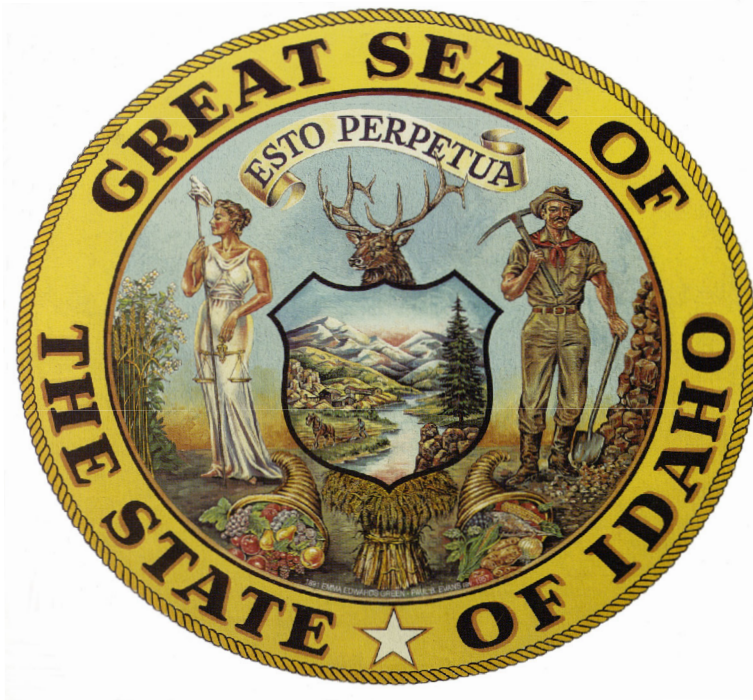


IDAHO ADMINISTRATIVE BULLETIN

December 7, 2022 – Vol. 22-12

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



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IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

December 7, 2022 – Vol. 22-12

PREFACE	7
IDAPA 02.08 – IDAHO SHEEP AND GOAT HEALTH BOARD	
02.08.01 – <i>Sheep and Goat Rules of the Idaho Sheep and Goat Health Board</i>	
Docket No. 02-0801-2201 (New Chapter)	
Notice of Rulemaking – Adoption of Pending Fee Rule.....	14
IDAPA 11 – IDAHO STATE POLICE / RACING COMMISSION	
11.04.01 – <i>Rules Governing the Idaho State Racing Commission</i>	
Docket No. 11-0401-2201 (New ZBR Chapter)	
Notice of Rulemaking – Adoption of Pending Fee Rule.....	15
11.04.02 – <i>Rules Governing Simulcasting</i>	
Docket No. 11-0402-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	17
11.04.03 – <i>Rules Governing Licensing and Fees</i>	
Docket No. 11-0403-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	18
11.04.04 – <i>Rules Governing Disciplinary Hearings and Appeals</i>	
Docket No. 11-0404-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	19
11.04.05 – <i>Rules Governing Advanced Deposit Wagering</i>	
Docket No. 11-0405-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	20
11.04.06 – <i>Rules Governing Racing Officials</i>	
Docket No. 11-0406-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	21
11.04.07 – <i>Rules Governing Racing Associations</i>	
Docket No. 11-0407-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	22
11.04.08 – <i>Rules Governing Pari-Mutuel Wagering</i>	
Docket No. 11-0408-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	23
11.04.09 – <i>Rules Governing Claiming Races</i>	
Docket No. 11-0409-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	24
11.04.10 – <i>Rules Governing Live Horse Races</i>	
Docket No. 11-0410-2201 (ZBR Chapter Repeal)	
Notice of Rulemaking – Adoption of Pending Rule	25

11.04.11 – Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses
Docket No. 11-0411-2201 (ZBR Chapter Repeal)
 Notice of Rulemaking – Adoption of Pending Rule26

11.04.13 – Rules Governing the Idaho State Racing Commission
Docket No. 11-0413-2201 (ZBR Chapter Repeal)
 Notice of Rulemaking – Adoption of Pending Rule27

11.04.14 – Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents
Docket No. 11-0414-2201 (ZBR Chapter Repeal)
 Notice of Rulemaking – Adoption of Pending Rule28

11.04.15 – Rules Governing Controlled Substance and Alcohol Testing of Licensees and Applicants
Docket No. 11-0415-2201 (ZBR Chapter Repeal)
 Notice of Rulemaking – Adoption of Pending Rule29

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.03 – Emergency Medical Services (EMS) – Agency Licensing Requirements
Docket No. 16-0103-2201
 Notice of Rulemaking – Adoption of Pending Rule30

16.01.06 – Emergency Medical Services (EMS) – Data Collection and Submission Requirements
Docket No. 16-0106-2201 (Chapter Repeal)
 Notice of Rulemaking – Adoption of Pending Rule31

16.02.01 – Idaho Time Sensitive Emergency System Council
Docket No. 16-0201-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule.....32

16.02.08 – Vital Statistics Rules
Docket No. 16-0208-2201
 Notice of Rulemaking – Adoption of Pending Rule43

16.02.19 – Idaho Food Code
Docket No. 16-0219-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule46

16.03.02 – Skilled Nursing Facilities
Docket No. 16-0302-2201
 Notice of Rulemaking – Adoption of Pending Rule61

16.03.17 – Medicare/Medicaid Coordinated Plan Benefits
Docket No. 16-0317-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule62

16.03.19 – Certified Family Homes
Docket No. 16-0319-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule.....63

16.05.06 – Criminal History and Background Checks
Docket No. 16-0506-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule.....75

16.06.01 – *Child and Family Services*
Docket No. 16-0601-2201
 Notice of Rulemaking – Adoption of Pending Rule91

16.06.01 – *Child and Family Services*
Docket No. 16-0601-2202
 Notice of Rulemaking – Adoption of Pending Rule92

16.06.02 – *Child Care and Foster Care Licensing*
Docket No. 16-0602-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule.....94

16.06.12 – *Idaho Child Care Program (ICCP)*
Docket No. 16-0612-2201
 Notice of Rulemaking – Adoption of Pending Rule98

16.07.33 – *Adult Mental Health Services*
Docket No. 16-0733-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule99

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01 – *Administrative Rules Under the Worker's Compensation Law*
Docket No. 17-0101-2201
 Notice of Rulemaking – Adoption of Pending Rule104

Docket No. 17-0101-2202
 Notice of Rulemaking – Adoption of Pending Rule105

17.11.01 – *Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act*
Docket No. 17-1101-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule106

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 – Adoption of Pending Rule107

20.03.17 – *Rules Governing Leases On State-Owned Navigable Waterways*
Docket No. 20-0317-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule.....108

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

Docket No. 24-0000-2201F
 Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule109

Docket No. 24-0000-2202F
 Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule142

24.02.01 – *Rules of the State Athletic Commission*
Docket No. 24-0201-2200F
 Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule150

24.05.01 – *Rules of the Board of Drinking Water and Wastewater Professionals*
Docket No. 24-0501-2200F
 Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule152

24.35.01 – *Rules of the Outfitters and Guides Licensing Board*
Docket No. 24-3501-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule 154

24.38.01 – *Rules of the State of Idaho Board of Veterinary Medicine*
Docket No. 24-3801-2200F
 Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 168

24.39.10 – *Rules of the Idaho Electrical Board*
Docket No. 24-3910-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule..... 170

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.01 – *Income Tax Administrative Rules*
Docket No. 35-0101-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule 176

Docket No. 35-0101-2202 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule 177

35.01.09 – *Idaho Beer and Wine Taxes Administrative Rules*
Docket No. 35-0109-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule 179

35.02.01 – *Tax Commission Administration and Enforcement Rules*
Docket No. 35-0201-2201
 Notice of Rulemaking – Adoption of Pending Rule 182

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES / IDAHO WATER RESOURCE BOARD

37.02.03 – *Water Supply Bank Rules*
Docket No. 37-0203-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule..... 183

37.03.04 – *Drilling for Geothermal Resources Rules*
Docket No. 37-0304-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule..... 184

37.03.05 – *Mine Tailings Impoundment Structures Rules*
Docket No. 37-0305-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule..... 185

37.03.06 – *Safety of Dams Rules*
Docket No. 37-0306-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule..... 186

37.03.10 – *Well Driller Licensing Rules*
Docket No. 37-0310-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule..... 201

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.02 – *Rules Governing Vehicle and Vessel Dealer License Requirements – Motor Vehicles*
Docket No. 39-0202-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule 202

39.02.22 – *Rules Governing Registration and Permit Fee Administration and Temporary Vehicle Clearance for Carriers*
Docket No. 39-0222-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Fee Rule.....203

39.02.26 – *Rules Governing Temporary Vehicle Clearance for Carriers*
Docket No. 39-0226-2201 (ZBR Chapter Repeal)
 Notice of Rulemaking – Adoption of Pending Rule204

39.02.70 – *Rules Governing Restricted Driving Permits*
Docket No. 39-0270-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule205

39.02.71 – *Rules Governing Driver’s License Violation Point System and Accident Prevention Courses*
Docket No. 39-0271-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule206

39.02.72 – *Rules Governing Administrative License Suspensions*
Docket No. 39-0272-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule207

39.02.73 – *Rules Governing Accident Prevention Course*
Docket No. 39-0273-2201 (ZBR Chapter Repeal)
 Notice of Rulemaking – Adoption of Pending Rule208

39.03.43 – *Rules Governing Utilities on State Highway Right-of-Way*
Docket No. 39-0343-2201
 Notice of Rulemaking – Adoption of Pending Rule209

39.03.44 – *Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs*
Docket No. 39-0344-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule210

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)
 Notice of Rulemaking – Adoption of Pending Fee Rule.....211

58.01.05 – *Rules and Standards for Hazardous Waste*
Docket No. 58-0105-2201
 Notice of Rulemaking – Adoption of Pending Rule225

58.01.17 – *Recycled Water Rules*
Docket No. 58-0117-2201 (ZBR Chapter Rewrite)
 Notice of Rulemaking – Adoption of Pending Rule226

SECTIONS AFFECTED INDEX 228

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS 234

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES 235

SUBJECT INDEX 253

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
22-6	June 2022	April 22, 2022	May 6, 2022	June 1, 2022	June 22, 2022
22-7	July 2022	May 20, 2022	June 3, 2022	July 6, 2022	July 27, 2022
22-8	August 2022	June 24, 2022	July 8, 2022	August 3, 2022	August 24, 2022
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.**

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 38	Administration , Department of
IDAPA 02	Agriculture , Idaho State Department of
IDAPA 40	Arts , Idaho Commission on the
IDAPA 04	Attorney General , Office of the
IDAPA 53	Barley Commission , Idaho
IDAPA 51	Beef Council , Idaho
IDAPA 55	Career Technical Education , Division of
IDAPA 28	Commerce , Idaho Department of
IDAPA 06	Correction , Idaho Department of
IDAPA 08	Education , State Board of and State Department of
IDAPA 32	Endowment Fund Investment Board
IDAPA 58	Environmental Quality , Department of
IDAPA 12	Finance , Idaho Department of
IDAPA 13	Fish and Game , Idaho Department of
IDAPA 15	Governor , Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Military Division (Division of Homeland Security) (15.06) Idaho State Liquor Division (15.10)
IDAPA 48	Grape Growers and Wine Producers Commission , Idaho
IDAPA 16	Health and Welfare , Department of
IDAPA 41	Health Districts , Public
IDAPA 45	Human Rights Commission
IDAPA 17	Industrial Commission , Idaho
IDAPA 18	Insurance , Idaho Department of
IDAPA 05	Juvenile Corrections , Department of
IDAPA 09	Labor , Idaho Department of
IDAPA 20	Lands , Idaho Department of

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 52	Lottery Commission, Idaho State
IDAPA 24	Occupational and Professional Licenses, Division of (24.20) Accountancy, Board of (24.30) Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Athletic Commission, State (24.02) Barber and Cosmetology Services Licensing Board (24.28) Building Safety, Division of (24.39) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho State (24.21) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, State Board of (24.31) Dentistry, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Engineers and Land Surveyors, Board of Licensure of Professional (24.32) Genetic Counselors Licensing Board (24.24) Geologists, Board of Registration for Professional (24.04) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board (24.22) Massage Therapy, Board of (24.27) Medicine, Board of (24.33) Midwifery, Board of (24.26) Morticians, Board of (24.08) Nursing, Board of (24.34) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, Board of (24.10) Outfitters and Guides Licensing Board (24.35) Pharmacy, Board of (24.36) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Real Estate Commission (24.37) Residential Care Facility Administrators, Board of Examiners of (24.19) Shorthand Reporters Board, Idaho Certified (24.29) Social Work Examiners, Board of (24.14) Speech, Hearing and Communication Services Licensure Board (24.23) Veterinary Medicine, State Board of (24.38)
IDAPA 43	Oilseed Commission, Idaho
IDAPA 50	Pardons and Parole, Commission of
IDAPA 26	Parks and Recreation, Idaho Department of

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 11	Police, Idaho State Alcohol Beverage Control (11.05) Brand Board (11.02) Commercial Vehicle Safety (11.13) Forensic Laboratory (11.03) Motor Vehicles (11.07) Peace Officer Standards and Training Council (11.11) Public Safety and Security Information (11.10) Racing Commission (11.04)
IDAPA 29	Potato Commission, Idaho
IDAPA 61	Public Defense Commission, State
IDAPA 59	Public Employee Retirement System of Idaho (PERSI)
IDAPA 31	Public Utilities Commission
IDAPA 34	Secretary of State, Office of the
IDAPA 57	Sexual Offender Management Board
IDAPA 60	Soil and Water Conservation Commission, Idaho State
IDAPA 36	Tax Appeals, Board of
IDAPA 35	Tax Commission, State
IDAPA 39	Transportation Department, Idaho
IDAPA 21	Veterans Services, Division of
IDAPA 47	Vocational Rehabilitation, Division of
IDAPA 37	Water Resources, Department of
IDAPA 42	Wheat Commission, Idaho

IDAPA 02.08 – IDAHO SHEEP AND GOAT HEALTH BOARD

02.08.01 – SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD

DOCKET NO. 02-0801-2201 (NEW CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 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 rule. The action is authorized pursuant to Sections 25-129(1) & 25-147, Idaho Code.

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

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 71-81](#).

FEE SUMMARY: The following is a specific description of the fees or charges imposed or increased:

The fees or charges, authorized in Section 25-131, Idaho Code, remain unchanged and are part of the agency's 2023 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services.

The assessments from below are being imposed and collected at the same rate in the previous year:

- Section 700 – Sheep Assessments
- Section 701 – Goat Assessments
- Section 900 – Violations

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 are no fiscal impact changes requested. The fiscal impact shall remain the same as previous years.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Emily Merrigan at 208-803-5084.

DATED this October 28, 2022.

Emily Merrigan, Executive Secretary
Idaho Sheep and Goat Health Board
2118 W Airport Way
Boise, ID 83705
208-803-5084

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.01 – RULES GOVERNING THE IDAHO STATE RACING COMMISSION

DOCKET NO. 11-0401-2201 (NEW ZBR CHAPTER)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 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 Section 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, pages 110 through 238](#).

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

This rulemaking does not impose a new fee or charge, or increase an existing fee or charge, beyond what has been previously approved by the Idaho Legislature. The fees or charges are being imposed pursuant to Sections 54-2506, 54-2508, 54-2512, and 54-2515, Idaho Code.

Licensing fees plus add-ons, are designated in Section 090 of this rule as represented in the following table:

LICENSE	FEE	LICENSE	FEE
Add-ons	- \$10	Office Personnel	- \$15
Admission	- \$15	Official	- \$50
Announcer	- \$25	Outrider	- \$25
Apprentice Jockey	- \$50	Owner	- \$50
Assistant Starter	- \$25	Owner/Trainer	- \$65
Authorized Agent	- \$50	Paddock Judge	- \$25
Chart Person	- \$25	Photographer	- \$25
Clerk of Scales	- \$25	Plater	- \$50
Clocker	- \$25	Pony Person	- \$25
Concession Employee	- \$15	Racing Secretary	- \$35
Concessionaire	- \$50	Stable Registration	- \$50
Duplicate	- \$10	Stall Superintendent	- \$25
EMT	- \$25	Starter	- \$25
Exercise Person	- \$25	State Veterinarian	- \$0
Groom	- \$25	Tote Employee	- \$15

LICENSE	FEE	LICENSE	FEE
Horsemen’s Bookkeeper	- \$35	Track Security	- \$25
Identifier	- \$25	Track Superintendent	- \$25
Jockey	- \$50	Trainer	- \$50
Jockey Agent	- \$50	Valet	- \$10
Jocks Room Custodian	- \$25	Veterinarian	- \$50
Maintenance	\$15	Vet Assistant	- \$15
Mutuel Employee	- \$15	Video Employee	- \$15

Any qualified person may add an additional license category to an existing license by paying the add-on fee further detailed in Section 034.

Any owner must pay a supplemental license fee of two hundred twenty-five dollars (\$225) when submitting a horse for hair testing as required in these rules.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED this November 1st, 2022.

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

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.02 – RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 239](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

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

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.03 – RULES GOVERNING LICENSING AND FEES

DOCKET NO. 11-0403-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 240](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

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

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.04 – RULES GOVERNING DISCIPLINARY HEARINGS AND APPEALS

DOCKET NO. 11-0404-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 241](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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700 S Stratford Dr
Meridian, Idaho 83642
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Bill.Gardiner@isp.idaho.gov

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.05 – RULES GOVERNING ADVANCED DEPOSIT WAGERING

DOCKET NO. 11-0405-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 242](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

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**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.06 – RULES GOVERNING RACING OFFICIALS

DOCKET NO. 11-0406-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 243](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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700 S Stratford Dr
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Bill.Gardiner@isp.idaho.gov

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.07 – RULES GOVERNING RACING ASSOCIATIONS

DOCKET NO. 11-0407-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 244](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.08 – RULES GOVERNING PARI-MUTUEL WAGERING

DOCKET NO. 11-0408-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 245](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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700 S Stratford Dr
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Bill.Gardiner@isp.idaho.gov

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.09 – RULES GOVERNING CLAIMING RACES

DOCKET NO. 11-0409-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 246](#).

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
700 S Stratford Dr
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(208) 884-7004
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**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.10 – RULES GOVERNING LIVE HORSE RACES

DOCKET NO. 11-0410-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 247](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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Bill.Gardiner@isp.idaho.gov

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

**11.04.11 – RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS,
BANNED SUBSTANCES AND DRUG TESTING OF HORSES**

DOCKET NO. 11-0411-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 248](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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Idaho State Police
700 S Stratford Dr
Meridian, Idaho 83642
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**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.13 – RULES GOVERNING THE IDAHO STATE RACING COMMISSION

DOCKET NO. 11-0413-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 249](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

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

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

**11.04.14 – RULES GOVERNING OWNERS, TRAINERS, AUTHORIZED AGENTS,
JOCKEYS, APPRENTICE JOCKEYS, AND JOCKEY AGENTS**

DOCKET NO. 11-0414-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 250](#).

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

**11.04.15 – RULES GOVERNING CONTROLLED SUBSTANCE AND ALCOHOL TESTING
OF LICENSEES AND APPLICANTS**

DOCKET NO. 11-0415-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 251](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email ardie.noyes@isp.idaho.gov or anisha.jones@isp.idaho.gov.

DATED November 22, 2022.

Lt. Colonel Bill Gardiner
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.03 – EMERGENCY MEDICAL SERVICES (EMS) – AGENCY LICENSING REQUIREMENTS

DOCKET NO. 16-0103-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code.

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

This rulemaking adds rule language to IDAPA 16.01.03 that is being relocated from IDAPA 16.01.06, a rule chapter being repealed under a separate rulemaking, Docket No. 16-0106-2201. The Department determined that several small sections in IDAPA 16.01.06 needed to remain in rule, so suitable places were found for them to reside in IDAPA 16.01.03.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 109 and 110](#).

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jathan Nalls at 208-334-4007.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.06 – EMERGENCY MEDICAL SERVICES (EMS) – DATA COLLECTION AND SUBMISSION REQUIREMENTS

DOCKET NO. 16-0106-2201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1023, Idaho Code.

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

The Department has determined this chapter of rules is no longer needed; it is being repealed in its entirety. However, several Sections of rule deemed necessary are being moving into another EMS chapter, IDAPA 16.01.03, “Emergency Medical Services (EMS) -- Agency Licensing Requirements” under companion Docket No. 16-0103-2201 publishing simultaneously in this Bulletin.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, page 111](#).

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, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jathan Nalls at 208-334-4007.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.02.01 – IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL
DOCKET NO. 16-0201-2201 (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 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 Section 56-1028, Idaho Code.

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

Under [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.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text. They do not include any meaningful policy changes to the proposed text.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 18 through 29](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code. There are no changes to the fees paid by hospitals for designation under the Idaho TSE system under this chapter of rule.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule fee, contact Melissa Ball at 208-334-2124.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
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DOCKET NO. 16-0201-2201 – ADOPTION OF PENDING FEE RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made to the pending fee rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending fee rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-9, September 7, 2022, pages 18 through 29.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 16-0201-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

000. LEGAL AUTHORITY.

Section 56-1028, Idaho Code, *authorizes the Idaho Time Sensitive Emergency System Council (TSE)* to promulgate rules *to establish* standards and *administer* a voluntary *TSE* system. 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. *Section 56-1007, Idaho Code, authorizes the* Department to charge and collect fees and *Section 57-2003, Idaho Code, authorizes the Department* to establish the Idaho (TSE) Registry. ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

[proposed text omitted]

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. A health care clinic in a rural area that is located more than thirty-five (35) miles from a hospital via maintained roads and *can provide* 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 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

081. REALIGNMENT OF TSE 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 *that* includes: ()

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

082. REGIONAL TSE COMMITTEES.

The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

105. TRAUMA DESIGNATION CENTERS.

To be a 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 a 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 a 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 *apply* 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 noncompliance with the designation standards of these rules or adjusted to coincide with applicable external verification timetables. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. ()

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
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 to maintain designation. Failure to meet this deadline will result in suspension or revocation of designation *under* Section 285 of these rules. ()

201. -- 249. (RESERVED)

250. TSE SITE SURVEY.

The TSE Council will conduct a 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 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. 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 a 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 upon 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 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 distribute copies of the notice to prehospital emergency medical service agencies active in the community served by the center. ()

05. Waiver Application Submission. *To be placed on the agenda,* the completed waiver application must be submitted to the TSE Council at least thirty (30) calendar days before a TSE Council meeting. 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 *decide* 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 *appeal* 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 *noncompliant* 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 *appeal* 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 under investigation for any purposes connected with these rules; ()
- d. Prevents, interferes with, or attempts to impede in any way, the work of a TSE Council *representative* 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 *noncompliant* 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 *appeal* 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 *appeal* procedure under IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

291. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.08 – VITAL STATISTICS RULES

DOCKET NO. 16-0208-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-242, Idaho Code.

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

S1268 passed by the 2022 Legislature provides for a no-fee application for an identification card for people experiencing homelessness. One of the pieces of documentation they may need to establish their identity is a birth certificate. This rulemaking waives the fee for the birth certificate in this specific set of circumstances in order to remove the fee as a barrier to applying for the identification card.

S1320 passed during the 2022 Legislature shifts the presumption of the law regarding adult adoptee access to birth records from a presumption of closure to one of openness. The amended statute allows adoptees, who are adopted on or after July 1, 2022, to access their original birth records once they are eighteen (18) years of age. References to the amended statute are being added to the vital statistics rules in order to maintain consistency with this statutory change.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text. They do not include any meaningful policy changes to the proposed text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 112 through 115](#).

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

The fiscal impact for the changes related to S1268 (2022) would be revenue not generated by these requests. Currently, the Department estimates it receives less than 100 such requests per year from persons who are experiencing homelessness. If requests were to increase to 500 per year, it would cost the Department \$8,000 in lost revenue. There is no anticipated cost to rule changes due to S1320 (2022).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Aydelotte, (208) 334-4969.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
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P.O. Box 83720
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DOCKET NO. 16-0208-2201 - ADOPTION OF PENDING RULE

Substantive changes have been made in the pending rule.
Italicized red text that is double underscored indicates
amendments to the proposed text as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-7, July 6, 2022, pages 112 through 115.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

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

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 16-0208-2201

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

251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.

