Epoxybutane (MI)	---	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Ethanethiol, see Ethyl mercaptan			
141-43-5	Ethanolamine	8	0.533	0.4
563-12-2	Ethion	0.4	0.027	0.02
110-80-5	2-Ethoxyethanol	19	1.27	0.95
111-15-9	2-Ethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Ethyl acetate	1400	93.3	70
64-17-5	Ethyl alcohol	1880	125	94
75-04-7	Ethylamine	18	1.2	0.9
541-85-5	Ethyl amyl ketone	130	8.67	6.5
100-41-4	Ethyl benzene	435	29	21.75
74-96-4	Ethyl bromide	22	1.47	1.1
106-35-4	Ethyl butyl ketone	230	15.3	11.5
51-79-6	Ethyl carbamate (Urethane) (WA)	---	0.002	0.0015
75-00-3	Ethyl chloride	2640	176	132
107-07-3	Ethylene chlorohydrin	3	0.2	0.15
107-15-3	Ethylenediamine	25	1.67	1.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
107-06-2	Ethylene dichloride	40	2.667	2
107-21-1	Ethylene glycol vapor (CL)	127	0.846	6.35
628-96-6	Ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			
96-45-7	Ethylene thiourea (PL2)	---	0.047	0.035
109-94-4	Ethyl formate	300	20	15
16219-75-3	Ethylidene norbornene (CL)	25	0.167	1.25
75-08-1	Ethyl mercaptan	1	0.067	0.05
100-74-3	N-Ethylmorpholine	23	1.53	1.15
78-10-4	Ethyl silicate	85	5.67	4.25
22224-92-6	Fenamiphos	0.1	0.007	0.005
115-90-2	Fensulfothion	0.1	0.007	0.005
55-38-9	Fenthion	0.2	0.013	0.01
14484-64-1	Ferbam	10	0.667	0.5
12604-58-9	Ferrovandium dust	1	0.067	0.05
NA	Fibrous glass dust	10	0.667	0.5
NA	Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	--	0.661	0.5
NA	Fluorides, as F	2.5	0.167	0.125
7782-41-4	Fluorine	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
944-22-9	Fonofos	0.1	0.007	0.005
75-12-7	Formamide	30	2	1.5
64-18-6	Formic acid	9.4	0.627	0.47
98-01-1	Furfural	8	0.533	0.4
98-00-0	Furfuryl alcohol	40	2.67	2
7782-65-2	Germanium tetrahydride	0.6	0.04	0.03
NA	Glass, Fibrous or dust, see Fibrous glass dust			
111-30-8	Glutaraldehyde (CL)	0.82	0.0047	0.041
556-52-5	Glycidol	75	5	3.75
110-80-5	Glycol monoethyl ether, see 2-Ethoxyethanol			
7440-58-6	Hafnium	0.5	0.033	0.025
110-43-0	2-Heptanone, see Methyl n-amyl ketone			
106-35-4	3-Heptanone, see Ethyl butyl ketone			
151-67-7	Halothane	404	26.9	20.2
142-82-5	Heptane (n-Heptane)	1640	109	82
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010
684-16-2	Hexafluoroacetone	0.7	0.047	0.035
822-06-0	Hexamethylene diisocyanate	0.03	0.002	0.0015
680-31-9	Hexamethylphosphoramide (WA)	---	0.002	0.0015
110-54-3	Hexane (n-Hexane)	180	12	9

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
591-78-6	2-Hexanone, see Methyl n-butyl ketone			
108-10-1	Hexone, see Methyl isobutyl ketone			
108-84-9	sec-Hexyl acetate	300	20	15
107-41-5	Hexylene glycol (CL)	121	0.806	6.05
37275-59-5	Hydrogenated terphenyls	5	0.333	0.25
10035-10-6	Hydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	Hydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	Hydrogen peroxide	1.5	0.1	0.075
7783-06-4	Hydrogen sulfide	14	0.933	0.7
123-31-9	Hydroquinone	2	0.133	0.1
123-42-2	4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol			
999-61-1	2 -Hydroxypropyl acrylate	3	0.2	0.15
95-13-6	Indene	45	3	2.25
7440-74-6	Indium & compounds as In	0.1	0.007	0.005
7553-56-2	Iodine (CL)	0.1	0.0067	0.005
75-47-8	Iodoform	10	0.667	0.5
1309-37-1	Iron oxide fume (Fe ₂ O ₃) as Fe	5	0.333	0.25
13463-40-6	Iron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	Iron salts, soluble, as Fe	1	0.067	0.05
123-92-2	Isoamyl acetate	525	35	26.25
123-51-3	Isoamyl alcohol	360	24	18

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
110-19-0	Isobutyl acetate	700	46.7	35
78-83-1	Isobutyl alcohol	150	10	6
26952-21-6	Isooctyl alcohol	270	18	13.5
78-59-1	Isophorone	28	1.867	1.4
4098-71-9	Isophorone diisocyanate	0.09	0.006	0.0045
109-59-1	Isopropoxyethanol	105	7	5.25
108-21-4	Isopropyl Acetate	1040	69.3	52
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6
643-28-7	N-Isopropylaniline	10	0.667	0.5
108-20-3	Isopropyl ether	1040	69.3	52
4016-14-2	Isopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	Kaolin (respirable dust)	2	0.133	0.1
463-51-4	Ketene	0.9	0.06	0.045
7580-67-8	Lithium hydride	0.025	0.002	0.00125
546-93-0	Magnesite	10	0.667	0.5
1309-48-4	Magnesium oxide fume	10	0.667	0.5
121-75-5	Malathion	10	0.667	0.5
108-31-6	Maleic anhydride	1	0.067	0.05
7439-96-5	Manganese as Mn Including:			
7439-96-5	Dust & compounds	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7439-96-5	Fume	1	0.067	0.05
101-68-8	MDI, see Methylene diphenyl isocyanate			
NA	Mercaptans not otherwise listed (ID)	---	0.033	0.025
141-79-7	Mesityl oxide	60	4	3
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25
108-65-6	1-methoxy-2-propyl acetate (ID)	n/a	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35	2.33	1.75
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	12	0.8	0.6
108-11-2	Methyl emyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl n-amyl ketone	235	15.7	11.75

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
100-61-8	N-Methyl aniline	2	0.133	0.1
74-83-9	Methyl bromide	19	1.27	0.95
591-78-6	Methyl n-butyl ketone	20	1.33	1
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8	0.533	0.4
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene bis (4-cyclohexyl isocyanate)	0.11	0.007	0.0055
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075
107-31-3	Methyl formate	246	16.4	12.3
541-85-5	5-Methyl-3-heptanone, see Ethyl amyl ketone			
110-12-3	Methyl isoamyl ketone	240	16	12
108-11-2	Methyl isobutyl carbinol	104	6.93	5.2
108-10-1	Methyl isobutyl ketone	205	13.7	10.25
624-83-9	Methyl isocyanate	0.05	0.003	0.0025
563-80-4	Methyl isopropyl ketone	705	47	35.25
74-93-1	Methyl mercaptan	0.5	0.033	0.025

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
80-62-6	Methyl methacrylate	410	27.3	20.5
298-00-0	Methyl parathion	0.2	0.013	0.01
107-87-9	Methyl propyl ketone	700	46.7	35
681-84-5	Methyl silicate	6	0.4	0.3
98-83-9	a-Methyl styrene	240	16	10.20
109-87-5	Methylal (dimethoxymethane)	3110	207	155.5
108-87-2	Methylcyclohexane	1610	107	80.5
21087-64-9	Metribuzin	5	0.333	0.25
7786-34-7	Mevinphos	0.1	0.007	0.005
12001-26-2	Mica (Respirable dust)	3	0.2	0.15
NA	Mineral Wool Fiber (no asbestos)	10	0.667	0.5
7439-98-7	Molybdenum as Mo - Including:			
NA	Soluble compounds	5	0.333	0.25
NA	Insoluble compounds	10	0.667	0.5
108-90-7	Monochlorobenzene, see Chlorobenzene			
6923-22-4	Monocrotophos	0.25	0.017	0.0125
110-91-8	Morpholine	70	4.67	0.35
300-76-5	Naled	3	0.2	0.15
91-20-3	Naphthalene	50	3.33	2.5
54-11-5	Nicotine	0.5	0.033	0.025
1929-82-4	Nitrapyrin	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7697-37-2	Nitric acid	5	0.333	0.25
100-01-6	p-Nitroaniline	3	0.2	0.15
98-95-3	Nitrobenzene	5	0.333	0.25
100-00-5	p-Nitrochlorobenzene	3	0.2	0.15
79-24-3	Nitroethane	310	20.7	15.5
7783-54-2	Nitrogen trifluoride	29	1.93	1.45
55-63-0	Nitroglycerin	0.46	0.031	0.023
75-52-5	Nitromethane	50	3.333	2.5
108-03-2	1-Nitropropane	90	6	4.5
99-08-1	m (or) 3-Nitrotoluene	11	0.733	0.55
88-72-2	o (or) 2-Nitrotoluene	11	0.733	0.55
99-99-0	p (or) 4-Nitrotoluene	11	0.733	0.55
76-06-2	Nitrotrichloromethane, see Chloropicrin			
10024-97-2	Nitrous oxide	90	6	4.5
111-84-2	Nonane	1050	70	52.5
2234-13-1	Octachloronaphthalene	0.1	0.007	0.005
111-65-9	Octane	1400	93.3	70
NA	Oil mist, mineral	5	0.333	0.25
20816-12-0	Osmium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	Oxalic acid	1	0.067	0.05
7783-41-7	Oxygen difluoride (CL)	0.11	0.0007	0.0005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
8002-74-2	Paraffin wax fume	2	0.133	0.1
4685-14-7	Paraquat	0.1	0.007	0.007
NA	Paraquat, all Compounds	0.1	0.007	0.005
56-38-2	Parathion	0.1	0.007	0.005
19624-22-7	Pentaborane	0.01	0.001	0.0005
1321-64-8	Pentachloronaphthalene	0.5	0.033	0.025
82-68-8	Pentachloronitrobenzene	0.5	0.0333	0.025
87-86-5	Pentachlorophenol	0.5	0.033	0.025
109-66-0	Pentane	1770	118	88.5
107-87-9	2-Pentanone, see Methyl propyl ketone			
594-42-3	Perchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	Perchloryl Fluoride	13	0.867	0.65
93763-70-3	Perlite	10	0.667	0.5
532-27-4	Phenacyl chloride, see a-Chloroacetophenone			
108-95-2	Phenol	19	1.27	0.95
92-84-2	Phenothiazine	5	0.333	0.25
108-45-2	m-Phenylenediamine	0.1	0.0067	0.005
106-50-3	p-Phenylenediamine	0.1	0.007	0.005
101-84-8	Phenyl ether, vapor	7	0.467	0.035
122-60-1	Phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	Phenyl mercaptan	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
638-21-1	Phenylphosphine (CL)	0.25	0.0017	0.00125
298-02-2	Phorate	0.05	0.003	0.001
7786-34-7	Phosdrin, see Mevinphos			
75-44-5	Phosgene	0.4	0.027	0.02
7803-51-2	Phosphine	0.4	0.027	0.02
7664-38-2	Phosphoric acid	1	0.067	0.05
7723-14-0	Phosphorus	0.1	0.007	0.005
10025-87-3	Phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	Phosphorus penta-chloride	1	0.067	0.05
1313-80-3	Phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	Phosphorus pentoxide (ID)	--	0.067	0.05
7719-12-2	Phosphorus trichloride	1.5	0.1	0.075
85-44-9	Phthalic anhydride	6	0.4	0.3
626-17-5	m-Phthalodinitrile	5	0.333	0.25
1918-02-1	Picloram	10	0.667	0.5
88-89-1	Picric acid	0.1	0.006	0.005
83-26-1	Pindone	0.1	0.007	0.005
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25
83-26-1	2-Pivaloyl-1,3-indandione, see Pindone			
7440-06-4	Platinum - Including:			
7440-06-4	Metal	1	0.067	0.05

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	Portland cement	10	0.667	0.5
1310-58-3	Potassium hydroxide	2	0.133	0.1
107-19-7	Propargyl alcohol	2.3	0.153	0.115
123-38-6	Propionaldehyde (LA)	0.43	0.0287	0.0215
79-09-4	Propionic acid	30	2	1.5
114-26-1	Propoxur (Baygon)	0.5	0.033	0.025
109-60-4	n-Propyl acetate	840	56	42
71-23-8	Propyl alcohol	500	33.3	25
78-87-5	Propylene dichloride	347	23.133	17.35
6423-43-4	Propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	Propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-Propyl nitrate	105	7	5.25
8003-34-7	Pyrethrum	5	0.333	0.25
110-86-1	Pyridine	15	1	0.75
120-80-9	Pyrocatechol, see Catechol			
106-51-4	Quinone	0.4	0.027	0.02
121-84-4	RDX, see Cyclonite			
NA	Refractory Ceramic Fibers (see entry for specific content of emissions, ex: silica)			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-46-3	Resorcinol	45	3	2.25
7440-16-6	Rhodium - Including:			
7440-16-6	Metal	1	0.067	0.05
NA	Insoluble compounds, as Rh	1	0.067	0.05
NA	Soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	Ronnel	10	0.667	0.5
83-79-4	Rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent (Naphtha)	1590	106	79.5
14167-18-1	Salcoine as CO	0.1	0.007	0.005
7782-49-2	Selenium	0.2	0.013	0.010
NA	Selenium and compounds as Se	0.2	0.013	0.01
136-78-7	Sesone	10	0.667	0.5
7803-62-5	Silane, see silicon tectrahydride			
NA	Silica - amorphous - Including:			
61790-53-2	Diatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	Precipitated silica	10	0.667	0.5
112926-00-8	Silica gel	10	0.667	0.5
NA	Silica, crystalline - Including:			
14464-46-1	Cristobalite	0.05	0.0033	0.0025
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	Silicon	10	0.667	0.5
409-21-2	Silicon carbide	10	0.667	0.5
7803-62-5	Silicon tetrahydride	7	0.467	0.35
7440-22-4	Silver - Including			
7440-22-4	Metal	0.1	0.007	0.005
7440-22-4	Soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	Sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	Sodium bisulfite	5	0.333	0.25
136-78-7	Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone			
62-74-8	Sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	Sodium hydroxide	2	0.133	0.1
7681-57-4	Sodium metabisulfite	5	0.333	0.25
NA	Stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	Stibine	0.5	0.033	0.025
8052-41-3	Stoddard solvent	525	35	26.25
57-24-9	Strychnine	0.15	0.01	0.0075
60-41-3	Strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	Styrene monomer (ID)	--	6.67	1
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.0E-07	3.0E-7

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
3689-24-5	Sulfotep	0.2	0.013	0.01
7664-93-9	Sulfuric acid	1	0.067	0.05
10025-67-9	Sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	Sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	Sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	Sulfuryl fluoride	20	1.33	1
35400-43-2	Sulprofos	1	0.067	0.05
8065-48-3	Systox, see Demeton			
93-76-5	2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T)	10	0.667	0.05
7440-25-7	Tantalum	5	0.333	0.25
3689-24-5	TEDP, see Sulfotep			
13494-80-9	Tellurium & Compounds as Te	0.1	0.007	0.005
7783-80-4	Tellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	Temephos	10	0.667	0.5
107-49-3	TEPP (Tetraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	Terphenyls	4.7	0.313	0.235
1335-88-2	Tetrachloronaphthalene	2	0.133	0.10
78-00-2	Tetraethyl Lead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	Tetrahydrofuran	590	39.3	29.5
75-74-1	Tetramethyl lead, as Pb	0.15	0.01	0.0075

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
3333-52-6	Tetramethyl succinonitrile	3	0.2	0.15
509-14-8	Tetranitromethane	8	0.533	0.4
7722-88-5	Tetrasodium pyrophosphate	5	0.333	0.25
479-45-8	Tetryl	1.5	0.1	0.075
7440-28-0	Thallium, soluble Compounds, as Tl	0.1	0.007	0.005
96-69-5	4,4-Thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	Thioglycolic acid	4	0.267	0.2
7719-09-7	Thionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	Thiram	5	0.333	0.25
7440-31-5	Tin - Including:			
7440-31-5	Metal	2	0.133	0.1
NA	Oxide & inorganic compounds, except SnH4, as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005
108-88-3	Toluene (toluol)	375	25	18.75
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002
10-41-54	p-Toluenesulfonic acid (ID)	n/a	0.067	0.05
126-73-8	Tributyl phosphate	2.2	0.147	0.11
76-03-9	Trichloroacetic acid	7	0.467	0.35
120-82-1	1,2,4-Trichlorobenzene (CL)	37	2.47	1.85
79-01-6	Trichloroethylene	269	17.93	13.45
1321-65-9	Trichloronaphthalene	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
76-06-2	Trichloronitromethane, See Chloropicrin			
95-95-4	2,4,5-Trichlorophenol (MA)	---	---	0.0016
96-18-4	1,2,3-Trichloropropane	60	4	3
121-44-8	Triethylamine	4.1	0.27	0.2
1582-09-8	Trifluralin (PL3)	---	7.7	1.15
552-30-7	Trimellitic anhydride	0.04	0.003	0.002
75-50-3	Trimethylamine	12	0.8	0.6
25551-13-7	Trimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4-Trimethyl-pentane	350	23.3	17.5
121-45-9	Trimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6-Trinitrophenyl-methylnitramine, see Tetryl			
78-30-8	Triorthocresyl phosphate	0.1	0.007	0.005
603-34-9	Triphenyl amine	5	0.333	0.25
115-86-6	Triphenyl phosphate	3	0.2	0.15
7440-33-7	Tungsten - Including:			
NA	Insoluble compounds	5	0.333	0.25
NA	Soluble compounds	1	0.067	0.05
8006-64-2	Turpentine	560	37.3	28
7440-61-1	Uranium (natural) Soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n-Valeraldehyde	175	11.7	8.75
1314-62-1	Vanadium, as V2O5 Respirable Dust & fume	0.05	0.003	0.0025

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-05-4	Vinyl acetate	35	2.3	1.75
25013-15-4	Vinyl toluene	240	16	12
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005
1330-20-7	Xylene (o-, m-, p-isomers)	435	29	21.75
1477-55-0	m-Xylene a, a-diamine (CL)	0.1	0.0007	0.0005
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

Note: **ACGIH:** American Conference of Government Industrial Hygienists; **CL:** Derived from ACGIH ceiling Limit UF = 10; **ID:** Idaho Division of Environmental Quality. Not OEL based; **LA:** From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA; **MA:** From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no UF; **MI:** From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual averaging time, no UF.; **NY:** From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, annual averaging. time no UF; **OEL:** Reference Occupational Exposure Level; **PL:** From Phil. Dept. of Air Management Services. Not OEL based, annual. averaging time no UF; **PL1:** From Phil. Dept. of Air Management Services. Unspecified OEL based, annual averaging time, UF=10; **PL2:** From Phil. Dept. of Air Management Services. Not OEL based annual averaging. time, UF=10; **PL3:** From Phil. Dept. of Air Management Services. Not OEL based, annual averaging. time, UF=1000.; **TWA:** Time Weighted Average; **UF:** Uncertainty Factor; **WA:** From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. ()

586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages. ()

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
75-07-0	Acetaldehyde	2.2E-06	3.0E-03	4.5E-01
79-06-1	Acrylamide	1.3E-03	5.1E-06	7.7E-04
107-13-1	Acrylonitrile	6.8E-05	9.8E-05	1.5E-02
309-00-2	Aldrin	4.9E-03	1.3E-06	2.0E-04
62-53-3	Aniline	7.4E-06	9.0E-04	1.4E-01
140-57-8	Aramite	7.1E-06	9.3E-04	1.4E-01
NA	Aroclor, all (PCB) (ID)	---	6.6E-05	1.0E-02
7440-38-2	Arsenic compounds	4.3E-03	1.5E-06	2.3E-04
1332-21-4	Asbestos (Fibers /M.L.)	2.3E-01	N/A	4.0E-06
71-43-2	Benzene	8.3E-06	8.0E-04	1.2E-01
92-87-5	Benzidine	6.7E-02	9.9E-08	1.5E-05
50-32-8	Benzo(a)pyrene	3.3E-03	2.0E-06	3.0E-04
7440-41-7	Beryllium & compounds	2.4E-04	2.8E-05	4.2E-03
106-99-0	1,3-Butadiene	2.8E-04	2.4E-05	3.6E-03
111-44-4	Bis (2-chloroethyl) ether	3.3E-04	2.0E-05	3.0E-03
542-88-1	Bis (chloromethyl) ether	6.2E-02	1.0E-07	1.6E-05
108-60-1	Bis (2-chloro-1-methyl- ethyl) ether	2.0E-05	3.3E-04	5.0E-02
117-81-7	Bis (2-ethylhexyl) phthalate	2.4E-07	2.8E-02	4.2E+00
7440-43-9	Cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
56-23-5	Carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
57-74-9	Chlordane	3.7E-04	1.8E-04	2.7E-03

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
67-66-3	Chloroform	2.3E-05	2.8E-04	4.3E-02
18540-29-9	Chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
NA	Coal Tar Volatiles as benzene			
NA	Coke oven emissions	6.2E-04	1.1E-05	1.6E-03
8001-58-9	Creosote (ID) See coal tar volatiles as benzene extractables			
50-29-3	DDT (Dichlorodi phenyltrichloroethane)	9.7E-05	6.8E-05	1.0E-02
96-12-8	1,2-Dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
75-34-3	1,1 dichloroethane	2.6E-05	2.5E-04	3.8E-02
107-06-2	1,2 dichloroethane	2.6E-05	2.5E-04	3.8E-02
75-35-4	1,1 dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-09-2	Dichloromethane (Methylenechloride)	4.1E-06	1.6E-03	2.4E-01
542-75-6	1,3 dichloropropene	4.0E-06	1.7E-03	2.5E-01
764-41-0	1,4-Dichloro-2-butene	2.6E-03	2.5E-06	3.8E-04
60-57-1	Dieldrin	4.6E-03	1.4E-06	2.1E-04
56-53-1	Diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
123-91-1	1,4 dioxane	1.4E-06	4.8E-03	7.1E-01
	Dioxin and Furans (2,3,7,8,TCDD & mixtures) Dioxin and Furan emissions are considered as one TAP and expressed as an equivalent emission of 2,3,7,8, TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. U.S. EPA, (2010) Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005.			
122-66-7	1,2-Diphenylhydrazine	2.2E-04	3.0E-05	4.5E-03
106-89-8	Epichlorohydrin	1.2E-06	5.6E-03	8.3E-01