01. **Certified Copies.** The fee for the issuance of a certified copy of a death certificate is sixteen dollars (\$16) per copy. This fee incorporates the additional one dollar (\$1) coroner training and education fund fee ~~in~~ accordance with under Section 39-252(2), Idaho Code. The fee for the issuance of a certified copy of any other vital record is sixteen dollars (\$16) per copy. (3-15-22)()

02. **Searches.** The fee for a search of the files for a record of any vital event when no record is found, no copy is made, or a special document search is requested, is sixteen dollars (\$16). (3-15-22)

03. **Verifications.** Except for Idaho state agencies and public health districts, the fee for manual or written data verification from a certificate is ten dollars (\$10). (3-15-22)

04. **Statistical, Research, or Public Health Services.** The State Registrar assesses the fee for statistical, research, or public health services. The costs are calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a prorated basis to reflect the number of expected requests for the same information or service. (3-15-22)()

05. **Fees for Other Services.** (3-15-22)

a. The fee for filing a report, certificate, or decree of adoption is twenty dollars (\$20). (3-15-22)

b. The fee for establishing a delayed certificate of any vital event is twenty-five dollars (\$25). (3-15-22)

c. For any vital event, the fee for establishing a new certificate due to a court order, a replacement certificate, or an amended certificate is twenty dollars (\$20), except as specified under Subsection 251.05.f.ii. of this rule. (3-15-22)

d. A service fee may be established by the local registration area, in addition to the certified copy fee for each certified copy of a vital record. (3-15-22)

e. The fee for a copy of a certificate of any vital event provided upon written request to local, states other than Idaho, or federal government agencies ~~in accordance with~~ under Section 39-270(b), Idaho Code, is sixteen dollars (\$16). (3-15-22)()

f. Fees for correction of a certificate of any vital event. (3-15-22)

i. The fee for a replacement certified copy of a certificate of any vital event when the incorrect certified copy is returned for exchange within sixty (60) days of a correction of an error is five dollars (\$5) per certified copy. (3-15-22)

ii. There is no charge for a correction of an error(s) on a certificate of any vital event when the required documentation is received within the first year after the date of the event. (3-15-22)

iii. The fee for correction of an error(s) on a certificate of any vital event, when the required documentation is received one (1) year or more after the date of the event, is twenty dollars (\$20) per submitted correction request. (3-15-22)

g. Fees for priority processing or special handling. (3-15-22)

i. A service fee of ten dollars (\$10) per certificate or document will be added for priority processing or special handling of a request for a certified copy or copies of a certificate of any vital event, a request for a disinterment permit, a request to file a registry form, or a request regarding another vital event related form or document, other than those ~~identified in~~ under Subsection 251.05.g.ii. of this rule. This fee will be in addition to the current fee ~~(s) or fees~~ for each certified copy, search, or filing requested, or any combination thereof. This fee is forfeited and a new service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information, or documentation, or both. (3-15-22)()

ii. A service fee of twenty-five dollars (\$25) per certificate will be added for priority processing to establish a new or amended certificate of any vital event due to a report, certificate or decree of adoption, delayed certificate filing, a court order, a paternity affidavit or rescission, a subsequent marriage affidavit or a correction of a certificate. This fee is in addition to the current fee ~~(s) or fees~~ for the legal amendment processing or request for a certified copy or copies, or both. This fee is forfeited and a new legal amendment service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information or documentation or both. (3-15-22)()

06. Waiver of Fee Requirement. ()

a. Fees may be waived for Idaho state agency and public health district administrative use requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. (3-15-22)()

b. The fee for a birth certificate may be waived for an individual applying for the Idaho Department of Transportation's no-fee identification available to an individual who is experiencing homelessness. The applicant must have direct and tangible interest, provide a completed vital statistics certificate request form with required identification, and provide a photocopy of the completed verification of homelessness form established and required by the Idaho Department of Transportation. One (1) free birth certificate may be issued for a registrant under this waiver. Subsequent copies will be subject to normal fees. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.19 – IDAHO FOOD CODE

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

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-121, 39-1603, Idaho Code.

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

Under [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.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text. They do not include any meaningful policy changes to the proposed text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 30 through 45](#).

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, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jarryd Samples at 208-334-4994.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
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DOCKET NO. 16-0219-2201 – ADOPTION OF PENDING RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made to the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-9, September 7, 2022, pages 30 through 45.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 16-0219-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

000. LEGAL AUTHORITY.

Sections 37-121 and 39-1603, Idaho Code, *authorize the Board* to adopt rules for the regulation of food establishments to protect public health. ()

001. APPLICABILITY.

[proposed text omitted.]

01. These Rules Apply to Food Establishments. Food establishments *under* Section 39-1602, Idaho Code, must follow these rules. Those facilities include the following: ()

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

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

c. Retail markets, meat, fish, delicatessen, bakeries, 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, and are not inspected for food safety by a federal agency. ()

02. These Rules Do Not Apply to These Establishments *Under 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 *under* 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-TCS foods. ()
 - f. Farmers market vendors and roadside stands that only offer or sell 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 *that* are 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 by a clearly legible label on the product packaging; or a clearly visible placard at the sales or service location that also states: ()
 - i. The food was prepared in a home kitchen that is not subject to regulation and inspection by the regulatory authority; and ()
 - ii. The food may contain allergens. ()

03. How to Use This Chapter of Rules. *These* rules are modifications, additions, or deletions made to the federal publication incorporated by reference in Section 002 of these rules. *To* follow these rules the publication is required. Changes to those standards are listed *in these* rules by 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.

Section 56-1007, Idaho Code, *authorizes the Department* 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 *under* this Section are modifications or additions to the definitions 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-TCS *foods*. Agricultural market means the same as “farmers market” or “roadside stand.” ()

02. Board. The Idaho Board of Health and Welfare *under* Section 56-1005, Idaho Code. ()

03. Consent Order. *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 provision in the incorporated Food Code that is not designated as a priority item or a priority foundation item *and* 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. *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. *Non-TCS* foods that are sold directly to a consumer. Examples include: baked goods, fruit jams, jellies, fruit pies, breads, cakes, pastries, cookies, candies, confections, dried fruits, dry herbs, seasonings and mixtures, cereals, trail mixes, granola, nuts, vinegar, popcorn and popcorn balls, and cotton candy. ()

07. Department. The Idaho Department of Health and Welfare *under* Section 56-1002, Idaho Code, or its designee. ()

08. Director. The Director of the Idaho Department of Health and Welfare *under* 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 public. Farmers market means the same as “agricultural market” and “roadside stand.” ()

12. Food Establishment. Modifications to Section 1-201.10 amend 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. 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. Performs the following: ()

a. Extensive handling of raw ingredients; ()

b. Preparation processes that include the cooking, cooling, and reheating of TCS foods; or ()

c. A variety of processes requiring hot and cold holding of TCS foods. ()

111. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.

The definitions *under* this Section are modifications or additions to the definitions provided in the incorporated Food Code. ()

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

02. 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. Provides factory-sealed prepackaged non-TCS foods. The establishment may have limited preparation of non-TCS foods only. ()

04. Medium-Risk Food Establishment. Includes the following: ()

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

b. Prepackaged raw ingredients cooked or prepared to order; ()

c. Raw ingredients requiring minimal assembly; ()

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

e. Hot and cold holding of TCS foods is restricted to minimal holding between preparation and service. ()

05. Priority Item. 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 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 *have been assigned* and the Division of Licensing and Certification *has* 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. *I*mproper 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 *their* own agricultural products directly to consumers. Roadside stand means the same as “agricultural market” and “farmers market.” ()

11. TCS. Time/Temperature Control for Safety. ()

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. 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 *this* rule. ()

01. Field Dressed Game Animals. Uninspected 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, uninspected 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 cannot be done in the food establishment, except for meat processing establishments with kill floors; ()

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. Uninspected Game Animals. Any uninspected 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 *they are* aware that the meat has been donated and that the meat itself is uninspected, 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. ()
- 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 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 *their designee* must develop and submit to the regulatory authority for review and approval a quality assurance program or HACCP plan *that* covers the food processing operation *and* includes 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 *that* 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 *under* 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 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 of *this rule* 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, 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 transferable when ownership changes *under* 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, 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 *under* 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 *priority* or *priority foundation* 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 onsite 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 onsite 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 onsite 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 *under* 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 *that* are in violation and the cause for the revocation; ()

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 Proceedings 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 *that* 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 *under* 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 – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code.

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

This 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 46 through 50](#).

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Thompson, (208) 364-1874.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.17 – MEDICARE/MEDICAID COORDINATED PLAN BENEFITS
DOCKET NO. 16-0317-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code.

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

Under [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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 315 through 318](#).

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, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jennifer Pinkerton at (208) 287-1171.

DATED this 7th day of November, 2022.

Trinette Middlebrook and Frank Powell
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.19 – CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-2201 (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 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 39-3505 and 56-1005, Idaho Code.

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

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.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 51 through 91](#).

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 Sections 56-264 and 56-1007, Idaho Code. There are no additional changes to the application and certification fees in this chapter of rule.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Steven L. Millward at (208) 334-0706.

DATED this 7th day of November, 2022.

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DOCKET NO. 16-0319-2201 – ADOPTION OF PENDING FEE RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made in the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending fee rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-9, September 7, 2022, pages 51 through 91.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 16-0319-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

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. Any staff *or* 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. *The Department can require a new background check at any time.* 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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 *disclosing any past, current, or pending revocation, or other disciplinary action, against the applicant as a care provider in any jurisdiction.* ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

115. REQUIRED ONGOING TRAINING.

The provider must document a minimum of eight (8) hours per year of ongoing, relevant training. ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

130. NURSING FACILITY LEVEL OF CARE VARIANCE.
[proposed text omitted]

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. *Interviews will be conducted according to Subsection 150.02.e. of these rules.* 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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 *dispense* the specific medication *scheduled* for *dispensing* and *assist* 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. ()
- 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. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-2201 (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 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. The Department of Health and Welfare requests that the effective date specified in the concurrent resolution be July 1, 2023.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code.

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

Under [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.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 36 through 55](#).

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 Sections 39-1107, and 56-1007, Idaho Code. There are no changes to the fees charged by the Department for criminal history and background checks under this chapter of rule.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Fernando Castro at (208) 332-7999.

DATED this 7th day of November, 2022.

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**DOCKET NO. 16-0506-2201 – ADOPTION OF PENDING FEE RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)**

Substantive changes have been made to the pending fee rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-8, August 3, 2022, pages 36 through 55.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

**THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 16-0506-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)**

000. LEGAL AUTHORITY.

Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code, *authorize the Department to conduct criminal history and background checks*. US Public Law 92-544, authorizes the Department to submit fingerprints and receive responses from the Federal Bureau of Investigations for the processing of background checks. IRS Publication 1075 requires the Department to submit fingerprints and establish a personnel screening program for its employees who have access to the Federal Tax Information File as part of their duties. 42 USC Section 9858f *requires* the Department to check specific records for federal child care programs. ()

001. POLICY.

[proposed section omitted.]

The Department *will* conduct *a* fingerprint-based criminal history and background check on individuals who complete a criminal history application. The criminal history applicant is required to disclose any pertinent information regarding crimes or findings that would disqualify the individual from providing care or services to children or vulnerable adults. The Department may obtain information for these criminal history and background checks from the following sources: ()

- 01.* Federal Bureau of Investigation. ()
- 02.* Idaho State Police Bureau of Criminal Identification. ()
- 03.* Any state or federal Child Protection Registry. ()
- 04.* Any state or federal Adult Protection Registry. ()
- 05.* Any state Sexual Offender Registry. ()
- 06.* Office of Inspector General List of Excluded Individuals and Entities. ()
- 07.* Idaho Department of Transportation Driving Records. ()
- 08.* Nurse Aide Registry. ()
- 09.* Other states and jurisdictions records and findings. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter of rules, the following terms apply: ()

01. **Agency.** An administrative subdivision of government or an establishment engaged in doing business for another entity. This term is synonymous with the term “employer”. ()

02. **Application.** An individual’s request for a background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. ()

03. **Background Check Unit.** The Department’s Unit responsible for processing fingerprint-based background checks, and issuing clearances or denials according to these rules. ()

04. **Clearance.** A clearance is a document designated by the Department as the official result of a completed background check with no disqualifying crimes or relevant records found. ()

05. **Conviction.** An individual is considered to have been convicted of a criminal offense *when*: ()

a. *A* judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, or local court; ()

b. *There is a* finding of guilt against the individual by any federal, state, military, or local court; ()

c. *A* plea of guilty or nolo contendere by the individual has been accepted by any federal, state, military, or local court; ()

d. *An* individual has entered into or participated in first offender, deferred adjudication, or *another* arrangement or program where judgment of conviction has been withheld. This includes *when*: ()

i. *An* individual *participates* in a drug court; or ()

ii. *An* individual *participates* in a mental health court. ()

06. **Criminal History and Background Check.** A criminal history and background check is a fingerprint-based check of an individual’s criminal record and other relevant records. *Also referred to as “background check”.* ()

07. **Denial.** A denial *of clearance* is issued by the Department when an individual has a relevant record or disqualifying crime *under Sections 200 and 210 of these rules.* ()

[proposed text omitted.]

08. **Department.** The Idaho Department of Health and Welfare or its designee. ()

09. **Direct Patient Access Employee.** Any individual who has access to a patient or resident of a long-term care provider or facility whether through employment or contract, and who has duties or performs tasks that involve (or may involve) one-on-one (1:1) contact with a patient or resident or has access to *their* personal belongings. Volunteers are not considered a Direct Patient Access employee of a long-term care provider or facility unless volunteers are required to undergo a background check *under* the rules applicable to that specific type of facility or provider. ()

10. **Disqualifying Crime.** A disqualifying crime is a designated crime *under* Section 210 of these rules

that results in the unconditional denial of an applicant. ()

11. Employer. An entity that hires people to work in exchange for compensation. This term is synonymous with the term “agency”. ()

12. Enhanced Clearance. A clearance issued by the Department that includes a search of child protection registries in states or jurisdictions in which an applicant resided during the preceding five (5) years. ()

[proposed text omitted.]

13. Relevant Record. A record that is found in a search of criminal records or registries checked by the Department *under* Section 56-1004A, Idaho Code, and these rules. ()

011. -- 049. (RESERVED)

050. FEES AND COSTS FOR BACKGROUND CHECKS.

The fee for a Department fingerprint-based background check is up to seventy dollars (\$70) for an individual. The applicant is responsible for the cost of the background check. *The Department may* waive *the fee* for certain individuals. An applicant is responsible for any additional costs incurred by the Department paid to agencies, judicial, or law enforcement jurisdictions in other states. The Department will collect the additional funds to cover its costs. ()

051. -- 059. (RESERVED)

060. AGENCY RESPONSIBILITIES.

01. Initial Registration. Agencies required to *obtain* Department background checks on individuals must register with the Department and receive an agency identification number before applications are processed or accessed. ()

02. Change in Name or Ownership. An agency or facility must: ()

a. If acquired by another entity, the new ownership will register as a new agency and provide contact information to obtain a new agency identification number and website access within thirty (30) calendar days of acquisition. New ownership occurs when the agency obtains a new federal Employer Identification Number with the Internal Revenue Service. ()

b. The previous ownership will settle any background check debt with the Department prior to the completion of the acquisition. The Department reserves the right to not acknowledge the transfer to the new ownership if the previous ownership background check debt is not settled. ()

c. If there is a change *in* name or location, the agency will update their profile on the Department website with their new name, location, and contact information within thirty (30) calendar days of the change. ()

03. Applicant Screening. The agency *must* screen applicant background check disclosures that are submitted to the Department website to determine the suitability of the applicant for employment or program participation. If an applicant discloses a disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment or program participation should be made during the initial application review. ()

04. Time Frames *For Compliance*. The agency is responsible for ensuring the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. ()

05. Review Background Check Results. The agency is responsible for reviewing the results of the

background check even if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The agency must complete this review within fourteen (14) calendar days of the clearance being accessible on the Department’s website. ()

06. Employment Determination. The Department does not make the final fitness determination for employment or program participation for the applicant. The agency will *determine* the ability or risk of the individual to provide care or services to children or vulnerable adults after reviewing the applicant’s background check results. ()

07. Discovery of Criminal Convictions or Disqualifying Records After Clearance is Issued. *After* a clearance *is issued*, if the agency discovers that the applicant may no longer be eligible to hold a Department clearance due to the existence of either a conviction for a disqualifying offense, or a relevant record *listed in these rules*, the agency is required to report their discovery to the Background Check Unit. The Department may compel the applicant to be processed for a new background check *under* Subsection 195.04 of these rules if it deems it appropriate to do so. ()

08. Retention of Records. The agency will retain all applicant background check documentation as provided in Subsection 300.02 of these rules. ()

061. -- 069. (RESERVED)

070. NONCOMPLIANCE WITH THESE RULES.
The Department will report an agency’s noncompliance with these rules to the applicable licensing or certification unit or appropriate program integrity unit. ()

071. -- 099. (RESERVED)

100. INDIVIDUALS SUBJECT TO A BACKGROUND CHECK.
The following are persons or classes of individuals who are required by statute, or Department rules, to complete a background check. ()

Required Classes	Idaho Code and IDAPA Chapter(s)
01. Adoptive Parent Applicants	<i>IDAPA 16.04.18, “Children’s Agencies and Residential Licensing”</i> IDAPA 16.06.01, “Child and Family Services” IDAPA 16.06.02, “Child Care <i>and Foster Care</i> Licensing”
02. Certified Family Homes	Section 39-3520, Idaho Code IDAPA 16.03.19, “Certified Family Homes” IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits”
03. Children’s Agency Facility Staff	<i>IDAPA 16.04.18, “Children’s Agencies and Residential Licensing”</i>
04. Children’s Residential Care Facilities	Section 39-1210, Idaho Code <i>IDAPA 16.04.18, “Children’s Agencies and Residential Licensing”</i>
05. Children’s Therapeutic Outdoor Programs	Section 39-1208, Idaho Code <i>IDAPA 16.04.18, “Children’s Agencies and Residential Licensing”</i>
06. Citizen Review Panel Members	Public health district volunteers who must comply with Section 16-1647, Idaho Code, “Citizen Review Panels - Child Protection Legislative Review Panel”
07. Contracted Non-Emergency Medical Transportation Providers	IDAPA 16.03.09, “Medicaid Basic Plan Benefits”

Required Classes	Idaho Code and IDAPA Chapter(s)
08. Court Appointed Guardians and Conservators	Title 15, Chapter 5, Idaho Code, & Title 66, Chapter 4, Idaho Code. Court required guardian and conservator background checks are not provided Department clearances <i>under Subsection 180.01</i> of these rules
09. Designated Examiners and Dispositioners	IDAPA 16.07.39, "Designated Examiners and Dispositioners"
10. Developmental Disabilities Agencies	IDAPA 16.03.21, "Developmental Disabilities Agencies" (DDA) IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
11. Emergency Medical Services (EMS)	IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements" IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"
12. High Risk Providers of Medicaid	IDAPA 16.03.09, "Medicaid Basic Plan Benefits" The Medicaid Provider Handbook
13. Home and Community-Based Services (HCBS)	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" IDAPA 16.04.17, "Residential Habilitation Agencies"
14. Home Health Agencies	IDAPA 16.03.07, "Home Health Agencies"
15. Idaho Behavioral Health Plan (IBHP)	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
16. Idaho Child Care Program (ICCP)	IDAPA 16.06.12, "Idaho Child Care Program" (ICCP)
17. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	IDAPA 16.03.11, "Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)"
18. Licensed Foster Care	Section 39-1211, Idaho Code IDAPA 16.06.02, "Child Care <i>and Foster Care</i> Licensing"
19. Licensed Day Care	Sections 39-1105, 39-1113, and 39-1114, Idaho Code IDAPA 16.06.02, "Child Care <i>and Foster Care</i> Licensing"
20. Mental Health Services	IDAPA 16.07.33, "Adult Mental Health Services" IDAPA 16.07.37, "Children's Mental Health Services"
21. Personal Assistance Agencies	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
22. Personal Care Service Providers	Section 39-5604, Idaho Code IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
23. Residential Assisted Living Facilities	IDAPA 16.03.22, "Residential Assisted Living Facilities"
24. Service Coordinators and Paraprofessional Providers	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
25. Skilled Nursing Facilities	IDAPA 16.03.02, "Skilled Nursing Facilities"
26. Substance Use Disorders Services	IDAPA 16.07.17, "Substance Use Disorders Services"
27. Support Brokers and Community Support Workers	IDAPA 16.03.13, "Consumer-Directed Services"

()

101. DEPARTMENT INDIVIDUALS SUBJECT TO A BACKGROUND CHECK.

The following Department employees, contractors, and volunteers are subject to background checks.

()

- 01. Employees, Contractors, and Volunteers.** Employees, contractors, and volunteers providing direct care services or who have access to children or vulnerable adults *under* Section 39-5302(10), Idaho Code. ()
- 02. Employees of Bureau of Compliance.** ()
- a.** Fraud Investigators; ()
- b.** Utilization Review Analysts; and ()
- c.** Background Check Unit staff. ()
- 03. Employees at State Institutions.** All employees of the following state-funded institutions; ()
- a.** Southwest Idaho Treatment Center, Nampa, Idaho; ()
- b.** State Hospital North, Orofino, Idaho; ()
- c.** State Hospital South, Blackfoot, Idaho; and ()
- d.** State Hospital West, Nampa, Idaho. ()
- 04. Emergency Medical Services (EMS) Employees.** EMS communication specialists and managers. ()
- 05. Other Employees.** Other Department employees as determined by the Director. ()

102. -- 119. (RESERVED)

120. APPLICATION FOR A BACKGROUND CHECK.

Individuals who are subject to a background check must submit their application on the Department website. ()

01. Application Form. *To* request a background check, *the applicant must apply* on the Department website *and provide all the information requested in the Department-provided forms*. The individual's application authorizes the Department to obtain information and release it *under* applicable state and federal law. ()

[proposed text omitted.]

02. Disclosures. The individual must disclose any conviction, pending charges or indictment for crimes, and furnish a description of the crime and the particulars on the application. The individual must also disclose any notice by a state or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint, and any other information as required. ()

03. Failure to Disclose Information. ()

a. An applicant who falsifies or fails to disclose information on the application, may be subject to prosecution under Sections 18-3203, 18-5401, and 56-227A, Idaho Code. ()

b. An applicant required to obtain a background check under Section 126 of these rules that knowingly makes a materially false statement in connection to their background check will receive an unconditional denial as provided in Section 200 of these rules. ()

121. -- 124. (RESERVED)

125. IDAHO CHILD PROTECTION CENTRAL REGISTRY CHECKS.

The Department will provide the results of a check of the Idaho Child Protection Central Registry to any agency that requires it to comply with applicable federal, state, or local law. The Department will process those requests *under*

this rule. ()

01. Request for an Idaho Child Protection Central Registry Check. A request for an Idaho Child Protection Central Registry check must be submitted on the Department form by mail, facsimile transmission, or e-mail attachment. ()

02. Fee Amount. The fee for an Idaho Child Protection Central Registry check is twenty dollars (\$20) for each subject checked. ()

03. Department Response. A response will be returned to the agency initiating the request for the check within fourteen (14) days of receipt of the request. The Department's response will be limited to confirmation whether the subject is listed in the Registry. *The requestor may contact the Department's Division of Family and Community Services if additional information is needed.* ()

126. APPLICANTS RECEIVING A DEPARTMENT ENHANCED CLEARANCE.

The following classes of individuals are required to provide their previous residence information for the preceding five (5) years in their application for a background check. If the applicant's previous background check included checks of out-of-state Central Child Protection Registries within the previous six (6) months, the applicant is not required to complete them again. ()

01. Adoptive Parent Applicants. ()

02. Behavioral Health Programs. ()

03. Certified Family Homes. ()

04. Children's Agency Facility Staff. ()

05. Children's Residential Care Facilities. ()

06. Children's Therapeutic Outdoor Programs. ()

07. Citizen Review Panel Members. ()

08. Idaho Child Care Program (ICCP). ()

09. Licensed Foster Care. ()

10. Licensed Day Care. ()

11. Mental Health Services. ()

12. Substance Use Disorders Services. ()

127. -- 139. (RESERVED)

140. SUBMISSION OF FINGERPRINTS.

Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department *under* Section 150 of these rules *to process* a background check request. ()

01. Department Fingerprinting Locations. *The Department will collect the individual's fingerprints at designated locations* listed on the Department's website. The applicant may contact the Background Check Unit for additional guidance. ()

02. Submitting Fingerprints by Mail. *Individuals who* elect to have fingerprints collected by a local law enforcement agency or by the applicant's agency *must use* a federal FD-258 Applicant fingerprint card. The fingerprint card must be completed *using* the instructions provided, signed, and mailed along with the applicable fee

to the address indicated on the Department's website. The applicant fingerprints and fees must be received by the Department in the time frame required in Section 150 of these rules. ()

03. Submission of Reprints. *If* an individual's submitted fingerprints are deemed unreadable by the Department, Idaho State Police, or the FBI, the applicant must comply with a request for reprints from the Department within fifteen (15) calendar days from the date of the notice. Failure to comply with the request will result in the applicant being unavailable to provide services. ()

141. -- 149. (RESERVED)

150. TIME FRAME FOR SUBMITTING FINGERPRINTS.

01. Time Frame. The applicant fingerprints must be received by the Department within twenty-one (21) days from the date of *the application* submission in the Department background check system whether the fingerprints are sent by mail or collected at a Department fingerprinting location. If the Department does not receive the applicant fingerprints within sixty (60) calendar days from the background check submission date on the Department website, the applicant must complete a new application. ()

[proposed text omitted.]

02. No Extension of Time Frame. The Department will not extend the twenty-one (21) day time frame, unless the agency provides just cause. If the Department does not extend the time frame, the applicant must be removed from any situation where they can have direct access to *a* vulnerable person or their belongings. ()

151. -- 159. (RESERVED)

160. WITHDRAWAL OF APPLICATION.

An individual may withdraw their application for a background check at any time. An individual who withdraws their application cannot provide services, or receive licensure or certification. Fees paid for the cost of the background check are non-refundable once the fingerprints have been submitted by the Department to the Idaho State Police. ()

161. -- 169. (RESERVED)

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE BACKGROUND CHECK.

An individual is available to provide services *on the day the application is submitted on the Department website, has been reviewed by the agency, and while* pending completion of the background check *under* this rule. The individual must have submitted their application and fingerprints in the time frame required in Section 150 of these rules to provide services. ()

01. Employees of Providers, Contractors, Bureau of Emergency Medical Services (EMS), or the Department. An individual is available to provide services on a provisional basis at the discretion of the agency or EMS Bureau if no disqualifying crimes or relevant records are disclosed on the application. The agency must review the application for any disqualifying crimes *under* Section 210 of these rules or other relevant records *under* Section 200 of these rules. The agency determines whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. ()

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: ()

- a.** Adoption or foster care applicants and adults in the home; ()
- b.** Certification or licensure applicants; ()

- i. Certified family homes; ()
- ii. Licensed Emergency Medical Services applicants; and ()
- iii. Department-licensed child care providers. ()

171. -- 179. (RESERVED)

180. BACKGROUND CHECK RESULTS.

The Department will issue a clearance or denial once the background check is completed. ()

- 01. Results of Background Checks.** The results *can* be accessed on the Department’s website. ()

02. Findings for Court-Required Criminal History and Background Checks. *Under* Section 56-1004A(2)(b), Idaho Code, the Department will provide findings of a court-ordered background check to individuals appointed by the court *under* Title 15, Chapter 5, or Title 66, Chapter 4, Idaho Code. ()

03. Department Employees That Have Access to the Internal Revenue Service Federal Tax Information File. Employees assigned to the Self-Reliance Division that access the Internal Revenue Service Federal Tax Information file as part of their duties will be processed for a background check by the Background Check Unit. The Self-Reliance Division will make *a* fitness determination based on *its* own policies. ()

181. APPLICATION STATUS.

An individual and their agency may check on the background check status and the individual’s availability to work on the Department website. ()

182. -- 189. (RESERVED)

190. BACKGROUND CHECK CLEARANCE.

01. Clearance. A clearance is issued by the Department once all relevant records and findings have been reviewed and the Department has cleared the applicant. The clearance will be published on the Department’s website and is available for printing to the individual and their agency. ()

02. Clearance Types. An applicant required to pass a background *check* must receive a clearance as provided below: ()

a. *An enhanced clearance is required for each of the classes listed in Section 126 of these rules and requires searches from states and jurisdictions where the applicant has resided in the previous five (5) years. A relevant record on any child protection registry will result in a denial under Subsection 200.01 of these rules. An applicant who applies to work in any of these classes must receive or have an enhanced clearance.* ()

b. *An applicant not listed in Section 126 of these rules will receive a clearance provided they do not disclose or have a relevant record under Subsections 200.01.a, 200.01.c, 200.01.d, 200.01.e, 200.01.f, or 200.01.g, or a disqualifying crime under Subsections 210.01, 210.02, or 210.03 of these rules.* ()

- 03. Revocation of Clearance.** A clearance may be revoked for the following: ()

a. The individual fails to comply with the Department’s request to submit to a new background check *under* Subsection 195.04 of these rules. ()

b. The individual completes a new background check and is found to have a criminal or relevant record that results in an inability to proceed action or in a denial *under* Sections 200 *or* 270 of these rules. ()

c. The applicant withdraws their application from the background check process *under* Section 160 of these rules. ()

d. The background check fees are not paid, or are insufficient to cover the costs of the background check. ()

191. -- 194. (RESERVED)

195. USE OF PREVIOUSLY COMPLETED BACKGROUND CHECKS.

The agency is responsible for confirming that the applicant has *received a clearance* under Section 190 of these rules. Once a clearance is issued by the Department, verifiable continuous employment of the applicant with the same agency eliminates the requirement for a new background check. ()

01. New Background Check. Any individual required to have a background check under these rules must complete a new application, including fingerprints when: ()

a. An applicant is accepting employment with a new agency, and their last Department background check was completed more than three (3) years prior to their employment date; or ()

b. An applicant is applying for licensure or certification with the Department, and their last Department background check was completed more than three (3) years prior to their employment date or licensure application date; *or* ()

c. An applicant's *affiliation ends*, is *later re-affiliated to* the same agency, and the applicant background check is older than three (3) years at the time of the *re-affiliation*. ()

02. Use of Background Check Within Three Years of Completion. Any agency may use a Department background check clearance obtained under these rules if: ()

a. The individual has received a Department's background check clearance within three (3) years from the date of employment; ()

b. Prior to allowing the individual to provide services, the agency must affiliate itself to the individual's clearance through the Department's website by having the agency's identification number added to the individual's background check; and ()

c. The agency completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and no disqualifying crimes are found. ()

i. The action must be initiated by the agency within thirty (30) calendar days of obtaining access to the individual's background check clearance issued by the Department; and ()

ii. The agency must be able to provide proof of this action by maintaining a copy of the records required in Subsections 195.02.a and 195.02.c of these rules. ()

d. An applicant's *affiliation ends*, is *later re-affiliated to* the same agency, and the applicant background check was completed less than three (3) years from the time of the *re-affiliation*, the provisions of Subsections 195.02.b and 195.02.c of these rules apply. ()

e. An agency not listed in Section 126 of these rules may use an individual's Department clearance or enhanced clearance that was obtained within three (3) years from date of employment. ()

f. An individual with a current clearance that is not Enhanced but is completed within three (3) years from date of employment, who *seeks to affiliate themselves* to a new agency identified in Section 126 of these rules, must *apply* for a new background check to obtain an *Enhanced* clearance. An agency or employer identified in Subsections 126.08 and 126.10 of these rules may not hire an employee with a clearance obtained prior to January 1, 2020, unless the Enhanced clearance complies with the requirements found in 42 USC Section 9858. ()

03. Agency Discretion. Any agency or employer, at its discretion, may require an individual to

complete a Department background check at any time, even if the individual has received a background check clearance within three (3) years. ()

04. Department Discretion. The Department may require a background check of any individual covered under these rules at any time. Any individual required to complete a background check under these rules must be fingerprinted within fourteen (14) days from the date of notification by the Department. ()

196. -- 199. (RESERVED)

200. UNCONDITIONAL DENIAL.

An individual who receives an unconditional denial is not available to provide services, have access, or be licensed or certified by the Department. ()

01. Reasons for an Unconditional Denial. Unconditional denials are issued for: ()

a. Disqualifying crimes *under* Section 210 of these rules; ()

b. A relevant record on any Child Protection Registry for the classes of individuals *under* Section 126 of these rules; ()

c. A relevant record on the Idaho Child Protection Central Registry with a Level one (1) or Level two (2) designation for all other applicants covered by these rules; ()

d. A relevant record on the Nurse Aide Registry; ()

e. A relevant record on either the state or federal sex offender registries; ()

f. A relevant record on the U. S. Health and Human Services, Office of the Inspector General List of Excluded Individuals and Entities (LEIE); ()

g. A relevant record on the state Medicaid Exclusion List; or ()

h. A materially false statement made knowingly in connection to the Department's background check application for the classes of individuals *under* Section 126 of these rules will result in a five-year disqualification period for the applicant. ()

02. Issuance of an Unconditional Denial. The Department will issue an unconditional denial within fourteen (14) days of completion of a background check. ()

03. Challenge of Department's Unconditional Denial. An individual has twenty-eight (28) days from the date the unconditional denial is issued to challenge the Department's unconditional denial. The individual must submit the challenge in writing and provide court records or other information which demonstrates the Department's unconditional denial is incorrect. These documents must be filed with the Background Check Unit. ()

a. If the individual challenges the Department's unconditional denial, the Department will review the court records, documents, and other information filed by the individual. The Department will issue a decision within thirty (30) days of the receipt of the challenge. The Department's decision will be a final order under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. ()

b. If the individual does not challenge the Department's unconditional denial within thirty (30) days, it becomes a final order of the Department under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. ()

[proposed text omitted.]

04. Appeal of an Unconditional Denial. Following a challenge of the Department's unconditional denial, an individual may appeal the Department's decision under IDAPA 16.05.03, "Contested Case Proceedings

and Declaratory Rulings.” The request to appeal an unconditional denial does not stay the action of the Department. ()

201. -- 209. (RESERVED)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the background check reveals a conviction for a disqualifying crime on their record *under* this rule. ()

01. Disqualifying Crimes. The disqualifying crimes *under* this rule, or any substantially conforming foreign criminal violation, will result in an unconditional denial being issued. ()

- a.** Crimes against vulnerable adults: ()
 - i.** Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; ()
 - ii.** Abandoning a vulnerable adult, as defined in Section 18-1505A, Idaho Code; ()
 - iii.** Sexual abuse and exploitation of a vulnerable adult, as defined in Section 18-1505B, Idaho Code. ()
- b.** Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; ()
- c.** Forcible sexual penetration by use of a foreign object, as defined in Section 18-6604, Idaho Code; ()
- d.** Hiring, employing, or using a minor to engage in certain acts, as defined in Section 18-1517A, Idaho Code; ()
- e.** Human trafficking, as defined in Sections 18-8602 and 18-8603, Idaho Code; ()
- f.** Incest, as defined in Section 18-6601, Idaho Code; ()
- g.** Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; ()
- h.** Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; ()
- i.** Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; ()
- j.** Mayhem, as defined in Section 18-5001, Idaho Code; ()
- k.** Manslaughter:
 - i.** Voluntary manslaughter, as defined in Section 18-4006(1) Idaho Code; ()
 - ii.** Involuntary manslaughter, as defined in Section 18-4006(2), Idaho Code; ()
 - iii.** Felony vehicular manslaughter, as defined in Section 18-4006(3)(a) and (b), Idaho Code; ()
- l.** Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; ()
- m.** Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; ()
- n.** Rape, as defined in Section 18-6101, Idaho Code; ()

- o.** Robbery, as defined in Section 18-6501, Idaho Code; ()
 - p.** Felony stalking, as defined in Section 18-7905, Idaho Code; ()
 - q.** Sale or barter of a child, as defined in Section 18-1511, Idaho Code; ()
 - r.** Ritualized abuse of a child, as defined in Section 18-1506A, Idaho Code; ()
 - s.** Female Genital Mutilation, as defined in Section 18-1506B, Idaho Code; ()
 - t.** Sexual abuse or exploitation of a child, as defined in Sections 18-1506, Idaho Code; ()
 - u.** Felony sexual exploitation of a child, as defined in Section 18-1507, Idaho Code; ()
 - v.** Sexual battery of a minor child under sixteen (16) or seventeen (17) years of age, as defined in Section 18-1508A, Idaho Code; ()
 - w.** Video voyeurism, as defined in Section 18-6605, Idaho Code; ()
 - x.** Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; ()
 - y.** Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; ()
 - z.** Any felony punishable by death or life imprisonment; ()
 - aa.** Attempted strangulation, as defined in Section 18-923, Idaho Code; ()
 - bb.** Felony domestic violence, as defined in Section 18-918, Idaho Code; ()
 - cc.** Battery with intent to commit a serious felony, as defined in Section 18-911, Idaho Code; ()
 - dd.** Assault with intent to commit a serious felony, as defined in Section 18-909, Idaho Code; or ()
 - ee.** Aggravated sexual battery, as defined in Section 18-925, Idaho Code; ()
 - ff.** Sexual abuse of an animal, as defined in Section 18-6602, Idaho Code; ()
 - gg.** Sexual abuse of human remains, as defined in Section 18-6603, Idaho Code; or ()
 - hh.** Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-304, 18-305, 18-306, 18-307, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. ()
- 02. Disqualifying Five-Year Crimes.** The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for five (5) years from the date of the conviction for the crimes listed in this rule, or any substantially conforming foreign criminal violation: ()
- a.** Any felony not described in Subsection 210.01, or 210.03 of this rule; ()
 - b.** Misdemeanor domestic violence, as defined in Section 18-918, Idaho Code; ()
 - c.** Failure to report abuse, abandonment or neglect of a child, as defined in Section 16-1605, Idaho Code; ()
 - d.** Misdemeanor forgery of and fraudulent use of a financial transaction card, as defined in Sections

- 18-3123 through 18-3128, Idaho Code; ()
- e. Misdemeanor forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; ()
 - f. Misdemeanor identity theft, as defined in Section 18-3126, Idaho Code; ()
 - g. Misdemeanor insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; ()
 - h. Public assistance fraud, as defined in Sections 56-227, 56-227A, 56-227D, 56-227E and 56-227F, Idaho Code; ()
 - i. Sexual exploitation of a child by electronic means, felony or misdemeanor, as defined in Section 18-1507A, Idaho Code; ()
 - j. Stalking in the second degree, as defined in Section 18-7906, Idaho Code; ()
 - k. Misdemeanor vehicular manslaughter, as defined in Section 18-4006(3)(c), Idaho Code; ()
 - l. Sexual exploitation by a medical care provider, as defined in Section 18-919, Idaho Code; ()
 - m. Sexual Battery, as defined in Section 18-924, Idaho Code; ()
 - n. Operating a certified family home without certification, as defined in Section 39-3528, Idaho Code; ()
- or ()
- o. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-204, 18-205, 18-304, 18-306, 18-307, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying five (5) year crimes. ()

03. Disqualifying Three-Year Crimes. The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for three (3) years from the date of the conviction for the crimes listed in this rule, or any substantially conforming foreign criminal violation: ()

- a. A controlled substance manufacture, delivery, or possession with intent to deliver or manufacture offense, as defined in Section 37-2732, Idaho Code, felony; ()
 - b. A controlled substance paraphernalia offense, as defined in Section 37-2734B, Idaho Code, felony; ()
- or ()
- c. Operating a motor vehicle under the influence of alcohol, drugs, or any other intoxicating substance offense, as defined in Section 18-8004, Idaho Code, felony. ()

04. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: ()

- a. A withheld judgment; ()
- b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; ()
- c. An order *under* Section 19-2604, Idaho Code, or other equivalent state law; or ()
- d. A sealed record. ()

[proposed sections 211-269 omitted.]

211. -- 269. (RESERVED)

270. CRIMINAL OR RELEVANT RECORD - ACTION PENDING.

01. Notice of Inability to Proceed. When the applicant is identified as having a pending criminal action for a crime or relevant record that may disqualify them from receiving a clearance for the background check, the Department may issue a notice of inability to proceed. ()

02. Availability to Provide Services. The applicant is not available to provide service when a notice of inability to proceed or denial is issued by the Department. Any previous clearance issued by the Department will be revoked as described in Section 190 of these rules. ()

03. Reconsideration of Action Pending. In the case of an inability to proceed status, the applicant can submit documentation that the matter has been resolved to the Department for reconsideration within one hundred and twenty (120) calendar days from the date of notice. When the Department receives this documentation, the Department will notify the applicant of the reconsideration and issue a clearance or denial. When the Department's reconsideration results in a clearance after review, any previously revoked clearance will be restored as described in Section 190 of these rules. ()

271. -- 299. (RESERVED)

300. BACKGROUND CHECK RECORDS.

Background checks done under this chapter become the property of the Department and are held confidential. ()

01. Release of Background Check Records. A copy of the background check as defined in Section 010 of these rules will be released: ()

a. To the individual who has requested the background check and upon receipt of a written request to the Department, provided the individual releases the state from all liability; ()

b. In response to a subpoena issued by a court of competent jurisdiction; or ()

c. As otherwise required by law. ()

02. Department Retention of Records. *The Department will preserve all applicant background check records for six (6) years.* ()

[proposed text omitted.]

03. Use and Dissemination Restrictions for FBI Criminal Identification Records. According to 28 CFR 50.12, the Department will: ()

a. Notify the individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; ()

b. In determining the suitability for licensing or employment, provide the individual the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record; ()

c. Notify the individual that they have fifteen (15) days to correct or complete the FBI identification record or to decline to do so; and ()

d. Advise the individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are provided in 28 CFR 16.34. ()

301. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 151 and 152](#).

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

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Julie Sevcik, 208-863-4229 and Michelle Weir, 208-334-5651.

DATED this 7th day of November, 2022.

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2202

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 153 through and 156](#).

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

There will 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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Julie Sevcik at 208-863-4229.

DATED this 7th day of November, 2022.

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.02 – CHILD CARE AND FOSTER CARE LICENSING

DOCKET NO. 16-0602-2201 (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 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 39-1107, 39-1111, 39-1207, 39-1211, 39-1213, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code.

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

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, 16.04.18, "Children's Agencies and Residential Licensing." The title of this IDAPA chapter, 16.06.02, is changing to "Child Care and Foster Care Licensing."

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 157 through 195](#).

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 Sections 39-1107 and 56-1007, Idaho Code. There are no additional changes to fees paid by childcare providers for licensing in this chapter of rule.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact:

- 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

DATED this 7th day of November, 2022.

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DOCKET NO. 16-0602-2201 – ADOPTION OF PENDING FEE RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made to the pending fee rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending fee rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-9, September 7, 2022, pages 157 through 195.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 16-0602-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

001. SCOPE *AND* POLICY.

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. ()

[proposed text omitted]

(BREAK IN CONTINUITY OF SECTIONS)

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 *IDAPA 16.04.18, "Children's Agencies and Residential Licensing,"* Section 009. ()

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 403 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. ()

05. 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. ()

06. 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; ()

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. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.12 – IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

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

A recent federal audit of the Idaho Child Care Program determined that Idaho is out of compliance with the following:

- Federal law, 45 CFR 98.21(a)(1), related to subsidy eligibility. These rule changes will bring Idaho into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 3.4.1)
- Federal law, 45 CFR 98.41(a)(1)(vi), related to prevention of Shaken Baby Syndrome, Head Trauma, and Child Maltreatment for children accessing child care. These rule changes will bring Idaho into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 5.3.6)

This rulemaking is also being done due to the need for more assistance to Idaho families who are struggling to pay for child care costs. Forty-five percent (45%) of Idaho families struggle to meet their basic budget needs, and having help with child care costs allows for more resources to assist with other aspects of family budgeting, as child care costs are often the highest cost for most counties in Idaho, even more so than housing.

This rulemaking increases the federal poverty limit for child care assistance, therefore allowing more Idaho families access to a benefit that would help them cover a portion of their child care bill.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 319 - 324](#).

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, or any other funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ericka Rupp at 208-334-5641.

DATED this 7th day of November, 2022.

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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 – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-3140, 56-1003(1), 56-1003(3)(d), 56-1004, and 56-1004A, Idaho Code.

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

Under [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.

Changes to text being made at this pending stage are to clarify the proposed language, eliminate obsolete language, and streamline rule text. They do not include any meaningful policy changes to the proposed text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 196 through 201](#).

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, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Treena Clark at 208-334-6611.

DATED this 7th day of November, 2022.

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DOCKET NO. 16-0733-2201 – ADOPTION OF PENDING RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made to the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-9, September 7, 2022, pages 196 through 201.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 16-0733-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

000. LEGAL AUTHORITY.

Under Section 39-3140, Idaho Code, the Department is authorized to promulgate rules to carry out 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. ()

[proposed section omitted]

001 – 002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

Administrative appeals from a denial of eligibility under Section 102 of these rules are governed by 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, 2022, is hereby incorporated by reference under *these* 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. Background Checks. All employees, interns, contractors, and volunteers of adult mental health services must comply with IDAPA 16.05.06, “Criminal History and Background Checks,” Section 101. ()

02. Availability to Work or Provide Service. An individual *under* Subsection 009.01 of *this* rule 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 *these rules*, may not provide direct care or services, or serve in a position that requires regular contact with participants. ()

03. Waiver of 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
[proposed text omitted]

01. Adult. An individual eighteen (18) years or older. ()

02. Adult Mental Health Services (AMHS). 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: 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. ()

[proposed section omitted]

09. 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. ()

10. 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. ()

11. Participant. A person receiving mental health services through the Department. ()

12. Serious Mental Illness (SMI). 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 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. ()

13. 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. ()

011. -- 099. (RESERVED)

100. ACCESSING ADULT MENTAL HEALTH SERVICES (AMHS). Individuals may access AMHS 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 *AMHS* the individual will be authorized to receive a clinical assessment from a treatment provider in the Division of Behavioral Health's *AMHS* network to determine level of care. ()

(BREAK IN CONTINUITY OF SECTIONS)

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 010 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

120. PARTICIPANT'S RIGHTS AND RESPONSIBILITIES.

The Department will inform each participant receiving *AMHS* 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. ()

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01 – ADMINISTRATIVE RULES UNDER THE WORKER'S COMPENSATION LAW

DOCKET NO. 17-0101-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 121 through 123](#).

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 is not anticipated to have any impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kamerron Slay, 208-334-6017 or kamerron.slay@iic.idaho.gov.

DATED this 26th day of October, 2022.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
(208) 334-6000

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01 – ADMINISTRATIVE RULES UNDER THE WORKER'S COMPENSATION LAW

DOCKET NO. 17-0101-2202

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 202 through 204](#).

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

This rule is not anticipated to have any impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kamerron Slay, 208-334-6017 or kamerron.slay@iic.idaho.gov.

DATED this 26th day of October, 2022.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
(208) 334-6000

IDAPA 17 – INDUSTRIAL COMMISSION

17.11.01 – ADMINISTRATIVE RULES OF PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY ACT

DOCKET NO. 17-1101-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1104, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 325 through 327](#).

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 is not anticipated to have any impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kamerron Slay, 208-334-6017 or kamerron.slay@iic.idaho.gov.

DATED this 31st day of October, 2022.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
(208) 334-6000

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 – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

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

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled for a comprehensive review in 2022 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 205-208](#). An unofficial strikethrough version of the proposed rule, which shows the changes made through the rulemaking process, is available on the agency website at <https://www.idl.idaho.gov/rulemaking/docket-20-0214-2201/>.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeremy Shawver at (208) 666-8672 or jshawver@idl.idaho.gov.

DATED this 18th day October, 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

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)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners 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 Section 58-104(6), Idaho Code.

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

Following [Executive Order 2020-01, Zero-Based Regulation](#), this rule chapter is scheduled for a comprehensive review in 2022 with the goal of simplifying the rules for increased clarity and ease of use. The overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in the new rule chapter. 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.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 209-216](#). An unofficial strikethrough version of the proposed rule, which shows the changes made through the rulemaking process, is available on the agency website at <https://www.idl.idaho.gov/rulemaking/docket-20-0317-2201/>.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Eric Wilson at (208) 334-0261 or ewilson@idl.idaho.gov.

DATED this 18th day October, 2022.

Eric Wilson, Resource Protection and Assistance Bureau Chief
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0261
Fax: (208) 334-3698

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

DOCKET NO. 24-0000-2201F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 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 Section 67-2604, Idaho Code, and the following additional sections of Idaho Code:

IDAPA 24.03 – Section 54-707, Idaho Code;
IDAPA 24.06 – Section 54-3717, Idaho Code;
IDAPA 24.09 – Section 54-1604, Idaho Code;
IDAPA 24.10 – Section 54-1509, Idaho Code;
IDAPA 24.11 – Section 54-605, Idaho Code;
IDAPA 24.12 – Section 54-2305, Idaho Code;
IDAPA 24.13 – Section 54-2206, Idaho Code;
IDAPA 24.14 – Section 54-3204, Idaho Code;
IDAPA 24.15 – Section 54-3404, Idaho Code;
IDAPA 24.16 – Section 54-3309, Idaho Code;
IDAPA 24.17 – Section 54-4705, Idaho Code;
IDAPA 24.19 – Section 54-4205, Idaho Code;
IDAPA 24.23 – Section 54-2910, Idaho Code;

IDAPA 24.24 – Section 54-5607, Idaho Code;
IDAPA 24.26 – Section 54-5504, Idaho Code;
IDAPA 24.27 – Section 54-4007, Idaho Code;
IDAPA 24.31 – Section 54-912, Idaho Code;
IDAPA 24.33 – Sections 54-1806, 54-5105, 54-3913, 54-4305, and 54-3505, Idaho Code;
IDAPA 24.34 – Section 54-1404, Idaho Code;
IDAPA 24.36 – Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and Sections 54-1717 and 37-2715, 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 fee rule and the text of the pending fee rule with an explanation of the reasons for the change.