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
106-93-4	Ethylene dibromide	2.2E-04	3.0E-05	4.5E-03
75-21-8	Ethylene oxide	1.0E-04	6.7E-05	1.0E-02
50-00-0	Formaldehyde	1.3E-05	5.1E-04	7.7E-02
76-44-8	Heptachlor	1.3E-03	5.1E-06	7.7E-04
1024-57-3	Heptachlor Epoxide	2.6E-03	2.5E-06	3.5E-04
118-74-1	Hexachlorobenzene	4.9E-04	1.3E-05	2.0E-03
87-68-3	Hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
	Hexachlorocyclo-hexane, Technical	5.1E-04	1.3E-05	1.9E-03
319-84-6	Hexachlorocyclohexane (Lindane) Alpha (BHC)	1.8E-03	3.7E-06	5.6E-04
319-85-7	Hexachlorocyclohexane (Lindane) Beta (BHC)	5.3E-04	1.3E-05	1.8E-03
58-89-9	Hexachlorocyclohexane (Lindane) Gamma (BHC)	3.8E-04	1.7E-05	2.6E-03
67-72-1	Hexachloroethane	4.0E-06	1.7E-03	2.5E-01
302-01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
10034-93-2	Hydrazine Sulfate	2.9E-03	2.2E-06	3.5E-04
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
75-09-2	Methylene Chloride	4.1E-06	1.6E-03	2.4E-01
74-87-3	Methyl chloride	3.6E-06	1.9E-03	2.8E-01
101-14-4	4,4-Methylene bis(2-Chloroaniline)	4.7E-05	1.4E-04	2.1E-02
60-34-4	Methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
7440-02-0	Nickel	2.4E-04	2.7E-05	4.2E-03
12035-72-2	Nickel Subsulfide	4.8E-04	1.4E-05	2.1E-02

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
7440-02-0	Nickel Refinery Dust	2.4E-04	2.8E-05	4.2E-02
79-46-9	2-Nitropropane	2.7E-02	2.5E-07	3.7E-05
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	4.3E-02	1.5E-07	2.3E-05
62-75-9	N-Nitrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
924-16-3	N-Nitrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
930-55-2	N-Nitrosopyrrolidine	6.1E-04	1.1E-05	1.6E-03
684-93-5	N-Nitroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
82-68-8	Pentachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
127-18-4	Perchloroethylene (see tetrachloroethylene)			
NA	Polyaromatic Hydrocarbons (except 7-PAH group)	7.3E-05	9.1E-05	1.4E-02
	(Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH group, the following PAHs are considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indeno(1,2,3-cd)pyrene, benzo(a)pyrene. (WA)			
23950-58-5	Promanide	4.6E-06	1.5E-03	2.2E-01
50-55-5	Reserpine	3.0E-03	2.2E-06	3.3E-04
1746-01-6	2,3,7,8,-Tetrachlorodibenzo-p-dioxin (2,3,7,8, -TCDD)	4.5.E+01	1.5E-10	2.2E-08
NA	Soots and Tars (ID) See coal tar volatiles as benzene extractables.			
79-34-5	1,1,2,2,Tetrachloro-ethane	5.8E-05	1.1E-05	1.7E-02
127-18-4	Tetrachloroethylene	4.8E-07	1.3E-02	2.1E+00
79-00-5	1,1,2 - trichloroethane	1.6E-05	4.2E-04	6.2E-02
62-56-6	Thiourea	5.5E-04	1.2E-05	1.8E-03

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
8001-35-2	Toxaphene	3.2E-04	2.0E-05	3.0E-03
79-01-6	Trichloroethylene	1.3E-06	5.1E-04	7.7E-01
88-06-2	2,4,6 - Trichlorophenol	5.7E-06	1.2E-03	1.8E-01
75-01-4	Vinyl chloride	7.1E-06	9.4E-04	1.4E-01

Note: ID: Idaho Division of Environmental Quality. Not OEL based; URF: Unit Risk Factor from EPA. WA: From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. ()

587. -- 591. (RESERVED)

592. STAGE 1 VAPOR COLLECTION.

Sections 592 through 598 set requirements for Stage 1 vapor collection systems. Stage 1 vapor collection is used during the refueling of underground gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the gasoline cargo tank and returned to the terminal for processing. Section 599 sets the requirements for gasoline cargo tanks that deliver gasoline to those required to install and operate Stage 1 vapor collection systems. These sections apply to gasoline dispensing facilities (GDF) and gasoline cargo tanks in Ada and Canyon Counties only. Nothing in these rules is intended to supersede or render inapplicable any federal, state, or local laws, including, but not limited to 40 CFR Part 63, Subpart CCCCCC. ()

593. AFFECTED EQUIPMENT OR PROCESSES.

01. Applicability. Sections 592 through 598 apply to transfers of gasoline to underground storage tanks with a tank capacity of ten thousand (10,000) gallons and not otherwise subject to 40 CFR 63.11118. The emission sources include the underground gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDFs. Pressure/vacuum vents on underground gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDFs are covered emission sources. ()

02. New Sources. A source is a new source if construction commenced on the source after April 1, 2009. ()

03. Reconstructed Sources. A source is reconstructed if meeting the criteria for reconstruction as defined in 40 CFR 63.2, incorporated by reference in Section 107. ()

04. Existing Sources. A source is an existing source if it is not new or reconstructed. ()

594. COMPLIANCE DATES.

For a new or reconstructed source, the owner or operator must comply with the standards in Sections 595 and 596 upon startup. Owners or operators of new sources must install dual point systems. ()

595. SUBMERGED FILL REQUIREMENTS.

The owner or operator must only load gasoline into underground storage tanks at the facility by utilizing submerged filling. ()

01. Installed On or Before November 9, 2006. Submerged fill pipes installed on or before November 9, 2006, must be no more than twelve (12) inches from the bottom of the storage tank. ()

02. Installed After November 9, 2006. Submerged fill pipes installed after November 9, 2006, must be no more than six (6) inches from the bottom of the storage tank. ()

596. VAPOR BALANCE REQUIREMENTS.

The owner or operator of a GDF must comply with the following: ()

01. Loading. When loading an underground gasoline storage tank equipped with a vapor balance system, connect and ensure the proper operation of the vapor balance system whenever gasoline is being loaded. ()

02. Maintenance. Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order. ()

03. Inspection. Inspect the vapor balance equipment on an annual basis to discover potential or actual equipment failures. A log form is available on the Department's website at <http://www.deq.idaho.gov>. ()

04. Repair. Replace, repair or modify any worn or ineffective component or design element within twenty-four (24) hours to ensure the vapor-tight integrity and efficiency of the vapor balance system. If repair parts must be ordered, either a written or verbal order for those parts must be initiated within two (2) working days of detecting such a leak. Such repair parts must be installed within five (5) working days after receipt. ()

597. TESTING AND MONITORING REQUIREMENTS.

The owner or operator of a GDF must comply with the following requirements within ninety (90) days of registration under Section 598 and every three (3) years thereafter. ()

01. Testing. ()

a. The owner or operator must demonstrate compliance in accordance with 40 CFR 63.11120(a)(1). ()

b. The owner or operator must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, for the vapor balance system by conducting a static pressure test on the underground gasoline storage tanks using the test methods identified in paragraph 597.01.b.i. or 597.01.b.ii. in accordance with 40 CFR 63.11120(a)(2). ()

02. Alternative Testing. The owner or operator of a GDF, choosing, under the provisions of 40 CFR 63.6(g), to use a vapor balance system other than that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, must demonstrate to the Department the equivalency of their vapor balance system to that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC in accordance with 40 CFR 63.11120(b). ()

598. REGISTRATION, RECORDKEEPING, AND REPORTING REQUIREMENTS.

01. Registration. ()

a. Any GDF subject to these rules must: ()

i. Within thirty (30) days of installation of the Stage 1 vapor collection system, the owner or operator of the GDF must submit to the Department a registration that provides, at a minimum, the operation name and address, signature of the owner or operator in accordance with Section 123, the location of records and reports required by Subsections 598.02 and 598.03 (including contact person's name, address and telephone number), the number of underground gasoline storage tanks, the number of gasoline tank pipe vents, and the date of completion of installation of the Stage 1 vapor collection system and pressure/vacuum relief valve; and ()

ii. The registration certification must be displayed at the GDF. ()

b. Upon modification of an existing Stage 1 vapor collection system or pressure/vacuum relief valve, ()

the owner or operator of the GDF must submit to the Department a registration that details the changes to the information provided in the previous registration and includes the signature of the owner or operator. The registration must be submitted to the Department within thirty (30) days after completion of such modification. ()

c. A new registration must be submitted to the Department within thirty (30) days after any change in ownership of the GDF. ()

02. Recordkeeping Requirements. ()

a. Each owner or operator must keep the following records: ()

i. Records of all tests performed under Section 597; ()

ii. Records related to the operation and maintenance of vapor balance equipment required under Section 596. Any vapor balance component defect must be logged and tracked by station personnel on a monthly basis using forms provided by the Department or a reasonable facsimile; and ()

iii. Records of permanent changes made at the GDF and vapor balance equipment which may affect emissions. ()

b. Records required under 598.02.a. must be kept for a period of five (5) years and must be made available for inspection by the Department upon request. ()

03. Reporting Requirements. Each owner or operator subject to the management practices in Section 596 must report to the Department the results of all volumetric efficiency tests required under Section 597. Reports submitted under these rules must be submitted within thirty (30) days of the completion of the performance testing. ()

599. GASOLINE CARGO TANKS.

01. Prohibitions. After a Stage 1 vapor collection system is installed and operating, owners or operators of gasoline cargo tanks that unload gasoline into an underground gasoline storage tank with a capacity of ten thousand (10,000) gallons or more, in Ada or Canyon Counties, must comply with Table 2 to 40 CFR Part 63, Subpart CCCCCC, incorporated by reference in Section 107. ()

02. Recordkeeping and Reporting. ()

a. The owner or operator of the gasoline cargo tank subject to Section 599 must maintain records of all certification testing and repairs. The records must identify the gasoline cargo tank; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two (2) years after the date of testing or repair was completed and must be available for inspection by the Department upon request. ()

b. Copies of all tests required under Subsection 599.01 must be submitted to the Department within thirty (30) days of certification testing. ()

600. RULES FOR CONTROL OF OPEN BURNING.

Sections 600 through 624 establish rules to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. ()

601. FIRE PERMITS, HAZARDOUS MATERIALS, AND LIABILITY.

Compliance with the provisions of Sections 600 through 624 does not exempt or excuse any person from complying with applicable laws and ordinances of other jurisdictions responsible for fire control or hazardous material disposal or from liability for damages or injuries which may result from open burning. ()

602. NONPREEMPTION OF OTHER JURISDICTIONS.

The provisions of Sections 600 through 624 are not intended to interfere with the rights of any city, county or other governmental entities or agencies to provide equal or more stringent control of open burning within their respective jurisdictions. ()

603. GENERAL REQUIREMENTS.

No person may allow, cause or permit any open burning operation unless the materials burned fall within an allowable category of open burning set forth in Sections 606-624, and do not contain any of the following prohibited materials listed in 603.01. ()

- 01. Prohibited Materials.** The fires must not include any of the following prohibited materials: ()
 - a.** Garbage, as defined in IDAPA 58.01.06 “Solid Waste Management Rules”. ()
 - b.** Dead animals, animal parts, or animal wastes (feces, feathers, litter, etc.) except as provided in Section 616. ()
 - c.** Motor vehicles, or parts, or any materials resulting from a salvage operation, defined as any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. ()
 - d.** Tires or other rubber materials or products. ()
 - e.** Plastics. ()
 - f.** Asphalt or composition roofing or any other asphaltic material or product. ()
 - g.** Tar, tar paper, waste or heavy petroleum products, or paints. ()
 - h.** Treated lumber or timbers coated with preservatives, paints or other protective material ()
 - i.** Trade waste, defined as any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood, except as specifically allowed under Sections 600 through 624. ()
 - j.** Insulated wire. ()
 - k.** Pathogenic wastes. ()
 - l.** Hazardous wastes as classified according to IDAPA 58.01.05, “Rules and Standards for Hazardous Waste”. ()

02. Air Quality Episodes. No person may allow, cause or permit any open burning during any level of an air quality episode declared by the Department in accordance with Sections 550 through 562. ()

03. Emergency Authority. In accordance with Title 39, Chapter 1, Idaho Code, the Department has the authority to require immediate abatement of any open burning in cases of emergency requiring immediate action to protect human health or safety. ()

604. -- 605. (RESERVED)

606. CATEGORIES OF ALLOWABLE BURNING.

Sections 606 through 624 establish categories of allowable open burning and applicable requirements. ()

607. RECREATIONAL AND WARMING FIRES.

Fires used for the preparation of food or for recreational purposes (e.g. campfires, ceremonial fires, and barbecues),

or small fires set for handwarming purposes. A small fire is defined as a fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. ()

608. WEED CONTROL FIRES.

Fires used for the purpose of weed abatement such as along fence lines, canal banks, rock piles and ditch banks. ()

609. TRAINING FIRES.

Fires used by fire and land management agencies as training for fire suppression and firefighting techniques, or to display certain fire ecology or fire behavior effects. Training facilities must notify the Department prior to igniting any training fires. Training fires must not be allowed to smolder after the training session has terminated. Training fires are exempt from Subsections 603.01.c. and 603.01.e. through 603.01.j. ()

610. (RESERVED)

611. RESIDENTIAL YARD WASTE FIRES.

Fire used for the disposal of yard waste, as defined in the IDAPA 58.01.06, "Solid Waste Management Rules," at residential locations so long as the burning is conducted on the property where the yard waste was generated and not prohibited by local ordinances or rules. ()

612. SOLID WASTE FACILITY FIRES.

Fire used for the disposal of solid waste at any solid waste landfill disposal site or facility only if conducted in accordance with IDAPA 58.01.06, "Solid Waste Management Rules," or Chapter 74, Title 39, Idaho Code. ()

613. ORCHARD FIRES.

Fire used for the disposal of orchard clippings when the burning is conducted on the property where the clippings were generated. ()

614. PRESCRIBED FIRE.

Prescribed fire when the provisions of Section 614 are met. ()

01. Prescribed Fire is defined as:

The controlled application of fire to wildland fuels in either their natural or modified state, under conditions of weather, fuel moisture and soil moisture that allow the fire to be confined to a predetermined area while producing the intensity of heat and rate of spread required to meet planned objectives, including: ()

- a. Fire hazard reduction; ()
- b. The control of pests, insects, or diseases; ()
- c. The promotion of range forage improvements; ()
- d. The perpetuation of natural ecosystems; ()
- e. The disposal of slash and woody debris resulting from any land management activity such as; logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; ()
- f. The preparation of planting and seeding sites for forest regeneration; and ()
- g. Other accepted natural resource management purposes. ()

02. Burning Permits or Prescribed Fire Plans.

a. Whenever a burning permit or prescribed fire plan is required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed fire must meet all permit and/or plan conditions and terms which control smoke. ()

b. The Department will seek interagency agreements to assure permits or plans issued by agencies referred to in Subsection 614.01.a. provide adequate consideration for controlling smoke from prescribed fire. ()

03. Smoke Management Plans for Prescribed Fire. ()

a. Whenever a permit or plan is not required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed fire must meet all conditions set forth in a Smoke Management Plan for Prescribed Fire. ()

b. The Department will develop and put into effect a Smoke Management Plan for Prescribed Fire consistent with the purpose of Sections 600 through 616. ()

04. Rights-of-Way Fires. The open burning of woody debris generated during the clearing of rights of way must be open burned according to Section 38-125, Idaho Code and Sections 606 through 616 of these rules. ()

615. DANGEROUS MATERIAL FIRES.

Fires ignited under the direction of a public or military fire chief to dispose of materials that in their current condition present a danger to life, valuable property or the public welfare, or to prevent a fire hazard when no practical alternative method of disposal or removal exists. ()

616. INFECTIOUS WASTE BURNING.

Fires used to dispose of diseased animals or infested material, upon the order of and under the direction of a public health officer, are exempt from Subsection 603.01.k. ()

617. CROP RESIDUE DISPOSAL.

Fire used to dispose of crop residue remaining in fields where the crops were grown if conducted in accordance with Section 39-114, Idaho Code, and Sections 618 through 624. ()

618. PERMIT BY RULE.

No person may conduct an open burn of crop residue or pasture without obtaining the applicable permit by rule. Those persons applying for a spot burn, baled agricultural residue burn, or propane flaming permit must comply with the provisions in Section 624. Registration for a permit by rule must be made using forms furnished by the Department, or by other means prescribed by the Department. ()

619. REGISTRATION.

Any person applying to burn crop residue must annually provide the following registration information to the Department at least thirty (30) days prior to the date provided in 619.05: ()

01. Location of Requested Burn. The legal description of the location of the requested burn, using longitude and latitude coordinates; ()

02. Applicant Information. Name, mailing address, and telephone number of the applicant, and the person who will be responsible for conducting the proposed burning of crop residue and the portable form of communication referenced in Subsection 622.01.c. of this rule; ()

03. Type and Acreage of Crop Residue Requested to be Burned. The crop type and total area over which burning will be conducted (acres); ()

04. Preventive Measures. A description of the measures that will be taken to prevent escaped burns or withhold additional material such that the fire burns down, including but not limited to, the availability of water and plowed firebreaks; and ()

05. Date of Burning. The anticipated date(s) when the field will be ready and requested to be burned. ()

620. BURN FEE.

01. Burn Fee. The burn fee in Section 39-114, Idaho Code, must be paid in its entirety within thirty (30) days following the receipt of the annual burn fee invoice. See also Subsection 624.02.a. for registration and fee requirements for burning under a spot and baled agricultural residue burn permit. Information for making payments is available at <http://www.deq.idaho.gov>. ()

02. Effect of Delinquent Fee Payment. The Department will not accept or process a registration for a permit by rule to burn for any person or property location having burn fees delinquent, in full or in part. ()

621. BURN APPROVAL.

01. Operating Guide. The Department will develop a Crop Residue Operating Guide to assist in the decision process for approving burns. ()

02. Permittee Approval Process. The permittee must obtain the Registration Receipt and Initial Permit Requirements from the Department at least twelve (12) hours in advance of the burn. The permittee must obtain final approval to burn from the Department the morning of the requested burn. ()

03. Burn Approval Criteria. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556. In making this determination, the Department will consider the following: ()

- a.** Expected emissions from all crop residue burns requested for the same dates; ()
- b.** The proximity of other burns and potential emission sources within the area to be affected by the requested burn; ()
- c.** Moisture content of the crop residue to be burned; ()
- d.** Acreage, crop type, and fuel characteristics of the crop residue to be burned; ()
- e.** Current and forecast meteorological conditions in the area of the requested burn; ()
- f.** The proximity of the requested burn to institutions with sensitive populations, including public schools while in session; hospitals; residential health care facilities for children, the elderly or infirm; and other institutions with sensitive populations as approved by the Department. The Department will not approve a burn if conditions are such that institutions with sensitive populations will be adversely impacted or when the plume is predicted to impact such institutions; ()
- g.** Proximity to public roadways; ()
- h.** Proximity to airports; and ()
- i.** Any other factors relevant to preventing exceedances of the air quality concentrations of Section 621. ()

04. Notification of Approval. The Department will post all crop residue approvals on its website. The burn approvals will include written notification of the approval and any specific conditions under which the burn is approved. Special conditions may include, but are not limited to: ()

- a.** Conditions for burns near institutions with sensitive populations; ()

b. The requirement to withhold additional material such that the fire burns down if the Department determines pollutant concentrations reach the levels in Subsection 621.03 of this rule; ()

c. Conditions to ensure the burn does not create a hazard for travel on a public roadway; and ()

d. The requirement to consult with the Department to determine actions to be taken if conditions at the burn site fail to satisfy the conditions specified in the notice of approval to burn. ()

622. GENERAL PROVISIONS.

01. Burn Provisions. All persons conducting crop residue burning must comply with the following: ()

a. Burning of crop residue must not be conducted on weekends, federal or state holidays, or after sunset or before sunrise; ()

b. Burning of crop residue must not be conducted unless the Department has designated that day a burn day and the permittee has received individual approval in accordance with Subsection 621.02; ()

c. The person conducting the burn must have in their possession a portable form of communication such as a cellular phone or radio of compatible frequency with the Department in order to receive burn approval information or information that might require measures to withhold additional material such that the fire burns down; ()

d. Crop residue must remain and be burned in the field where it was grown; ()

e. When required by the conditions of the approval to burn, the permittee burning in proximity to institutions with sensitive populations must immediately extinguish the fire or withhold additional material such that the fire burns down, if the Department determines the burn is having or will have an adverse impact on such institutions; ()

f. All persons burning crop residue must complete a grower crop residue burning training provided by the Department prior to their first burn and at least once every five (5) years thereafter; ()

h. The use of reburn machines, propane flamers, or other portable devices to ignite or reignite a field for the purposes of crop residue burning is considered an allowable form of open burning; ()

j. All persons burning crop residue must submit a burn report to the Department that includes the following: the date burning was conducted, actual number and location of acres burned, and other information as required by the Department. The Department may restrict further burning by a permittee until burn reports are submitted; and ()

k. The open burning of crop residue must be conducted in accordance with the specific conditions in the permittee's burn approval. ()

02. Annual Report. The Department will develop an annual report that will include, at a minimum, an analysis of the causes of each exceedance of a limitation in Section 621 of this rule, if any, and an assessment of the circumstances associated with any reported endangerment to human health associated with a burn. The report will include any proposed revisions to these rules or the Crop Residue Operating Guide deemed necessary to prevent future exceedances. ()

03. Advisory Committee. The Department will assemble an advisory committee consisting of representatives from environmental organizations, farming organizations, health organizations, tribal organizations, the Idaho State Department of Agriculture, the Idaho Department of Environmental Quality, and others to discuss open burning of crop residue issues. ()

623. PUBLIC NOTIFICATION.

01. Designation of Burn Days. The Department will designate for a given county or airshed within a county burn or no-burn days. ()

02. Posting on Website. The Department will post daily on its website: ()

a. Whether a given day is a burn or no-burn day; ()

b. The location and number of acres permitted to be burned; ()

c. Meteorological conditions and any real time ambient air quality monitoring data; and ()

d. A toll-free number to receive requests for information ()

03. E-Mail Update Service. The Department will provide an opportunity for interested persons to sign up to receive automatic e-mail updates for information regarding the open burning of crop residue. ()

624. SPOT AND BALED CROP RESIDUE BURN AND PROPANE FLAMING REQUIREMENTS.

01. Applicability. ()

a. Spot Burn. A spot burn includes no more than one (1) acre of evenly distributed crop residue or two (2) tons of piled crop residue. The open burning of weed patches, spots of heavy residue, equipment plugs and dumps, pivot corners of fields, and pastures may constitute a spot burn. Spot burn does not include the open burning of wind rows. ()

b. Baled Crop Residue Burn. An open burn used to dispose of broken, mildewed, diseased, or otherwise pest-ridden bales still in the field where they were generated. ()

c. Propane Flaming. The use of flame-generating equipment to briefly apply flame and/or heat to the topsoil of a cultivated field of pre-emerged or plowed-under crop residue with less than five hundred fifty (550) pounds of burnable, non-green residue per acre in order to control diseases, insects, pests, and weed emergence. ()

02. Spot and Baled Crop Residue Burn Permit. ()

a. Any person applying for a spot and baled crop residue burn permit under Section 624 must: ()

i. Provide the registration information listed in Subsections 619.01 and 619.02; and ()

ii. Pay a nonrefundable fee of twenty dollars (\$20) to the Department (see Section 620) at least fourteen (14) days prior to the date the applicant proposes to conduct the first burn of the calendar year. ()

b. A spot and baled crop residue burn permit is valid for the calendar year in which it is issued and permits: ()

i. Burning of a cumulative total of no more than ten (10) acres of spots and/or equivalent piled or baled crop residue during the year; and ()

ii. No more than one (1) acre of spots and/or equivalent piled or baled crop residue per day. Two (2) tons of piled or baled crop residue is assumed to be equivalent to one (1) acre. ()

03. Propane Flaming. Persons conducting propane flaming as defined under Subsection 624.01.c. must comply with the applicable provisions in Subsections 624.04 and 624.05. ()

04. General Provisions. All persons intending to burn under Section 624 must comply with the

provisions of Subsections 622.01.c., 622.01.d., 622.01.f., through 622.01.i., and 622.01.k. in addition to the following: ()

a. The permittee is responsible to ensure that adequate measures are taken so the burn does not create a hazard for travel on a public roadway. ()

b. Burning is not allowed if the burn location is within three (3) miles of an institution with a sensitive population and the surface wind speed is greater than twelve (12) miles per hour or if the smoke is adversely impacting or is expected to adversely impact an institution with a sensitive population. ()

c. Burning must not be conducted unless the Department has designated that day a burn day, which for purposes of Section 624 may include weekends and holidays, and the permittee burns within the burn window provided on the Department's website. Spot and baled crop residue burns must not smolder and create smoke outside of the designated time period burning is allowed. ()

05. Recordkeeping. Permittees must record the date, time frame, type of burn, type of crop, and amount burned on the date of the burn. Records of such burns must be retained for two (2) years and made available to the Department upon request. ()

625. VISIBLE EMISSIONS.

A person must not discharge any air pollutant into the atmosphere from any point of emission for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by this section. ()

01. Exemptions. The provisions of this section will not apply to: ()

a. Kraft Process Lime Kilns, if operating prior to January 24, 1969; or ()

b. Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or ()

c. Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or ()

d. Kraft Process Recovery Furnaces; or ()

e. Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969. ()

02. Standards for Exempted Sources. For sources exempted from the provisions of this section, a person must not discharge into the atmosphere from any point of emission, for any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than forty percent (40%) opacity as determined by this section. ()

03. Exception. The provisions of this section do not apply when the presence of uncombined water, nitrogen oxides and/or chlorine gas are the only reason(s) for the failure of the emission to comply with the requirements of this rule. ()

04. Test Methods and Procedures. The appropriate test method under this section is EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows: ()

a. Opacity evaluations must be conducted using forms available from the Department or similar forms approved by the Department. ()

b. Opacity must be determined by counting the number of readings in excess of the percent opacity limitation, dividing this number by four (4) (each reading is deemed to represent fifteen (15) seconds) to find the number of minutes in excess of the percent opacity limitation. This method is described in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986. ()

c. Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60. ()

05. **Applicability.** Section 625 does not apply to the open burning of crop residue. ()

626. -- 649. (RESERVED)

650. RULES FOR CONTROL OF FUGITIVE DUST.

The purpose of Sections 650 through 652 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust defined as fugitive emissions composed of particulate matter. ()

651. GENERAL RULES.

All reasonable precautions must be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities, the proximity to mandatory Class I Federal Areas and atmospheric conditions that might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following: ()

01. **Use of Water or Chemicals.** Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land. ()

02. **Application of Dust Suppressants.** Application, where practical, of asphalt, oil, water or suitable chemicals to, or covering of dirt roads, material stockpiles, and other surfaces that can create dust. ()

03. **Use of Control Equipment.** Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations. ()

04. **Covering of Trucks.** Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts. ()

05. **Paving.** Paving of roadways and their maintenance in a clean condition, where practical. ()

06. **Removal of Materials.** Prompt removal of earth or other stored material from streets, where practical. ()

652. AGRICULTURAL ACTIVITIES.

For agricultural activity purposes, operating in conformance with generally recognized agricultural practices constitutes reasonable control of fugitive dust. For the purpose of Section 652: ()

01. **Agricultural Activity.** An "agricultural activity" means any activity that is exempt from the requirement to obtain a permit to construct under Subsection 222.02.f., wherein "agricultural activities and services" is defined in Section 007, that occurs in connection with the production of agricultural products for food, fiber, fuel, feed and other lawful purposes, and including, but not limited to: ()

a. Preparing land for agricultural production; ()

b. Applying or handling pesticides herbicides, or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil; ()

c. Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticulture crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plant products, plant by-products, plant waste and animal compost; ()

d. Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, fur-

bearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal by-products, animal waste, animal compost, and bees, bee products and bee by-products; ()

- e. Transporting agricultural products to or from an agricultural facility; ()
- f. Grinding, chopping, cubing, or any other means of preparing or converting a commodity for animal feed; and ()
- g. Piling, stacking or other means of storing commodities outdoors. ()

02. Generally Recognized Agricultural Practices. “Generally recognized agricultural practices” means economically feasible practices that are customary among or appropriate to farms and ranches of a similar nature in the local area. In determining whether an agricultural activity is consistent with generally recognized agricultural practices, the Idaho Department of Environmental Quality will consult with the Idaho Department of Agriculture. ()

653. -- 664. (RESERVED)

665. REGIONAL HAZE RULES.

Sections 665 through 667 address regional haze visibility impairment in mandatory Class I Federal Areas in accordance with 40 CFR 51.301, 307, and 308 incorporated by reference in Section 107. ()

666. REASONABLE PROGRESS GOALS.

The Department will establish reasonable progress goals expressed in deciviews for each mandatory Class I Federal Area located within Idaho. ()

667. LONG-TERM STRATEGY FOR REGIONAL HAZE.

The Department will submit to EPA a long-term strategy that meets the requirements in 40 CFR 51.308(d)(3) and 308(f)(2). ()

668. -- 674. (RESERVED)

675. FUEL BURNING EQUIPMENT -- PARTICULATE MATTER.

Sections 675 through 681 establish particulate matter emission standards for fuel burning equipment. ()

676. STANDARDS FOR NEW SOURCES.

A person must not discharge into the atmosphere from any fuel burning equipment with a maximum rated input of ten (10) million BTU's per hour or more, and commencing operation on or after October 1, 1979, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.050	8%
Wood Product	.080	8%

The effluent gas volume must be corrected to the oxygen concentration shown. ()

677. STANDARDS FOR MINOR AND EXISTING SOURCES.

A person must not discharge into the atmosphere from any fuel burning equipment in operation prior to October 1,

1979, or with a maximum rated input of less than ten (10) million BTU per hour, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.100	8%
Wood Product	.200	8%

The effluent gas volume must be corrected to the oxygen concentration shown. ()

678. COMBINATIONS OF FUELS.

When two (2) or more types of fuel are burned concurrently, the allowable emission are determined by proportioning the gross heat input and emission standards for each fuel. ()

679. AVERAGING PERIOD.

For purposes of Sections 675 through 680, emissions are averaged according to the following, whichever is the lesser period of time: ()

01. One Cycle. One (1) complete cycle of operation; or ()

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of particulate matter. ()

680. ALTITUDE CORRECTION.

For purposes of Sections 675 through 680, standard conditions must be adjusted for the altitude of the source by subtracting one-tenth (0.10) of an inch of mercury for each one hundred (100) feet above sea level from the standard atmospheric pressure at sea level of twenty-nine and ninety-two one hundredths (29.92) inches of mercury. ()

681. TEST METHODS AND PROCEDURES.

The appropriate test method under Sections 675 through 680 is EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures must also comply with Section 157. ()

682. -- 699. (RESERVED)

700. PARTICULATE MATTER -- PROCESS WEIGHT LIMITATIONS.

01. Particulate Matter Emission Limitations. Sections 700 through 703 establish particulate matter emission limitations for process equipment and include the following definitions: ()

a. Process weight is defined as the total weight of all materials introduced into any source operation that may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water that occurs naturally in the feed material is considered part of the process weight. ()

b. Process weight rate is established as follows: ()

i. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or

portion thereof; and ()

ii. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission applies. ()

02. Minimum Allowable Emission. Notwithstanding the provisions of Sections 701 and 702, no source will be required to meet an emission limit of less than one (1) pound per hour. ()

03. Averaging Period. For the purposes of Sections 701 through 703, emissions must be averaged according to the following, whichever is the lesser period of time: ()

a. One (1) complete cycle of operation; or ()

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. ()

04. Test Methods and Procedures. The appropriate test method under Sections 700 through 703 is EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures must comply with Section 157. ()

701. PARTICULATE MATTER -- NEW EQUIPMENT PROCESS WEIGHT LIMITATIONS.

01. General Restrictions. No person may emit into the atmosphere from any process or process equipment commencing operation on or after October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour. ()

a. If PW is less than 9,250 pounds per hour,
E = 0.045(PW)^{0.60} ()

b. If PW is equal to or greater than 9,250 pounds per hour,
E = 1.10(PW)^{0.25} ()

02. Exemption. The provisions of Section 701 do not apply to fuel burning equipment. ()

03. Emission Standards. The following table illustrates the emission standards set forth in Section 701.

PROCESS WEIGHT	ALLOWABLE EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	13.08
200	1.08	40,000	15.56
400	1.64	60,000	17.22

PROCESS WEIGHT	ALLOWABLE EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
600	2.09	80,000	18.50
800	2.40	100,000	19.56
1,000	2.84	200,000	23.26
2,000	4.30	400,000	27.66
4,000	6.52	600,000	30.61
6,000	8.32	800,000	32.90
8,000	9.89	1,000,000	34.79
10,000	11.00	2,000,000	41.37

()

702. PARTICULATE MATTER -- EXISTING EQUIPMENT PROCESS WEIGHT LIMITATIONS.

01. General Restrictions. No person may emit into the atmosphere from any process or process equipment operating prior to October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour: ()

a. If PW is less than 17,000 pounds per hour, ()
 $E = 0.045 (PW)0.60$

b. If PW is equal to or greater than 17,000 pounds per hour, ()
 $E = 1.12 (PW)0.27.$

02. Exemptions. The provisions of Section 702 do not apply to: ()

a. Fuel burning equipment; or ()

b. Equipment used exclusively to dehydrate sugar beet pulp or alfalfa. ()

03. Emission Standards. The following table illustrates the emission standards set forth in Section 702.

PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	16.24
200	1.08	40,000	19.58
400	1.64	60,000	21.84
600	2.09	80,000	23.61
800	2.48	100,000	25.07
1,000	2.84	200,000	30.23
2,000	4.30	400,000	36.46
4,000	6.52	600,000	40.67
6,000	8.32	800,000	43.96
8,000	9.89	1,000,000	46.69
10,000	11.30	2,000,000	56.30

()

703. PARTICULATE MATTER -- OTHER PROCESSES.

01. Other Processes. No person with processes exempt under Subsection 702.02.b. may emit particulate matter to the atmosphere from any process or process equipment in excess of the amount shown in the following equations, where E is the total rate of emission from all emission points from the source in pounds per hour and P is the process weight rate in pounds per hour. ()

- a. If P is less than sixty thousand (60,000) pounds per hour, $E = 0.02518(P)^{0.67}$ ()
- b. If P is greater than or equal to sixty thousand (60,000) pounds per hour, $E = 23.84(P)^{0.11} - 40$ ()

02. Emission Standards. The following table illustrates the emission standards set forth in Section 703.

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE

Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
100	0.551	16,000	16.5
200	0.877	18,000	17.9
400	1.40	20,000	19.2
600	1.83	30,000	25.2
800	2.22	40,000	30.5
1,000	2.58	50,000	35.4
1,500	3.38	60,000	40.0
2,000	4.10	70,000	41.3
2,500	4.76	80,000	42.5
3,000	5.38	90,000	43.6
3,500	5.96	100,000	44.6
4,000	6.52	120,000	46.3
5,000	7.58	140,000	47.8
6,000	8.56	160,000	49.0
7,000	9.49	200,000	51.2
8,000	10.4	1,000,000	69.0
9,000	11.2	2,000,000	77.6
10,000	12.0	6,000,000	92.7
12,000	13.6		

()

704. -- 724. (RESERVED)

725. RULES FOR SULFUR CONTENT OF FUELS.

The reference test method for measuring fuel sulfur content is ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures must comply with Section 157. ()

01. Definitions. ()

a. ASTM. American Society for Testing and Materials. ()

b. Distillate Fuel Oil. Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils. ()

c. Residual Fuel Oil. Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils. ()

02. Residual Fuel Oils. No person may sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight. ()

03. Distillate Fuel Oil. No person may sell, distribute, use or make available for use, any distillate fuel oil containing more than the following percentages of sulfur: ()

a. ASTM Grade 1. ASTM Grade 1 fuel oil - zero point three percent (0.3%) by weight. ()

b. ASTM Grade 2. ASTM Grade 2 fuel oil - zero point five percent (0.5%) by weight. ()

04. Coal. No person may sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight. ()

05. Alternative. The Department may approve in a permit issued in accordance with these rules an alternative fuel sulfur content if the applicant demonstrates that, through control measures or other means, sulfur dioxide emissions (based on a one (1) hour averaging period) are equal to or less than those resulting from the combustion of fuels complying with the limitations of Subsections 725.01 through 725.04. ()

726. -- 749. (RESERVED)

750. RULES FOR CONTROL OF FLUORIDE EMISSIONS.

This section prevents the emission of fluorides such that the accumulation of fluorine in feed and forage for livestock does not exceed the safe limits specified below. ()

01. Emission Limitations -- Phosphate Fertilizer Plants. No person may allow, suffer, cause or permit the discharge into the atmosphere of total fluoride emissions in gaseous and in particulate form, expressed as fluoride (F-), from the phosphate fertilizer plant sources listed in Subsection 750.03 in excess of thirty hundredths (0.30) pounds of fluoride per ton of P2O5 input to the calciner operation, calculated at maximum rated capacity. ()

02. Monitoring, Testing, and Reporting Requirements. Compliance with Subsection 750.01 will be adjudged upon the results of the continuing program of fluoride sampling of potential grazing areas and alfalfa growing areas required by the Department. Sampling conducted by any person subject to Section 750 will be accepted for determining compliance with Subsection 750.01 if such sampling is conducted at sites approved by the Department in advance of sampling, using analytical procedures appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods) or equivalent methods approved by the Department in advance of sampling. Compliance with Subsection 750.01 must be demonstrated by testing methods approved in advance by the Department. When approved by the Department in advance of sampling, engineering calculations may be submitted

in lieu of emission data. Monitoring and reporting requirements will be included in operating permits granted to each facility. ()

03. Source Specific Permits. To assure compliance with Subsection 750.01, the Department will specify methods for calculating total allowable emissions and issue source specific permits containing emission limitations for the following sources within phosphate fertilizer plants: ()

- a. Calciner operation; and ()
- b. Wet phosphoric acid plants; and ()
- c. Super phosphoric acid production; and ()
- d. Diammonium phosphate plants; and ()
- e. Monoammonium phosphate production; and ()
- f. Triple super phosphate (mono calcium phosphate) production. ()

04. Exemptions. The provisions of Subsections 750.01, 750.02, and 750.03 do not apply to any phosphate fertilizer facility that produces mono ammonium phosphate exclusively if no animal feed is grown or if no animal grazing occurs or if the animal feed and forage meets the ambient air quality standards for fluorides specified in Section 577 within a three (3) mile radius of such facility. This exemption only applies if the owner or operator of the facility, on an annual basis: ()

- a. Conducts a fluoride sampling program of potential grazing areas at locations approved in advance of sampling by the Department, using analytical techniques appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods); and ()
- b. Submits the results of such sampling program to the Department as soon as they become available. ()

751. -- 759. (RESERVED)

760. RULES FOR THE CONTROL OF AMMONIA FROM DAIRY FARMS.

Sections 760 through 764 establish the requirements for the control of ammonia through best management practices (BMPs) for certain size dairy farms licensed by the Idaho State Department of Agriculture to sell raw milk for human consumption. Compliance with these sections does not relieve the owner or operator of a dairy farm from the responsibility of complying with all other federal, state and local applicable laws, regulations, and requirements, including, but not limited to, Sections 161, 650 and 651. Registration forms and guidance documents relating to these rules are located at www.deq.idaho.gov. ()

761. GENERAL APPLICABILITY.

The requirements of Sections 760 through 764 apply to the following size dairy farms:

SUMMARY: Animal Unit (AU) or mature cow threshold to produce 100 ton NH₃/year

Animal Unit (AU) Basis	Drylot	Free Stall/Scrape	Free Stall/Flush
AU (100 t NH ₃) Threshold			

SUMMARY: Animal Unit (AU) or mature cow threshold to produce 100 ton NH₃/year

No land app	7089	3893	2293
27% volatilization 1	6842	3827	
80% volatilization 2	6397	3700	
Cow Basis (1400 lbs)	Drylot	Free Stall/Scrape	Free Stall/Flush
Total Cows (100 t NH ₃) Threshold			
No land app	5063	2781	1638
27% volatilization 1	4887	2733	
80% volatilization 2	4569	2643	
1 Assumes: Expected level of N->NH ₃ volatilization for: drop-hose or ground level liquid manure application			
2 Assumes: Expected level of N->NH ₃ volatilization for: center pivot or other conventional sprinkler irrigation liquid manure application			

()

762. PERMIT BY RULE.

01. General Requirement. Owners and operators of dairy farms are deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 760 through 764. Owners and operators of dairy farms subject to Sections 760 through 764 must not operate without obtaining the applicable permit by rule within the time frame specified. ()

02. Optional Permit by Rule. Nothing in Sections 760 through 764 precludes any owner or operator of a dairy farm from requesting and obtaining an air quality permit pursuant to Section 200, nor do Sections 760 through 764 preclude an owner or operator of a dairy farm below the threshold size in Section 761 from complying with Sections 760 through 764 and thereby obtaining a permit by rule. ()

03. Exemption. If a dairy farm not subject to Sections 760 through 764 otherwise would become subject to those sections as a result of an emergency, the dairy farm must notify the Department in writing within fourteen (14) days of the emergency. The notification must include an explanation of the emergency circumstances. The dairy farm is exempt from the requirements of Sections 760 through 764 as long as the consequences of the emergency continue (but in no case for more than one (1) year) unless for good cause the Department determines it is appropriate to limit, condition or revoke the exemption. For the purpose of this rule “emergency” is defined as a serious situation or occurrence that happens unexpectedly and demands immediate action. ()

763. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a new dairy farm subject to sections 760 through

764, or an existing dairy farm that becomes subject to these sections due to change in size or type of operation, must register prior to fifteen (15) days of triggering the threshold for which a permit is required. ()

02. Registration Due Date. Any owner or operator of an existing dairy farm subject to Sections 760 through 764 must register within fifteen (15) days of the effective date of Sections 760 through 764. ()

03. Registration Information. The following information must be provided by the registrant to the Department of Environmental Quality and the Department of Agriculture: ()

- a. Name, address, location of dairy farm, and telephone number. ()
- b. Information sufficient to establish that the dairy farm is of the size and type described in Section 761. ()
- c. Information describing what BMPs, as described in Section 764, are employed to total twenty-seven (27) points. ()

04. Exemption from Registration Fee. Dairy farms subject to Sections 760 through 764 are exempt from paying the permit by rule registration fee set forth in Section 800. ()

05. Inspection. Within thirty (30) days of receipt of the registration information, the state of Idaho will conduct a qualifying inspection to ensure the requisite point total of BMPs are employed. ()

764. DAIRY FARM BEST MANAGEMENT PRACTICES.

01. BMPs. Each dairy farm subject to Sections 760 through 764, or that otherwise obtains a permit by rule under these sections, must employ BMPs for the control of ammonia to total twenty-seven (27) points. Points may be obtained through third party export with sufficient documentation. The table located at Subsection 764.02. lists available BMPs and the associated point value. As new information becomes available or upon request, the Department may determine a practice not listed in the table constitutes a BMP and assign a point value. ()