This pending fee rule adopts the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses that relate to health care:

IDAPA 24

- 24.03.01, *Rules of the State Board of Chiropractic Physicians;*
- 24.06.01, *Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants;*
- 24.09.01, *Rules of the Board of Examiners of Nursing Home Administrators;*
- 24.10.01, *Rules of the State Board of Optometry (ZBR Chapter Rewrite – pending changes amend Subsection 100.05.a. to remove third party approval of continuing education courses and to allow professional judgment of licensee; and amend Subsection 200.03.a. to clarify prescription expiration date);*
- 24.11.01, *Rules of the State Board of Podiatry;*
- 24.12.01, *Rules of the Idaho State Board of Psychologist Examiners (ZBR Chapter Rewrite – pending changes amend Subsection 100.01 to clarify written examination requirement applies to all licensed psychologist applicants; and amend Subsection 150.01 to clarify program accreditation requirement);*
- 24.13.01, *Rules Governing the Physical Therapy Licensure Board;*
- 24.14.01, *Rules of the State Board of Social Work Examiners;*
- 24.15.01, *Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists;*
- 24.16.01, *Rules of the State Board of Dentistry;*
- 24.17.01, *Rules of the State Board of Acupuncture (ZBR Chapter Rewrite);*
- 24.19.01, *Rules of the Board of Examiners of Residential Care Facility Administrators;*

- 24.23.01, *Rules of the Speech, Hearing and Communication Services Licensure Board* (ZBR Chapter Rewrite);
- 24.24.01, *Rules of the Genetic Counselors Licensing Board*;
- 24.26.01, *Rules of the Idaho Board of Midwifery* (ZBR Chapter Rewrite);
- 24.27.01, *Rules of the Idaho State Board of Massage Therapy*;
- 24.31.01, *Rules of the Idaho State Board of Dentistry*;
- 24.33.01, *Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho* (Pending changes amend Subsection 050.04 to include both residency and internship programs);
- 24.33.02, *Rules for the Licensure of Physician Assistants*;
- 24.33.04, *Rules for the Licensure of Naturopathic Medical Doctors*;
- 24.33.05, *Rules for the Licensure of Athletic Trainers to Practice in Idaho*;
- 24.33.06, *Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho*;
- 24.33.07, *Rules for the Licensure of Dietitians*;
- 24.34.01, *Rules of the Idaho Board of Nursing* (ZBR Chapter Rewrite – pending changes amend the term “client” to “patient” throughout Chapter; add definitions of licensed practical nurse, licensed registered nurse, and specialty nursing organization; simplify Section 100 regarding licensure; add year clarification in Section 150; amend Section 300 to clarify processes and requirements regarding restricted licensure status, disability due to substance use or mental health disorder, and emergency action; and amend Subsection 400.01 to remove restrictive word); and
- 24.36.01, *Rules of the Idaho State Board of Pharmacy*.

The text of the pending rule has been amended in accordance with Sections 67-5227 and 67-5228, Idaho Code, to account for minor, clerical, or technical corrections. In a continued effort to help streamline the rule chapters, changes were made by omitting redundant language already noted in statute. The complete text of the proposed rule published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 328-525](#).

FEE SUMMARY: 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.

A specific description of the fees or charges is included in the tables below:

24.03.01, Rules of the State Board of Chiropractic Physicians – Fees are established in accordance with Section 54-707A, Idaho Code, as follows:

Fee Type	Amount (Not to Exceed)
Application	\$200
Original License	\$200
Annual Renewal	\$200
Inactive License	\$150
Reinstatement of Expired License	\$35
Reinstatement of Inactive License	\$150
Temporary Permit	\$150
Intern Permit	\$150
Application for Clinical Nutrition Certification	\$175
Original for Clinical Nutrition Certification	\$175
Clinical Nutrition Certification Renewal	\$175

24.06.01, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants – Fees are established in accordance with Section 54-3712, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL FEE (Not to Exceed)
Initial Licensure for Occupational Therapists	\$80	\$40
Initial Licensure for Occupational Therapy Assistants	\$60	\$30
Limited Permit or Temporary License	\$25	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code	
Inactive License Renewal	\$20	
Inactive to Active License	The difference between the current inactive and active license renewal fees	

24.09.01, Rules of the Board of Examiners of Nursing Home Administrators – Fees are established in accordance with Section 54-1604, Idaho Code, as follows:

FEE	AMOUNT (Not to Exceed)
Original Application	\$200
Original License	\$200
Annual Renewal	\$200
Endorsement Application	\$200
Temporary Permit	\$100
Administrator-in-training	\$100
License Reinstatement	\$100

24.10.01, Rules of the State Board of Optometry – Fees are established in accordance with Section 54-1506, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
License Application	\$100
Annual Fund	\$75
Annual Renewal	\$75
Reinstatement	As provided in Section 67-2614, Idaho Code

24.11.01, Rules of the State Board of Podiatry – Fees are established in accordance with Sections 54-605 and 54-606, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$200
Original License	\$400
Written Examination	Set by National Examining Entity
Annual Renewal	\$500
Inactive License Annual Renewal	\$250

24.12.01, Rules of the Idaho State Board of Psychologist Examiners – Fees are established in accordance with Sections 54-2307, 54-2312, 54-2312A, 54-2315, and 54-2318, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application for Licensure by Exam	\$150	
Inactive License Renewal	\$125	
Endorsement Application	\$250	
Senior Psychologist	\$250	
Annual Licensure Renewal		\$250
Prescribing Psychologist	\$250	\$250
Service Extender	\$100	\$100
Reinstatement Penalty-Current Year	\$35	
Administrative Fee	\$25	
Duplicate License Fee	\$10	
Certification Fee	\$10	
PSYPACT Participation Fee		\$10

24.13.01, Rules Governing the Physical Therapy Licensure Board – Fees are established in accordance with Section 54-313, Idaho Code:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Physical Therapist License	\$25	\$25
Physical Therapist Assistant License	\$20	\$20
Examination	Established by examination entity plus an administrative fee not to exceed \$20	
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application	\$25	

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Dry Needling Certification	\$25	\$25
Physical Therapist Inactive	\$15	\$15
Physical Therapist Assistant Inactive	\$10	\$10
Inactive to Active License	The difference between the inactive fee and active license renewal fee	

24.14.01, Rules of the State Board of Social Work Examiners – Fees are established in accordance with Section 54-3209, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)	INACTIVE (Not to Exceed)
Application	\$70		
Examination	Set by testing service		
Endorsement and License	\$90		
Licensed Clinical Social Worker	\$70	\$90	\$45
Licensed Masters Social Worker	\$70	\$80	\$40
Licensed Social Worker	\$70	\$80	\$40
Reinstatement	In accordance with Section 67-2614, Idaho Code		

24.15.01, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists – Fees are established in accordance with Section 54-3411, Idaho Code, as follows:

LICENSE/PERMIT/REGISTRATION	INITIAL FEE (Not to Exceed)	ANNUAL RENEWAL FEE (Not to Exceed)
Application	\$100	
License	\$100	\$120
Intern Registration	\$25	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code	
Senior License		\$60
Inactive License		\$60
Inactive to Active License Fee	The difference between the current inactive and active license renewal fees	

24.16.01, Rules of the State Board of Dentistry – Fees are established in accordance with Section 54-3312, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750

24.17.01, Rules of the State Board of Acupuncture – Fees are established in accordance with Section 54-4710(2), Idaho Code, as follows:

License/Certification/Permit/Certification	Initial Fee (Not to Exceed)	Annual Renewal Fee (Not to Exceed)
Application	\$50	n/a
License	\$150	\$75
Certification	\$150	\$75
Acupuncture Trainee	\$150	\$50
Inactive License or Certification	n/a	\$50
Reinstatement	\$250	n/a

24.19.01, Rules of the Board of Examiners of Residential Care Facility Administrators – Fees are established in accordance with Sections 54-4205 and 54-4206, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$150
Annual Renewal	\$150
Provisional Permit	\$150
Reissuance of Lost License	\$10
Reinstatement	As provided in Section 67-2614, Idaho Code

24.23.01, Rules of the Speech, Hearing and Communication Services Licensure Board – Fees are established in accordance with Sections 54-2912, 54-2913, 54-2914, 54-2915, 54-2916A, 54-2918, and 54-2921, Idaho Code, as follows:

LICENSE/PERMIT/REGISTRATION	INITIAL FEE (Not to Exceed)	ANNUAL RENEWAL FEE (Not to Exceed)
Application	\$30	
Original or Endorsement	\$70	\$100
Provisional Permit or Extension	\$100	
Registration Out-of-State Licensee	\$10	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code	
Inactive License		\$65
Inactive to Active License Fee	The difference between the current inactive and active license renewal fees	

24.24.01, Rules of the Genetic Counselors Licensing Board – Fees are established in accordance with Section 54-5613, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$200
Original License	\$200
Annual Renewal	\$200
Provisional License	\$200
License by Endorsement	\$200
Examination	Determined by third-party examination administrator
Reinstatement	As provided in Section 67-2614, Idaho Code

24.26.01, Rules of the Idaho Board of Midwifery – Fees are established in accordance with Section 54-5509, Idaho Code, as follows:

APPLICATION	FEE (Not to Exceed)
Initial Application	\$200
Initial License	\$800 (amount will be refunded if license not issued)
Renewal	\$850 (amount will be refunded if license not renewed)
Reinstatement	\$50

24.27.01, Rules of the Idaho State Board of Massage Therapy – Fees are established in accordance with Section 54-4008, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Original License	\$65
Annual Renewal	\$65
License by Endorsement	\$75
Temporary License	\$25
Provisional Permit	\$25
Reinstatement	As provided in Section 67-2614, Idaho Code
Examination	Established by Administrator

24.31.01, Rules of the Idaho State Board of Dentistry – Fees are established in accordance with Sections 54-916 and 54-920, Idaho Code, as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	\$300	Active Status: \$375 Inactive Status: \$160
Dental Hygienist	\$150	Active Status: \$175 Inactive Status: \$85
Dental Therapist	\$200	Active Status: \$250 Inactive Status: \$125
Sedation Permit	\$300	\$300

IDAPA 24.33 – Fees are established in accordance with Sections 54-1806, 54-5105, 54-3913, 54-4305, and 54-3505, Idaho Code; Idaho Code, as follows:

24.33.01, Rules of the Board of Medicine for Licensure to Practice Medicine & Osteopathic Medicine in Idaho;

Fees – Table (Non-Refundable)		
Licensure Fee	-	Not more than \$600
Temporary License	-	Not more than \$300
Reinstatement License Fee plus total of renewal fees not paid by applicant	-	Not more than \$300
Inactive License Renewal Fee	-	Not more than \$100
Renewal of License to Practice Medicine Fee	-	Not more than \$300
Duplicate Wallet License	-	Not more than \$20

Fees – Table (Non-Refundable)		
Duplicate Wall Certificate	-	Not more than \$50
Volunteer License Application Fee	-	\$0
Volunteer License Renewal Fee	-	\$0

Fees – Table		
Resident and Intern Registration Fee	-	Not more than \$25
Registration Annual Renewal Fee	-	Not more than \$25

24.33.02, Rules for the Licensure of Physician Assistants;

Fees – Table (Non-Refundable)		
Licensure Fee - Physician Assistant & Graduate Physician Assistant	-	Not more than \$250
Annual License Renewal Fee	-	Not more than \$150
Reinstatement Fee	-	\$50 plus past renewal fees
Reinstatement Fee for Graduate Physician Assistant	-	Not more than \$100
Inactive License Fee	-	Not more than \$150
Annual Renewal of Inactive License Fee	-	Not more than \$100
Inactive Conversion Fee	-	Not more than \$150

24.33.04, Rules for the Licensure of Naturopathic Medical Doctors;

Fees – Table (Non-Refundable)	
Licensure Fee	Not more than \$600
Annual License Renewal Fee	Not more than \$300
Reinstatement Fee	Not more than \$200
Inactive License Renewal Fee	Not more than \$100
Duplicate Wallet License Fee	Not more than \$20
Duplicate Wall Certificate Fee	Not more than \$50

24.33.05, Rules for the Licensure of Athletic Trainers to Practice in Idaho;

Fees – Table (Non-Refundable)		
Athletic Trainer Licensure Fee	-	Not more than \$240
Athletic Trainer Annual Renewal Fee	-	Not more than \$160

Fees – Table (Non-Refundable)	
Directing Physician Registration Fee	- Not more than \$50
Annual Renewal of Directing Physician Registration Fee	- Not more than \$25
Alternate Directing Physician Registration/Renewal Fee	- \$0
Provisional Licensure Fee	- Not more than \$80
Annual Renewal of Provisional License Fee	- Not more than \$40
Inactive License Renewal Fee	- Not more than \$80
Reinstatement Fee	- Not more than \$50 plus unpaid renewal fees

24.33.06, Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho;

Fees – Table (Non-Refundable)	
Respiratory Care Practitioner Initial Licensure Fee	- Not more than \$180
Respiratory Care Practitioner Reinstatement Fee	- \$50 plus unpaid renewal fees
Annual Renewal Fee for Inactive License	- Not more than \$100
Inactive Conversion Fee	- Not more than \$100
Annual Renewal Fee	- Not more than \$140
Provisional License Fee	- Not more than \$90

Fees – Table (Non-Refundable)	
Initial Permit Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$180
Reinstatement Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- \$50 plus unpaid renewal fees
Annual Renewal Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$140
Provisional Permit Fee – Registered Polysomnographic Technologist	- Not more than \$90
Annual Renewal Fee for Inactive License—Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$100
Inactive Conversion Fee	- Not more than \$100 plus unpaid active licensure fees for the time inactive

Fees – Table (Non-Refundable)	
Dual Licensure/Permit Fee	- Not more than \$180
A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.	

Fees – Table (Non-Refundable)	
Reinstatement Fee	- \$50 plus unpaid renewal fees
Annual Renewal Fee	- Not more than \$140
Renewal is required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially were not obtained at the same time.	

24.33.07, Rules for the Licensure of Dietitians;

Fees – Table (Non-Refundable)	
Initial Licensure Fee	- Not more than \$150
Annual Renewal Fee	- Not more than \$100
Reinstatement Fee	- \$50 plus unpaid renewal fees
Inactive Conversion Fee	- Not more than \$50

24.34.01, Rules of the Idaho Board of Nursing – Fees are established in accordance with Section 54-1404(8), Idaho Code, as follows:

Initial Licensure, Renewal & Reinstatement Fees				
	Registered Nurse	Practical Nurse	Advanced Practice Nurse	Medication Assistant - Certified
Temporary License Fee	\$25	\$25	\$25	
Initial Application Fee			\$90	
License by Exam Fee	\$90	\$75	\$90	
License by Endorsement	\$110	\$110		
License Renewal	\$90	\$90	\$90	\$35
Expiration Date	Aug 31-odd years	Aug 31-even years	Aug 31-odd years	Aug 31-even years

Records Verification Fee	\$35
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24.36.01, Rules of the Idaho State Board of Pharmacy – Fees are established in accordance with Section 54-1720(4), Idaho Code, as follows:

License/Registration	Initial Fee	Annual Renewal Fee
Pharmacist License	\$140	\$130
Nonresident PIC Registration	\$290	\$290
Pharmacist Intern	\$50	\$50
Technician	\$35	\$35

License/Registration	Initial Fee	Annual Renewal Fee
Practitioner Controlled Substance Registration	\$60	\$60

License/Registration	Initial Fee	Annual Renewal Fee
Drug Outlet (unless otherwise listed)	\$100	\$100
Wholesale License	\$180	\$180
Wholesale Registration	\$150	\$150
Central Drug Outlet (Nonresident)	\$500	\$250
Mail Service Pharmacy	\$500	\$250
Durable Medical Equipment Outlet	\$50	\$50
Outsourcing Facility (Nonresident)	\$500	\$250
Manufacturer	\$150	\$150
Veterinary Drug Outlet	\$35	\$35

Category	Fee
Late payment processing fee	\$50
License or registration reinstatement fee	One-half (1/2) of the amount of the annual renewal

Category	Fee
Experiential hours certification	\$25
Duplicate pharmacist certificate of licensure	\$35

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7, 2022.

Tim Frost, Deputy Administrator
 Division of Occupational & Professional Licenses
 Phone: (208) 577-2491
 11341 W. Chinden Boulevard, Building #4
 Boise, ID 83714
 P.O. Box 83720
 Boise, ID 83720-0063
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DOCKET NO. 24-0000-2201F – ADOPTION OF PENDING FEE RULE

Technical, clerical, or minor changes have been made to the pending fee rule.

***Italicized red text* indicates changes between the text of the proposed rule as adopted in the pending fee rule.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-10, October 5, 2022, pages 328 through 525.**

**This rule has been adopted as a pending fee rule by the Agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.**

**THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 24-0000-2201F
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)**

24.10.01 – RULES OF THE STATE BOARD OF OPTOMETRY

100. LICENSURE AND REGISTRATION.

01. Method of Application- Examination of Applicants. Applications for license shall be made on forms approved by the Board. ()

02. Application. The application must be accompanied by the required fee, a complete transcript of credits from any college of optometry attended, a photocopy of any diplomas granted by any college of optometry, and a copy of certified results establishing successful passage of the required examinations. ()

03. Approved Exam. The written and the practical portions of the Idaho examination shall be parts one through three (1-3) of the National Board of Examiners in Optometry Examination (NBEOE). A passing grade for the NBEOE shall be that established by the test provider. ()

04. Licensure by Endorsement. The right to be granted a license to practice optometry in Idaho is subject to the following conditions set out below: ()

a. The submission of a completed application meeting the requirements of Subsection 100.02 including the applicable fee. ()

b. That the license or certificate of registration of the applicant shall be in good standing with any state or country or not subject to any pending or unresolved licensure action in any state or country. ()

c. For those licensed in another state the applicant must document to the Board for approval, the education, training, and examination for diagnostic and therapeutic privileges in the other state. ()

05. Continuing Education In Optometry. ()

a. Hours Required. Each optometrist licensed by the state of Idaho shall attend in each calendar year prior to license renewal, a minimum of eighteen (18) full hours of approved optometric continuing education courses or meetings. *Licensees are responsible for choosing quality continuing education programs that focus on protecting*

the health and safety of the public and/or contributing to their germane profession. ()

b. Courses. The Board allows credits to be asynchronous and synchronous that are germane to the practice of optometry. No more than nine (9) hours of continuing education shall be asynchronous. ()

c. Audit. The Board may conduct audits to confirm that the continuing education requirements have been met. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the license will not be renewed. ()

d. Documentation of Attendance. It shall be necessary for each licensed Idaho optometrist to provide documentation verifying attendance or completion of continuing education by securing authorized signatures, documentation, or electronic verification from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided upon request by the Board or its agent. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. PRACTICE STANDARDS.

01. Standards of Professional Conduct. Licensees must comply with the following standards of professional conduct: ()

a. Practicing optometry in a manner which meets the standard of optometric care provided by other qualified licensees in the same or similar community, taking into account education, training, and experience. ()

b. Employing only those techniques or methods of practice in treating or prescribing to a patient for which the licensee has the necessary education, training, and experience. ()

c. Referring a patient suffering from any apparent or suspected pathological condition to a person competent and licensed to properly treat or diagnose the condition. ()

d. Verifying the specifications of all lenses provided to a patient and advising a patient of possible danger when a lens provided to the patient does not meet impact resistant standards set forth in 21 CFR 801.410. ()

02. Vision Therapy. Any person who assesses, diagnoses, treats, or prescribes treatment for conditions of the visual system or manages a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises or who holds him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry. ()

03. Prescriptions for Spectacles and Contact Lenses. Eyeglasses and contact lenses, including plano or cosmetic contact lenses, may only be dispensed upon a current prescription issued by an optometrist or medical physician. Every prescription written or issued by an optometrist practicing in Idaho shall contain at least the following information: ()

a. Prescription for Spectacles. Prescriptions for spectacles must contain the following: Sphere, cylinder, axis, prism power, and additional power, if applicable. The standard *expiration date of the* prescription must be at least one (1) year from the date the prescription was originally issued. ()

b. All Prescriptions for Rigid/Soft Contact Lenses. All prescriptions for contact lenses must contain at least the following information: base curve, lens manufacturer or “brand” name, overall diameter, power; and the standard expiration date of the prescription must be at least one (1) year from date the prescription was originally

issued. A shorter prescription period may be allowed when based upon a documented medical condition. ()

04. Expired Contact Lens Prescription. A person may not fill an expired contact lens prescription. ()

05. Fitting and Dispensing Contact Lenses. ()

a. Contact lenses may be fitted only by an optometrist, or licensed physician. ()

b. An ophthalmic dispenser may dispense contact lenses on a fully written contact lens prescription issued by an optometrist or licensed physician. ()

c. Notwithstanding Subsection 200.05.b., an optometrist, or licensed physician who issues a contact lens prescription remains professionally responsible to the patient. ()

06. Preceptorship Program. An optometrist may use a student of optometry in their office under their direct supervision for educational purposes. ()

07. The Right to Obtain and Use Pharmaceutical Agents. The right to obtain and use pharmaceutical agents for use in diagnosis and/or treatment of another in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: ()

a. Optometrists can prescribe, administer, and dispense therapeutic pharmaceutical agents, and use only those listed below: ()

i. All medications for use in the diagnosis of and/or conditions of the human eye and/or eyelid. ()

ii. All over-the-counter agents. ()

b. In order to prescribe, administer and dispense the therapeutic medications a person must meet the requirements set out below: ()

i. License in good standing, and successful passage of the “Treatment and Management of Ocular Diseases” exam. ()

24.12.01 – RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS

100. LICENSURE.

[proposed section omitted]

01. Written Exam Required. Applicants will pass the National Examination for Professional Practice in Psychology (EPPP). ()

02. Temporary Permits. Persons not licensed in this state who desire to practice psychology under the provisions of this chapter for a period not to exceed thirty (30) days within a calendar year may do so if they hold a license in another state or province have had no disciplinary action and pay the required fee. Persons authorized to practice under this section must hold a certification of prescriptive authority issued by the Idaho Board of Psychologist Examiners to issue a prescription. ()

03. Examination for Provisional Certification of Prescriptive Authority. The approved examination is the Psychopharmacology Examination for Psychologists. The passing score is determined by the

Association of State and Provincial Psychology Boards. ()

04. Provisional Certification of Prescriptive Authority. ()

a. Scope and Supervision Agreement. The scope of practice of a psychologist with provisional certification of prescriptive authority includes only those duties and responsibilities identified in a written supervision agreement with a licensed physician. The agreement will contain the following elements: ()

i. The parties to the agreement and authorized scope of authority for each prescribing psychologist; ()

ii. The direct supervision methods, including supervision on a one-to-one basis for a minimum of four (4) hours each month and a minimum of a total of forty-eight (48) hours each year; ()

iii. A requirement that the prescribing psychologist must collaborate with, consult with, or refer to the supervising physician as indicated by the condition of the patient; the education, experience, and competence of the prescribing psychologist; and the community standard of care; and ()

iv. The procedures for an emergency consultation, and if necessary, any patient monitoring parameters. ()

b. Documentation. The licensed psychologist will maintain documentation of the supervision agreements for not less than three (3) years for each service extender and submit to the Board upon request. ()

c. One (1) of the two (2) years of supervised experience as required by Section 2307(2)(a), Idaho Code, for initial licensure may be pre-doctoral. The second year must be post-doctoral work under appropriate supervision and must be verified by the appropriate supervisor. ()

05. Provisional Licensure for Prescriptive Authority. Applicants for licensure or certification or provisional certification of prescriptive authority must submit a complete application, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. ()

06. Continuing Education. ()

a. Hours Required. A licensed psychologist must complete thirty (30) hours every two (2) calendar years of continuing education credits each year. Four (4) of those credits must be in Laws and Ethics. A prescribing psychologist must complete thirty (30) hours every two (2) calendar years of continuing education credits in psychopharmacotherapy. Continuing education credits for prescribing psychologists are in addition to the continuing education credits required to renew their psychologist license. ()

b. Professional Level of Continuing Education. This continuing education experience must be at an appropriate level for professional training in psychology. The licensees have responsibility for demonstrating the relevance and adequacy of the educational experience they select. The licensees are also responsible for keeping an accurate record of their own personal continuing education hours for a period of three (3) years. A random audit may be conducted to ensure compliance. ()

c. Continuing Education Credit. Licensees are responsible for choosing quality continuing education programs that focus on protecting the health and safety of the public and contribute to their germane profession. ()

d. Newly Licensed Individuals. Newly licensed individuals will be considered to have satisfied the continuing education requirements for the remainder of the year in which their license is granted. ()

101. -- 149. (RESERVED)

150. EDUCATIONAL AND CREDENTIALING REQUIREMENTS FOR LICENSURE.

Applicants who receive a doctoral degree from a program accredited by the American Psychological Association are considered to have met all criteria outlined. ()

01. Training in Professional Psychology. Training in professional psychology is doctoral training offered in an institution of higher education *that is* accredited by *a regional accrediting organization recognized by the United States* Department of Education. The program must stand as a recognizable and coherent program in the institution. ()

02. Training Program. The curriculum must encompass a minimum of three (3) academic years of full-time graduate study, one (1) of which is in physical residence at the degree-granting institution. The program must include a supervised practicum and pre-doctoral internship. Pre-doctoral internships must be completed at a member site of the Association of Psychology Postdoctoral and Internship Centers, or sites demonstrating an equivalent program. ()

03. Content of Program. The program must be an integrated, organized sequence of study, with a recognized sequence of study. It must have an identifiable psychology faculty and body of students who are matriculated in that program for the purposes of receiving a degree. Minimal competence is demonstrated by passing a three (3) credit semester graduate course (or a five (5) credit quarter graduate course) in each of the substantive areas listed below: ()

a. Biological Bases of Behavior: Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology. ()

b. Cognitive-Affective Bases of Behavior: Learning, cognition, motivation, emotion. ()

c. Social Bases of Behavior: Social psychology, group processes, organizational and systems theory. ()

d. Individual Differences: Personality theory, human development, abnormal psychology. ()

e. Scientific and Professional Standards and Ethics. ()

f. Research Design and Methodology. ()

g. Techniques of Data Analysis: statistics, multivariate statistics, factor analysis, multiple regression, non-parametric statistics. ()

h. Psychological Measurement: psychometric principles, test theory, personality assessment, cognitive assessment. ()

i. History and Systems of Psychology. ()

j. Multiculturalism and Individual Diversity. ()

**24.33.01 – RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE
MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO**

050. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 24.33.03, and on Board approved forms. ()