02. Table - Ammonia Control Practices for Idaho Dairies.

Ammonia Control Practices for Idaho Dairies

System	Component	Ammonia Control Effectiveness ¹			Compliance Method ³
		Open Lot	Freestall Scrape	Freestall Flush	
Waste Storage and Treatment Systems	Synthetic Lagoon Cover	15	20	20	1
	GeoteXtile Covers	10	13	13	1
	Solids Separation	3	3	3	3, 4
	Composting	4	4	4	1

Ammonia Control Practices for Idaho Dairies

System	Component	Ammonia Control Effectiveness ¹			Compliance Method ³
		Open Lot	Freestall Scrape	Freestall Flush	
	Separate Slurry and Liquid Manure Basins	6	10	-	1
	In-House Separation	0	12	0	1
	Direct Utilization of Collected Slurry	6	10	-	1, 3, 4
	Direct Utilization of Parlor Wastewater	10	10	10	1
	Direct Utilization of Flush Water	8	0	13	3, 4
	Anaerobic Digester	-	-	-	-
	Anaerobic Lagoon	-	-	-	-
	Aerated Lagoon	10	12	15	2
	Sequencing-Batch Reactor	15	20	20	2
	Lagoon Nitrification/Denitrification Systems	15	20	20	2
	Fixed-Media Aeration Systems	15	20	20	2
	Zeolite Treatment of Liquid Manure 1lb/cow/day	4	5	5	2
	Zeolite Treatment of Liquid Manure 2lb/cow/day	8	10	10	2
General Practices	Vegetative or Wooded Buffers (established)	7	7	7	1
	Vegetative or Wooded Buffers (establishing)	2	2	2	1
	Alternatives to Copper Sulfate	-	-	-	-

Ammonia Control Practices for Idaho Dairies

System	Component	Ammonia Control Effectiveness ¹			Compliance Method ³
		Open Lot	Freestall Scrape	Freestall Flush	
Freestall Barns	Scrape Built Up Manure	-	3	3	1
	Frequent Manure Removal	UD	UD	UD	-
	Tunnel Ventilation	-	-	-	-
	Tunnel Ventilation w/Biofilters	-	10	10	1
	Tunnel Ventilation w/Washing Wall	-	10	10	3, 4
Open Lots and Corrals	Rapid Manure Removal	4	2	2	1, 2
	Corral Harrowing	4	2	2	1
	Surface Amendments	10	5	5	2
	In-Corral Composting / Stockpiling	4	2	2	1
	Summertime Deep Bedding	10	5	5	1
Animal Nutrition	Manage Dietary Protein	2	2	2	2
Composting Practices	Alum Incorporation	12	8	6	2
	Carbon:Nitrogen Ratio (C:N) Ratio Manipulation	10	7.5	5	2

Ammonia Control Practices for Idaho Dairies

System	Component	Ammonia Control Effectiveness ¹			Compliance Method ³
		Open Lot	Freestall Scrape	Freestall Flush	
	Composting with Windrows	-	-	-	-
	Composting Static Pile	6	4.5	3	1
	Forced Aeration Composting	10	7.5	5	1
	Forced Aeration Composting with Biofilter	12	8	6	1
	Zeolite Incorporation	12	8	6	2
Land Application ²	Soil Injection - Slurry	10	15	7.5	2
	Incorporation of Manure within 24 hrs	10	10	10	2
	Incorporation of Manure within 48 hrs	5	5	5	2
	Nitrification of Lagoon Effluent	10	10	15	3, 4
	Low Energy/Pressure Application Systems	7	7	10	1
	Freshwater Dilution	5	8	8	1, 2
	Pivot Drag Hoses	8	8	10	1
	Subsurface Drip Irrigation	10	10	12	1

Ammonia Control Practices for Idaho Dairies

System	Component	Ammonia Control Effectiveness ¹			Compliance Method ³
		Open Lot	Freestall Scrape	Freestall Flush	
<p>Notes:</p> <p>1. The ammonia emission reduction effectiveness of each practice is rated numerically based on practical year-round implementation. Variations due to seasonal practices and expected weather conditions have been factored into these ratings. Not implementing a BMP when it is not practicable to do so, does not reduce the point value assigned to the BMP, nor does it constitute failure to perform the BMP. UD indicates that the practice is still under development.</p> <p>2. Land application practices assume practice is conducted on all manure; points will be pro-rated to reflect actual waste treatment; points can be obtained on exported material with sufficient documentation.</p> <p>3. Method used by inspector to determine compliance 1=Observation by Inspector 2=On-Site Recordkeeping Required 3, 4=Deviation Reporting Required. Equipment upsets and/or breakdowns must be recorded in a deviation log and if repaired in a reasonable timeframe does not constitute non-compliance with this rule.</p>					

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765. -- 789. (RESERVED)

790. RULES FOR THE CONTROL OF NONMETALLIC MINERAL PROCESSING PLANTS.

Sections 790 through 799 establish the requirements for nonmetallic mineral processing plants, frequently referred to as rock crushers. Definitions for nonmetallic mineral processing plants can be found in 40 CFR Part 60, Subpart OOO. Compliance with Section 790 does not relieve the owner or operator of a nonmetallic mineral processing plant from the responsibility of complying with other federal, state, and local applicable laws, regulations, and requirements.

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791. GENERAL CONTROL REQUIREMENTS.

01. Prohibition. No owner or operator of a nonmetallic mineral processing plant will allow, suffer, or cause the emissions of any air pollutant to the atmosphere in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

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02. Control of Fugitive Dust. In accordance with Sections 650 and 651, owners and operators of nonmetallic mineral processing plants must take all reasonable precautions to prevent the generation of fugitive dust. In determining what is reasonable, consideration will be given to factors such as the proximity to human habitations and/or activities and atmospheric conditions that might affect the movement of particulate matter.

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792. (RESERVED)

793. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS NOT SUBJECT TO 40 CFR PART 60, SUBPART OOO.

Owners and operators of nonmetallic mineral processing plants that are not subject to a 40 CFR Part 60 requirement must comply with the emissions standards set forth in Section 793.

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01. Processing Plants Not Regulated by 40 CFR Part 60. Fixed or portable plants that commenced construction, reconstruction, or modification before August 31, 1983, are not subject to 40 CFR 60, Subpart 000. ()

02. Emissions Standards for Fugitive Emissions. Emissions that exhibit greater than twenty percent (20%) opacity must not be discharged in the atmosphere from any crusher, grinding mill, screening operation, bucket elevator, belt conveyor, conveying system, transfer point, vent, capture system, storage bin, stockpile, truck dumping operation, vehicle traffic on an affected paved public roadway, vehicle traffic on or wind erosion of an unpaved haul road, or other source of fugitive emissions. Opacity must be determined using the test methods and procedures in Section 625. The plant is not required to have a certified opacity reader. ()

794. PERMIT REQUIREMENTS.

No owner or operator may commence construction, reconstruction, modification or operation of any nonmetallic mineral processing plant regardless of whether or not the source is an affected facility pursuant to 40 CFR 60.670(e) without first obtaining a permit or complying with Sections 795 through 799. The owner or operator must comply with the permitting requirements of Subsection 794.02 or Subsection 794.03 and the applicable portions of Subsection 794.04 and/or Subsection 794.05. ()

01. Permit by Rule Eligibility. New major facilities or major modifications subject to Sections 204 and 205 are not eligible for a Permit by Rule. ()

02. Permit by Rule. Owners and operators of nonmetallic mineral processing plants that meet all of the applicable requirements set forth in Sections 795 through 799 are deemed to have a permit by rule (PBR) and will not be required to obtain a permit to construct under Sections 200 through 227. ()

03. Permit to Construct. Owners and operators of nonmetallic mineral processing plants that do not meet all of the requirements set forth in Sections 795 through 799, or that operate or intend to operate a nonmetallic mineral processing plant at a single site of operations for more than twelve (12) consecutive months, or that choose to construct and operate under specific permit requirements rather than the provisions of the permit by rule must obtain a permit to construct pursuant to Sections 200 through 227. An existing permit to construct will be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. ()

04. Tier I Operating Permits. Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of 40 CFR Part 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 397. ()

05. Tier II Operating Permits. Owners and operators of nonmetallic mineral processing plants that are required by the Department or choose to obtain a Tier II operating permit pursuant to Sections 400 through 409 must operate in accordance with the specific provisions of the Tier II operating permit until such time as the operating permit is terminated in writing by the Department. The Department may require owners and operators of nonmetallic mineral processing plants to obtain a Tier II operating permit whenever the Department determines that: ()

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or ()

b. Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. ()

795. PERMIT BY RULE REQUIREMENTS.

Sections 795 through 799 establish the requirements for a permit by rule for nonmetallic mineral processing plants. ()

796. APPLICABILITY.

01. Permit by Rule. Owners and operators of nonmetallic mineral processing plants are deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 795 through 799. Nothing in Sections 795 through 799 precludes any owner or operator from obtaining a permit. Portable sources that operate or

may be operated at a single location or site of operations for more than twelve (12) consecutive months must obtain a permit to construct. ()

02. Permit Option. Owners and operators of nonmetallic mineral processing plants that hold a valid permit to construct or a Tier II operating permit must comply with the terms and conditions of the permit and are not subject to the requirements of the permit by rule in Sections 795 through 799. ()

797. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a nonmetallic mineral processing plant that opts to operate under the permit by rule must register in the following manner: ()

a. Any new or modified processing plant must register fifteen (15) days prior to commencing operation or modification. The Department will acknowledge registration in writing within fifteen (15) days. ()

b. Any permitted processing plant must register with the Department and request termination of the current permit to construct or Tier II operating permit. The Department will normally act on the request within fifteen (15) days and notify the registrant in writing. ()

Registration for permit by rule does not relieve the owner or operator of portable equipment from the registration and relocation requirements of Section 500. ()

02. Registration Information. The following information must be provided by the registrant using forms furnished by the Department, or by other means approved by the Department. ()

a. For all crushers and grinding mills, the registrant shall supply information on the manufacturer, crusher type (such as jaw, cone), serial number, date of manufacture, and maximum throughput capacity. ()

b. For all screen decks, the registrant shall supply manufacturer name, physical size of screen, number of decks, serial number, and date of manufacture. ()

c. For all electrical generators, the registrant shall supply manufacturer name, rated output, and fuel. ()

798. ELECTRICAL GENERATORS.

The following requirements apply to all electrical generators used to provide electrical power to any nonmetallic mineral processing plant. The requirements apply to each site of operations. ()

01. Fuel Type. Only ASTM (American Society of Testing and Materials) Grade 1 or 2 fuel oil may be used. The sulfur content of the fuel used must not exceed the percentages of sulfur given in Section 725. ()

02. Generator Operating Requirements. For the purposes of Sections 790 through 799, the following apply to all electrical generators.

Rated Output Capacities (kW)	Allowable Operating Hours (hr/day)		Allowable Operating Hours (hr/yr)	
	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas
0 - 454	24	8	8760	2880

Rated Output Capacities (kW)	Allowable Operating Hours (hr/day)		Allowable Operating Hours (hr/yr)	
	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas
455 - 1000	24	24	8760	8760
1001 - 2000	24	24	5200	5200

kW = kilowatts
 hr/day = hours per day
 hr/yr = hours per year

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03. Generator Opacity Limit. Visible emissions from any generator stack, vent, or other functionally equivalent opening must not exceed twenty percent (20%) opacity for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period. Opacity must be determined using the test methods and procedures contained in Section 625. ()

04. Monitoring and Recordkeeping Requirements. ()

a. The owner or operator must monitor and record the following information. ()

i. The rated output capacity, in kilowatts (kW), of the electrical generator(s) used; ()

ii. Operating hours on a monthly and annual basis so compliance can be continuously determined for the previous twelve (12) month period; and ()

iii. Vendor receipts of the fuel oil purchased clearly identifying the ASTM Grade. ()

b. Records of monitoring and recordkeeping requirements for current operations must be maintained at the site of operations for the duration of operations at that location and must be available to Department representatives upon request. Records for previous sites of operation must be kept for the most recent two (2) year period at a location where they can be reasonably accessed and be made available to the Department upon request. ()

799. NONMETALLIC MINERAL PROCESSING PLANT FUGITIVE DUST BEST MANAGEMENT PRACTICE.

The owner or operator of a nonmetallic mineral processing plant must use the Best Management Practices (BMP) contained in Section 799 to control the emissions of fugitive dust. Fugitive dust emissions must be reasonably controlled as required by Sections 650 and 651. It is the responsibility of the owner or operator to reasonably control fugitive emissions at each site of operations but only for the duration of operations at each site under the control of the owner or operator. ()

01. Generally Applicable Requirements. All reasonable precautions must be taken to prevent particulate matter from becoming airborne. ()

a. The owner or operator of a nonmetallic mineral processing plant must at all times be observant of all sources of fugitive dust emissions and monitor control strategies at least once per day when operating. The following events will trigger initiation of the prescribed control strategy or control strategies to control the fugitive

dust emissions. ()

i. When fugitive dust emissions are observed at any time to be exceeding any control strategy trigger specified in Subsections 799.02 through 799.06, that event triggers initiation of the prescribed control strategy or control strategies to control the fugitive dust emissions. ()

ii. Citizen complaints of failure to reasonably control fugitive dust must be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy must be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. ()

b. A progressive control strategy must be used to reasonably control the emissions of fugitive dust. Progressive control strategy means that if the initial control strategy or strategies chosen do not adequately control fugitive dust emissions, the owner or operator must employ successive control strategies as listed until fugitive dust control is achieved. Fugitive dust control must be applied on a frequency such that visible emissions do not exceed any emission standard specified in Sections 790 through 799. ()

c. The owner or operator must maintain a record of each event where a control strategy is triggered. The trigger must be recorded with a summary of the control strategy employed. If the trigger is a citizen complaint, the owner or operator must record the complaint, an evaluation of whether the complaint has merit, and a summary of the corrective action taken. The record must be maintained on forms provided by the Department or other forms that contain similar information. Records for current operations must be maintained at the site of operations for the duration of operations at that location and must be available to Department representatives upon request. Records for previous sites of operation must be kept for the most recent two (2) year period at a location where they can be reasonably accessed and must be made available to the Department upon request. ()

02. Requirements for Paved Public Roadways. ()

a. Definitions. ()

i. A paved public roadway means a roadway accessible to the general public having a surface of asphalt or concrete. ()

ii. Track-out means the deposition of mud, dirt, or similar debris onto the surface of a paved public roadway from the tires and/or undercarriage of any vehicle associated with the operation of a nonmetallic mineral processing plant. ()

b. Control strategy triggers that require initiation of a strategy or strategies to control fugitive dust emissions from track-out include, but are not limited to: ()

i. Visible deposition of mud, dirt, or similar debris on the surface of a paved public roadway. ()

ii. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. ()

c. The following are control strategies for track-out. ()

i. Prompt removal of mud, dirt, or similar debris from the affected surface of a paved public roadway. ()

ii. Water flush, and/or water flush and vacuum sweep, the affected surface of the paved public roadway. Runoff must be controlled so it does not saturate the surface of the adjacent unpaved haul road such that track-out is enhanced. If runoff is not, or cannot be controlled, gravel must be applied to the surface of the adjacent unpaved haul road over an area sufficient to control track-out. ()

iii. Apply gravel to the surface of the adjacent unpaved haul road. The area of application must be sufficient to control track-out. ()

iv. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the adjacent unpaved haul road. The area of application must be sufficient to control track-out. ()

v. Other control strategy or strategies as approved by the Department. ()

03. Requirements for Unpaved Haul Roads. ()

a. Unpaved haul roads are defined as any unsurfaced roadway within the physical boundary of a nonmetallic mineral processing facility that is used as a haul road, access road, or similar. ()

b. Control strategy triggers that require initiation of a strategy or strategies to control fugitive dust emissions from unpaved haul roads include, but are not limited to visible fugitive emissions from vehicle traffic on unpaved haul roads that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. ()

c. The following are control strategies for fugitive dust emissions from unpaved haul roads. ()

i. Limit vehicle traffic on unpaved haul roads. ()

ii. Limit vehicle speeds on unpaved haul roads. If a speed limit is imposed, signs must be posted along the haul road route and clearly indicate the speed limit. Signs must be placed so they are visible to vehicles entering and leaving the site of operations. ()

iii. Apply water to the surface of the unpaved haul road. Runoff must be controlled so it does not saturate the surface of the unpaved haul road such that it causes track-out. If runoff is not, or cannot be controlled, gravel must be applied to the surface of the unpaved haul road over an area sufficient to control track-out. ()

iv. Apply gravel to the surface of the unpaved haul road. ()

v. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the unpaved haul road. ()

vi. Other control strategy or strategies as approved by the Department. ()

04. Requirements for Transfer Points, Screening Operations, and Stacks and Vents. ()

a. In addition to the requirements of 40 CFR Part 60, Subpart OOO, incorporated by reference in Section 107, for applicable facilities, the following control strategy triggers require initiation of a strategy or strategies to control fugitive dust emissions from transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents. ()

i. Opacity greater than twenty percent (20%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. ()

ii. For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation located within a building, opacity greater than twenty percent (20%) from any building vent. ()

iii. Opacity greater than twenty percent (20%) from any capture system stack. ()

b. The following are control strategies for transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents. Controls must be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. ()

i. Limit drop heights of materials such that there is a homogeneous flow of material. ()

ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at transfer points on belt conveyors, conveying systems, bucket elevators, and screening operations as necessary. ()

iii. Other control strategy or strategies as approved by the Department. ()

05. Requirements for Crushers and Grinding Mills. ()

a. Control strategy triggers that require initiation of a strategy or strategies to control fugitive dust emissions from any crusher, grinding mill, building vent, or capture system stack include the requirements of 40 CFR Part 60, Subpart OOO, for applicable facilities and the following. ()

i. Opacity greater than twenty percent (20%) from any crusher or grinding mill at which capture system is not used. ()

ii. For any crusher or grinding mill located within a building, opacity greater than twenty percent (20%) from any building vent. ()

iii. Opacity greater than twenty percent (20%) from any capture system stack. ()

b. The following are control strategies for any crusher, grinding mill, building vent, or capture system stack. Controls must be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. ()

i. Limit drop heights of materials such that there is a homogeneous flow of material. ()

ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at crusher drop points as necessary. ()

iii. Other control strategy or strategies as approved by the Department. ()

06. Requirements for Stockpiles. ()

a. Control strategy triggers that require immediate initiation of a strategy or strategies to control fugitive dust emissions from stockpiles include, but are not limited to visible fugitive emissions from wind erosion of any stockpile that approaches twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. ()

b. The following are control strategies for stockpiles. ()

i. Limit the height of the stockpiles. ()

ii. Limit the disturbance of the stockpiles. ()

iii. Apply water onto the surface of the stockpile. ()

iv. Other control strategy or strategies as approved by the Department. ()

800. REGISTRATION FEE FOR PERMIT BY RULE.

A registration fee of two hundred fifty dollars (\$250) must be submitted to the Department with each permit by rule registration. ()

801. PAYMENT OF FEES FOR PERMITS BY RULE REGISTRATION.

The permit by rule registration fee must be paid in its entirety at the time the required registration form is submitted to the Department. Information for making payments is available at <http://www.deq.idaho.gov>. ()

802. RECEIPT AND USAGE OF FEES.

Permit by rule registration fee receipts will be deposited by the Department into a stationary source permit account. Monies from this account will be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and will not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. Fees payable under Section 800 will be retained by the Department regardless of whether a permit by rule registration is accepted by the Department in response to a registration request. ()

803. -- 814. (RESERVED)

815. RULES FOR CONTROL OF KRAFT PULP MILLS.

Sections 815 through 818 establish emission standards for recovery furnaces and notification and reporting requirements for low volume high concentration (LVHC) and high volume low concentration (HVLC) gas venting at kraft pulp mills. ()

816. RECOVERY FURNACE TRS STANDARD.

The average daily emissions of total reduced sulfur (TRS) from each recovery furnace must not exceed fifteen (15) ppm expressed as hydrogen sulfide on a dry basis. Recovery furnaces at kraft pulp mills subject to 40 CFR Part 60 TRS standards are exempt from the requirements of Section 816. ()

817. RECOVERY FURNACE TRS MONITORING AND RECORDKEEPING.

Owners and operators of each recovery furnace subject to the TRS emission standard in Section 816 must maintain and operate equipment to continuously monitor and record the daily average TRS concentrations. ()

818. KRAFT PULP MILL LVHC AND HVLC GAS VENTING NOTIFICATION AND REPORTING.

Section 818 is applicable to kraft pulp mill LVHC and HVLC gas venting from sources required to be controlled pursuant to 40 CFR Part 63, Subpart S. For purposes of Sections 130 through 136, an excess emission is defined as a continuous uncontrolled gas venting in excess of five (5) minutes. Excess emissions notification and reporting must be conducted pursuant to the requirements contained in Sections 130 through 136 and the permit issued to the kraft pulp mill. ()

819. -- 834. (RESERVED)

835. RULES FOR CONTROL OF RENDERING PLANTS.

No person may allow, cause, or permit: ()

01. Cookers. The operation or use of any device, machine, equipment, or other contrivance to cook inedible animal or marine matter unless all gases, vapors, and gas entrained effluents from these processes are passed through condensers to remove all steam and other condensable materials. All noncondensibles, defined as gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified, passing through the condensers must then be incinerated at one thousand two hundred degrees Fahrenheit (1,200) for a minimum of three-tenths (0.3) seconds, or treated in an equally effective manner. ()

02. Expellers. The installation or operation of an expeller unless it is properly hooded and all exhaust gases are ducted to odor control equipment. ()

03. Plant Air. The installation or operation of a rendering plant unless plant ventilation air is collected and ducted to odor control equipment except if it can be demonstrated that without ducting plant ventilation air to the odor control equipment no noticeable odors from the plant can be detected at the property line. ()

836. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 21, 2022. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. Idaho's Rules and Standards for Hazardous Waste, IDAPA 58.01.05, are updated annually to maintain consistency with the federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference with the July 1, 2022 Code of Federal Regulations (CFR) effective date. The July 1, 2022 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2022.