01. Additional Circumstances. The Board may require further inquiry when in its judgment the need is apparent as outlined in Board policy. ()

02. Special Purpose Examination. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the FSMB, a post licensure assessment conducted by the FSMB, or an evaluation by an independent agency accepted by the Board to evaluate physician competence. ()

03. Board Determinations. Where the Board deems necessary, it may limit, condition, or restrict a newly issued license based on the Board’s determination and the recommendation of the assessment or evaluation. ()

04. Postgraduate Training Program. Successful completion of one year of a medical residency *or internship* program constitutes successful completion of a postgraduate training program acceptable to the Board. ()

24.34.01 – RULES OF THE IDAHO BOARD OF NURSING

002. DEFINITIONS.

01. Accreditation. The official authorization or status granted by a recognized accrediting entity or agency other than a state board of nursing. ()

02. Advanced Practice Registered Nurse. Advanced practice registered nurses, when functioning within the recognized scope of practice, assume primary responsibility for the care of their patients in diverse settings. This practice incorporates the use of professional judgment in the assessment and management of wellness and conditions appropriate to the advanced practice registered nurse’s role, population focus and area of specialization. ()

03. Approval. The process by which the Board evaluates and grants official recognition to education programs that meet standards established by the Board. ()

04. Assistance With Medication. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a patient who cannot independently self-administer medications. ()

05. Certification. Means recognition of the applicant’s advanced knowledge, skills and abilities in a defined area of nursing practice by a national organization recognized by the Board. The certification process measures the theoretical and clinical content denoted in the advanced scope of practice, and is developed in accordance with generally accepted standards of validation and reliability. ()

06. Certified Nurse-Midwife. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse-midwifery program, and has current certification as a nurse-midwife from a national organization recognized by the Board. In addition to the core standards, the advanced practice registered nurse in the role of certified nurse midwife provides the full range of primary health care services to women throughout the lifespan, including gynecologic care, family planning services, preconception care, prenatal and postpartum care, childbirth, care of the newborn and reproductive health care treatment of the male partners of female *patients*. ()

07. Certified Nurse Practitioner. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse practitioner program and has current certification as a nurse practitioner from a national organization recognized by the Board. In addition to core standards, the advanced practice registered nurse in the role of certified nurse practitioner provides initial and ongoing comprehensive primary care services to *patients* including, but not limited to, diagnosis and management of acute and chronic disease, and health promotion, disease prevention, health education counseling, and identification and management of the effects of illness on *patients* and their families. ()

08. Certified Registered Nurse Anesthetist. Means a licensed registered nurse who has graduated

from a nationally accredited graduate or post-graduate nurse anesthesia program and has current certification as a nurse anesthetist from a national organization recognized by the Board. In addition to core standards, the advanced practice registered nurse in the role of certified registered nurse anesthetist provides the full spectrum of anesthesia care and anesthesia-related care and services to individuals across the lifespan whose health status may range across the wellness-illness continuum to include healthy persons; persons with immediate, severe or life-threatening illness or injury; and persons with sustained or chronic health conditions. ()

09. Clinical Nurse Specialist. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate clinical nurse specialist program and has current certification as a clinical nurse specialist from a national organization recognized by the Board. In addition to core standards, the advanced practice registered nurse in the role of clinical nurse specialist provides services to patients, care providers and health care delivery systems including, but not limited to, direct care, expert consultation, care coordination, monitoring for quality indicators and facilitating communication between patients, their families, members of the health care team and components of the health care delivery system. ()

10. Charge Nurse. A licensed nurse who bears primary responsibility for assessing, planning, prioritizing and evaluating care for the patients on a unit, as well as the overall supervision of the licensed and unlicensed staff delivering the nursing care. ()

11. Curriculum. The systematic arrangement of learning experiences including didactic courses, practical experiences, and other activities needed to meet the requirements of the nursing program and of the certificate or degree conferred by the parent institution. ()

12. Diagnosis. Means identification of actual or potential health problems and the need for intervention based on analysis of data collected. Diagnosis depends upon the synthesis of information obtained through interview, physical exam, diagnostic tests or other investigations. ()

13. Disability. Any physical, mental, or emotional condition that interferes with the ability to safely and competently practice. ()

14. Intervention. Means measures to promote health, protect against disease, treat illness in its earliest stages, manage acute and chronic illness, and treat disability. Interventions may include, but are not limited to ordering diagnostic studies, performing direct nursing care, prescribing pharmacologic or non-pharmacologic or other therapies and consultation with or referral to other health care providers. ()

15. Licensed Practical Nurse (LPN). *In addition to the definition set forth in Section 54-1402, Idaho Code, licensed practical nurses function in dependent roles. The stability of the patient's environment, the patient's clinical state, and the predictability of the outcome determine the degree of direction and supervision that must be provided to the licensed practical nurse.* ()

16. Licensed Registered Nurse (RN). *In addition to the definition set forth in Section 54-1402, Idaho Code, licensed registered nurses are expected to exercise competency in judgment, decision making, implementation of nursing interventions, delegation of functions or responsibilities, and administration of medications and treatments prescribed by legally authorized persons.* ()

17. Nursing Assessment. The systematic collection of data related to the patient's health needs. ()

[proposed text omitted]

18. Nursing Intervention. An action deliberately selected and performed to support the plan of care. ()

19. Nursing Jurisdiction. Unless the context clearly denotes a different meaning, when used in these rules, the term nursing jurisdiction means any or all of the fifty (50) states, U.S. territories or commonwealths. ()

20. Organized Program of Study. A written plan of instruction to include course objectives and content, teaching strategies, provisions for supervised clinical practice, evaluation methods, length and hours of course, and faculty qualifications. ()

21. Peer Review Process. The systematic process by which a qualified peer assesses, monitors, and makes judgments about the quality of care provided to patients measured against established practice standards. Peer review measures on-going practice competency of the advance practice registered nurse (APRN) and is performed by a licensed APRN, physician, physician assistant, or other professional certified by a recognized credentialing organization. Peer review focuses on a mutual desire for quality of care and professional growth incorporating attitudes of mutual trust and motivation. ()

22. Plan of Care. The goal-oriented strategy developed to assist individuals or groups to achieve optimal health potential. ()

23. Population Focus. Means the section of the population which the APRN has targeted to practice within. The categories of population foci are family/individual across the lifespan, adult-gerontology, women's health/gender-related, neonatal, pediatrics, and psychiatric-mental health. ()

24. Practice Standards. General guidelines that identify roles and responsibilities for a particular category of licensure and used in conjunction with the decision-making model, define a nurse's relationship with other care providers. ()

25. Prescriptive and Dispensing Authorization. Means the legal permission to prescribe, deliver, distribute and dispense pharmacologic and non-pharmacologic agents to a *patient* in compliance with Board rules and applicable federal and state laws. Pharmacologic agents include legend and Schedule II through V controlled substances. ()

26. Restricted License. A nursing license subject to specific restrictions, terms, and conditions. ()

27. Scope of Practice. The extent of treatment, activity, influence, or range of actions permitted or authorized for licensed nurses based on the nurse's education, preparation, and experience. ()

28. Specialization. Means a more focused area of preparation and practice than that of the APRN role/population foci that is built on established criteria for recognition as a nursing specialty to include, but not limited to, specific patient populations (e.g., elder care, care of post-menopausal women), and specific health care needs (e.g., palliative care, pain management, nephrology). ()

29. Specialty Nursing Organization. *A licensed registered nurse may carry out functions beyond the basic educational preparation within the parameters of a nursing specialty that meets criteria approved by the American Board of Nursing Specialties (ABNS) or the National Commission for Certifying Agencies (NCCA) of the National Organization of Competency Assurance (NOCA) when the nurse has completed additional education through an organized program of study which includes clinical experience and conforms to recognized nursing specialty practice parameters.* ()

30. Supervision. Designating or prescribing a course of action, or giving procedural guidance, direction, and periodic evaluation. ()

31. Unlicensed Assistive Personnel (UAP). This term is used to designate unlicensed personnel employed to perform nursing care services under the direction and supervision of licensed nurses. The term also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. UAPs are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402, Idaho Code. UAPs may not be delegated procedures involving acts that require nursing assessment or diagnosis, establishment of a plan of care or teaching, the exercise of nursing judgment, or procedures requiring specialized nursing knowledge, skills or techniques. ()

003. USE OF TITLES, ABBREVIATIONS, AND DESIGNATIONS FOR THE PRACTICE OF NURSING.

Only those persons who hold a license or privilege to practice nursing in this state shall have the right to use the following title abbreviations: ()

01. Title: “Registered Nurse” and the abbreviation “RN”. ()

02. Title: “Licensed Practical Nurse” and the abbreviation “LPN”. ()

03. Abbreviations. Only those persons who hold a license or privilege to practice advanced practice registered nursing in this state shall have the right to use the title “advanced practice registered nurse” and the roles of “certified registered nurse anesthetist,” “certified nurse-midwife,” “clinical nurse specialist” and “certified nurse practitioner,” and the abbreviations “APRN,” “CRNA,” “CNM,” “CNS” and “CNP,” respectively. ()

04. More Abbreviations. The abbreviation format for the Advanced Practice Registered Nurse will be “APRN”, plus the role title abbreviation of “CRNA”, “CNM”, “CNS”, or “CNP” respectively. ()

004. -- 099. (RESERVED)

100. LICENSURE.

01. Persons Exempted by the Board. Licensure to practice nursing is not necessary, nor is the practice of nursing prohibited for persons exempted by the Board including: ()

a. Technicians and technologists may perform limited nursing functions within their training, education and experience provided they have enrolled in or completed a formal training program or are registered or certified by a national organization *acceptable to* the Board. ()

b. A nurse apprentice is a nursing student who is employed for remuneration in a non-licensed capacity outside the student role by a Board approved health care agency. Applicants for a nurse apprentice must be enrolled in good standing in an accredited nursing education program that is substantially similar to Idaho’s programs for licensed/registered nursing and satisfactorily complete a basic nursing fundamentals course. ()

c. Applicants for nurse apprentice must: ()

i. Be enrolled in an accredited/approved nursing education program that is substantially equivalent to Idaho’s approved programs for practical/registered nursing. ()

ii. Be in good academic standing at the time of application and notify the Board of any change in academic standing. ()

iii. Satisfactorily complete a basic nursing fundamentals course. ()

iv. Complete an application *on a board approved form*. ()

v. An individual whose application is approved will be issued a letter identifying the individual as a nurse apprentice for a designated time period to extend not more than three (3) months after successful completion of the nursing education program. ()

vi. A nurse apprentice may, under licensed registered nurse supervision, perform all functions approved by the Board for unlicensed assistive personnel as set forth in Subsection 002.31 of these rules. ()

[proposed text omitted]

02. Licensure: General Requirements. ()

a. Board Forms. Initial applications, renewal applications and other forms used for licensure or other

purposes must be in such form as designated by the Board. ()

b. Date License Lapsed. Licenses not renewed prior to September 1 of the appropriate year are lapsed and therefore invalid. ()

c. LPN, RN, and APRN License Renewal. The original completed renewal application and renewal fee as prescribed in Section 400 of these rules, are submitted to the Board and dated not later than August 31 of the appropriate renewal year. All licenses are renewed as prescribed in Section 54-1411, Idaho Code. ()

d. Reapplication. Review of a denied application may be requested by submitting a written statement and documentation that includes evidence, satisfactory to the Board, of rehabilitation, or elimination or cure of the conditions for denial. ()

e. Only one license- exception. A licensee may hold only one (1) active renewable license to practice nursing at any time except that licensed advanced practice registered nurses must also be licensed to practice as licensed registered nurses. ()

03. Temporary Licensure. ()

a. Issued at Discretion of Board. Temporary licenses are issued for a period not to exceed ninety (90) days, and may be extended, at the discretion of the Board. ()

b. Temporary Licensure by Interstate Endorsement. A temporary license may be issued to an applicant for interstate endorsement on proof of current licensure in good standing in another nursing jurisdiction, and in compliance with the requirements of Section 100.07 of these rules. ()

c. Temporary Licensure by Examination. A temporary license to practice nursing until notification of examination results and completion of criminal background check may be issued to an applicant for Idaho licensure beginning thirty (30) days prior to graduation from a nursing education program recognized by *this Board or* the professional licensing board for another nursing jurisdiction, and compliance with Section 100.05 of these rules. ()

d. The practice of nursing by new graduates holding temporary licensure is limited as follows: ()

i. Direct supervision is provided by a licensed registered nurse that is physically present and immediately accessible to designate or prescribe a course of action or to give procedural guidance, direction, and periodic evaluation. ()

ii. Precluded from acting as charge nurse. ()

e. Unsuccessful Examination Candidates. An applicant who fails to pass the licensing examination is not eligible for further temporary licensure. In the event that such applicant subsequently passes the licensing examination after twelve (12) months or more have elapsed following completion of the educational program, a temporary license with conditions may be issued until verification of clinical competence is received. ()

f. Applicants Not in Active Practice. A temporary license with specific terms and conditions may be issued to a person who has not actively engaged in the practice of nursing in any nursing jurisdiction for more than three (3) years immediately prior to the application for licensure or to an applicant whose completed application indicates the need for confirmation of the applicant's ability to practice safe nursing. ()

g. Applicants from Other Countries. Upon final evaluation of the completed application, the Board may, at its discretion, issue a temporary license to a graduate from a nursing education program outside of a nursing jurisdiction, pending notification of results of the licensing examination. ()

h. Temporary Licensure- Advanced Practice Registered Nurse. A temporary license to engage in advanced practice registered nursing may be issued to the following: ()

i. An otherwise qualified applicant who is eligible to take the first available certification examination following completion of an approved advanced practice registered nurse education program. Verification of registration to write a Board-recognized national certification examination must be received from the national certifying organization. ()

ii. Temporary licensure to practice shall be deemed to expire upon failure of the certification examination. An applicant who fails the national certification exam shall not engage in advanced practice registered nursing until such time as all requirements are met. ()

iii. An applicant who is granted a temporary license to practice as an advanced practice registered nurse must submit notarized results of the certification examination within ten (10) days of receipt. Failure to submit required documentation shall result in the immediate expiration of the temporary license. ()

iv. The temporary license of an applicant who does not write the examination on the date scheduled shall immediately expire and the applicant shall not engage in advanced practice registered nursing until such time as all requirements are met. ()

i. Applicants Whose Certification Has Lapsed. A licensed registered nurse applying for re-entry into advanced registered nursing practice, who is required by the national certifying organization to meet certain specified practice requirements under supervision. The length of and conditions for temporary licensure shall be determined by the Board. ()

j. Applicants Holding a Temporary Registered Nursing License. An advanced practice registered nurse currently authorized to practice advanced practice registered nursing in another nursing jurisdiction upon issuance of a temporary license to practice as a registered nurse, and upon evidence of current certification as an advanced practice registered nurse from a Board-recognized national certifying organization. ()

k. Applicants Without Required Practice Hours. An advanced practice registered nurse who has not practiced the minimum required period of time during the renewal period may be issued a temporary license in order to acquire the required number of hours and demonstrate ability to safely practice. ()

[proposed text omitted]

04. Qualifications for Licensure by Examination. ()

a. In-State. Individuals who have successfully completed all requirements for graduation and have been conferred a degree from an Idaho nursing education program approved by the Board, will be eligible to make application to the Board to take the licensing examination. ()

b. Out-of-State. Individuals who hold a certificate of completion from a nursing education program having board of nursing approval in another nursing jurisdiction will be eligible to make application to the Board to take the licensing examination, providing they meet substantially the same basic educational requirements as graduates of Idaho nursing education programs at the time of application. ()

c. Practical Nurse Equivalency Requirement. An applicant for practical nurse licensure by examination who has not completed an approved practical nurse program, must provide satisfactory evidence (such as official transcripts) of successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses to include a course in personal and vocational relationships of the practical nurse. Related courses are to be equivalent to those same courses included in a practical nursing program approved by the Board. ()

d. Time Limit for Examinations. Graduates who do not take the examination within twelve (12) months following completion of the nursing education program must follow specific remedial measures as prescribed by the Board. ()

05. Examination and Re-Examination. ()

a. Applicants for Registered or Practical Nurse Licensure. Applicants will successfully pass the National Council Licensure Examination (NCLEX) for registered nurse licensure or for practical nurse licensure, as applied for and approved. In lieu of the NCLEX, the Board may accept documentation that the applicant has taken and successfully passed the State Board Test Pool examination. ()

06. Qualifications for Licensure by Endorsement. ()

a. An applicant for Idaho licensure by interstate endorsement must: ()

i. Graduation. Be a graduate of a state approved/accredited practical or registered nursing education program Applicants for practical nurse licensure may also qualify under the provisions of Section 100.08.a of these rules. ()

ii. Licensing Examination. Have taken the same licensing examination as that administered in Idaho and achieved scores established as passing for that examination by the Board. ()

iii. Minimum Requirements. In lieu of the requirements in Section 100.08.a of this rule, have qualifications that are substantially equivalent to Idaho’s minimum requirements. ()

iv. License from Another Nursing Jurisdiction. Hold a current, valid, and unrestricted license from another nursing jurisdiction. ()

07. Licensure by Equivalency and Endorsement Licensure. ()

a. Application by Equivalency. An applicant for practical nurse licensure by interstate endorsement based on equivalency must meet the following requirements: ()

i. Have successfully taken the same licensing examination as that administered in Idaho; and ()

ii. Hold a license in another nursing jurisdiction based on successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses to include a course in personal and vocational relationships of the practical nurse (or equivalent experience) and additional courses equivalent to those same courses included in a practical nursing program approved by the Board and provide evidence thereof. ()

b. Applicants Licensed in Another Nursing Jurisdiction. Graduates of schools of nursing located outside the United States, its territories or commonwealths who are licensed in a nursing jurisdiction and who meet the requirements of Subsection 09 of these rules may be processed as applicants for licensure by endorsement from another state. ()

08. Qualifications for Licensure of Graduates of Schools of Nursing Located Outside the United States, Its Territories, or Commonwealths. A graduate from a nursing education program outside of the United States, its territories or commonwealths must: ()

a. Qualifications. Demonstrate nursing knowledge and; if the prelicensure education program is not taught in English or if English is not the individual’s native language, successfully passed an English proficiency examination that includes components of reading, writing, speaking and listening. ()

b. Education Credentials. Have education qualifications that are substantially equivalent to Idaho’s minimum requirements at the time of application. ()

c. License. Hold an active, unencumbered license or other indication of authorization to practice in good standing, issued by a government entity or agency from a country outside the United States, its territories or commonwealths. ()

d. Examination/Re-Examination. Take and achieve a passing score on the licensing examination

required in Subsection 100.06 of these rules. ()

09. Qualifications for Advanced Practice Registered Nurse. To qualify as an advanced practice registered nurse, an applicant shall provide evidence of: ()

a. Current Licensure. Current licensure to practice as a registered nurse in Idaho; ()

b. Completion of Advanced Practice Registered Nurse Program. Successful completion of a graduate or post-graduate advanced practice registered nurse program which is accredited by a national organization recognized by the Board; and ()

c. National Certification. Current national certification by an organization recognized by the Board for the specified APRN role. ()

10. Recognition of National Certifying Organizations for Advanced Practice Registered Nursing. The Board recognizes advanced practice registered nurse certification organizations that meet criteria as defined by the National Council of State Boards of Nursing. ()

11. Renewal of Advanced Practice Registered Nurse License. The advanced practice registered nurse license may be renewed every two (2) years as specified in Section 54-1411, Idaho Code, provided that the advanced practice registered nurse: ()

a. Current Registered Nurse License. Maintains a current registered nurse license or privilege to practice in Idaho. ()

b. Evidence of Certification. Submits evidence of current APRN certification by a national organization recognized by the Board. ()

[proposed text omitted]

c. Peer Review Process. Provides evidence, satisfactory to the Board, of participation in a peer review process acceptable to the Board. ()

d. Exemption from Requirements. Nurse Practitioners not certified by a national organization recognized by the Board and approved prior to July 1, 1998, shall be exempt from the requirement set forth in Subsection 100.12.b of these rules. ()

12. Persons Exempted from Advanced Practice Registered Nursing License Requirements. ()

a. Students. Nothing in these rules prohibits a registered nurse who holds a current license, or privilege, to practice in Idaho and who is enrolled as a matriculated student in a nationally accredited educational program for advanced practice registered nursing from practicing as an advanced practice registered nurse when such practice is an integral part of the advanced practice registered nurse curriculum. ()

b. Certified Nurse Practitioners Licensed Prior to July 1, 1998. A certified nurse practitioner authorized to practice prior to July 1, 1998 may satisfy the requirement of Subsection 100.12.b of these rules by documenting competency within their specialty area of practice based upon education, experience and national certification in that specialty or education, experience and approval by the Board. ()

c. Advanced Practice Registered Nurses Educated Prior to January 1, 2016. ()

i. An applicant for APRN licensure who completed a nationally accredited undergraduate or certificate APRN program prior to January 1, 2016, does not need to meet the APRN graduate or post-graduate educational requirements for initial licensure contained within Subsection 100.10 of these rules. ()

ii. A person applying for APRN licensure in Idaho who: holds an existing APRN license issued by

any nursing jurisdiction, completed their formal APRN education prior to January 1, 2016, and who meets all of the requirements for initial licensure contained within Subsection 100.10 of these rules except for the APRN graduate or post-graduate educational requirement, may be issued an APRN license by endorsement if at the time the person received their APRN license in the other jurisdiction they would have been eligible for licensure as an APRN in Idaho. ()

13. Reinstatement. A person whose license has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement by submitting the items set out in Section 54-1411(3), Idaho Code and a current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code, *and* paying the *fee under Rule 400.02*. ()

a. Application Following Discipline. A person whose license has been subject to disciplinary action by the Board is to include documentation of compliance with any terms and restrictions set forth in any order as a condition of reinstatement. ()

b. Appearance Before Board. Applicants for reinstatement may be called to appear before the Board. ()

c. Application for Reinstatement After Revocation. Unless otherwise provided in the order of revocation, applicants for reinstatement of revoked licenses are precluded from applying for reinstatement for a period of two (2) years after entry of the order. ()

d. Following Disciplinary Action. ()

i. After evaluation of an application for licensure reinstatement, the Board may issue a restricted license to a nurse whose license has been revoked. ()

ii. The Board will specify the conditions of issuance of the restricted license in writing. The conditions may be stated on the license. ()

14. Reinstatement of Advanced Practice Registered Nurse License. An advanced practice registered nurse license may be reinstated as specified in Section 54-1411, Idaho Code, provided that the applicant: ()

a. Current Registered Nurse License. Maintains a current registered nurse license or privilege to practice in Idaho. ()

b. Evidence of Certification. Submits evidence of current APRN certification by a national organization recognized by the Board. ()

c. Fee. Pays the fee specified in Section 400 of these rules. ()

101. -- 149. (RESERVED)

150. NURSING EDUCATION FOR REGISTERED AND PRACTICAL NURSES.

01. Nursing Educational Programs. ()

a. Accreditation. To qualify as an approved education program for the purpose of qualifying graduates for licensure, the nursing education program must be currently accredited by the Accreditation Commission for Education in Nursing, or the Commission on Collegiate Nursing Education, or the Commission for Nursing Education Accreditation. ()

b. Limited-Time Approval for Nursing Education Programs. ()

i. Prior to obtaining the accreditation described in Rule 150.01, a nursing education program may submit a board-approved application to qualify for a limited-time program approval demonstrating initial

implementation of accreditation standards and continued compliance towards obtaining the accreditation. ()

ii. A nursing education program with limited-time approval may only qualify graduates for licensure until the program becomes accredited or until five (5) years from the date of the initial application for accreditation, whichever is less. ()

iii. A nursing education program with limited-time approval must provide an annual report. ()

iv. A nursing education program with limited-time approval must have each student prior to enrollment execute a disclosure which, at a minimum, states the following: “The nursing education program in which you are enrolling has not yet been accredited. The program is being reviewed by the [insert name of accrediting body]. This program is allowed to enroll new students because it meets the requirements of Rule 150.01.b. Any education you complete before a final determination by the [insert name of accrediting body] will satisfy associated state requirements for licensure. If the [insert name of accrediting body] ultimately determines that the program does not qualify for accreditation, you will not be made eligible for the NCLEX by the State of Idaho.” ()

v. A nursing education program with limited-time approval may not enroll any new students into the program beyond five (5) years from the date of the initial application for accreditation unless the program has a final site visit scheduled with a nursing program accreditor. ()

02. Board Notification. ()

a. If an accredited program or limited-time program seeking accreditation receives notice or determines that its accreditation status is in jeopardy, the institution offering the program must immediately notify the Board of its accreditation status; immediately and verifiably notify each enrolled student in writing of the program's accreditation status, including: the estimated date when the accrediting body will make its final determination as to the program's accreditation; the potential impact of a program's accreditation status on the graduate's ability to secure licensure and employment or transfer academic credits to another institution in the future; and attempt negotiations with other academic institutions to establish a transfer articulation agreement. ()

b. If a program with limited-time approval fails to achieve accreditation within the timeframe specified in Rule 150.01.b, or if a program loses its accreditation, the institution offering the program shall: submit a written report of official notice of losing accreditation or failing to achieve accreditation to the Board within ten days of receiving formal notification from the accrediting body; notify each matriculated and pre-enrollment nursing student about the program's accreditation status; inform each nursing student who will graduate from a non-accredited program that they will not be eligible for initial licensure through the state; and provide the Board with a written plan to close the program and cease operations to the Board within ten days of receiving formal notice of losing accreditation from the program's accrediting body. ()

03. Continuance of Full Approval of Educational Program. ()

a. The Board may rescind full approval that has been granted to a nursing education program that consistently fails to meet the Board's standards, as evidenced in the annual report, failure to include a Board representative in site visits, or unacceptable performance on a licensing examination for each program with a pass rate of less than eighty percent (80%) for its first-time writers in any given year for two consecutive calendar years. ()

151. -- 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Decision-Making Model. The decision-making model is the process by which a licensed nurse evaluates whether a particular act is within the legal scope of that nurse's practice and determines whether to delegate the performance of a particular nursing task in a given setting. This model applies to all licensure categories permitting active practice, regardless of practice setting. ()

a. **Determining Scope of Practice.** To evaluate whether a specific act is within the legal scope of

nursing practice, a licensed nurse shall determine whether: ()

i. The act is expressly prohibited by the Nursing Practice Act, or the act is limited to the scope of practice of advanced practice registered nurses or to licensed registered nurses, or the act is prohibited by other laws; ()

ii. The act was taught as a part of the nurse’s educational institution’s required curriculum and the nurse possesses current clinical skills; ()

iii. The act is consistent with standards of practice published by a national specialty nursing organization or supported by recognized nursing literature or reputable published research and the nurse can document successful completion of additional education through an organized program of study including supervised clinical practice or equivalent demonstrated competency; ()

iv. Performance of the act is within the accepted standard of care that would be provided in a similar situation by a reasonable and prudent nurse with similar education and experience and the nurse is prepared to accept the consequences of the act. ()

b. Deciding to Delegate. When delegating nursing care, the licensed nurse retains accountability for the delegated acts and the consequences of delegation. Before delegating any task the nurse shall: ()

i. Determine that the acts to be delegated are not expressly prohibited by the Nursing Practice Act or Board rules and that the activities are consistent with job descriptions or policies of the practice setting; ()

ii. Assess the *patient’s* status and health care needs prior to delegation, taking into consideration the complexity of assessments, monitoring required and the degree of physiological or psychological instability; ()

iii. Exercise professional judgment to determine the safety of the delegated activities, to whom the acts may be delegated, and the potential for harm; ()

iv. Consider the nature of the act, the complexity of the care needed, the degree of critical thinking required and the predictability of the outcome of the act to be performed; ()

v. Consider the impact of timeliness of care, continuity of care, and the level of interaction required with the patient and family; ()

vi. Consider the type of technology employed in providing care and the knowledge and skills required to effectively use the technology, including relevant infection control and safety issues; ()

vii. Determine that the person to whom the act is being delegated has documented education or training to perform the activity and is currently competent to perform the act; and ()

viii. Provide appropriate instruction for performance of the act. ()

c. Delegating to UAPs. ()

i. The nursing care tasks that may be delegated to UAPs shall be stated in writing in the practice setting. Decisions concerning delegation will be determined in accordance with the provisions of Section 200 of these rules. UAPs may complement the licensed nurse in the performance of nursing functions, but cannot substitute for the licensed nurse; UAPs cannot redelegate a delegated act. ()

ii. Where permitted by law, after completion of a Board-approved training program, UAPs in care settings may assist patients who cannot independently self-administer medications, provided that a plan of care has been developed by a licensed registered nurse, and the act has been delegated by a licensed nurse. Assistance with medication may include: breaking a scored tablet, crushing a tablet, instilling eye, ear or nose drops, giving medication through a pre-mixed nebulizer inhaler or gastric (non-nasogastric) tube, assisting with oral or topical medications and insertion of suppositories. ()

- d. Monitoring Delegation. Subsequent to delegation, the licensed nurse shall: ()
 - i. Evaluate the patient’s response and the outcome of the delegated act, and take such further action as necessary; and ()
 - ii. Determine the degree of supervision required and evaluate whether the activity is completed in a manner that meets acceptable outcomes. The degree of supervision shall be based upon the health status and stability of the patient, the complexity of the care and the knowledge and competence of the individual to whom the activity is delegated. ()

02. Standards of Conduct. ()

- a. License. ()
 - i. Reporting Grossly Negligent or Reckless Practice. The nurse shall report to the Board any licensed nurse who is grossly negligent or reckless in performing nursing functions or who otherwise violates the Nursing Practice Act or the Board rules. ()
 - ii. Unlawful Use of License. The nurse shall not permit their license to be used by another person for any purpose or permit unlicensed persons under their jurisdiction or supervision to indicate in any way that they are licensed to perform functions restricted to licensed persons. ()
- b. Practice. The nurse shall have knowledge of the statutes and rules governing nursing and function within the defined legal scope of nursing practice, not assume any duty or responsibility within the practice of nursing without adequate training: ()
 - i. Delegate activities only to persons who are competent and qualified to undertake and perform the delegated activities and will not delegate to non-licensed persons functions that are to be performed only by licensed nurses. The nurse delegating functions is to supervise the persons to whom the functions have been assigned or delegated. ()
 - ii. Act to safeguard the patient from the incompetent practice, verbal or physical abusive acts or illegal practice of any person. ()
 - iii. Not obtain, possess, furnish or administer prescription drugs to any person, including self, except as directed by a person authorized by law. ()
 - iv. Not abandon patients in need of nursing care in a negligent manner. The nurse will leave a nursing assignment only after properly reporting and notifying appropriate personnel and will transfer responsibilities to appropriate personnel or care giver when continued care is necessitated by the patient’s condition. ()
 - v. Respect the patient’s privacy. ()
 - vi. Observe the condition and signs and symptoms of a patient, record the information, and report to appropriate persons any significant changes. ()
 - vii. Function as a member of the health team and shall collaborate with other health team members as necessary to meet the patient’s health needs. ()
 - viii. Adhere to precautions and carry out principles of asepsis and infection control and not place the patient, the patient’s family or the nurse’s coworkers at risk for the transmission of infectious diseases. ()

03. Professional Responsibility. ()

- a. Disclosing Contents of Licensing Examination. The nurse is not to disclose contents of any licensing examination, or solicit, accept, or compile information regarding the contents of any examination before,

during, or after its administration. ()

b. Considerations in Providing Care. In providing nursing care, the nurse will respect and consider the individual's human dignity, health problems, personal attributes, national origin, and handicaps and not discriminate on the basis of age, sex, race, religion, economic or social status or sexual preferences. ()

c. Responsibility and Accountability Assumed. The nurse is responsible and accountable for their nursing judgments, actions and competence. ()

d. Witnessing Wastage of Controlled Substances Medication. Controlled substances may not be wasted without witnesses. The nurse cannot sign any record as a witness attesting to the wastage of controlled substance medications unless the wastage was personally witnessed. The nurse cannot solicit the signatures on any record of a person as a witness to the wastage of a controlled substance when that person did not witness the wastage. The nurse will solicit signatures of individuals who witnessed the wastage in a timely manner. ()

e. Record-keeping. The nurse shall make or keep accurate, intelligible entries into records mandated by law or customary practice of nursing, and will not knowingly make incorrect or unintelligible entries into patients' records or employer or employee records. ()

f. Diverting or Soliciting. The nurse will respect the property of the patient and employer and not take or divert equipment, materials, property, or drugs without prior consent or authorization, nor solicit or borrow money, materials or property from patients. ()

g. Professionalism. The nurse must not abuse the patient's trust, will respect the dignity of the profession and maintain appropriate professional boundaries with respect to patients, the patients' families, and the nurse's coworkers. The nurse is not to engage in sexual misconduct or violent, threatening or abusive behavior towards patients, patients' families or the nurse's coworkers. The nurse will be aware of the potential imbalance of power in professional relationships with patients, based on their need for care, assistance, guidance, and support, and ensure that all aspects of that relationship focus exclusively upon the needs of the patient. ()

h. Sexual Misconduct with a Patient. The nurse must not engage in sexual misconduct. For purposes of this rule, sexual misconduct is defined as set forth in Section 18-919(b)(1)-(4), Idaho Code. ()

04. Standards of Practice for Advanced Practice Registered Nursing. ()

a. Core Standards for All Roles of Advanced Practice Registered Nursing. The advanced practice registered nurse is a licensed independent practitioner who shall practice consistent with the definition of advanced practice registered nursing, recognized national standards and the standards set forth in these rules. ()

b. The advanced practice registered nurse shall provide *patient* services for which the advanced practice registered nurse is educationally prepared and for which competence has been achieved and maintained. ()

c. The advanced practice registered nurse shall recognize their limits of knowledge and experience and consult and collaborate with and refer to other health care professionals as appropriate. ()

d. The advanced practice registered nurse shall evaluate and apply current evidence-based research findings relevant to the advanced nursing practice role. ()

e. The advanced practice registered nurse shall assume responsibility and accountability for health promotion and maintenance as well as the assessment, diagnosis and management of *patient* conditions to include the use of pharmacologic and non-pharmacologic interventions and the prescribing and dispensing of pharmacologic and non-pharmacologic agents. ()

f. The advanced practice registered nurse shall use advanced practice knowledge and skills in teaching and guiding *patients* and other health care team members. ()

g. The advanced practice registered nurse shall have knowledge of the statutes and rules governing advanced nursing practice, and practice within the established standards for the advanced nursing practice role and population focus. ()

h. The advanced practice registered nurse shall practice consistent with Subsection 200.01 of these rules. ()

i. Unless exempted under Section 100.13.b of these rules, an Advanced Practice Registered Nurse must document competency within their specialty area of practice based upon the education, experience, and national certification in the role and population focus. ()

05. Prescriptive and Dispensing Authorization for Advanced Practice Registered Nurses. ()

a. Prescriptions written by advanced practice registered nurses shall contain all the minimum information required by Idaho Board of Pharmacy statute and administrative rules and applicable federal law as well as the printed name and signature of the nurse prescriber, and the abbreviation for the applicable role of the advanced practice nurse (i.e. “CNP,” “CNM,” “CNS,” or CRNA”). If the prescription is for a controlled substance, it shall also include the DEA registration number and address of the prescriber. ()

b. Prescribing and Dispensing Authorization. All advanced practice registered nurses may prescribe and dispense pharmacologic and non-pharmacologic agents pursuant to applicable state and federal laws. ()

06. Valid Advanced Practice Registered Nurse/Patient Relationships. ()

a. An advanced practice registered nurse shall not prescribe or dispense pharmacologic agents except in the course of their professional practice and when a bona fide advanced practice registered nurse/patient relationship has been established pursuant to Section 54-1733, Idaho Code. A valid relationship will exist when the advanced practice registered nurse has obtained sufficient knowledge of the patient’s medical condition through examination and has assumed responsibility for the health care of the patient. ()

201. -- 299. (RESERVED)

300. DISCIPLINE.

01. Grounds. In addition to the grounds set forth in Section 54-1413, Idaho Code, a nursing license may be suspended, revoked, placed upon probation, or other disciplinary sanctions imposed by the Board on the following grounds: ()

a. Conduct to Deceive, Defraud, or Endanger. Conduct of a character likely to deceive, defraud, or endanger patients or the public. ()

[proposed text omitted]

b. Habitual Use of Alcohol or Drugs. Use of drugs or alcohol to the extent that the nurse's judgment, skills, or abilities to provide safe and competent nursing care are impaired. ()

c. Physical or Mental Unfitness. A court order or evaluation by a qualified professional which determines that a licensee is physically or mental incompetent or incapable of providing safe and competent nursing care. ()

02. Grounds for Discipline of an Advanced Practice Registered Nurse License. In addition to the grounds set forth in Section 54-1413, Idaho Code, and Sections 200 and 300 of these rules, an advanced practice registered nursing license may be suspended, revoked, placed upon probation, or other disciplinary sanctions imposed by the Board on the following grounds: ()

a. Prescribing or Dispensing Controlled Substances. Prescribing, dispensing, or selling any drug classified as a controlled substance to a family member or to oneself. For purposes of these rules, “family member” is

defined as the licensee’s spouse, child (biological, adopted, or foster), parent, sibling, grandparent, grandchild, or the same relation by marriage. ()

b. Violating Governing Law. Violating any state or federal law relating to controlled substances. ()

c. Outside Scope of Practice. Prescribing or dispensing outside the scope of the advanced practice registered nurse’s practice. ()

03. Restricted Status. ()

a. The Board *or its executive officer may* restrict the license of a licensee upon a determination by the Board that the licensee engaged in conduct constituting disciplinary grounds pursuant to Section 54-1413, Idaho Code. *For the purposes of this rule, a determination by the Board is not required if the licensee has signed a written statement pursuant to Subsection 300.04.b of these rules.* ()

b. The conditions of restricted licensure may include, but are not limited to: ()

i. Submission of regular reports to the Board. ()

ii. *Complying* with Board representatives. ()

iii. Specific parameters of practice, excluding the performance of specific nursing functions. ()

iv. The conditions of restricted practice may be removed by the Board following receipt of evidence confirming that the licensee can safely practice nursing. ()

c. Compliance Required. Restricted licensure is conditioned upon an individual's compliance with terms and conditions, which may include: ()

i. Satisfactory progress in any ordered continuing *recovery* program. ()

ii. Continuing participation in, and compliance with, all recommendations and requirements of, the approved program, and obtaining of reports of progress submitted by the person directing the program at specified intervals and any time upon request. ()

[proposed text omitted]

iii. Working only in approved practice settings. ()

iv. Authorization by the licensee of the release of applicable records pertaining to assessment, diagnostic evaluation, treatment recommendations, treatment and progress, performance evaluations, counseling, random chemical screens and after care at periodic intervals as requested. ()

v. Compliance with all laws pertaining to nursing practice, all nursing standards relating to any of the admitted misconduct or facts set out in the written statement signed by the licensee, or relating to the providing of safe, competent nursing service. ()

vi. Compliance with other specific terms as may be directed by the executive officer. ()

04. Disability Due to Substance Use Disorder or Mental Health Disorder. ()

a. In lieu of discipline, the Board *or its executive officer* may refer a licensee who is chemically dependent or physically or psychologically impaired to a peer assistance entity. ()

b. As a condition of entry into a peer assistance entity, the licensee may be required to sign a written statement admitting to all facts that constitute grounds for disciplinary action and/or demonstrate impairment of the

safe practice of nursing and waive the right to a contested case hearing under the Idaho Administrative Procedures Act. ()

[proposed text omitted]

05. Emergency Action. ()

a. The Board may *initiate* an emergency *action* where there is reasonable cause to believe that continued practice by the licensee would create immediate danger to public health, safety, or welfare. ()

[proposed text omitted]

b. The Board shall issue an order, including a brief, reasoned statement to justify both the decision that an immediate danger exists and the decision to take specific action. The order is effective when issued. ()

c. *After issuing an order, the Board will act as quickly as feasible to complete any proceedings that would be required if the matter did not involve immediate danger.* ()

301. -- 399. (RESERVED)

400. INITIAL LICENSE, RENEWAL AND REINSTATEMENT FEES.

01. Assessed Fees. Fees will be assessed for issuance, renewal of licensure or for reinstatement of a lapsed, disciplined, limited, or emeritus license. Fees are due at the time of submission. Any person submitting the renewal application and fee dated later than August 31 *is* considered delinquent, and the license lapsed and therefore invalid:

Initial Licensure, Renewal & Reinstatement Fees				
	Registered Nurse	Practical Nurse	Advanced Practice Nurse	Medication Assistant - Certified
Temporary License Fee	\$25	\$25	\$25	
Initial Application Fee			\$90	
License by Exam Fee	\$90	\$75	\$90	
License by Endorsement	\$110	\$110		
License Renewal	\$90	\$90	\$90	\$35
Expiration Date	Aug 31-odd years	Aug 31-even years	Aug 31-odd years	Aug 31-even years

()

02. Reinstatement Fee. Nurses requesting reinstatement of a lapsed, disciplined, or restricted license, or reinstatement of an emeritus license to active status, will be assessed the records verification and renewal fees. ()

03. Other Fees.

Records Verification Fee	\$35
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401. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

DOCKET NO. 24-0000-2202F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 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 Section 67-2604, Idaho Code, and the following additional sections of Idaho Code:

IDAPA 24.01 – Section 54-308, Idaho Code;
IDAPA 24.04 – Section 54-2808, Idaho Code;
IDAPA 24.07 – Section 54-3003, Idaho Code;
IDAPA 24.08 – Sections 54-1106, 54-1107, Idaho Code;
IDAPA 24.18 – Section 54-4106, Idaho Code;
IDAPA 24.21 – Section 54-5206, Idaho Code;
IDAPA 24.22 – Section 54-5310, Idaho Code;
IDAPA 24.25 – Section 54-5403, Idaho Code;
IDAPA 24.28 – Section 54-5807, Idaho Code;
IDAPA 24.29 – Section 54-3107, Idaho Code;
IDAPA 24.30 – Section 54, Chapter 2, Idaho Code;
IDAPA 24.32 – Sections 54-1208, 55-1606, Idaho Code;

IDAPA 24.37 – Section 54-2097, Idaho Code;
IDAPA 24.39 – Sections 54-1005, 54-1006, 54-2601, 54-2605, 54-2606, 54-2607, 54-2617, and 54-2624, Idaho Code; Sections 39-4107, 39-4112, 39-4113, 39-4302, and 39-4003, Idaho Code; Sections 44-2102, 44-2104, 44-2201, and 44-2202, Idaho Code; Section 39-8605, Idaho Code; Sections 54-1904, 54-1907, 54-1910, 54-4507, 54-4508, 54-5001, 54-5004, 54-5005, 54-5006, 54-5007, 54-5010, and 54-5016, Idaho Code; Sections 55-2203 and 55-2208, Idaho Code; and Sections 67-2604, 67-2614, 67-9406, and 67-9409, 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 fee rule and the text of the pending fee rule with an explanation of the reasons for the change.

This pending fee rule adopts the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses that relate to occupations, building, construction, and real estate:

IDAPA 24

- 24.01.01, *Rules of the Board of Architectural Examiners;*
- 24.04.01, *Rules of the Board of Registration for Professional Geologists;*
- 24.07.01, *Rules of the Idaho State Board of Landscape Architects;*
- 24.08.01, *Rules of the State Board of Morticians;*
- 24.18.01, *Rules of the Real Estate Appraiser Board;*
- 24.21.01, *Rules of the Idaho State Contractors Board;*
- 24.22.01, *Rules of the Idaho State Liquefied Petroleum Gas Safety Board;*
- 24.25.01, *Rules of the Idaho Driving Businesses Licensure Board (ZBR Chapter Rewrite);*
- 24.28.01, *Rules of the Barber and Cosmetology Services Licensing Board;*
- 24.29.01, *Rules of Procedure of the Idaho Certified Shorthand Reporters Board;*
- 24.30.01, *Idaho Accountancy Rules (ZBR Chapter Rewrite);*
- 24.32.01, *Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors;*
- 24.37.01, *Rules of the Idaho Real Estate Commission;*
- 24.39.20, *Rules Governing Plumbing (ZBR Chapter Rewrite);*
- 24.39.31, *Rules for Factory Built Structures;*
- 24.39.40, *Safety Rules for Elevators, Escalators, and Moving Walks;*
- 24.39.50, *Rules of the Public Works Contractors License Board;*

- 24.39.70, *Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems* (ZBR Chapter Rewrite – pending changes added Subsection 100.02.b. to provide work experience credit for educational lab work); and
- 24.39.90, *Rules Governing the Damage Prevention Board*.

The text of the pending rule has been amended in accordance with Sections 67-5227 and 67-5228, Idaho Code, to account for minor, clerical, or technical corrections. In a continued effort to help streamline the rule chapters, changes were made by omitting redundant language already noted in statute. The complete text of the proposed rule published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 526-674](#).

FEE SUMMARY: 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.

A specific description of the fees or charges is included in the tables below:

24.01.01, Rules of the Board of Architectural Examiners – Fees are established in accordance with Section 54-313, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Examination	Established by NCARB
Application	\$25
Annual renewal	\$50
Endorsement license	\$50
Temporary license	\$50
Reinstatement	As provided in Section 67-2614, Idaho Code

24.04.01, Rules of the Board of Registration for Professional Geologists – Fees established in accordance with Sections 54-2813, 54-2814, & 54-2816, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$100
Initial Certificate	\$20
Annual Renewal	\$60
Annual Renewal for Registrants Seventy (70) Years of Age or Older	One-half (1/2) of the current renewal fee
Reinstatement	As provided in Section 67-2614, Idaho Code
Duplicate Certificate	\$20
Examination	Set by ASBOG

24.07.01, Rules of the Idaho State Board of Landscape Architects – Fees are established in accordance with Section 54-3003, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$75
Landscape Architect-in-training Application	\$25
Examination	As established by CLARB
Original License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

24.08.01, Rules of the State Board of Morticians – Fees are established in accordance with Section 54-1115, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85
Funeral Establishment	\$125
Crematory Establishment	\$200
Mortician	\$85
Inactive License	\$40
Resident Trainee	\$50
Application Fee	\$100
Certificate of Authority	\$50

24.18.01, Rules of the Real Estate Appraiser Board – Fees established in accordance with Sections 54-4113, 54-4124, & 54-4134, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$200	
License	\$100*	\$275*
AMC Registration	\$1,000**	\$900**
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application for Reciprocity	\$200	
Original License via Reciprocity	\$100*	
Temporary Permit	\$75	
Trainee Registration	\$50	
Continuing Education Provider Application	\$100	
Examination and Re-examination	As charged by the provider	

24.21.01, Rules of the Idaho State Contractors Board – Fees are established in accordance with Sections Section 54-5207, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application (includes original registration)	\$50
Reciprocal	\$50
Renewal	\$50
Reinstatement	\$35
Inactive	\$0
Inactive to Active License	The difference between the inactive fee and active license renewal fee

24.22.01, Rules of the Idaho State Liquefied Petroleum Gas Safety Board – Fees are established in accordance with Sections 54-5313 and 54-5308, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$30	
Individual License	\$75	\$75
Endorsement	\$75	
Dealer-in-training	\$50	
Facility License	\$100	\$100
Bulk Storage Facility	\$400	\$400
Facility Re-inspection	\$125	

24.25.01, Rules of the Idaho Driving Businesses Licensure Board – Fees are established in accordance with Section 54-5404, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Original Instructor License and Annual Renewal	\$25
Instructor Apprentice Permit	\$25
Original Business License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

24.28.01, Rules of the Barber and Cosmetology Services Licensing Board – Fees are established in accordance with Section 54-5822, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Original License for Individual Licenses	\$25	\$25
Application	\$25	
Instructor License	\$30	\$30
Original License for Establishments	\$20	\$20
Original License for Schools	\$300	\$85
Original License or Registration for Facilities	\$20	\$20
Registration for Apprentice	\$25	
Certificate for Makeup Artist	\$25	\$25
License by Endorsement	\$35	
Reinstatement	\$35	
Examination	As set by the Administrator	

24.29.01, Rules of Procedure of the Idaho Certified Shorthand Reporters Board – Fees are established in accordance with Section 54-3110, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Examination	\$50
Renewal	\$75
Examination Preparation Materials	\$20

24.30.01, Idaho Accountancy Rules – Fees are established in accordance with Section 54-212, Idaho Code, as follows:

Exam/License	Initial Fee
Initial Exam	\$100
Re-Exam	\$50
Active License	\$120
Inactive or Retired License	\$100
Reciprocity	\$175 + license fee
International Reciprocity	\$175 + license fee
Transfer of Grades	\$175 + license fee
Reinstatement License	Sum of unpaid license fees for the preceding 3 license renewal cycles
Re-entry License	\$20
Firm Registration	\$20 firm plus \$5 per licensee up to \$200 maximum

Category	Fee
Interstate Exchange of Information	\$10
Wall Certificate	\$20

Category	Fee
Late License Renewal	\$100
Non-compliance with CPE Filing:	
February	\$100
March	\$150
April	\$200
May	\$250
June	\$300
Non-compliance with Firm Registration	\$100 per licensee

24.32.01, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors – Fees are established in accordance with Sections 54-1213, 54-1215, 54-1219, and 54-1221, Idaho Code, as follows:

- Licensure as a professional engineer or professional land surveyor by examination;
- Reinstatement of a retired or expired license;
- Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying;
- Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities; and
- Licensure for professional engineers or professional land surveyors by comity.