Citizens of the state of Idaho; environmental groups; persons interested in hazardous waste; and hazardous waste generators, transporters, and treatment, storage, and disposal facilities may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality in November 2022 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2023 legislative session if adopted by the Board and approved by the Idaho Legislature.

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

Adoption of federal regulations is necessary to maintain program primacy. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive difference between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at <https://www.deq.idaho.gov/hazardous-waste-docket-no-58-0105-2201/>.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible pursuant to Section 67-5220, Idaho Code, due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting EPA's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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

Not applicable

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Albert Crawshaw at albert.crawshaw@deq.idaho.gov or (208) 373-0554.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rulemaking. The Department will consider all comments received on or before September 28, 2022. Submit comments to:

Albert Crawshaw
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
albert.crawshaw@deq.idaho.gov

DATED this September 7, 2022

Caroline Moores
Operations Senior Analyst
Department of Environmental Quality
1410 N Hilton St.
Boise, ID 83706
208-373-0149
caroline.moores@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0105-2201
(Only Those Sections With Amendments Are Shown.)

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2021², including any notes and appendices therein, unless expressly provided otherwise in these rules. (3-24-22)()

01. Exceptions. Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (3-24-22)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (3-24-22)

- a. U.S. Government Printing Office, ~~<http://www.ecfr.gov/cgi-bin/ECFR>~~ [https://www.ecfr.gov/current/title-40](https://www.ecfr.gov/current/title-40;); (3-24-22)()
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208) 334-3316; (3-24-22)
- and
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (3-24-22)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 – RECYCLED WATER RULES

DOCKET NO. 58-0117-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 21, 2022. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This is one of the DEQ rule chapters up for review in 2022.

The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

This rulemaking also includes provisions that will allow DEQ to issue general reuse permits. General permits will be issued for specific but common uses of recycled water that need less DEQ oversight due to the nature and/or volume of the recycled water. General reuse permits will reduce the permitting process for certain uses of recycled water while still being protective of human health and the environment.

Because this is the promulgation of a new rule chapter, the proposed rule does not contain strike-out/underline text. A document prepared by DEQ showing the proposed rule revisions in strike-out/underline format can be viewed [here](#).

Citizens of the state of Idaho, environmental groups, and owners and operators of recycled water facilities may be interested in commenting on this proposed rule. After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2022 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2023 legislative session if adopted by the Board and approved by the Idaho Legislature.

NEGOTIATED RULEMAKING: On April 6, 2022, the notice of negotiated rulemaking was published in the Idaho Administrative Bulletin, and on April 20, 2022, a preliminary draft rule was posted on DEQ's website. Meetings were held on May 4 and June 7, 2022. Stakeholders and members of the public participated by receiving email notifications, attending the meetings, reviewing DEQ's presentations, and submitting comments. Key information was posted on DEQ's website and distributed to persons who participated in the negotiated rulemaking.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding the development of the rule. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to DFM for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/recycled-water-docket-no-58-0117-2201/>.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: IDAPA 58.01.17, Recycled Water Rules, ensure that the permitted use of recycled water does not harm human health and the environment or violate the Department's Water Quality Standards, IDAPA 58.01.02, or the Ground Water Quality Rule, IDAPA 58.01.11. The federal government does not regulate or permit the use of recycled water. The statutory authority for these rules is contained in Idaho Code §§ 39-102, 39-105, 39-115 and 39-118. Idaho Code § 39-115 provides the Director with the authority to issue pollution source permits in compliance with rules. Idaho Code § 39-118 requires all plans and specifications and record plans "for the construction of new sewage systems, sewage treatment plants or systems" to "be submitted to and approved by the director before construction may begin, and all construction shall be in substantial compliance therewith." Idaho Code § 39-105(2) requires the Director to "formulate and recommend to the board rules as may be necessary to deal with problems related to water pollution...and licensure and certification requirements pertinent thereto." Idaho Code § 39-102(3)(a) states: "It is the policy of the state to prevent contamination of ground water from any source to the maximum extent practical."

Most of the substantive provisions of these rules were adopted after 2003, thus, if they were based on science or included a standard necessary to protect human health and the environment, they have already been approved as meeting Idaho Code §§ 39-107D(2) and (3) requirements. The remaining provisions are not specific science-based requirements or standards. Rather, they are (1) procedural requirements that are primarily necessary for the Department to properly process reuse permits, or (2) construction-related requirements to ensure land application does not harm human health and the environment or violate Water Quality Standards or the Ground Water Quality Rule.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Matt Plaisted at matthew.plaisted@deq.idaho.gov, (208)373-0151.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 28, 2022. Submit comments to:

Matt Plaisted
Wastewater Engineering Bureau Chief
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
matthew.plaisted@deq.idaho.gov

Dated this 7th day of September, 2022.

Caroline Moores
Operations Senior Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0149
caroline.moores@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0117-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

58.01.17 – RECYCLED WATER RULES

000. LEGAL AUTHORITY.

Pursuant to Title 39, Chapter 1, Idaho Code, the Department of Environmental Quality is authorized to adopt or formulate and recommend to the Board of Environmental Quality (Board), and the Board is authorized to adopt, rules to protect the environment and the health of citizens of the state, including provisions for issuing pollution source permits, authorized by Section 39-115, Idaho Code, and reviewing plans and specifications for wastewater treatment facilities, authorized by Section 39-118, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.17, “Recycled Water Rules.” ()

02. Scope. These rules establish the procedures and requirements to issue and maintain pollution source permits for reuse facilities, referred to as “reuse permits.” ()

002. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, Contested Case Rules and Rules for Protection and Disclosure of Records. ()

003. (RESERVED)

004. REFERENCED MATERIALS.

01. Idaho Guidance for Recycled Water. This document, and subsequent revisions, assist with applying and interpreting these rules. Review this document at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706, or online at <http://www.deq.idaho.gov/guidance-documents>. ()

02. Treatment Technology Report for Recycled Water. The [Alternative Treatment Technology Report for Recycled Water](#). ()

03. Recommended Standards for Wastewater Facilities. Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, most current version, at <http://10statesstandards.com/wastewaterstandards.html>. ()

04. AWWA Manual M24. AWWA Manual M24, Chapter 4 for Dual Water Systems, 4th edition. Review this document at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502, or it can be purchased from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337. ()

05. Idaho Standards for Public Works Construction. Purchase this document through the Local Highway Technical Assistance Council (LHTAC), 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. ()

06. American Water Works Association (AWWA) Standards. Review this document at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, or it can be purchased from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337. ()

005. – 009. (RESERVED)

010. DEFINITIONS.

The terms “department,” “person,” and “waters” have the meaning provided for those terms in [Section 39-103, Idaho Code](#). ()

01. Beneficial Use. Uses of the water of Idaho including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use depends upon actual use, ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. ()

02. Biochemical Oxygen Demand (BOD). Amount of oxygen necessary to satisfy the biochemical oxidation requirements of the organic materials at the time the sample is collected; unless otherwise specified, this term means the five (5) day BOD (BOD5). ()

03. Buffer Distances. Specified distance between an actual point of recycled water use and a land feature or resource use, such as wells, adjoining property, inhabited dwellings, or other features. ()

04. Ground Water Recharge. Process of adding recycled water to the zone of saturation. ()

05. Industrial Wastewater. All wastewater, treated or untreated, that is not defined as municipal wastewater. ()

06. Land Application. Process of distributing wastewater or recycled water to the land surface. ()

07. Landscape Impoundment. Any lake, pond, or other water-holding feature constructed or managed to store recycled water where swimming, wading, boating, fishing, and other water-based recreational activities are prohibited. Landscape impoundment created for storage may incidentally serve a landscaping or aesthetic purpose. ()

08. Maximum Day Flow. Largest volume of flow received during a 24-hour period expressed as a volume per unit time. ()

09. Modal Contact Time. Amount of time elapsed between the time a tracer, such as salt or dye, is injected into the influent at the entrance to a chamber and the time the highest concentration of the tracer is observed in the effluent from the chamber. ()

10. Municipal Wastewater. Wastewater containing sewage and associated solids, whether treated or untreated. Municipal wastewater, also known as domestic wastewater, may contain industrial wastewater. ()

11. Non-Potable Mains. Pipelines that collect and/or convey non-potable discharges from or to multiple service connections. Examples include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and recycled water mains. ()

12. Non-Potable Services. Pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. Term also refers to pipelines that convey non-potable water from a pressurized irrigation system, recycled water system, and other non-potable systems to individual consumers. ()

13. Non-Potable Water. Any fluids that do not meet the definition of potable water. ()

14. Nephelometric Turbidity Unit (NTU). Measure of turbidity that compares the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. ()

15. Peak Hour Flow. Largest volume of flow received during a one (1) hour period expressed as a volume per unit time. ()

16. Plan of Operation. Manual that describes in detail the current operation, maintenance, and management of a reuse facility. ()

17. Point of Compliance. Point in the reuse facility where the recycled water must meet the requirements of the permit. A permit may require more than one (1) point of compliance within the facility depending on the constituents to be monitored. ()

18. Potable Water. Water used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water,” “drinking water,” and “potable water” are frequently used as synonyms. ()

19. Purple. For the purposes of these rules, purple is specified as Pantone 512, 522, or equivalent. ()

20. Rapid Infiltration System. Permeable systems designed and operated for high rates of recycled water infiltration followed by rapid percolation using wetting and drying cycles. ()

21. Recycled Water. Water treated by a wastewater treatment system and used according to these rules. ()

22. Restricted Public Access. Preventing public entry within the area or a facility’s point of reuse and the buffer distance around the area by site location or physical structures such as fencing. ()

23. Reuse. Use of recycled water or wastewater for beneficial purposes including irrigation, ground water recharge, landscape impoundments, toilet flushing in commercial buildings, dust control, and other uses. Also referred to as Beneficial Reuse. ()

24. Reuse Facility or Facility. Structure or system designed or used for reuse of municipal or industrial wastewater including, but not limited to, industrial and municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the wastewater or recycled water is used. Does not include industrial in-plant processes and reuse of process waters within the plant. ()

25. Sewage. Water-carried human wastes from residences, buildings, and industrial establishments and other places, together with ground water infiltration and surface water as may be present. ()

26. Subsurface Distribution System. System with a point of discharge beneath the earth's surface. ()

27. Turbidity. Measure of the interference of light passage through water, or visual depth restriction from the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton, and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light-scattering and absorbing properties of a water sample. Turbidity is measured by the nephelometric method. ()

28. Wastewater. Combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions, and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water, or commercial or industrial pollutants; and sewage. ()

011. – 099. (RESERVED)

100. APPLICABILITY.

01. Applicability to Reuse Facilities. All reuse facilities are subject to these rules except: ()

a. Land application of wastewater from mining, livestock truck washing facilities, feedlots, dairies, and digesters where the digestate is returned to the originating farm and applied according to an Idaho Department of

- Agriculture approved nutrient management plan; ()
- b.** Recycled water used for landscape irrigation at a municipal wastewater treatment plant if: ()
 - i.** No other recycled water use would subject the municipal wastewater treatment plant to these rules; ()
 - ii.** The municipal wastewater treatment plant has, and is in compliance with, an IPDES permit; and ()
 - iii.** Public access to the area of landscape irrigation is restricted; and ()
 - c.** Other facilities identified by the Department, if covered adequately by other law. ()
- 02. Reuse Policy.** Department policy promotes, where appropriate, reuse of both municipal and industrial recycled water. ()

101. – 299. (RESERVED)

300. PERMIT REQUIREMENTS AND APPLICATION.

- 01. Permit.** No person may operate or continue to operate a reuse facility without a valid permit issued by the Department as provided in these rules. A permit does not relieve any person from meeting all applicable local, state, and federal laws. ()
- 02. Pre-Application Conference.** New applicants must meet with the Department to discuss the application process before submitting an application. ()
- 03. Application Contents.** Except as provided in Subsection 300.04, the following must be included in the application: ()
- a.** Name, location, and mailing address of the facility; ()
 - b.** Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; ()
 - c.** Nature and identification of the entities or persons owning the facility, facility components, and related real property; ()
 - d.** List of local, state, and federal permits, licenses, and approvals related to the activities applied for and the dates of application or approval and receipt; ()
 - e.** Topographic map of the facility site showing the location and extent of: ()
 - i.** Wastewater inlets, outlets, and storage structures and facilities, including the reuse area; ()
 - ii.** Wells, springs, wetlands, and surface waters; ()
 - iii.** Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency or through other sources acceptable to the Department; ()
 - iv.** Service roads; ()
 - v.** Natural or man-made features necessary for treatment; ()
 - vi.** Buildings and structures; and ()

- vii. Process chemicals and residue storage facilities. ()
- f. Topographic map that may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site, and showing the location and extent of the following: ()
 - i. Wells, springs, wetlands, and surface waters; ()
 - ii. Public and private drinking water supply sources and source water assessment areas (public water system protection area information); ()
 - iii. Public roads; and ()
 - iv. Dwellings and private and public gathering places. ()
- g. If the facility site or any portion thereof is not owned by the permittee, a copy of related agreements that allow the permittee access or use; ()
- h. Sources and volume of wastewaters to be treated; ()
- i. Physical, chemical, and biological characteristics of the recycled water to be used; ()
- j. Climatic, hydrogeologic, and soil characteristics of the facility site; ()
- k. Description of treatment process and alternatives for disposal of unanticipated excess recycled water that does not meet class specifications; ()
- l. Site management plans, including a cropping plan where applicable; ()
- m. Statement and supporting documentation demonstrating the proposed activity will comply with IDAPA 58.01.11, "Ground Water Quality Rule"; and ()
- n. Other information as requested by the Department to issue the permit. The Permitting Guidance for Recycled Water assists applicants with obtaining a reuse permit and the Department in determining the need for other information. ()

04. Exceptions. Application content for permits will be clarified at the pre-application conference and may result in the omission of one (1) or more of the items listed in Subsection 300.03. ()

05. Reuse Facility Plan of Operation. A plan of operation must contain, as applicable, operation and management responsibility, permits and standards, general plant description, operation and control of unit operations, reuse area site maps, wastewater and recycled water characterization, cropping plan, hydraulic loading rate, constituent loading rates, compliance activities, seepage rate testing, site management plans, monitoring, site operations and maintenance, solids handling and processing, laboratory testing, general maintenance, records and reports, store room and inventory, personnel, and an emergency operating plan. Permittees are required to submit a plan of operation for review and approval. Amendments are also subject to review and approval. ()

301. – 399. (RESERVED)

400. APPLICATION PROCESSING.

01. Submittal. New facilities must submit applications at least one hundred eighty (180) days before beginning reuse activities. Existing facilities applying for permit renewals must submit an application at least one hundred eighty (180) days before the existing permit expires. ()

02. Completeness. ()

a. If the Department determines the application is complete, the Department will provide written notice to the applicant within thirty (30) days after receiving the application, specifying the effective date of application. ()

b. After the application is complete, the Department or applicant may initiate a consultation to clarify, modify, or supplement the application. ()

c. If the application is incomplete, the Department will provide written notice to the applicant within thirty (30) days after receiving the application, specifying the deficiencies and requesting additional information. The Department will not process an application until it is complete according to these rules. ()

03. Preliminary Decision/Application Denial. Within thirty (30) days of the effective date of the application, the Department will issue a written preliminary decision to prepare a draft permit or a written decision denying the application. ()

04. Staff Analysis. The staff analysis states the facts considered when preparing the draft permit conditions, or intent to deny, and summarizes the basis for draft conditions or denial with references to applicable requirements and supporting materials. The Department will provide the staff analysis with the draft permit issuance or with the written decision denying the application. ()

05. Draft Permit. ()

a. The Department will issue a draft permit within sixty (60) days of issuing a preliminary decision to prepare a draft permit. The draft permit specifies the conditions of operation and management necessary for issuing the permit. ()

b. The Department will provide a public notice for the draft permit. The notice specifies the time and manner that the public may provide written comments. The Department may offer an opportunity for oral comments. ()

06. Final Permit. The Department will issue a written final permit decision to the applicant within sixty (60) days from the issuance of the draft permit, except the Department may issue the decision at a later date in response to a written request to extend the public comment period. ()

07. Effective Date. The final permit becomes effective upon date of issue unless a later effective date is specified in the permit. ()

08. Expiring Permits. ()

a. The Department may administratively extend the terms and conditions of an expired permit pursuant to Section 67-5254, Idaho Code, provided a complete permit renewal application is submitted prior to the current permit expiration. ()

b. A permittee must operate under the terms of the administratively extended permit until a new permit is issued. ()

401. – 499. (RESERVED)

500. STANDARD CONDITIONS.

Permit conditions will protect human health and the environment from the potential hazard of an existing or proposed wastewater treatment system. The permittee must comply with all conditions of the permit. The following conditions apply to and are included in all permits. ()

01. Facility Operation. At all times, the permittee must properly maintain and operate all structures, systems, and equipment installed or used by the permittee for treatment, control, and monitoring to achieve compliance with the permit or these rules. ()

02. Provide Information. If requested by the Department, the permittee must provide the Department, within a reasonable time, information including copies of records, to help the Department determine whether cause exists for modifying, revoking, re-issuing, or terminating the permit, or to determine compliance with the permit or these rules. ()

03. Entry and Access. The permittee must allow the Department, consistent with Title 39, Chapter 1, Idaho Code, to: ()

a. Enter the permitted facility and all associated property; ()

b. Inspect any records kept under the conditions of the permit; ()

c. Inspect and photograph any permitted facility, equipment, practice, records, or operation; and ()

d. Sample or monitor any substance or any parameter at the facility to ensure permit compliance. ()

04. Reporting. The permittee must report to the Department as specified in this section. ()

a. A written report submitted at least thirty (30) days before: ()

i. Any planned physical or operational alteration to the permitted facility that results or would result in a significant change in information submitted during the application process. If a major permit modification is needed, the alteration cannot be made before the Department issues approval. ()

ii. Any anticipated change that would result in noncompliance with any permit condition or these rules. ()

b. Orally within twenty-four (24) hours from the time the permittee became aware of any noncompliance that may endanger human health and the environment at telephone numbers provided in the permit. ()

c. A written report as soon as possible, but within five (5) days of the date the permittee knows, or should reasonably know, of any noncompliance unless extended by the Department, providing: ()

i. Description of the noncompliance and its cause; ()

ii. Period of noncompliance including, to the extent possible, times and dates, if the noncompliance has not been corrected, and the anticipated length of time it is expected to continue; and ()

iii. Steps taken or planned, including timelines, to reduce or eliminate the continuance or reoccurrence of the noncompliance. ()

d. In writing as soon as the permittee knows, or should reasonably know, of material facts not submitted or corrections to information submitted in a permit application, report, or notice provided to the Department. ()

e. No person may knowingly make any false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto. ()

05. Minimize Impacts. The permittee must take all necessary actions to eliminate and correct any adverse impact on human health and the environment resulting from permit noncompliance. ()

06. Applied Waters Restricted to Premises. Wastewater or recycled water applied to the land surface must be restricted to the premises of the reuse site. ()

07. Hazard or Nuisance Prohibited. Wastewater or recycled water must not create a public health hazard or a nuisance condition. ()

08. Renewal. If the permittee intends to continue operating the permitted facility after the existing permit expires, the permittee must apply for a permit renewal according to these rules. ()

501. – 599. (RESERVED)

600. SPECIFIC CONDITIONS.

01. Basis. Conditions necessary for protecting human health and the environment may differ from facility to facility because of varying environmental conditions and wastewater and recycled water compositions. The Department may establish, on a case-by-case basis, specific conditions that consider facility characteristics and inherent hazards of those characteristics, including, but not limited to: ()

a. Chemical, biological, physical, and volumetric characteristics of the wastewater and recycled water; ()

b. Geological and climatic nature of the facility site; ()

c. Size of the site and its proximity to population centers and to ground and surface water; ()

d. Legal considerations relative to land use and water rights; ()

e. Techniques used in wastewater or recycled water distribution and the disposition of vegetation exposed to wastewater or recycled water; ()

f. Abilities of soils and vegetative covers to treat the wastewater or recycled water without undue hazard to human health and the environment; and ()

g. Monitoring and record keeping that determine if the facility is operated in conformance with its design and if its design is adequate to protect human health and the environment. ()

02. Duration. A permit is effective for a fixed term of not more than ten (10) years. ()

03. Operational Limitations. Conditions of the permit may specify or limit: ()

a. Wastewater and recycled water composition; ()

b. Method, manner, and frequency of wastewater treatment; ()

c. Wastewater pretreatment requirements; ()

d. Physical, chemical, and biological characteristics of a reuse facility; and ()

e. Other conditions the Department finds necessary to protect human health and the environment. ()

04. Compliance Schedules. The Department may establish a compliance schedule for facilities as part of the permit conditions including: ()

a. Specific steps or actions necessary for the permittee to achieve compliance or final permit conditions; ()

b. Dates by which those steps or actions are to be taken; and ()

c. When the time period for compliance exceeds one (1) year, the schedule may also establish interim requirements and dates for achievement. ()

05. Monitoring. Any facility may be subject to monitoring conditions including, but not limited to: ()

a. Installation, use, and maintenance of monitoring equipment; ()

b. Sampling methodology, frequency, and locations; ()

c. Monitored substances or parameters; ()

d. Testing and analytical procedures; and ()

e. Reporting requirements including both frequency and form. ()

601. MUNICIPAL RECYCLED WATER: CLASSIFICATION, TREATMENT, USE.

01. Class A Recycled Water. To be classified Class A recycled water, municipal wastewater must be treated using processes identified in Table 1, or an equivalent process, and adequately disinfected. Class A treatment systems are reviewed by the Department and approved on a case-by-case basis. The Department may require pilot testing or demonstration before approval, or may condition approval upon the success of testing or demonstration. ()

a. Total Coliform. ()

i. Recycled water must be disinfected by either: ()