24.37.01, Rules of the Idaho Real Estate Commission – Fees are established in accordance with Section 54-2020, Idaho Code, as follows:

	Initial License	Renewal	Late Fee	Other
Broker	\$160	\$160	\$25	
Salesperson	\$160	\$160	\$25	
Business Entity	\$50	\$50	\$25	
Branch Office	\$50	\$50	\$25	
Cooperative License	\$100			
Education History				\$10
License Certificate				\$15

IDAPA 24.39 – Fees are established in accordance with the following sections of Idaho Code, and relate to licensing and related administrative fees, fees to purchase permits or for the performance of inspections on various types of construction installations, or the assessment of civil penalties for non-compliance with applicable statutes:

I.C. § 39-4004	I.C. § 39-4107	I.C. § 39-4112	I.C. § 39-4113
I.C. § 39-4303	I.C. § 39-8605	I.C. § 39-8616	I.C. § 44-2103
I.C. § 44-2107	I.C. § 44-2202	I.C. § 54-1005	I.C. § 54-1006

I.C. § 54-1013	I.C. § 54-1014	I.C. § 54-2614	I.C. § 54-2616
I.C. § 54-2606	I.C. § 54-2607	I.C. § 54-2623	I.C. § 54-1907
I.C. § 54-1910	I.C. § 54-1912	I.C. § 54-4510	I.C. § 54-5005
I.C. § 54-5006	I.C. § 54-5012	I.C. § 54-5013	I.C. § 54-5017
I.C. § 54-5022	I.C. § 55-2203	I.C. § 55-2211	I.C. § 67-2601A

The fees are designated in the following sections of administrative rule for their respective boards:

- ***24.39.20.500, Rules Governing Plumbing;***
- ***24.39.31.102, Rules for Factory Built Structures;***
- ***24.39.40.011, Safety Rules for Elevators, Escalators, and Moving Walks;***
- ***24.39.50.201, Rules of the Public Works Contractors License Board;***
- ***24.39.70.500, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems;***
- ***24.39.90.007, Rules Governing the Damage Prevention Board.***

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7, 2022.

Tim Frost, Deputy Administrator
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DOCKET NO. 24-0000-2202F – ADOPTION OF PENDING FEE RULE

Technical, clerical, or minor changes have been made in the pending fee rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending fee rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-10, October 5, 2022, pages 526 through 674.

This rule has been adopted as a pending fee rule by the Agency and is now awaiting review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 24-0000-2202F
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

**24.39.70 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION,
AND AIR CONDITIONING SYSTEMS**

100. CERTIFICATES OF COMPETENCY AND REGISTRATION.

01. Apprentice and Specialty Apprentice Registration and Renewal. To register or renew an apprentice or specialty apprentice registration, a person shall comply with Section 54-5012(4), Idaho Code. A specialty apprentice's scope of work is limited as set forth in Rule 100.04.a. ()

02. Journeyman Certificate of Competency. An applicant must pass an examination designated by the Board and either (a) submit evidence of a minimum of eight thousand (8,000) hours of work experience as an apprentice making HVAC installations in accordance with the requirements of the jurisdiction in which the applicant obtained the experience and satisfactory completion of 576 hours of a board-approved course of instruction, or (b) submit proof of sixteen thousand (16,000) hours of HVAC 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 576 hours of board-approved course of instruction or 16,000 hours of HVAC experience. ()

b. *Educational Lab Work. Time spent by an applicant performing lab work in a board-approved course of instruction may be credited toward the eight thousand (8,000) hour work experience requirement.* ()

03. Contractor and Specialty Contractor Certificate of Competency. An applicant must successfully pass an examination designated by the Board and provide a compliance bond in the amount of two thousand dollars (\$2,000) which is effective for the duration of the certificate period. The specialty contractor's scope of work is limited as set forth in Rule 100.04.a. ()

04. Specialty Journeyman Certificate of Competency. An applicant must submit evidence of a minimum of two thousand (2,000) hours of specialty-related experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience, and either (a) pass an examination designated by the Board, or (b) submit evidence of satisfactory completion of a minimum of sixty (60) hours of education in fuel gas code and piping installation methods. ()

a. Permitted Scope of Work. Permitted to install hearth appliances, and non-duct connected oil furnaces, the associated fuel gas piping, and venting dedicated exclusively thereto. Does not include any plumbing, electrical or duct work. ()

IDAPA 24.02 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.02.01 – RULES OF THE STATE ATHLETIC COMMISSION

DOCKET NO. 24-0201-2200F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 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 Section 67-2604, Idaho Code, and Title 54, Chapter 4, 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 fee rule and the text of the pending fee rule with an explanation of the reasons for the change.

This pending fee rule adopts the following rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / State Athletic Commission:

IDAPA 24.02

- 24.02.01, *Rules of the State Athletic Commission*.

There are no changes to the pending fee rule and it has been adopted as originally proposed. The complete text of the proposed rule is published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 675-703](#).

FEE SUMMARY: 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.

The following is a specific description of the fees or charges:

24.02.01, Rules of the State Athletic Commission – Fees are established in accordance with Sections 54-406, 54-410, 54-416, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Professional Combatant	\$150	\$150
Amateur Combatant	\$100	\$100
Non-combatant	\$150	\$150
Matchmaker	\$250	\$250
Promoter	\$1,000	\$750
Sanction Permit	\$200	\$250
Ring Official	\$150	\$150

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7, 2022.

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IDAPA 24.05 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES
24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS
DOCKET NO. 24-0501-2200F
NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 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 Section 67-2604, Idaho Code, and Section 54-2406, 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 fee rule and the text of the pending fee rule with an explanation of the reasons for the change.

This pending fee rule adopts the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / Board of Drinking Water and Wastewater Professionals:

IDAPA 24.05

- 24.05.01, *Rules of the Board of Drinking Water and Wastewater Professionals.*

There are no changes to the pending fee rule and it has been adopted as originally proposed. The complete text of the proposed rule is published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 704-719](#).

FEE SUMMARY: 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.

The following is a specific description of the fees or charges:

24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals – Fees are established in accordance with Section 54-2407, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Examination	Amount set by examination provider
Endorsement	\$30
Original License	\$30
Annual renewal	\$30
Reinstatement	As provided in Section 67-2614, 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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7, 2022.

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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 – ADOPTION OF PENDING 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. The pending rule becomes final and effective at sine die 2023, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 39-4113, 39-8007, 67-2614, 67-9406, and 67-9409, Idaho Code.

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

Changes between the text of the proposed rule and the text of the pending rule:

- Section 200 – Amended language regarding license production to update and clarify language in current rule.
- Section 201 – changed “shall” to “will”
- Section 202 – changed “shall” to “will”
- Section 259.01 – updated BO2 River section to allow 4 float outfitters, 2 of which may be licensed for fishing in addition to float boating.
- Section 259.01 – updated PN1 River section to remove the no fishing restriction.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 217-240](#).

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 negative fiscal impact on the State General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7th, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
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DOCKET NO. 24-3501-2201 – ADOPTION OF PENDING RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made in the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 22-9, September 7, 2022, pages 217 through 240.](#)

This rule has been adopted as a pending rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 24-3501-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

200. LICENSE PRODUCTION.

Upon request of an authorized person, a licensee must provide proof of licensure when engaged in licensed activities and identify a guide's employing outfitter. ()

201. THIRD-PARTY AGREEMENT.

An outfitter *will* 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 *will* maintain records sufficient to demonstrate to the Board use of their licensed activities and areas. ()

(BREAK IN CONTINUITY OF SECTIONS)

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
<p>(BO1A) Boise River - Eckert Road Bridge to Main Street Bridge.</p>	none	
<p>(BO1B) Boise River - Main Street Bridge to West side of Garden City limits.</p>	none	
<p>(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. <i>A maximum of two (2) outfitters may be licensed for fishing in addition to float boating.</i> 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.</p>	none	4

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(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
(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

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(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
(K01) 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. 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
(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

River Sections (BL1) Blackfoot River through (PR1) Priest River

River/Section	Maximum No. Power	Maximum No. Float
(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
(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

River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River

River/Section	Maximum No. Power	Maximum No. Float
###(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
(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.	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
<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> <ul style="list-style-type: none"> 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>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>	none	4

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

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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. ()

IDAPA 24.38 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 24-3801-2200F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 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 Section 67-2604, Idaho Code, and Chapter 21, Title 54, 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 fee rule and the text of the pending fee rule with an explanation of the reasons for the change.

This pending fee rule adopts the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / Board of Veterinary Medicine:

IDAPA 24.38

- 24.38.01, *Rules of the State of Idaho Board of Veterinary Medicine.*

There are no changes to the pending rule and it has been adopted as originally proposed. The complete text of the proposed rule is published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 720-738](#).

FEE SUMMARY: 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.

The following is a specific description of the fees or charges:

24.38.01, Rules of the State of Idaho Board of Veterinary Medicine – Fees are established in accordance with Sections 54-2105, 54-2107, and 54-2112, Idaho Code, as follows:

	New	Active Renewal	Inactive Renewal	Late/ Reinstatement	Inactive to Active Fee
Veterinary License	\$275	\$175	\$50	\$200	\$150
Certified Veterinary Technician	\$125	\$75	\$25	\$50	\$50
Certified Euthanasia Agency	\$100	\$200	-	\$50	-
Certified Euthanasia Technician	\$100	\$100	-	\$50	-

Duplicate Wall License/Certificate	\$25
Veterinary License Verification	\$20

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
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P.O. Box 83720
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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)

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 rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1001, 54-1005, 54-1006, 54-1007, 54-1009, 54-1018, 67-2604, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

The text of the pending rule was amended to correct a clerical error and to clarify when a power supply company can connect and energize an electrical installation prior to inspection. Specific changes between the text of the proposed rule and the text of the pending rule are:

- Section 100.01 – changed “six thousand (6,000)” to “eight thousand (8,000)”.
- Section 200.04 – replaced the “Temporary Installations Connected Prior to Inspection” language with: Connecting and Energizing Prior to Inspections. At the request of a licensed electrical contractor and upon receipt of a copy of an electrical permit, a power supply company may connect and energize an electrical service, to the line side of the service disconnect, prior to a passed inspection in the following situations: to preserve life or property or to provide temporary service for construction. Any contractor energizing an electrical installation prior to an inspection assumes full responsibility for the installation.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 241-252](#).

FEE SUMMARY: The following is a specific description of the fee or charge 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: This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule, contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

DATED this December 7th, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
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DOCKET NO. 24-3910-2201 – ADOPTION OF PENDING FEE RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made in the pending fee rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending fee rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 22-9, September 7, 2022, pages 217 through 240.](#)

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 24-3910-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

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 *eight* thousand (8,000) 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. Connecting and Energizing Prior to Inspections. *At the request of a licensed electrical contractor and upon receipt of a copy of an electrical permit, a power supply company may connect and energize an electrical service, to the line side of the service disconnect, prior to a passed inspection in the following situations: to preserve life or property or to provide temporary service for construction. Any contractor energizing an electrical installation prior to an inspection assumes full responsibility for the installation.* ()

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. ()

IDAPA 35 – IDAHO STATE TAX COMMISSION
35.01.01 – INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 23-1051, and 23-1319, Idaho Code.

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the State Tax Commission 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.

Sections 300-699 of these rules that were negotiated and previously included in this ZBR chapter rewrite, have been promulgated under companion docket 35-0101-2202 published in this bulletin.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022 Idaho Administrative Bulletin, [Volume 22-10, pages 741-809](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian at (208) 332-6691.

DATED this 7th day of December.

Cynthia Adrian, Income Tax Specialist
Idaho State Tax Commission, Governmental Affairs
(20820 (208)11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36, Boise ID 83722-0036
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(208) 334-6691

IDAPA 35 – IDAHO STATE TAX COMMISSION
35.01.01 – INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-2202 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 23-1051, and 23-1319, Idaho Code.

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the State Tax Commission 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.

This docket was created by extracting Sections 300-699 that were originally negotiated under companion docket 35-0101-2201 published in this bulletin and are part of the agency's ZBR chapter rewrite. This was determined to be in the interest of the public and done under the direction of the Executive Office of the Governor. These sections were affected by 2022 HB563, which changed the way business income is apportioned from a three-factor method to a single-sales factor method. It also changed the way Idaho taxes multistate income from using a cost-of-performance method to market-based sourcing.

As a result of feedback from stakeholder participation during agency-held rules committee meetings, it was determined that the provisions in proposed Rule 571 would be difficult to administer and audit. The rule was designed to address a very unique scenario; the stakeholders were very doubtful that this unique scenario would regularly occur in Idaho. The conclusion was to remove Rule 571 from the pending rule with the knowledge that if the Commission ever comes across this unique situation it can be dealt with on a case-by-case basis using the alternative apportionment authority found in Section 63-3027(17), Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 5, 2022 Idaho Administrative Bulletin, [Volume 22-10, pages 810-863](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian at (208) 332-6691.

DATED this 7th day of December.

Cynthia Adrian, Income Tax Specialist
Idaho State Tax Commission, Governmental Affairs
(20820 (20811321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
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DOCKET NO. 35-0101-2202 – ADOPTION OF PENDING RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made to the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 22-10, October 5, 2022, pages 810 through 863.](#)

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 35-0101-2202
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

[Proposed Section 571 has been omitted in its entirety.]

571. -- 579. (RESERVED)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.09 – IDAHO BEER AND WINE TAXES ADMINISTRATIVE RULES

DOCKET NO. 35-0109-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 23-1051, and 23-1319, Idaho Code.

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the State Tax Commission 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.

Subsection 011.01.e. was changed to reference a statutory definition. Proposed Subsection 014.02 was deleted in the pending rule due to it being an outdated reference.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 8, 2022, Idaho Administrative Bulletin, [Volume 22-8, pages 60-65](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Elena Gonzalez at (208) 334-7855.

DATED this 7th day of December.

Elena Gonzalez, Product Taxes Specialist
Idaho State Tax Commission, Governmental Affairs
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DOCKET NO. 35-0109-2201 – ADOPTION OF PENDING RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made in the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-8, August 8, 2022, pages 60 through 65.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 35-0109-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

011. BEER AND WINE SALES SUBJECT TO TAX (RULE 011).

Sections 23-1001, 23-1003, 23-1006, 23-1008, 23-1303, 23-1309A, 23-1314, 23-1319, Idaho Code

01. In General. Sections 23-1008 and 23-1319, Idaho Code, impose an excise tax on beer sales by beer wholesalers and wine sales by wine distributors for use or consumption in Idaho. ()

a. Every disposition of beer by a wholesaler or wine by a distributor to a retailer or consumer constitutes a sale for resale or use. Beer wholesalers or wine distributors are liable for the payment of taxes on the sales. Any person making sales or dispositions of beer or wine, whether licensed or not, is liable for the taxes. ()

b. Wine direct shippers are liable for payment of wine tax imposed by Chapter 13, Title 23, Idaho Code, as well as the sales and use taxes imposed by Chapter 36, Title 63, Idaho Code, on all shipments of wine to Idaho. ()

c. Any brewer, brewery, producer, or manufacturer of beer within Idaho will be considered a beer dealer within the meaning of the definitions provided in Section 23-1001(f), Idaho Code. However, to ensure payment of tax on beer, any entity holding a brewery license will be considered a wholesaler to the extent of any disposition from the brewery for the purpose of resale or consumption in, by, or through any retail facilities including, tasting rooms on or near the brewery's premises. ()

d. Any vintner, winery, producer, or manufacturer of wine within Idaho will be considered a wine importer within the meaning of the definitions provided in Section 23-1303(1)(g), Idaho Code. However, to ensure payment of tax on wine, any entity holding a winery license will be considered a distributor to the extent of any disposition from the winery for the purpose of resale or consumption in, by, or through any retail facilities including, tasting rooms on or near the winery's premises. ()

e. Ales, beer, new beer, or any alcoholic beverage *that meets the definition in Section 23-1001(a), Idaho Code*, containing more than five percent (5%) alcohol by volume are imposed an excise tax by Section 23-1008(1), Idaho Code. ()

f. Premixed cocktails with an alcoholic content of fourteen percent (14%) or less by volume are taxed

at the wine tax rate. ()

g. Illegal Sales or Dispositions. In addition to the remedies of Sections 23-1055 and 23-1309, Idaho Code, the Tax Commission may assess taxes against persons making illegal sales of beer or wine who otherwise would be liable for payment of taxes. ()

02. Supplementing Inventory. If a brewery or winery supplements inventory, adequate records are required to support any tax paid. The Tax Commission will presume no tax is paid on beer or wine in the inventory of a brewery or winery without evidence of the payment of tax. Wineries are not supplementing their inventory when purchasing wine or grape juice from other wineries to blend and produce wine. ()

03. All Sales Presumed Taxable. Every sale or disposition from inventory is presumed to be a taxable sale unless the sale or disposition is exempt from tax by the Acts or these rules. ()

(BREAK IN CONTINUITY OF SECTIONS)

014. FINANCIAL SECURITY (RULE 014).
Sections 23-1049, 23-1320, Idaho Code

01. Financial Security for Payment of Tax. Any person required to pay tax under the Acts must have an acceptable amount of security on file and in acceptable form with the Tax Commission unless excused or waived by the Tax Commission. The security is conditioned upon payment of all taxes imposed on beer or wine by this state for which the person is liable, including any penalty and interest. ()

[proposed text omitted]

02. Security for a New Taxpayer. When a new taxpayer applies for a tax account the security required is one thousand dollars (\$1,000) unless one of the following conditions applies: ()

a. If a beer or wine tax reporting history is available from a previous ownership, the security required may be based on the most recent twelve (12) month filing history of the prior ownership. ()

b. If an out-of-state wine direct shipper is applying for an initial account, they may request a bond waiver. ()

c. If the taxpayer can establish a lesser amount should apply based on the average monthly amount payable according to Section 23-1049, Idaho Code. ()

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 23-1051, and 23-1319, Idaho Code.

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

35.02.01.410: The deadline in rule is outdated and being deleted and reverted to statutory authority.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 8, 2022, Idaho Administrative Bulletin, [Volume 22-8, pages 66-68](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian at (208) 332-6691.

DATED this 7th day of December.

Cynthia Adrian, Income Tax Specialist
Idaho State Tax Commission, Governmental Affairs
(20820 (20811321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36, Boise ID 83722-0036
cynthia.adrian@tax.idaho.gov
(208) 334-6691

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.02.03 – WATER SUPPLY BANK RULES

DOCKET NO. 37-0203-2201 (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. This action is authorized pursuant to Sections 42-1762, 42-1734(19), and 42-1805(8), Idaho Code.

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

This rule governs the Idaho Water Resource Board’s operation and management of a Water Supply Bank provided for in Sections 42-1761 to 42-1766, Idaho Code. The purposes of the Water Supply Bank are to encourage the highest beneficial use of water, provide a source of adequate water supplies to benefit new and supplemental water uses, and generate funding for improving water user facilities and efficiencies.

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 October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 866–872](#).

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

Idaho Code §§ 42-1761, 42-1762, and 42-1765 authorizes the Idaho Water Resource Board to generate revenue through the operation of water supply bank and rental pools and to collect “lease” and “rental” fees in association with water supply bank and rental pool transactions. This Proposed Rule does not change current water supply bank and rental pool fees.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

DATED this 14th day of November, 2022.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.04 – DRILLING FOR GEOTHERMAL RESOURCES RULES

DOCKET NO. 37-0304-2201 (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. This action is authorized pursuant to Sections 42-1734(19), 42-1805(8), and 42-4010, Idaho Code.

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

This rule governs the drilling, operation, maintenance, and abandonment of all geothermal wells in the state. The rule also addresses other related operations and environmental hazards pertaining to the exploration and development of geothermal resources.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 873–882](#).

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

IDAPA 37.03.04 governs the regulation of geothermal resource exploration and development and ensures that such activities occur in the public interest. The Rule ensures Idaho’s geothermal policy, “to maximize the benefits to the entire state which may be derived from the utilization of our geothermal resources, while minimizing the detriments and costs of all kinds which could result from their utilization” is met. The Rule also requires fees for geothermal exploratory wells, production wells, injection wells, and amendments to permits, as set forth in Idaho Code §§ 42-4003 and 42-4011.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

DATED this 14th day of November, 2022.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.05 – MINE TAILINGS IMPOUNDMENT STRUCTURES RULES

DOCKET NO. 37-0305-2201 (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. This action is authorized pursuant to Sections 42-1710 and 42-1714, Idaho Code.

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

This rule governs the design review, bonding, and inspection of the construction and operation of mine tailings impoundment structures.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 883–893](#).

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

IDAPA 37.03.05 establishes acceptable construction standards and governs IDWR’s design and technical review of mine tailing and water impoundment structures. This rule also supports the collection of a fee to review plans, drawings, and specifications pertaining to any mine tailings impoundment structure, as set forth in Idaho Code §§ 42-1712 and 42-1713.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

DATED this 14th day of November, 2022.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.06 – SAFETY OF DAMS RULES

DOCKET NO. 37-0306-2201 (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. This action is authorized pursuant to Sections 42-1710 and 42-1714, Idaho Code.

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

This rule establishes acceptable standards for the construction of new and existing regulated dams and to establish guidelines for the inspection and safety evaluation of new or existing dams. The rules apply to all new dams, to existing dams to be enlarged, altered, or repaired, and maintenance of certain existing dams, as specifically provided in the rules.

The pending rule incorporates amendments to the definition and regulation of hazard classification, changes to seismic analyses requirements for new and existing dams, changes to emergency action plan requirements, changes to construction requirements for new dams, and removal of Rule 65 Dams Storing Tailings and Water.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 894–908](#).

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

This rule establishes the collection of a fee to review plans, drawings, and specifications pertaining to the construction, enlargement, alteration, or repair of regulated dams, as set forth in Idaho Code §§ 42-1712 and 42-1713.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

DATED this 14th day of November, 2022.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

DOCKET NO. 37-0306-2201 – ADOPTION OF PENDING FEE RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made in the pending fee rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-10, October 5, 2022, pages 894 through 908.

This rule has been adopted as a pending rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 37-0306-2201
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

010. DEFINITIONS.

Unless the context otherwise requires, the following definitions govern these rules. ()

01. Alterations or Repairs. Any activity that may affect the safety or integrity of a dam. Alterations and repairs do not include routine maintenance items. ()

02. Appurtenant Structures. Ancillary features (e.g., outlets, tunnels, gates, valves, spillways, auxiliary barriers, etc.) used for operation of a dam, which are owned or for which the owner has responsible control. ()

03. Artificial Barrier or Embankment. Any structure constructed to impede, obstruct, or store water. ()

04. Borrowed Fill Embankment. Any embankment constructed of borrowed earth materials, and which is designed for construction by conventional earth moving equipment. ()

05. Certificate of Approval. A certificate issued by the Director for all existing dams listing restrictions imposed by the Director, and without which none shall be allowed to impound water. ()

06. Conduit. A pipe or other constructed conveyance within a dam designed to release water or liquid in the reservoir. ()

07. Core. A zone of relatively low permeability material within an embankment. ()

08. Cutoff Trench. An excavation later to be filled with *impermeable* material during construction of a dam to limit seepage beneath the structure and through the foundation. ()

09. Dam. Any artificial barrier together with appurtenant works, which is or will be ten (10) feet or more in height and has or will have an impounding capacity at maximum storage elevation of fifty (50) acre-feet or more. Height of a dam is defined as the vertical distance from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Director, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation. Under Section 42-

1711, Idaho Code, the following are not included as regulated dams or are not considered dams for the purposes of Sections 42-1710 through 42-1721, Idaho Code: ()

- a. Barriers in a canal used to raise or lower water therein or divert water therefrom. ()
- b. Fills or structures determined by the Director to be designed primarily for highway or railroad traffic. ()
- c. Fills, retaining dikes or structures less than twenty (20) feet in height, which are under jurisdiction of the Department of Environmental Quality or the Department of Agriculture, determined by the Director to be designed primarily for retention or treatment of municipal, livestock, or domestic wastes, or sediment and wastes from produce washing or food processing plants. ()
- d. Levees, that store water regardless of storage capacity. ()
- 10. **Days.** Calendar days including Sundays, Saturdays, and holidays. ()
- 11. **Department.** The Idaho Department of Water Resources. ()
- 12. **Design Evaluation.** The engineering analysis required to evaluate the performance of a dam relative to earthquakes, floods, or other site-specific conditions anticipated to affect the safety or operation of the dam, or appurtenant facilities. ()
- 13. **Director.** The Director of the Department of Water Resources. ()
- 14. **Embankment.** An artificial barrier constructed of earth, sand, rock, or gravel used to impound water. ()
- 15. **Emergency Action Plan (EAP).** A written plan with instructions to be taken to reduce the potential for property damage and loss of life in an area affected by a dam failure or uncontrolled release of stored contents. ()
- 16. **Enlargement.** Any change in or addition to an existing dam which raises or may raise the elevation of the contents impounded by the dam. ()
- 17. **Factor of Safety.** A ratio of available shear strength to shear stress, required for stability. ()
- 18. **Flashboards.** Structural members of timber, concrete, steel, or other erosion resistant material placed across a channel or entrance to a spillway to temporarily raise the surface level of the reservoir. ()
- 19. **Flood.** An increase in water surface elevation due to naturally occurring runoff or other rise in water levels that result in the inundation of areas not normally covered by water. As defined herein floods may be expressed in terms of average annual probability of exceedance, corresponding to values which may be described as flow rate, volume, or elevation (i.e., stage). ()
- 20. **Flood Surcharge.** A variable volume of water temporarily detained in a reservoir, in the space (or part thereof) that is filled by excess runoff or flood water, above the approved design maximum storage elevation. Flood surcharge is passed through the reservoir and discharged downstream until the reservoir level has been drawn down to the design maximum storage elevation. ()
- 21. **Freeboard.** Vertical height between the maximum design water surface elevation and the lowest elevation along the top of the dam. Freeboard can include a provision for variables such as wave height, flood surcharge, settlement, and flashboards. ()
- 22. **Hazard Classification.** The potential *adverse incremental* consequences to downstream life, property, and the environment resulting from *the release of water or stored content due to dam failure or mis-operation of the dam*, exclusive of the size or the physical condition of the dam. Hazard Classifications shall be

assigned to new and existing dams *based on potential adverse incremental impacts in three categories: downstream development, estimated loss of life, and economic losses.* ()