(1) Chlorine disinfection process following filtration that provides a CT (the product of concentration and modal contact time measured at the same point) of four hundred and fifty (450) milligram-minutes per liter (mg-min/L) measured at the end of the contact time based on total chlorine residual and a modal contact time of not less than ninety (90) minutes based on maximum day flow; or ()

(2) Disinfection process that, when combined with filtration, has been demonstrated to achieve 5-log removal/inactivation of virus. Acceptance by the State of California as published in their Alternative Treatment Technology Report for Recycled Water is one (1) method to constitute such a demonstration. ()

ii. Median number of total coliform organisms may not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. No sample may exceed twenty-three (23) organisms per one hundred (100) milliliters. ()

iii. Daily sample and analyze recycled water for total coliform when allowed uses specifically require Class A recycled water. ()

b. Turbidity. ()

i. Recycled water must meet the following turbidity limits before disinfection: ()

(1) For filtration systems using sand or other granular media or cloth media, the daily arithmetic mean of all measurements of turbidity may not exceed two (2) NTU, and turbidity may not exceed five (5) NTU at any time. ()

(2) For filtration systems using membrane filtration, the daily arithmetic mean of all measurements of turbidity may not exceed zero point two (0.2) NTU, and turbidity may not exceed zero point five (0.5) NTU at any time. ()

ii. One (1) in-line, continuously monitoring, recording turbidimeter exists for each treatment train

after filtration and before disinfection. ()

c. Nitrogen, pH, and BOD5. ()

i. Total nitrogen may not exceed ten (10) milligrams per liter (mg/L) for ground water recharge systems and thirty (30) mg/L for residential irrigation and other non-recharge uses based on a monthly arithmetic mean as determined from weekly composite sampling. If a ground water quality impact assessment indicates lower limits are necessary to protect existing ground water quality beneficial uses, the Department will require lower limits. ()

ii. The pH as determined by daily grab samples or continuous monitoring must be between six point zero (6.0) and nine point zero (9.0). ()

iii. BOD5 may not exceed five (5) mg/L for ground water recharge systems, and ten (10) mg/L for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined from weekly composite sampling. ()

02. Class B Recycled Water. To be classified Class B recycled water, municipal wastewater must be treated using processes identified in Table 1, or an equivalent process, and adequately disinfected. Class B treatment systems are reviewed by the Department and approved on a case-by-case basis. The Department may require pilot testing or demonstration before approval, or may condition approval upon the success of testing or demonstration. ()

a. Total Coliform. ()

i. Recycled water must be disinfected by either: ()

(1) Chlorine disinfection process that provides a residual chlorine at the point of compliance of not less than one (1) mg/L total chlorine residual after a contact time of thirty (30) minutes at peak hour flow; or ()

(2) An alternative disinfection process that has been demonstrated to the Department's satisfaction that the alternative process is comparable to that achieved by chlorination with a total chlorine residual of one (1) mg/L after a minimum contact time of thirty (30) minutes. ()

ii. Median number of total coliform organisms may not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. No sample exceeds twenty-three (23) organisms per one hundred (100) milliliters. ()

iii. Daily sample and analyze recycled water for total coliform when allowed uses specifically require Class B recycled water. ()

b. Turbidity. ()

i. Daily arithmetic mean of all measurements of turbidity may not exceed five (5) NTU, and turbidity may not exceed ten (10) NTU at any time. The turbidity standard is met before disinfection. ()

ii. One (1) in-line, continuously monitoring, recording turbidimeter exists for each treatment train after filtration and before disinfection. ()

03. Class C Recycled Water. To be classified Class C recycled water, municipal wastewater must be treated using the processes identified in Table 1. ()

a. Median number of total coliform organisms may not exceed twenty-three (23) per one hundred (100) milliliters, as determined from the bacteriological results of the last five (5) days for which analyses have been completed. No sample may exceed two hundred thirty (230) per one hundred (100) milliliters. ()

b. Weekly sample and analyze recycled water for total coliform when allowed uses specifically

require Class C recycled water. ()

04. Class D Recycled Water. To be classified Class D recycled water, municipal wastewater must be treated using the processes identified in Table 1. ()

a. Median number of total coliform organisms may not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last three (3) days for which analyses have been completed. No sample may exceed two thousand three hundred (2300) organisms per one hundred (100) milliliters. ()

b. Monthly sample and analyze recycled water for total coliform when allowed uses specifically require Class D recycled water. ()

05. Class E Recycled Water. To be classified Class E recycled water, municipal wastewater must be treated with screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. ()

a. Class E recycled water has no disinfection requirements or applicable coliform standard. ()

b. No sampling and analysis of total coliform are required for Class E recycled water. When sampling and analysis are required (e.g., buffer distance change reduction), the sampling frequency for total coliform will be established consistent with these rules to adequately protect human health and the environment. ()

06. Point of compliance. For total coliform limits, the point in the system following final treatment and disinfection as defined in the permit. Recycled water disinfection requirements after storage will be determined by the Department on a case-by-case basis considering class and uses of recycled water, reuse site design, and protection of human health and the environment. ()

07. Alternative Monitoring Frequency. Alternative total coliform monitoring frequencies may be considered by the Department on a case-by-case basis based upon demonstration that the alternative frequency is protective of human health and the environment. ()

602. MUNICIPAL RECYCLED WATER: CLASSIFICATION AND USES TABLES

01. Municipal Recycled Water -- Classification Tables. The tables summarize treatment for municipal recycled water as outlined in Section 601. If discrepancies exist between Sections 601 and 602, follow Section 601.

TABLE 1 - CLASSIFICATION TABLE

	Class A	Class B	Class C	Class D	Class E
Oxidized	Yes	Yes	Yes	Yes	No
Filtered	Yes	Yes	No	No	No
Disinfected	Yes	Yes	Yes	Yes	No

TABLE 1 - CLASSIFICATION TABLE

		Class A	Class B	Class C	Class D	Class E
Total coliform (organisms/ 100 milliliters)	Median results for last x-days for which analysis have been completed	2.2 7-day median	2.2 7-day median	23 5-day median	230 3-day median	No limit
	Maximum in any sample	23	23	230	2300	No limit
	Monitoring frequency	Daily	Daily	Once weekly	Once monthly	

()

TABLE 2 - CLASS A AND CLASS B ADDITIONAL REQUIREMENTS

		Class A	Class B
Turbidity (NTU)	24-hour - mean, Not to exceed	Granular or cloth media - 2 Membrane filter - 0.2	Granular or cloth media - 5
	Maximum, in any sample	Granular or cloth media - 5 Membrane filter - 0.5	Granular or cloth media - 10
	Monitoring frequency	Continuous	Continuous
Disinfection contact time requirements		CT of 450 mg-min/L with 90 minutes of modal contact time, or Disinfection to 5-log inactivation of virus	Total chlorine not less than 1 mg/L after 30 minute contact time, or Comparable alternate process
Maximum total nitrogen (mg/L) Monthly arithmetic mean, from weekly composite samples not to exceed		Ground water recharge - 10 Residential irrigation and other non-recharge uses - 30	

TABLE 2 - CLASS A AND CLASS B ADDITIONAL REQUIREMENTS

	Class A	Class B
BOD5 (mg/L) Monthly arithmetic mean, from weekly composite samples not to exceed	Ground water recharge - 5 Residential irrigation and other non-recharge uses - 10	
pH Daily grab samples or continuous monitoring	Between 6.0 and 9.0	

()

02. Municipal Recycled Water - Uses Beneficial Reuse. This table summarizes municipal recycled water uses for specific classifications. Other uses not listed here may be considered on a case-by-case basis and approved by the Department.

TABLE 3 - RECYCLED WATER BENEFICIAL REUSE

Recycled Water Beneficial Reuse	Class A	Class B	Class C	Class D	Class E
Fodder, fiber crops	Yes	Yes	Yes	Yes	Yes
Commercial timber, firewood	Yes	Yes	Yes	Yes	Yes
Processed food crops or “food crops that must undergo commercial pathogen-destroying processing before being consumed by humans”	Yes	Yes	Yes	Yes	No
Ornamental nursery stock, or Christmas trees	Yes	Yes	Yes	Yes	No
Sod and seed crops not intended for human ingestion	Yes	Yes	Yes	Yes	No
Pasture for animals not producing milk for human consumption	Yes	Yes	Yes	Yes	No
Pasture for animals producing milk for human consumption	Yes	Yes	Yes	No	No
Orchards and vineyards irrigation during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the inedible portion of raw food crops	Yes	Yes	Yes	No	No

TABLE 3 - RECYCLED WATER BENEFICIAL REUSE

Recycled Water Beneficial Reuse	Class A	Class B	Class C	Class D	Class E
Highway medians and roadside vegetation irrigation on sides	Yes	Yes	Yes	No	No
Cemetery irrigation	Yes	Yes	Yes	No	No
Parks, playgrounds, and school yards during periods of non-use	Yes	Yes	No	No	No
Parks, playgrounds, and school yards during periods of use	Yes	No	No	No	No
Golf courses	Yes	Yes	No	No	No
Food crops, including all edible food crops	Yes	Yes	No	No	No
Residential landscape	Yes	No	No	No	No
Dust suppression at construction sites and control on roads and streets	Yes	Yes	Yes	No	No
Toilet flushing at industrial and commercial sites, when only trained maintenance personnel have access to plumbing for repairs	Yes	Yes	Yes	No	No
Nonstructural fire fighting	Yes	Yes	Yes	No	No
Cleaning roads, sidewalks, and outdoor work areas	Yes	Yes	Yes	No	No
Backfill consolidation around non-potable piping	Yes	Yes	Yes	No	No
Soil compaction	Yes	Yes	Yes	No	No
Commercial campus irrigation	Yes	Yes	No	No	No
Fire suppression	Yes	Yes	No	No	No
Snowmaking for winter parks, resorts	Yes	No	No	No	No
Commercial laundries	Yes	No	No	No	No
Ground water recharge through surface application	Yes	No	No	No	No

TABLE 3 - RECYCLED WATER BENEFICIAL REUSE

Recycled Water Beneficial Reuse	Class A	Class B	Class C	Class D	Class E
Subsurface distribution	Yes	Yes	Yes	Yes	No

()

603. MUNICIPAL RECYCLED WATER: ACCESS, EXPOSURE, AND SIGNAGE.

01. Class A Recycled Water. When using Class A recycled water, notify the public and personnel in the area that recycled water is used and is not safe for drinking. Post signs stating “Caution: Recycled Water - Do Not Drink” or equivalent signage. ()

a. Distribution system identification and signage. ()

i. For all new buried pipe conveying Class A Recycled Water, including service lines, valves, and other appurtenances, must use the color purple consistently throughout the system. The color proposed for use will be identified in the plans and specifications and reviewed by the Department to ensure the pipes are adequately identifiable and distinguishable. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet with “Caution: Recycled Water - Do Not Drink” or equivalent signage in English and a secondary language as applicable. ()

ii. If identification tape is installed along with the purple pipe, use white or black printing on a purple color field as approved by the Department and label with “Caution: Recycled Water - Do Not Drink” or equivalent signage. The overall width of the tape is at least three (3) inches. Install identification tape eighteen (18) inches above the transmission pipe longitudinally, center over the pipe, and run continuously along the pipe’s length. ()

iii. Ensure all valves have locking valve covers that are non-interchangeable with potable water valve covers and inscribed on the top surface with “Recycled Water.” Ensure all above ground pipes and pumps are consistently color coded purple and marked to differentiate Class A recycled water facilities from potable water facilities. ()

b. Pumping facilities identification and signage. ()

i. Paint all exposed and above ground piping, risers, fittings, pumps, and valves in purple. Label all piping using a means accepted by the Department with “Caution: Recycled Water - Do Not Drink” or equivalent signage. In a fenced pump station area, post signs on all sides. ()

ii. Install warning labels with “Caution: Recycled Water - Do Not Drink” or equivalent signage on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. ()

c. Where Class A recycled water is stored or impounded, or used for irrigation in public areas, install warning signs with, at a minimum, one (1) inch purple letters on a white or other high contrast background notifying the public the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Label warning signs with “Caution: Recycled Water - Do Not Drink” or equivalent signage. ()

d. Place drinking fountains, picnic tables, food establishments, and other public eating facilities out of any spray irrigation area, or otherwise protect areas in which Class A recycled water is used. In construction plans, indicate exterior drinking fountains, picnic tables, food establishments, and other public eating facilities or, if these areas do not exist, state this in the plans and specifications. ()

02. Class B Recycled Water. When using Class B recycled water, notify the public and personnel in the area that recycled water is used and is not safe for drinking. Post signs stating “Caution: Recycled Water - Do Not

Drink” or equivalent signage in English and a secondary language as applicable. ()

03. Class C Recycled Water. When using Class C recycled water for irrigation, notify the personnel in the area that recycled water is used and is not safe for drinking. For the public, post signs around the perimeter of the irrigation site stating “Warning: Recycled Water - Do Not Enter” or equivalent signage in English and a secondary language as applicable. ()

04. Class D Recycled Water. When using Class D recycled water for irrigation, notify the personnel in the area that recycled water is used and is not safe for drinking. For the public, post signs around the perimeter of the irrigation site stating “Recycled Water - Do Not Enter” or equivalent signage in English and a secondary language as applicable. ()

05. Class E Undisinfected Recycled Water. When using Class E undisinfected recycled water for irrigation, prevent public access to the irrigation site using a physical barrier or other measure approved by the Department. Post signs around the perimeter of the irrigation site stating “Warning: Recycled Water - Do Not Enter” or equivalent signage in English and a secondary language as applicable. ()

604. REUSE FACILITIES: BUFFER DISTANCES.

01. Considerations. Buffer distances are established to: ()

a. Protect human health by limiting exposure to recycled water and conditions associated with reuse facilities; ()

b. Protect waters, including surface water, ground water and drinking water supplies; and ()

c. Ensure use of recycled water is restricted to within the physical boundaries of the reuse facilities. ()

02. Distances. To determine buffer distances in a reuse permit, the Department considers the following: ()

a. Characterization of the recycled water; ()

b. Method of irrigation; ()

c. Physical or vegetative barriers; ()

d. Microbial risk assessments; ()

e. Applicable best management practices; ()

f. Environmental conditions, such as wind speed and direction; and ()

g. Other information relevant to this section. ()

605. REUSE FACILITY: DESIGN AND CONSTRUCTION.

The design and construction of new reuse facilities, or existing facilities undergoing material modification, must comply with these rules and applicable provisions of IDAPA 58.01.16, “Wastewater Rules.” ()

01. Distribution Pipelines. ()

a. Recycled water mains are treated as non-potable mains when considering their separation from potable water mains. Recycled water mains are treated as potable water mains when separated from sewer mains. ()

b. When a system proposes using an alternative to the distribution pipeline requirements in these

rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," or IDAPA 58.01.16, "Wastewater Rules," the design engineer submits data to the Department for review and approval to demonstrate that installing an alternative will protect human health and the environment. ()

02. Pumping Stations. ()

a. Protect potable water used as seal water for recycled water pump seals from backflow using a Department-approved backflow prevention device or air gap. ()

b. Ensure no direct connection is made between the potable and recycled water system. If it is necessary to put potable water into the recycled water distribution system, provide a Department-approved reduced pressure principal device or air gap to protect the potable water system. ()

c. Equipment or facilities such as tanks, temporary piping or valves, and portable pumps used or considered for use with recycled water may not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps used or considered for use with sewage may not be used with recycled water or potable water. ()

03. Requirements for Class A Recycled Water. ()

a. Distribution System. ()

i. Where Class A recycled water will be provided by pressure pipeline, use the following guidance: current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," "AWWA Manual M24" Chapter 4 for dual water systems, and current edition of "Idaho Standards for Public Works Construction." ()

ii. Irrigation systems proposed for conversion from non-Class A recycled water to Class A recycled water use will be reviewed on a case-by-case basis to evaluate the protection of human health and the environment. ()

(1) Existing water lines converted to use with Class A recycled water or a combination of Class A recycled water and irrigation water must be accurately located, pressure tested, and leakage tested before conversion in coordination with the Department. Use AWWA Standard(s) for pressure and leakage testing of drinking water lines to be converted. ()

(2) Physically disconnect the pipeline from any potable water lines and bring into compliance with applicable cross-connection rules as stated in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems" and meet minimum separation requirements. ()

(3) If the existing lines meet water supplier and Department approval based on these rules, the lines will be approved for Class A recycled water distribution. If compliance of the system (accurate location, pressure testing, and verification of no cross-connections) cannot be verified with record drawings, testing, televising, or otherwise, uncover the lines and inspect, identify, or otherwise verify compliance to the Department's satisfaction before use. Retrofit accessible portions of the system to meet the provisions of these rules. ()

(4) After converting the water or irrigation line to a Class A recycled water line, mark the lines as stated in Subsection 603.01.a.iii. ()

iii. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, submit a plan for proposed discharge locations to the Department for review and approval. ()

iv. Mixing Class A recycled water with other irrigation waters may be conducted pipe-to-pipe if both the other irrigation water source and the Class A source are protected by Department-approved backflow devices. Class A recycled water may be mixed with other irrigation water in an unlined pond if the Class A recycled water is permitted for ground water recharge. Class A recycled water that is permitted for irrigation only and not ground water recharge may be mixed with other irrigation water only in a lined pond. Water from these mixed ponds may then be

used for permitted Class A uses. ()

v. Operators of Class A recycled water distribution systems, including operators of distribution systems that use a combination of Class A recycled water and other irrigation waters, operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and operators employed by buyers of the Class A recycled water for subsequent use, including home occupants, must sign a utility user agreement from the utility providing the Class A recycled water that states the user understands the origin of the effluent and the concept of agronomic rate for applying the Class A recycled water. Include these requirements in contracts for sale of Class A recycled water for subsequent use. Individual homeowners are allowed to operate or maintain Class A recycled water distribution systems. Providers of the Class A recycled water must offer a public education program within its service area to teach potential customers the benefits and responsibilities of using Class A recycled water. ()

b. Surface water features, such as landscape impoundments used for Class A recycled water, that are not lined or sealed to prevent seepage may be approved if ground water quality standards for ground water protection are met. ()

c. The Department approves the use of the following filter technologies to comply with these rules: ()

i. Technologies approved and listed in the State of California Alternative Treatment Technology Report for Recycled Water. ()

ii. The Department may approve filtration technologies other than those referenced in Subsection 605.03.c.i. if a written request is submitted with the product information. Approval of these filtration technologies will be in accordance with procedures in the State of California Alternative Treatment Technology Report for Recycled Water. ()

d. The Department may require certain types of Class A recycled water filtration facilities to install and operate a filter-to-waste system that operates each time a filter starts up. Filter-to-waste systems automatically filter to waste until the effluent meets the required turbidity standard. ()

e. Reliability and Redundancy Standards. ()

i. Treatment systems must treat maximum day flow for the season in which Class A recycled water is produced and provide one (1) of the following alternative back-up systems: ()

(1) Another permitted disposal option; or ()

(2) Diversion to adequate lined storage capable of storing Class A recycled water during a malfunction or emergency. ()

ii. An alternative back-up system is automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than five (5) minutes, or if the alternative filtration/disinfection system is not achieving its required 5-log removal/inactivation of virus for more than five (5) minutes. The maximum number of times a facility could exceed on this basis is twice in one (1) week, and both times must be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to shut down the system for inspection and repair. ()

iii. Redundant monitoring equipment and automatic by-pass equipment must be provided. ()

iv. Standby power is sufficient to maintain all treatment and distribution works or to meet the requirements for an alternative back-up system for the Class A recycled water facilities. ()

f. New Class A recycled water systems defined as public utilities in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, are governed by and must meet the requirements of Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of

Procedure of the Idaho Public Utilities Commission.” In any conflict arising out of the application of these rules and IDAPA 31.01.01, follow IDAPA 31.01.01. ()

606. REUSE FACILITY: RAPID INFILTRATION SYSTEM.

01. Criteria. Plans and specifications submitted to the Department for review and approval must demonstrate compliance with the following design criteria: ()

a. Design the system to allow complete infiltration of recycled water into the soil followed by subsurface soil percolation where applied recycled water is transmitted down and away from the infiltration basins, without excessive mounding; ()

b. Ensure the system consists of either two (2) or more cells that can be alternately loaded and rested, or one (1) cell preceded by an effluent storage or stabilization pond system. Where only one (1) cell is provided, ensure the storage and stabilization pond(s) have sufficient capacity to allow intermittent loading of the rapid infiltration systems; ()

c. Design the rapid infiltration system to provide even distribution of the recycled water and prevent erosion; and ()

d. Design the system to ensure proper operation during cold weather conditions. ()

02. Requirements. Loading to a rapid infiltration system may not exceed the hydraulic, organic, nitrogen, suspended solids, or other limits specified in the permit or plans and specifications developed pursuant to a permit requirement. The Department will consider past operating performance, ability of the soils to treat the pollutants in the recycled water, hydrogeologic characteristics of the site such as permeability and infiltration rates, and other relevant information when determining discharge limitations. ()

607. GROUND WATER RECHARGE THROUGH SURFACE APPLICATION.

01. Requirements. Minimum requirements for site location and aquifer storage time are based on site-specific modeling. ()

02. Ground Water Monitoring. Provision must be made for monitoring the quality of the ground water in proximity of the application site. The ground water monitoring program is subject to approval by the Department. ()

03. Down Gradient Beneficial Uses. Ground water recharge systems must be designed and operated in a manner that protects the beneficial uses of ground water on down gradient properties not under the control of the system owner. ()

608. PERMIT FOR INDUSTRIAL REUSE FACILITIES.

01. Requirements. Industrial wastewater or recycled water may only be used according to a permit issued pursuant to these rules. Permit conditions and limitations are developed by the Department on a case-by-case basis and take into account specific characteristics of the wastewater to be recycled and treatment needed to ensure recycled water use complies with IDAPA 58.01.11, “Ground Water Quality Rule,” and IDAPA 58.01.02, “Water Quality Standards.” The permit application, processing, and issuance procedures set forth in these rules apply to industrial reuse permits. ()

02. Permit Content. The Department includes provisions from Section 500, Standard Conditions, in all permits issued for industrial recycled water use. The Department will develop additional permit conditions on a case-by-case basis considering the following: ()

a. Risk to human health and the environment; ()

b. Degree of public access to the facility site where the recycled water is used and degree of human ()

- exposure anticipated; ()
- c. Additional measures to prevent nuisance conditions; ()
 - d. Specific recycled water quality needed for the intended type of reuse; and ()
 - e. Means of applying the recycled water. ()

609. GENERAL REUSE PERMITS.

01. General Reuse Permit. The Department may issue at its discretion a general reuse permit according to the following: ()

- a. For wastewater or recycled water reuse that is determined by the Department to have minimal impact to human health and the environment; and ()
- b. Involves the same or substantially similar: ()
 - i. Wastewater sources; ()
 - ii. Treatment practices; ()
 - iii. Reuse methods; or ()
 - iv. Monitoring. ()

02. Conditions. General reuse permits must include applicable conditions from Sections 500 and 600. ()

03. Application for Coverage. Facilities applying for coverage of a general reuse permit must provide the applicable information required under Section 300.03. ()

04. Administration. ()

- a. When issuing general reuse permits, the Department will follow Section 400 as applicable. ()
- b. When modifying general reuse permits, the Department will follow Section 700 as applicable. ()
- c. The Department will develop a staff analysis for each general reuse permit. ()
- d. The Department may terminate, revoke, or deny coverage under a general permit, and require the applicant to apply for and obtain a reuse permit. ()
- e. Any owner authorized by a general permit may request to be excluded from the coverage of the general permit by applying for a reuse permit. ()

610. -- 699. (RESERVED)

700. PERMIT MODIFICATION.

01. Causes. A permit modification may be initiated by a permittee through a modification request or by the Department if one (1) or more of the following causes exist. ()

- a. Material and substantial alterations or additions to the permitted facility or activity occurred after permit issuance which justify applying permit conditions that are different or absent in the existing permit. ()

b. Standards or regulations on which the permit was based amended by promulgation or by judicial decision after the permit was issued. ()

c. The Department determines good cause exists for modifying a compliance schedule or terms and conditions of a permit. ()

d. Level of discharge of any pollutant that is not limited in the permit exceeds the level that may cause an adverse impact to surface or ground waters. ()

e. Correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions. ()

f. When a treatment technology proposed, installed, and properly operated and maintained by the permittee fails to achieve the requirements of the permit. ()

02. Minor Modifications. Minor permit modifications may be made without issuing a draft permit or public review. Examples include: ()

a. The correction of typographical errors or formatting changes; ()

b. Transfer of ownership or operational control, or responsible official; ()

c. Change in monitoring or reporting frequency requirements, or revision of a laboratory method; ()

d. Extend the permit expiration date or change compliance due date; ()

e. Change or add a sampling location; ()

f. Change to a higher level of treatment without a change in end uses; ()

g. Change in terminology; ()

h. Removal of an allowed use; ()

i. Correct minor technical errors, such as citations of law, and citations of construction specifications; ()

j. Change in a contingency plan resulting in equal or more efficient responsiveness; or ()

k. Removal of acreage from irrigation without an increase in loadings. ()

03. Major Modifications. The procedure for major modifications is the same as for a new permit. Examples include: ()

a. Changes in the treatment system; ()

b. Adding an allowed use; ()

c. Changes to a lower (less treated) class of water; ()

d. Adding acreage used for irrigation; or ()

e. Changes to less stringent discharge limitations. ()

701. -- 799. (RESERVED)

800. PERMIT TRANSFER.

01. General. A permit may be transferred only upon Department approval. No transfer is required for a corporate name change if the permittee, via secretary of state filings, can verify a change in name alone occurred. An attempted transfer is not effective until approved in writing by the Department. ()

02. Request. Either the permittee or the person to whom the permit is proposed to be transferred (transferee) must submit to the Department for transfer at least thirty (30) days before the proposed transfer date. The request for transfer includes: ()

a. Legal name and address of the permittee; ()

b. Legal name and address of the transferee; ()

c. Location and the common name of the facility; ()

d. Date of proposed transfer; ()

e. Sufficient documentation for the Department to determine that the transferee will comply with IDAPA 58.01.16, "Wastewater Rules," relating to technical, financial, and managerial capacity; ()

f. Signed declaration by the transferee that the transferee has reviewed the permit and understands the terms of the permit; ()

g. Sworn statement that the request is made with the full knowledge and consent of the permittee if the transferee is submitting the request; ()

h. Identification of any judicial decree, compliance agreement, enforcement order, or other outstanding obligating instrument, the terms of which have not been met, along with legal instruments sufficient to address liabilities under such decree, agreement, order, or other obligating instrument; and ()

i. Other information the Department may reasonably request. ()

03. Effective Date. The effective date of the transfer is the date of the Department's approval. ()

04. Compliance with Permit Conditions. Responsibility for compliance with the permit and liability for any associated violation is assumed by the transferee upon the effective date. Before transfer approval, the permittee is responsible for complying with the permit and is liable for any associated violation, regardless of whether ownership or operational control of the permitted facility has been transferred. ()

05. Transferee Liability Before Transfer Approval. If a proposed transferee causes or allows operation of the facility under his ownership or control before approval of the permit transfer, the transferee is considered to be operating without a permit or authorization required by these rules and may be cited for additional violations as applicable. ()

06. Compliance Record of Transferee. The Department may consider the prior compliance record of the transferee, if any, in the decision to approve or disapprove a transfer. ()

801. TEMPORARY CESSATION OF OPERATIONS AND CLOSURE.

01. Temporary Cessation. A permittee must implement any applicable conditions specified in the permit for temporary cessation of operations. When the permit does not specify applicable temporary cessation conditions, the permittee must notify the Department before a temporary cessation of reuse operations at the facility greater than sixty (60) days in duration and any cessation not for regular maintenance or repair. Cessation of operations necessary for regular maintenance or repair of a duration of sixty (60) days or less do not require Department notification under this section. Notification compliance under this section includes a proposed temporary cessation plan to ensure the cessation of operations will not pose a threat to human health and the environment.

()

02. Closure. A closure plan is required when a facility is closed voluntarily and when a permit is revoked. A permittee implements any applicable conditions specified in the permit for facility closure. Unless otherwise directed by the terms of the permit or by the Department, the permittee submits a closure plan to the Department for approval at least ninety (90) days before ceasing operations. The closure plan ensures the closed facility will not pose a threat to human health and the environment. Closure plan approval may be conditioned upon a permittee's agreement to complete such site investigations, monitoring, and any necessary remediation activities. A permittee must complete all closure plan activities. ()

802. -- 919. (RESERVED)

920. PERMIT REVOCATION.

01. Conditions. The Department may revoke a permit or coverage under a reuse general permit if the permittee violates any permit condition or these rules, or the Department becomes aware of any omission or misrepresentation of condition or information relied upon when issuing the permit. ()

02. Notice. Except in emergencies, the Department will issue a written notice of intent to revoke to the permittee before final revocation. Revocation becomes final within thirty-five (35) days of the permittee receiving notice unless, within that time, the permittee requests an administrative hearing in writing. The hearing is conducted according to IDAPA 58.01.23, Contested Case Rules and Rules for Protection and Disclosure of Records. ()

03. Emergency Action. If the Department finds the human health, safety, or welfare requires emergency action, the Department will incorporate findings to support the action and issue a written notice of emergency revocation to the permittee. Emergency revocation is effective upon receipt by the permittee. If requested by the permittee in writing, the Department will provide the permittee a revocation hearing. Hearings are conducted according to IDAPA 58.01.23, Contested Case Rules and Rules for Protection and Disclosure of Records. ()

04. Revocation and Closure. A permittee must perform the closure requirements in a permit and these rules and complete all closure plan activities regardless of the permit revocation. ()

921. -- 939. (RESERVED)

940. WAIVERS.

Waivers from these rules may be granted by the Department on a case-by-case basis upon full demonstration by the person requesting the waivers that activities for which the waivers are granted will not have a detrimental effect upon existing water quality and beneficial uses are adequately protected. A violation of a waiver from these rules is a violation of the rules. ()

941. -- 999. (RESERVED)

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0101-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections, 59-1301, 59-1314, 59-1372, 59-1383 and 59-1392.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

Section 59-1302(15) defines employer and directs compliance with the Internal Revenue Regulations. The regulations that PERSI followed were not finalized and are no longer valid, thus requiring the removal of paragraphs a., b. and c from IDAPA 59.01.01.004.13. The addition of school employees as a separate rate class under section 59-1322, Idaho Code, and the addition of the definition of school employee under section 59-1302(31A) requires a change to the definition of general member in IDAPA 59.01.01.004.17. The definitions of Normal Retirement Age, Permissive Service Credits, Police Officer and Teacher at 59.01.01.004.19, 022,.23 and.30 respectively do not need to be defined in IDAPA.

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

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 change in this rule will not have any fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operation.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Cheryl George, (208) 287-9231.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this 6th day of July, 2022.

Don Drum
Executive Director
Public Employees Retirement System of Idaho
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3804

THE FOLLOWING ARE THE PROPOSED CHANGES FOR DOCKET NO. 59-0101-2201
(Only Those Sections With Amendments Are Shown.)

004. DEFINITIONS.

The definitions in Section 59-1302, Idaho Code, and the following apply to this chapter: (3-31-22)

01. Active Member. A member participates in the active member allocation only if they are active and have at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include: (3-31-22)

a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and (3-31-22)

b. Employees who are on leave of absence on the last day of the fiscal year and either: (3-31-22)

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or (3-31-22)

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). (3-31-22)

02. Actuary. This is the actuary retained by the Board. (3-31-22)

03. Administrator. The Board. (3-31-22)

04. Applicant. “Applicant” means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code. (3-31-22)

05. Base Plan or Account. This is the PERSI defined benefit plan not including gain sharing allocations or interest thereon, or the individual accounts therein. (3-31-22)

06. Board. “Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. (3-31-22)

07. Choice Plan or Account. This includes two (2) elements: (3-31-22)

a. The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and (3-31-22)

b. The plan designated to receive voluntary and employer contributions as provided in Section 59-1308, Idaho Code, or the individual accounts therein. (3-31-22)

08. Code. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the IRS Code are to such sections as they may from time to time be amended or renumbered. (3-31-22)

09. Compensation. “Compensation” as used in Section 59-1342(6), Idaho Code, means “salary” as defined by Section 59-1302(31), Idaho Code. (3-31-22)

10. Court Security. “Court Security” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibilities are designated by court order to quell disturbances in the courthouse, to prevent the escape of prisoners, to exclude weapons from the courthouse, and to perform other related courthouse security

matters. (3-31-22)

11. Date of Retirement. “Date of retirement” means the effective date on which a retirement allowance becomes payable. (3-31-22)

12. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the IRS Code and section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations. (3-31-22)

13. Employer. ~~For purposes of compliance with federal tax law, an Employer, as defined in Section 59-1302(15), Idaho Code must also meet each of the requirements of Paragraphs a. through e. of this definition, taking into account all of the facts and circumstances.~~ Entities that may qualify as political subdivisions include, among others, general purpose governmental entities, such as cities and counties (whether or not incorporated as municipal corporations), and special purpose governmental entities, such as special assessment districts that provide for roads, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvements, and other governmental purposes for a State or local governmental unit. (3-31-22)

~~**a. Sovereign powers.** Pursuant to a state or local law of general application, the entity has a delegated right to exercise a substantial amount of at least one (1) of the following recognized sovereign powers of a state or local governmental unit: The power of taxation, the power of eminent domain, and police power. (3-31-22)~~

~~**b. Governmental purpose.** The entity serves a governmental purpose. The determination of whether an entity serves a governmental purpose is based on, among other things, whether the entity carries out the public purposes that are set forth in the entity’s enabling legislation and whether the entity operates in a manner that provides a significant public benefit with no more than incidental private benefit. (3-31-22)~~

~~**c. Governmental control.** A state or local governmental unit exercises control over the entity. For this purpose, control is defined in Subparagraph 005.08.c.i. of this rule and a state or local governmental unit exercises such control only if the control is vested in persons described in Subparagraph 005.08.c.ii. of this rule. (3-31-22)~~

~~**i. Definition of control.** “Control” means an ongoing right or power to direct significant actions of the entity. Rights or powers may establish control either individually or in the aggregate. Among rights or powers that may establish control, an ongoing ability to exercise one or more of the following significant rights or powers, on a discretionary and non-ministerial basis, constitutes control: the right or power both to approve and to remove a majority of the governing body of the entity; the right or power to elect a majority of the governing body of the entity in periodic elections of reasonable frequency; or the right or power to approve or direct the significant uses of funds or assets of the entity in advance of that use. Procedures designed to ensure the integrity of the entity but not to direct significant actions of the entity are insufficient to constitute control of an entity. Examples of such procedures include requirements for submission of audited financial statements of the entity to a higher level state or local governmental unit, open meeting requirements, and conflicts of interest limitations. (3-31-22)~~

~~**ii. Control vested in a state or local governmental unit or an electorate.** Control is vested in persons described as a state or local governmental unit possessing a substantial amount of each of the sovereign powers and acting through its governing body or through its duly authorized elected or appointed officials in their official capacities or an electorate established under applicable state or local law of general application, provided the electorate is not a private faction. (3-31-22)~~

~~**iii. Definition of “private faction.”** A private faction is any electorate if the outcome of the exercise of control described in Subparagraph 005.08.c.i. of this rule is determined solely by the votes of an unreasonably small number of private persons. The determination of whether a number of such private persons is unreasonably small depends on all of the facts and circumstances, including, without limitation, the entity’s governmental purpose, the number of members in the electorate, the relationships of the members of the electorate to one another, the manner of apportionment of votes within the electorate, and the extent to which the members of the electorate adequately represent the interests of persons reasonably affected by the entity’s actions. For purposes of this definition, an electorate is a private faction if any three (3) private persons that are members of the electorate possess, in the aggregate, a majority of the votes necessary to determine the outcome of the relevant exercise of control. Provided however, an electorate is not a private faction if the smallest number of private persons who can combine votes to~~

~~establish a majority of the votes necessary to determine the outcome of the relevant exercise of control is greater than ten (10) persons. For example, if an electorate consists of twenty (20) private persons with equal, five percent (5%) shares of the total votes, that electorate is not a private faction because a minimum of eleven (11) members of that electorate is necessary to have a majority of the votes. By contrast, for example, if an electorate consists of twenty (20) private persons with unequal voting shares in which some combination of ten (10) or fewer members has a majority of the votes, then that electorate does not qualify for the safe harbor from treatment as a private faction under this subparagraph. The following rules apply for purposes of determining numbers of voters and voting control in Subparagraph 005.08.c.iii. of this rule, related parties (as defined in 26 CFR Section 1.150-1(b)) are treated as a single person; and in computing the number of votes necessary to determine the outcome of the relevant exercise of control, all voters entitled to vote in an election are assumed to cast all votes to which they are entitled. (3-31-22)~~

14. Employment. “Employment” as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member’s date of hire to the member’s succeeding date of separation from that state agency, political subdivision or government entity. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. (3-31-22)

15. Firefighters' Retirement Fund. “Firefighters’ Retirement Fund” or “FRF” is the retirement fund provided by Chapter 14, Title 72, Idaho Code. (3-31-22)

16. Gain Sharing. This refers to the process of allocating extraordinary gains from the base plan into the defined contribution component of the PERSI plan as permitted in Section 414(k) of the Internal Revenue Code and as provided by Section 59-1309, Idaho Code, and these rules. (3-31-22)

17. General Member. “General member” is a PERSI member not classified as a police officer, firefighter, ~~or~~ paid firefighter, or school employee. (3-31-22)()

18. Likely. For the purpose of Section 59-1302(12)(b), Idaho Code, “likely” means with reasonable medical certainty. (3-31-22)

~~**19. Normal Retirement Age.** The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age. (3-31-22)~~

~~**20. Occupational Hazard.** “Occupational Hazard” means an injury or ailment solely resulting from the work an applicant does or from the environment in which an applicant works. (3-31-22)~~

~~**220. Pension Protection Act Definitions.** Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions apply: (3-31-22)~~

~~**a.** Chaplain. Any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. (3-31-22)~~

~~**b.** Eligible Retired Public Safety Officer. An individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the state agency, political subdivision or government entity who maintains the eligible retirement plan from which distributions are made. (3-31-22)~~

~~**c.** Normal Retirement Age. The member’s age at the time that the member is eligible to retire with an unreduced benefit. (3-31-22)~~

~~**d.** Public Safety Officer. An individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. (3-31-22)~~

~~**22. Permissive Service Credits.** This includes all credits obtained through voluntary purchase but does not include service obtained through repayment of a separation benefit under Section 59-1363, Idaho Code.~~

~~(3-31-22)~~

~~23. **Police Officer.** “Police officer” means an employee who is serving in a position as defined in Section 59-1303, Idaho Code.~~ (3-31-22)

~~2421. **Primary Employer.** The primary employer is the state agency, political subdivision or government entity from whom the employee receives the highest aggregate salary per month.~~ (3-31-22)

~~2522. **Public Employee Retirement System of Idaho.** “Public Employee Retirement System of Idaho” or “PERSI” is the retirement system created by Chapter 13, Title 59, Idaho Code.~~ (3-31-22)

~~2623. **Required Beginning Date.** The date specified in Section 508.02 of these rules.~~ (3-31-22)

~~2724. **Retiree.** Retiree includes any member, contingent annuitant, or surviving spouse, receiving regular monthly allowances at the close of the fiscal year. It also includes members receiving a monthly disability retirement allowance, surviving spouses who elected an annuity option under Section 59-1361(5), Idaho Code, and members who were inactive at the close of the fiscal year but retire on or before the first day of January following the end of the fiscal year, retroactive to the first day of June of the fiscal year or earlier.~~ (3-31-22)

~~2825. **Service.** For the purposes of Sections 536 and 539, “service” includes only service for which the member is normally in the administrative offices of the state agency, political subdivision or government entity or normally required to be present at any particular work station for the state agency, political subdivision or government entity.~~ (3-31-22)

~~2926. **Surviving Spouse.** “Surviving spouse” is a person as defined in Section 15-2-802, Idaho Code.~~ (3-31-22)

~~30. **Teacher.** “Teacher” is defined as a school employee who is required to be certified.~~ (3-31-22)

~~3127. **Transportation Of Prisoners.** “Transportation of prisoners” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibility is designated by court order to move prisoners from one (1) place to another.~~ (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

101. MULTIPLE EMPLOYERS -- MEMBERSHIP ELIGIBILITY.

An employee establishes separate PERSI membership eligibility with each state agency, political subdivision or government entity with which the employee meets the statutory definition of an “employee” as found in Section 59-1302(14), Idaho Code. (3-31-22)

01. Does Not Meet the Statutory Definition. Because membership eligibility is established independently with each state agency, political subdivision or government entity, neither employer nor employee contributions are required on salary paid by employers to employees who do not meet the statutory definition of an “employee” as found in Section 59-1302(14), Idaho Code. (3-31-22)

02. State Agencies. ~~The agencies of the state of Idaho shall be considered a single employer; a~~ **An** employee working for more than one (1) state agency establishes eligibility based on the total hours of employment worked with all state agencies. ~~(3-31-22)~~ ()

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59.01.01 – Rules for the Public Employee Retirement System of Idaho (PERSI)

Docket No. 59-0101-2201

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

*The proposed rule public hearing request deadline is September 21, 2022, unless otherwise posted.
The proposed rule written comment submission deadline is September 28, 2022, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 11 – IDAHO STATE POLICE 700 S Stratford Dr, Meridian, ID 83642

11-0702-2201, Rules Governing Safety Glazing Material. Chapter is being repealed in its entirety.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

**16-0201-2201, Idaho Time Sensitive Emergency System Council.* (*PH) Zero Based Regulation (ZBR) Chapter Rewrite establishes standards for, and administration of, a statewide voluntary time sensitive emergency (TSE) system of care, to include TSE Council makeup and duties, standards criteria, and designation of centers and site survey fees.

**16-0219-2201, Idaho Food Code.* (*PH) ZBR Chapter Rewrite protects public health by regulating food establishments through licensing, inspection, plan review, employee restriction, and license suspensions.

16-0302-2201, Skilled Nursing Facilities. (Temp & Prop) Allows Certified Medication Assistants (MA-C) to administer medications in facilities facing staffing challenges.

16-0319-2201, Certified Family Homes. ZBR Chapter Rewrite sets requirements for paid care providers living with an adult in need of personal assistance who is elderly, has a developmental or physical disability, or mental illness.

16-0418-2201, Children's Agencies and Residential Licensing. New chapter moves provisions from existing rule chapter IDAPA 16.06.02 in order to clarify licensing and operating requirements for all care facilities, camps, therapeutic outdoor programs, and substance abuse treatment facilities that benefit children in Idaho.

16.06.01 – Child and Family Services.

16-0601-2201, (Temp & Prop) Changes increase reimbursement to family alternate care providers / foster parents.

16-0601-2202, Outlines requirements that define when a family qualifies for the use of federal funds to prevent at-risk children from entering foster care, clarifying contract rates paid to private agencies for prevention and community support services.

**16-0602-2201, Child Care and Foster Care Licensing.* (*PH) ZBR Chapter Rewrite establishes licensing and operating requirements for foster homes as well as centers, family homes, and group facilities related to daycare.

**16-0733-2201, Adult Mental Health Services.* (*PH) ZBR Chapter Rewrite sets Department standards to provide adult mental health services.

IDAPA 17 – INDUSTRIAL COMMISSION 11321 W Chinden Blvd, Boise, ID 83714

17-0101-2202, Administrative Rules Under the Worker's Compensation Law. (Temp & Prop) Adjusts implementation date for updating the electronic claim reporting standard.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS Timber Management Bureau – 3284 West Industrial Loop, Coeur d'Alene, ID 83815 Resource Protection and Assistance Bureau – PO Box 83720, Boise, ID 83720-0050

20-0214-2201, Rules for Selling Forest Products on State-Owned Endowment Lands. ZBR Chapter Rewrite governs the selling of forest products from state endowment lands, to include auctions, bonding, and cancellation or termination of sale requests.

20-0317-2201, Rules Governing Leases On State-Owned Navigable Waterways. ZBR Chapter Rewrite governs

leases issued by the department on navigable waterways owned by the state, to include application and assignment fees.

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**11341 W Chinden Blvd, Bldg #4, Boise, ID 83714**

**24-3501-2201, Rules of the Outfitters and Guides Licensing Board.* (*PH) ZBR Chapter Rewrite implements statute by establishing licensing standards for outfitted and guided activities to ensure the protection of the public and recreational resources in Idaho. Comment by 10\5\2022

**24-3910-2201, Rules of the Idaho Electrical Board.* (*PH) ZBR Chapter Rewrite prescribes criteria and fees for electrical licenses, permits, and inspections; details practice standards and civil penalties; and adopts and amends the National Electrical Code. Comment by 10\5\2022

**24-3930-2201, Rules of Building Safety (Building Code Rules).* (*PH) ZBR Chapter Rewrite details permitting process and plan review fees for the integrated design and commissioning of public school facilities; and adopts / amends the Idaho Building Code. Comment by 11\15\2022

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION**5657 Warm Springs Ave, Boise, ID 83716**

26-0130-2201, Idaho Safe Boating Rules. (Temp & Prop) Chapter repealed as a result of legislative action.

IDAPA 38 – DEPARTMENT OF ADMINISTRATION**650 W State St, Rm 100, Boise, ID 83702**

38-0406-2201, Rules Governing Use of State Property in the Capitol Mall, Multi-Agency Facilities, and Other State Properties. ZBR Chapter Rewrite contains provisions for the general public use of the Capitol Mall Office Properties, Capitol Annex, Parking Facilities, Other State Properties, and certain Multi-agency Facilities.

38-0407-2201, Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities. ZBR Chapter Repeal – necessary provisions included in companion docket 38-0406-2201.

38-0408-2202, Rules Governing Use of Idaho State Capitol. ZBR Chapter Rewrite governs interior and exterior use of the Idaho State Capitol.

38-0409-2201, Rules Governing Use of the Chinden Office Complex. ZBR Chapter Repeal – necessary portions moved to docket 38-0406-2201.

38-0501-2201, Rules of the Division of Purchasing. ZBR Chapter Rewrite outlines requirements for state agencies to acquire property through competitive solicitation, and includes the contested case hearing process.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT**11331 W Chinden Blvd, Bldg 8, Boise, ID 83714**

**39-0343-2201, Rules Governing Utilities on State Highway Right-of-Way.* (*PH) Updates Utility Accommodation Policy incorporated edition.

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD**1299 N Orchard St Ste#110, Boise, ID 83706**

57-0101-2201, Rules of the Sexual Offender Management Board. ZBR Chapter Rewrite details qualifications, standards, and fees for psychosexual evaluators, treatment providers, and polygraph examiners.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**1410 N Hilton St, Boise, ID 83706**

**58-0101-2101, Rules for the Control of Air Pollution in Idaho.* (*PH) ZBR Chapter Rewrite provides for the control of air pollution in Idaho. Comment by 10-11-2022

58-0105-2201, Rules and Standards for Hazardous Waste. Updates federal regulations for hazardous waste incorporated by reference.

58-0117-2201, Recycled Water Rules. ZBR Chapter Rewrite devises process to issue and maintain pollution source permits for reuse facilities.

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**PO Box 83720, Boise, ID 83720-0078**

59-0101-2201, Rules for the Public Employee Retirement System of Idaho (PERSI). Removes invalid and unnecessary definition portions and reclassifies a school employee as not being a General Member of PERSI.

NOTICE OF ADOPTION OF TEMPORARY RULE ONLY

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13-0104-2203, Rules Governing Licensing

NOTICE OF PROCLAMATION

IDAPA 13 – IDAHO FISH AND GAME COMMISSION
13-0000-2200P5, Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

Please refer to the Idaho Administrative Bulletin [September 7, 2022, Volume 22-9](#), for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov/

Office of the Administrative Rules Coordinator, Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: 208-334-3900; Email: adminrules@dfm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Office of the Administrative Rules Coordinator
Division of Financial Management
Office of the Governor*

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This 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*

March 31, 2022 – September 7, 2022

(PLR 2023) – Final Effective Date Is Pending Legislative Review in 2023

(eff. date)L – Denotes Adoption by Legislative Action

(eff. date)T – Temporary Rule Effective Date

SCR # – denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)

(This Abridged Index includes all active rulemakings.)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 01, Chapter 04; Title 02, Chapter 02; Title 04, Chapters 04, 15, 17, 29; and Title 06, Chapters 02, 05 – Bulletin Vol. 22-1

02.01.04, Rules Governing the Voluntary Idaho Preferred® Promotion Program

02-0104-2201 Notice of Temporary and Proposed Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-7 (eff. 7-6-22)T

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 01, Chapter 04 – Bulletin Vol. 22-1

02.02.02, Rules Governing Grading and Controlled Atmosphere Storage of Apples

02-0202-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 02 – Bulletin Vol. 22-1

02.04.04, Rules for Artificial Dairy Products

02-0404-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 04 – Bulletin Vol. 22-1

02.04.15, Rules Governing Beef Cattle Animal Feeding Operations

02-0415-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 15 – Bulletin Vol. 22-1

02.04.17, Rules Governing Dead Animal Movement and Disposal

02-0417-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 17 – Bulletin Vol. 22-1

02.04.19, Rules Governing Domestic Cervidae

02-0419-2201 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 22-5

02.04.29, Rules Governing Trichomoniasis

02-0429-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 29 – Bulletin Vol. 22-1

02.06.02, Rules Governing Registrations and Licenses

02-0602-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 06, Chapter 02 – Bulletin Vol. 22-1

02.06.05, Rules Governing Plant Disease and Quarantines

02-0605-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 06, Chapter 05 – Bulletin Vol. 22-1

02.06.33, Organic Food Products Rules

02-0633-2201 Notice of Temporary and Proposed (Fee) Rule, Bulletin Vol. 22-7 (eff. 5-4-22)T

02.08.01, Sheep and Goat Rules of the Idaho Sheep and Goat Health Board

02-0801-2201 Notice of Temporary and Proposed Rule (New Chapter, Fee Rule), Bulletin Vol. 22-7 (eff. 4-27-22)T

IDAPA 05 – DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03, Rules of the Custody Review Board

05-0103-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

05-0103-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

***IDAPA 08 – IDAHO STATE BOARD OF EDUCATION
AND STATE DEPARTMENT OF EDUCATION***

08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools

08-0111-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

08.01.13, Rules Governing the Opportunity Scholarship Program

08-0113-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

08.02.01, Rules Governing Administration

08-0201-2201 Adoption of Temporary Rule, Bulletin Vol. 22-6 (eff. 4-20-22)T

08.02.02, Rules Governing Uniformity

08-0202-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

08.02.03, Rules Governing Thoroughness

08-0203-2202 Adoption of Temporary Rule, Bulletin Vol. 22-8 (eff. 6-15-22)T

08-0203-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

08.02.04, Rules Governing Public Charter Schools

08-0204-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

08.03.01, Rules of the Public Charter School Commission

08-0301-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

IDAPA 11 – IDAHO STATE POLICE

Idaho State Racing Commission

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapters 02-11, 13-15 – Bulletin Vol. 22-7

11.04.02, Rules Governing Simulcasting

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 02 – Bulletin Vol. 22-7

11.04.03, Rules Governing Licensing and Fees

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 03 – Bulletin Vol. 22-7

11.04.04, Rules Governing Disciplinary Hearings and Appeals

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 04 – Bulletin Vol. 22-7

11.04.05, Rules Governing Advanced Deposit Wagering

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 05 – Bulletin Vol. 22-7

11.04.06, Rules Governing Racing Officials

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 06 – Bulletin Vol. 22-7

11.04.07, Rules Governing Racing Associations

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 07 – Bulletin Vol. 22-7

11.04.08, Rules Governing Pari-Mutuel Wagering

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 08 – Bulletin Vol. 22-7

11.04.09, Rules Governing Claiming Races

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 09 – Bulletin Vol. 22-7

11.04.10, Rules Governing Live Horse Races

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 10 – Bulletin Vol. 22-7

**11.04.11, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances
and Drug Testing of Horses**

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 11 – Bulletin Vol. 22-7

11.04.13, Rules Governing the Idaho State Racing Commission

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 13 – Bulletin Vol. 22-7

11.04.14, Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 14 – Bulletin Vol. 22-7

11.04.15, Rules Governing Controlled Substance and Alcohol Testing of Licensees, Employees, and Applicants

11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation
Negotiated Rulemaking – Negotiates Title 04, Chapter 15 – Bulletin Vol. 22-7

11.07.02, Rules Governing Safety Glazing Material

11-0702-2201 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 22-9

IDAHA 13 – IDAHO FISH AND GAME COMMISSION

Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

13-0000-2200P5 Notice of Adopted / Amended Proclamation for Calendar Year 2022, Bulletin Vol. 22-9

13-0000-2200P4 Notice of Adopted / Amended Proclamation for Calendar Year 2022, Bulletin Vol. 22-7

13-0000-2200P3 Notice of Adopted / Amended Proclamation for Calendar Year 2022, Bulletin Vol. 22-5

13-0000-2200P2 Notice of Adopted / Amended Proclamation for Calendar Year 2022, Bulletin Vol. 22-3

13-0000-2200P1 Notice of Adoption of Proclamation for Calendar Year 2022, Bulletin Vol. 22-1

13.01.02, Rules Governing Mandatory Education and Mentored Hunting

13-0102-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

13.01.04, Rules Governing Licensing

13-0104-2203 Notice of Temporary Rulemaking, Bulletin Vol. 22-9 (eff. 7-28-22)T

13-0104-2202 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 22-4

13-0104-2201 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 22-4

13.01.10, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife

13-0110-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

13.01.14, Rules Governing Falconry

13-0114-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

13.01.18, Rules Governing Feeding of Pronghorn Antelope, Elk, and Deer

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15.06.01, Rules Governing the Idaho Public Safety Communications Commission

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15.10.01, Rules of the Idaho State Liquor Division

15-1001-2201 Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-9 (PLR 2023)

15-1001-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-7

15-1001-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

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16-0201-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9

16-0201-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-2

16.02.08, Vital Statistics Rules

16-0208-2201 Notice of Temporary and Proposed Rule, Bulletin Vol. 22-7 (eff. 7-1-22)T

16.02.19, Idaho Food Code

16-0219-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9

16-0219-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-5

16.03.02, Skilled Nursing Facilities

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16.03.09, Medicaid Basic Plan Benefits

16-0309-2201 Notice of Proposed Rulemaking, Bulletin Vol. 22-7

16-0309-2201 Adoption of Temporary Rule, Bulletin Vol. 22-5 (eff. 3-17-22)T

16.03.10, Medicaid Enhanced Plan Benefits

16-0310-2101 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 21-11

16.03.13, Consumer-Directed Services

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16-0317-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-3

16.03.19, Certified Family Homes

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16-0319-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-5

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16-0324-2201 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 22-7

16-0324-2201 Adoption of Temporary Rule (Chapter Repeal), Bulletin Vol. 22-6 (eff. 3-29-22)T

16.03.25, Idaho Medicaid Promoting Interoperability (PI) Program

16-0325-2201 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 22-7

16.04.14, Rules Governing the Low Income Home Energy Assistance Program

16-0414-2201* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8

*Renames chapter from: “*Rules Governing the Low Income Home Energy Assistance Program*”
to: “*Low-Income Home Energy Assistance Program (LIHEAP)*”

16.04.18, Children’s Agencies and Residential Licensing

16-0418-2201 Notice of Proposed Rulemaking (New Chapter), Bulletin Vol. 22-9

16.05.04, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding

16-0504-2101* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8

*Renames chapter from: “*Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding*,”
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16-0504-2101 (Fourth) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

16-0504-2101 (Third) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-2

16-0504-2101 (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 21-12

16-0504-2101 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 21-11

16.05.06, Criminal History and Background Checks

16-0506-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8

16-0506-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

16.06.01, Child and Family Services

16-0601-2202 Proposed Rulemaking, Bulletin Vol. 22-9

16-0601-2201 Notice of Temporary and Proposed Rule, Bulletin Vol. 22-9 (eff. 8-18-22)T

16.06.02, Child Care Licensing

16-0602-2201* Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9

*Renames chapter from: “*Child Care Licensing*,” to: “*Child Care and Foster Care Licensing*”

16-0602-2201 (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

16-0602-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-3

16.07.33, Adult Mental Health Services

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16-0733-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-2

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17-0101-2201 Notice of Temporary and Proposed Rule, Bulletin Vol. 22-7 (eff. 7-1-22)T

17.11.01, Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act

17-1101-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

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18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapters 02, 03; Title 07, Chapters 01-03, 08, 09; and Title 08, Chapters 01, 02 – Bulletin Vol. 22-4

18.02.02, Automobile Insurance Policies

18-0202-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 02 – Bulletin Vol. 22-4

18.02.03, Certificate of Liability Insurance for Motor Vehicles

18-0203-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 03 – Bulletin Vol. 22-4

18.07.01, Rules for Acquiring Control, Insurance Holding Company Systems and Mutual Insurance Holding Companies

18-0701-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 07, Chapter 01 – Bulletin Vol. 22-4

18.07.02, Reserve Liabilities and Minimum Valuations for Annuities and Pure Endowment Contracts

18-0702-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 07, Chapter 02 – Bulletin Vol. 22-4

18.07.03, Valuation of Life Insurance Policies Including the Use of Select Mortality Factors

18-0703-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 07, Chapter 03 – Bulletin Vol. 22-4

18.07.08, Property and Casualty Actuarial Opinion Rule

18-0708-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 07, Chapter 08 – Bulletin Vol. 22-4

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18-0709-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 07, Chapter 09 – Bulletin Vol. 22-4

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18-ZBRR-2201 *Rules of the Idaho Department of Insurance* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 08, Chapter 02 – Bulletin Vol. 22-4

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20-0214-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-3

20.03.17, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands

20-0317-2201* Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9

*Renames chapter from: “*Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands,*” to: “*Rules Governing Leases On State-Owned Navigable Waterways*”

20-0317-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

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24-0000-2202F *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 01, Chapter 01; Title 04, Chapter 01; Title 07, Chapter 01; Title 08, Chapter 01; Title 18, Chapter 01; Title 21, Chapter 01; Title 22, Chapter 01; Title 25, Chapter 01; Title 28, Chapter 01; Title 29, Chapter 01; Title 30, Chapter 01; Title 32, Chapter 01; Title 37, Chapter 01; and Title 39, Chapters 10, 20, 30, 31, 40, 50, 70, 90 – Bulletin Vol. 22-6 (eff. 3-31-22)T

24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 10, Chapter 01; Title 12, Chapter 01; Title 23, Chapter 01; Title 30, Chapter 01; Title 34, Chapter 01; Title 35, Chapter 01; and Title 39, Chapters 10, 30 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 10, Chapter 01; Title 12, Chapter 01; Title 17, Chapter 01; Title 23, Chapter 01; Title 25, Chapter 01; Title 26, Chapter 01; Title 30, Chapter 01; Title 34, Chapter 01; Title 35, Chapter 01; and Title 39, Chapters 10, 20, 30, 70 – Bulletin Vol. 22-5

24.02.01, Rules of the State Athletic Commission

24-0201-2200F *Rules of the State Athletic Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 02, Chapter 01 – Bulletin Vol. 22-6 (eff. 3-31-22)T

24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals

24-0501-2200F *Rules of the Board of Drinking Water and Wastewater Professionals* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 05, Chapter 01 – Bulletin Vol. 22-6 (eff. 3-31-22)T

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24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 10, Chapter 01 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 10, Chapter 01 – Bulletin Vol. 22-5

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24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 12, Chapter 01 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 12, Chapter 01 – Bulletin Vol. 22-5

24.17.01, Rules of the State Board of Acupuncture

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 17, Chapter 01 – Bulletin Vol. 22-5

24.23.01, Rules of the Speech, Hearing and Communication Services Licensure Board

24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 23, Chapter 01 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 23, Chapter 01 – Bulletin Vol. 22-5

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24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 25, Chapter 01 – Bulletin Vol. 22-5

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24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 26, Chapter 01 – Bulletin Vol. 22-5

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24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 10, Chapter 30 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 30, Chapter 01 – Bulletin Vol. 22-5

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24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 34, Chapter 01 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 34, Chapter 01 – Bulletin Vol. 22-5

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24-3501-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9

24-3501-2200 *Rules of the Outfitters and Guides Licensure Board* – Notice of Omnibus Rulemaking – Amendment to Temporary Rule – Amends Title 35, Chapter 01 – Bulletin Vol. 22-8 (eff. 8-1-22)T

24-3501-2200 *Rules of the Outfitters and Guides Licensure Board* – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 35, Chapter 01 – Bulletin Vol. 22-7 (eff. 7-1-22)T

24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 35, Chapter 01 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 35, Chapter 01 – Bulletin Vol. 22-5

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24-3801-2200F *Rules of the Idaho Board of Veterinary Medicine* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 38, Chapter 01 – Bulletin Vol. 22-6 (eff. 3-31-22)T

24.39.10, Rules of the Idaho Electrical Board

24-3910-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9

24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 39, Chapter 10 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 39, Chapter 10 – Bulletin Vol. 22-5

24.39.20, Rules Governing Plumbing

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 39, Chapter 20 – Bulletin Vol. 22-5

24.39.30, Rules of Building Safety (Building Code Rules)

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24-ZBRR-2201* *Rules of the Division of Occupational and Professional Licenses* – (*Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 39, Chapter 30 – Bulletin Vol. 22-7

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 39, Chapter 30 – Bulletin Vol. 22-5

24.39.70, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

24-ZBRR-2201 *Rules of the Division of Occupational and Professional Licenses* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 39, Chapter 70 – Bulletin Vol. 22-5

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26-0130-2201 Notice of Temporary and Proposed Rule (Chapter Repeal), Bulletin Vol. 22-9 (eff. 10-1-22)T

26.01.34, Idaho Protection Against Invasive Species Sticker Rules

26-0134-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

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31-6101-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

31.81.01, Energy Consumption Reporting Rules

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35-0101-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

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35-0109-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8

35-0109-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

35.02.01, Tax Commission Administration and Enforcement Rules

35-0201-2201 Notice of Proposed Rulemaking, Bulletin Vol. 22-8

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36.01.01, Idaho Board of Tax Appeals Rules

36-0101-2200 *Idaho State Board of Tax Appeals* – Notice of Omnibus Rulemaking – Temporary and Proposed Rulemaking – Reauthorizes Title 01, Chapter 01 – Bulletin Vol. 22-7 (eff. 7-1-22)T

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37-0203-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-3

37.03.04, Drilling for Geothermal Resources Rules

37-0304-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-3

37.03.05, Mine Tailings Impoundment Structures Rules

37-0305-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-5

37.03.06, Safety of Dams Rules

37-0306-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-5

37.03.10, Well Driller Licensing Rules

37-0310-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION

38.04.06, Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities

38-0406-2201* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9

*Renames chapter from: “*Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities*,” to: “*Rules Governing Use of State Property in the Capitol Mall, Multi-Agency Facilities, and Other State Properties*”

38.04.07, Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities

38-0407-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-9

38.04.08, Rules Governing Use of Idaho State Capitol

38-0408-2202 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9

38-0408-2201 Adoption of Temporary Rule (New Chapter), Bulletin Vol. 22-4 (eff. 3-31-22)T

38.04.09, Rules Governing Use of the Chinden Office Complex

38-0409-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-9

38.05.01, Rules of the Division of Purchasing

- 38-0501-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9
38-0501-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

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- 39-ZBRR-2201** *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapters 02, 22, 26, 70-73; and Title 03, Chapter 44 – Bulletin Vol. 22-5

39.02.02, Rules Governing Vehicle and Vessel Dealer License Requirements – Motor Vehicles

- 39-0202-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8
39-ZBRR-2201 *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 02 – Bulletin Vol. 22-5

39.02.22, Rules Governing Registration and Permit Fee Administration

- 39-0222-2201*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-8
*Renames chapter from: “*Rules Governing Registration and Permit Fee Administration*”
to: “*Rules Governing Registration and Permit Fee Administration and Temporary Vehicle Clearance for Carriers*”
39-ZBRR-2201 *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 22 – Bulletin Vol. 22-5

39.02.26, Rules Governing Temporary Vehicle Clearance for Carriers

- 39-0226-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-8
39-ZBRR-2201 *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 26 – Bulletin Vol. 22-5

39.02.70, Rules Governing Restricted Driving Permits

- 39-0270-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8
39-ZBRR-2201 *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 70 – Bulletin Vol. 22-5

39.02.71, Rules Governing Driver’s License Violation Point System

- 39-0271-2201*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8
*Renames chapter from: “*Rules Governing Driver’s License Violation Point System*”
to: “*Rules Governing Driver’s License Violation Point System and Accident Prevention Courses*”
39-ZBRR-2201 *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 71 – Bulletin Vol. 22-5

39.02.72, Rules Governing Administrative License Suspensions

- 39-0272-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-8
39-ZBRR-2201 *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 72 – Bulletin Vol. 22-5

39.02.73, Rules Governing Accident Prevention Course

- 39-0273-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-8
39-ZBRR-2201 *Rules of the Idaho Transportation Department* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 73 – Bulletin Vol. 22-5

39.03.43, Rules Governing Utilities on State Highway Right-of-Way

- 39-0343-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-9
39-0343-2201* (*Second) Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 22-7
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39.03.44, Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs

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 - [//www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs](https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs) 124
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