- 23. **Hydraulics.** The *study of the* conveyance of liquid through pipes and channels. ()
- 24. **Hydrology.** The study of precipitation, snowmelt, and runoff in relation to land surfaces. ()
- 25. **Inflow Design Flood (IDF).** The flood specified for designing a dam, or appurtenant facility. Commonly expressed inflow design flood(s) include peak rate(s) of flow and volume(s) associated with floods having an annual exceedance probability of one percent (1%) (i.e., Q100) and zero point two percent (0.2%) (i.e., Q500), and the PMF (probable maximum flood). ()
- 26. **Intermediate Dams.** Artificial barriers twenty (20) feet or more in height but less than forty (40) feet *or* capable of storing one hundred (100) acre-feet of water or more but less than four thousand (4,000) acre-feet. ()
- 27. **Large Dams.** Artificial barriers forty (40) feet or more in height or capable of storing four thousand (4,000) acre-feet or more of water. ()
- 28. **Levee.** A retaining structure alongside a natural lake which has a length two hundred (200) times greater than its greatest height measured from the lowest elevation of the toe to the maximum crest elevation of the retaining structure. ()
- 29. **Lift Construction.** Embankment enlargement by raising the elevation of the structure on a continuous or recurring basis. Such practice will be considered under construction until the structure reaches its final crest elevation. ()
- 30. **Maximum Water Storage Elevation.** The maximum design elevation of the water surface or stored contents which can be impounded by the dam. ()
- 31. **Operation Plan.** A specific plan that promotes the safe operation of the dam for its intended purpose, and which provides specific limits and procedures for controlling inflow, storage, and/or release of water or slurry. ()
- 32. **Owner.** Includes any of the following who own, control, operate, maintain, manage, or propose to construct a dam, or reservoir: ()
 - a. The state of Idaho and its departments, agencies, institutions, and political subdivisions; ()
 - b. The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America shall not be required to pay any of the fees required by Section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by Section 42-1712, Idaho Code, for information purposes only; ()
 - c. Every municipal or quasi-municipal corporation; ()
 - d. Every public utility; ()
 - e. Every person, firm, association, organization, partnership, business trust, corporation, or company; ()
 - f. The duly authorized agents, lessees, or trustees of any of the foregoing; or ()
 - g. Receivers or trustees appointed by any court for any of the foregoing. ()
- 33. **Professional Engineer.** A person licensed as a professional engineer by the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors under chapter 12, title 54, Idaho Code. For the

purposes of this rule, the use of the term engineer implies a professional engineer consistent with this definition. ()

34. Release Capacity. The ability of a dam to pass excess water through the spillway(s) and outlet works, *including the contribution from any designed conveyance through or around the dam.* ()

35. Reservoir. Any basin which contains or will contain the water impounded by a dam. ()

36. Small Dams. Artificial barriers ten (10) feet or more in height but less than twenty (20) feet in height and that store fifty (50) acre-feet or more but less than one hundred (100) acre-feet of water. ()

37. Spillway. A constructed channel *or other approved feature* over, through, or around a dam, which is designed to accommodate the *net* inflow design flood and thus prevent overtopping by the reservoir. ()

38. Storage Capacity. The total storage in acre-feet at the maximum design storage elevation. ()

(BREAK IN CONTINUITY OF SECTIONS)

020. DAM SIZE CLASSIFICATION.

01. Size Classification. The following table defines the height and storage capacity limits used by the Department to classify dams regulated for the benefit of public safety:

Dam Size Classification	Height	Storage Capacity
Small Dams and Reservoirs	Ten (10) feet or more but less than twenty (20) feet	and Fifty (50) acre-feet or more but less than one hundred (100) acre-feet.
Intermediate Dams and Reservoirs	Twenty (20) feet or more but less than forty (40) feet	or One hundred (100) acre-feet or more but less than four thousand (4,000) acre-feet.
Large Dams or Reservoirs	Forty (40) feet or more	or Four thousand (4,000) acre-feet or more.

02. Determination of Size. The Director shall determine the size *classification* of a new or existing dam. ()

021. – 024. (RESERVED)

025. HAZARD CLASSIFICATION.

01. Hazard Classification. The following table describes categories of hazard used by the Department to classify dams relative to the potential failure consequences estimated for downstream locations. The listed hazard *classifications* are meant to serve as guidelines for implementing design, construction, and operation criteria, subject to final interpretation by the Director:

Hazard <i>Classification</i>	Downstream Development	Estimated Loss of Life	Economic Losses
Low	Undeveloped property, no permanent or permanently occupied structures for human habitation.	No loss of life	Low economic losses <i>generally limited to the owner; low</i> damage to or disruption of <i>transportation, utilities, or other public facilities or values including environmental loss.</i>
Significant	No concentrated urban development, 1 or more permanent structures for human habitation within the flood zone that are potentially inundated with flood water at a depth of <i>less than</i> two (2) feet.	Loss of life is unlikely to occur	<i>Moderate</i> damage to agricultural, commercial, or industrial facilities; <i>moderate</i> damage to or the disruption of transportation, utilities, or other public facilities or values including environmental loss.
High	Urban development, or any structure for permanent or temporary human habitation which are potentially inundated with flood water at a depth <i>of</i> two (2) feet <i>or greater.</i>	High probability for loss of life	<i>Severe</i> damage to agricultural, commercial, or industrial facilities; damage to or the <i>prolonged</i> disruption of transportation, utilities, or other public facilities or values including environmental loss.

()

02. Determination of Hazard Classification. The Director shall determine the hazard *classification* of a new or existing dam *governed by these rules. Hazard classifications shall be assigned to new and existing dams based on the severity of failure consequences exclusive of the size or the physical condition of the dam. The designated hazard classification, as established by the Director, shall determine the applicable design and operational standards applied to the dam.* ()

(BREAK IN CONTINUITY OF SECTIONS)

035. DESIGN REPORTS, DRAWINGS, AND SPECIFICATIONS.

The following provisions shall apply when submitting plans, drawings, reports, and specifications for dams to the Director for design review and approval, prior to commencing construction. ()

01. Submission of Duplicate Plans, Drawings and Specifications. Any owner desiring to construct, enlarge, alter, or repair any dam, shall submit duplicate plans, drawings and specifications prepared by an engineer for the proposed work to the Director with required fees for approval prior to commencing construction. ()

02. Applying for and Obtaining Written Approval. Construction of a new dam, or the enlargement, alteration, or repair of such shall not commence until the owner has applied for and obtained written approval of the plans, drawings, and specifications from the Director. ()

03. Preparation and Submission of Plans. Plans and drawings shall be of a sufficient scale with an

adequate number of views showing proper dimensions, so that the plans and drawings may be readily interpreted and so that the structure and appurtenances can be built in conformance with the approved design. Plans and drawings shall be submitted in both printed and digital format, with the printed version consisting of paper size eleven by seventeen (11 x 17) inches. After reviewing the plans, the Director will notify the owner of any required changes. ()

04. Information Included with Plans. Plans for new dams or the enlargement, alteration, or repair of such shall include as much of the following information as determined necessary by the Director to adequately describe the enlargement, alteration, or repair and the effect on the existing structure or its appurtenances: ()

a. A topographic map of the project site showing the location of the proposed construction by section, township and range, and location of all borings, test pits, borrow pits and other locations of samples obtained for field or laboratory testing; ()

b. A profile depicting the locations, elevations, and depths of borings or test pits, including the visual illustration of logs of bore holes, test pits, or borrow pits; ()

c. A cross-section of the structure at maximum section showing elevation and width of crest, slopes of upstream and downstream faces, thickness of riprap, zoning of earth embankment, location of cutoff and bonding trenches, elevations and dimensional heights, size and type of conduits, valves, operating mechanism, and dimensions of all other essential elements deemed to be necessary for properly constructing the approved design; ()

d. Detailed drawings showing plans, cross and longitudinal sections of appurtenant features such as but not limited to the spillway, training walls, outlet conduits, valves, gates, trash rack, and control works; ()

e. A curve or table showing the capacity of the reservoir or tailings impoundment in acre-feet vs. gauge height referenced to a common project datum and the computations used in making such determinations; ()

f. A curve or table showing the outlet discharge capacity in cubic feet per second vs. gauge height of reservoir storage level, and the computations used in making such determinations; ()

g. A curve or table showing the spillway discharge capacity in cubic feet per second vs. gauge height of the reservoir or flood surcharge level above the spillway crest and the computations used in making such determinations; ()

h. Detailed drawings of spillway structure(s), including cross-sections of the channel entrance and exit points to and from the spillway and a spillway profile; ()

i. Plans for flow measuring devices capable of providing an accurate determination of the flow of the stream above or below the reservoir, and a permanent reservoir or staff gauge near the outlet of the reservoir plainly marked in feet and tenths of a foot referenced to an approved datum; and ()

j. Plans or drawings of instruments recommended by the owner or engineer to monitor the performance of the dam to assure safe operation, or as may be required by the Director as deemed necessary to monitor any structure for benefit of public safety regardless of size. ()

05. Specifications. The engineer shall prepare specifications that include instructions for construction of the approved design in accordance with accepted engineering and industry standards of care, including provisions for adequate observation, inspection, and control of the work by an engineer during the period of construction.()

06. Changes to the Approved Design. The approved design shall not be materially changed without prior written consent of the Director. Design changes which may affect the stability, size, or integrity of the structure, while construction is underway, shall be submitted for the Director's review and approval. In emergency situations, the owner shall make the required alterations or repairs necessary to relieve the emergency, and subsequently notify the Director of all alterations or repairs implemented. ()

07. Inspections. The owner shall allow inspections by the Department to assure the dam and appurtenant structures are constructed in conformance with the approved plans and specifications, or as may be revised by the engineer and approved by the Director if there are unforeseen conditions discovered during site preparation or construction which potentially jeopardize the future integrity and safety of the project works. The Department may request of the owner that certain stages of construction not proceed without inspection and approval by the Director. ()

08. Inspection, Examination and Testing of Materials. All materials and workmanship shall be subject to review, inspection, examination, or testing by the Director. ()

09. Rejection of Defective Material. The Director may order the owner or engineer to reject defective material. The owner shall correct rejected workmanship and replace rejected material with approved material. ()

10. Suspension of Work. The Director may order the engineer to suspend any work that is or is likely to be subject to damage by inclement weather conditions. ()

11. Responsibility of Engineer. These provisions shall not relieve the engineer of their responsible charge to assure that construction is accomplished in accordance with their approved plans and specifications as mandated by Sections 54-1202(10) and (15), Idaho Code, or to unilaterally suspend work as deemed necessary. ()

12. Design Report. Owners proposing to construct, enlarge, alter, or repair a dam shall submit an engineering or design evaluation report to accompany the plans and specifications. The engineering report shall include as much of the following information as necessary to present the technical basis for the design and to describe the analyses used to evaluate performance of the structure and appurtenances. ()

a. All technical reference(s), equations, calculations, and assumptions used in the design. ()

b. Hydrologic data used in determining runoff from the drainage areas, reservoir flood routing pertinent to the project location, and hydraulic evaluations of the outlet(s) and the spillway(s) as may be required for approval of the design plans and specifications. ()

c. Investigation of site and subsurface conditions, to include the engineering properties of the foundation area and of each type of material to be encountered or used in the construction of the project works. ()

d. A stability analysis, including an evaluation of overturning, sliding, slope, and foundation stability; ()

i. An evaluation of seismic design loads may be included in the stability analysis for all dams as deemed necessary by the Director for benefit of public safety. The evaluation required for the design of large dams or high hazard structures shall use the maximum ground acceleration which could affect the dam. *In the absence of a site-specific seismic hazard analysis, the Director may accept seismic analyses that reference published seismic hazard maps which determine seismic loads estimated for seismic events corresponding to a return interval of two percent (2)% in fifty (50) years.* ()

ii. Seismic analyses may be waived by the Director for new or existing dams if the consequence of failure is demonstrated to be sufficiently low or the critical features of design are demonstrated to be sufficiently conservative to allow minor deformation(s) without releasing the contents of the impounding structure. ()

e. Geologic description of *the dam and* reservoir area, including evaluation of landslide potential *near the dam;* ()

f. Engineering properties and the weathering characteristics of the contents proposed for storage in the impoundment, if applicable; ()

- g. Other information which would aid in evaluating the safety of the design. ()

13. Additional Information/Waiver. The Director may require the filing of such additional information which in *their* opinion is necessary for the benefit of public safety or waive any requirement in these rules if available data demonstrates that it is unnecessary. ()

14. Alternate Plans. The Director may accept plans and specifications for dams, or portions thereof prepared for other agencies which are determined to meet the requirements of Rule 35, including but not limited to the following: ()

- a. An operation plan; or ()

- b. An emergency action plan to help protect *or mitigate the consequences of a dam failure on* downstream life and property. ()

036. – 044. (RESERVED)

045. EMERGENCY ACTION AND OPERATION PLANS.

An Emergency Action Plan (EAP) is required for all Significant and High Hazard dams. The EAP shall establish emergency procedures for notification and response during unexpected or non-routine events that occur naturally, or in response to mechanical issues, or due to intentional vandalism *or* terrorism. The EAP may be a component of an Operation Plan that includes comprehensive guidelines and procedures for inspection, operation, maintenance, and monitoring of instruments required to record performance of the structure during normal operating cycles, critical filling, or flood periods, or as may be necessary for evaluating the effects of an earthquake. Before the initial filling of a reservoir, the owner shall file with the Director an EAP for review and approval. ()

046. – 049. (RESERVED)

050. NEW DAMS AND RESERVOIRS.

The following criteria shall be used by the Director as a basis to evaluate the design of new embankment dams and reservoirs. These guidelines are intended for a broad range of circumstances, and engineers should not consider them as a restriction to the use of other sound engineering design principles. Exclusion from these established criteria will be considered by the Director on a case-by-case basis during design review of plans, drawings, reports, and specifications submitted for approval prior to commencing construction. Structures which are or will be constructed of other materials, for example concrete, timber, steel, or combinations thereof shall comply with these criteria as found appropriate by the Director, and with other engineering design methods and construction standards of care approved by the Director. ()

01. Embankment Stability. Slope stability analyses shall determine the appropriate upstream and downstream slopes. Unless a discrete slope stability analysis determines otherwise, the embankment slopes of earthen dams shall comply with the following:

Upstream slope	3:1 or flatter
Downstream slope	2.5:1 or flatter

()

- a. Embankments shall be designed, constructed, and maintained to assure stability under static loads and prevent instability due to seepage or uplift forces, rapid drawdown conditions, and applied seismic loads. ()

- b. The design analysis shall consider the need for installing filters, including but not limited to chimney drains, blanket drains, or toe drains, to avoid developing saturated conditions and *to* protect against piping of the embankment fill material. Transmission of seepage through the embankment, abutments, and foundation shall be controlled to prevent internal erosion, the removal of material, *or the creation of* instability. ()

c. The minimum factor of safety for a steady state loading condition shall be one point five (1.5.) The minimum factor of safety for rapid drawdown loading shall be one point two (1.2.) The minimum factor of safety for seismic loading shall be one point zero (1.0.) ()

d. Seismic Stability. ()

i. The stability of an embankment subjected to earthquake ground motions may be analyzed by the engineer using either a dynamic response or pseudo-static analyses. Pseudo-static analyses are acceptable for embankment dams and foundations composed of non-liquifiable soils that preclude the generation of excess pore water pressures due to shaking. Otherwise, the stability analysis shall employ a dynamic response method. ()

ii. Slope deformation analyses are required for structures that are constructed of cohesionless soils exhibiting fine grain-size gradation and/or on foundations that may be subject to liquefaction. ()

[proposed text omitted]

iii. The design analysis for *regulated* dams shall include in the *seismic* stability analysis peak ground accelerations obtained from Seismic Hazard Maps published by the United States Geological Survey (USGS) using a minimum return interval of 2 percent (2%) probability of exceedance in fifty (50) years, or greater interval, as determined by the Director. ()

iv. The design analyses for large and high hazard dams shall include a report or report(s) covering geology, geologic hazard, and seismicity. The report(s) shall identify the location of faults, evaluate landslide potential, and include a history of seismicity. A comparison using deterministic and probabilistic analyses to calculate peak ground acceleration at the dam site may be required for geographic areas of the state showing evidence of seismic faults or faulting, as determined by the Director. ()

e. Where in the opinion of the Director, embankment design or conditions warrant, the owner may be required to instrument their embankment or foundation. ()

02. Top Width. The minimum top width for any embankment shall be twelve (12) feet to allow safe access by wheeled vehicles or tracked equipment for maintenance or repair. ()

03. Cutoff Trenches or Walls. Cutoff trenches shall be excavated into competent foundation material to bear on an approved stratum or zone, *as site conditions require and when employed.* ()

a. The cutoff trench shall be backfilled with suitable material free from organic matter and debris and compacted to the specified moisture and density. The cutoff trench shall extend up the sides of both abutments to the design maximum storage elevation. ()

b. Cutoff trenches shall be wide enough to allow the free movement of excavation and compaction equipment. To provide for proper compaction side slopes shall be no steeper than one to one (1:1) for shallow depths up to twelve (12) feet, and no steeper than one and one half to one (1.5:1) for greater depths. Flatter slopes may be required for safety and stability, as determined by the Director. ()

c. Concrete cutoff walls may be used in a similar manner as cutoff trenches, with the base firmly entrenched in the underlying foundation material. Where suitable bedrock or suitable foundation material exists, concrete cutoff walls shall be doweled with steel rebar a minimum depth and spacing determined by the engineer necessary to create a structural bond with the underlying foundation. Concrete walls shall have a minimum vertical projection above the foundation surface of three (3) feet, oriented perpendicular to the surface, and shall have a minimum thickness of twelve (12) inches. Reinforcement of the concrete may be required in addition to being doweled into suitable foundation material(s). ()

04. Impermeable Core Material. Soils used to construct the inner sectional core of an embankment shall consist of relatively *impermeable* cohesive materials approved by the engineer and compacted in strict accordance with the approved plans and specifications. A minimum ninety-five percent (95%) maximum dry density compacted in accordance with the American Society Testing Materials (ASTM) D-698 is required. The use of other

relatively impermeable however non-cohesive material is subject to approval by the Director on a case-by-case basis. ()

05. Drains. Toe, blanket, or chimney drains consisting of approved free draining material or approved manufactured drainage geotextile shall be installed where necessary to maintain the phreatic line at or near the design level(s) within the embankment. ()

a. Filter design for toe, blanket, or chimney drains, or any combination thereof shall be included in the design plans and specifications submitted by the engineer for review and approval by the Director. ()

b. Perforated and slotted drainpipes must be four (4) inches diameter or greater and shall be surrounded by permeable drainage material *to a distance* equal to or greater than the outside pipe diameter. The maximum particle size of the drainage material shall be between one-half (1/2) inch to three-fourths (3/4) inch, *or as specified by the design engineer based on the drainage filter analysis*. Underdrains and collection pipes must be constructed of noncorrosive material, taking care to ensure slots and perforations are appropriately sized to avoid long-term migration of the drain material into the pipe. ()

06. Freeboard. The elevation of the top of the embankment shall be constructed and maintained above the design flood surcharge level, including the vertical height of wind generated waves estimated for the greatest distance of open water measured perpendicular to the major axis of the dam. Camber estimated for post-construction settlement shall be included in the design and incorporated in the construction of the top of the embankment. ()

a. The minimum freeboard shall be two (2) feet plus wave height as calculated for the design spillway flow capacity during passage of the one percent (1%) flood, or greater. ()

07. Riprap. All embankments which are subject to erosion on either the upstream and downstream slope(s) shall be protected using riprap or other approved material. Pipes, cables, brush, tree growth, dead growth, logs, or floating debris are not acceptable substitutes for approved riprap. The engineer, with approval of the Director, shall determine the extent of slope protection as deemed necessary for existing site, seasonal, and operating conditions. ()

a. Where rock riprap or other approved material is used for erosion protection on the upstream slope, it shall be placed on an approved thickness of well-graded and free-draining granular bedding material. Riprap or other approved erosion protection material shall extend up the slope a sufficient height. ()

08. Outlet Conduits. All reservoirs impounding water shall have an outlet conduit of sufficient capacity to prevent interference with natural streamflow through the reservoir to the injury of downstream appropriators. In addition to any natural flow releases, the outlet conduit should be of sufficient capacity to pass at the same time, the maximum water requirement of the owner. A larger outlet conduit may be required to provide adequate release capacity as determined by the Director. *Upon recommendation n of the design engineer, the Director may waive this requirement for off channel reservoirs.* ()

a. Outlet conduits shall be laid on a firm and stable foundation material to avoid the likelihood of differential settlement or consolidation causing the separation or misalignment of the conduit. Outlet conduits shall be encased on all sides by concrete of approved compressive strength and having a minimum thickness of twelve (12) inches. During construction outlet conduits shall be properly aligned on an established grade and adequately supported to prevent movement or damage caused by placement of concrete or by compaction equipment. ()

b. Unless otherwise required, the outlet conduit shall have a minimum inside diameter of twelve (12) inches. The conduits shall consist of approved material and composition as approved by the Director. Exceptions may be made only where conditions warrant, but in no case shall the reasonable life expectancy of the pipe be less than the design life of the embankment. ()

09. Gates and Valves. ()

a. Conduits shall be gated on the upstream end to avoid pressurizing the conduit inside the embankment. *Designed pressurized* conduits shall be fitted with both a guard gate and a control gate or valve. ()

- b. All conduits shall be vented directly behind the gate. ()
- c. All gate stem pedestals shall be securely founded to prevent future movement. ()
- d. At least one (1) of the sides of the inlet structure shall be open to allow water to flow into the outlet conduit. The opening shall be covered with a trash rack. ()
- e. Trash racks should be designed to facilitate cleaning of trash and debris. If fish screens are used, they shall be placed over the trash rack and shall be removable for cleaning or be self-cleaning. ()

10. Outlet Controls. Outlet controls shall be installed at a stable location, on the crest or on an elevated platform, or within an enclosure when required, but secured to prevent unauthorized operation. Reservoirs storing water during the winter and subject to severe freezing conditions shall have inclined gate stems or other controlling mechanical or hydraulic features enclosed in a protective sleeve which is buried beneath the upstream slope to suitable depth, to prevent damage or movement caused by ice. ()

11. Release Capacity. Based on the size of the dam and the downstream hazard classification assigned by the Director, the release capacity shall equal or exceed the inflow design flood as set forth in the following table. Where the table specifies an inflow design flood range, the governing inflow design flood shall be determined by the professional engineer in responsible charge of design and IDWR based on a site-specific review of the proposed dam, watershed conditions, and downstream hazard potential. The minimum flow capacity of the emergency spillway(s) shall be sized using the one-percent (1%) rate of flow (i.e., Q100 cfs) calculated for the contributing watershed upstream from the dam, plus two (2) feet of freeboard, plus wave height.

Hazard Classification	<i>Dam</i> Size Classification	Inflow Design Flood (IDF)
Low	All Sizes	Q100
Significant	Small	Q100
	Intermediate	Q100 to Q500
	Large	Q500
High	Small	Q100 <i>to</i> Q500
	Intermediate	Q500
	Large	Q500 to PMF

- a. All spillways shall be stabilized for the discharge of flow using concrete, masonry, riprap, or sod, if not constructed in resistant rock. ()
- b. For embankment dams, where site conditions allow, the spillway shall be constructed independent of the embankment. The spillway(s) shall guide the discharge of water away from the embankment. ()
- c. The minimum base width of an open-channel spillway shall be ten (10) feet, or greater to allow access by mechanical equipment. Siphon pipes or pumps are not acceptable substitutes for an open-channel spillway. ()

d. The effective flow capacity of spillways shall be undiminished by bridges, fences, pipelines, or other obstructions. ()

e. The installation of stop logs or flashboards in the spillway is prohibited unless they are part of an approved design and included as an integral part of an approved operation plan. ()

12. Reservoir Site. Prior to filling the reservoir, the site shall be cleared of all woody material, growth or debris that is large enough to lodge in the spillway, or outlet works. ()

13. Inspection and Completion Reports. As construction proceeds, it is the responsibility of the engineer to submit test reports (e.g., soil material analyses, density tests, concrete strength tests, etc.) along with periodic inspection and progress reports to the Director. ()

a. Upon completion of construction the owner or *their* engineer shall provide the Director a written narrative account of all items of construction. Record drawings (i.e., as-builts or as-constructed drawings) and revised specifications shall be submitted to the Director to accurately reflect the completed project works. ()

b. The engineer, acting on behalf of and representing the owner, shall certify that the construction, reconstruction, enlargement, replacement, or repair of the embankment and appurtenances was completed in accordance with the record drawings and specifications. ()

051. – 059. (RESERVED)

060. EXISTING DAMS AND RESERVOIRS.

All dams and reservoirs regulated by the Department shall be operated and maintained to retain the existing structural dimensions, to resist deformations or movement, and to maintain the hydraulic capacity of the outlet works, spillway, and other discharge features as designed and constructed, or as otherwise required by these rules. ()

01. Analyses Required. The analyses required by Rule 035 shall apply to all existing dams when the Director specifically requires the analyses. Where applicable, non-embankment dams shall comply with the following criteria. ()

a. Every dam shall have an overflow spillway with a capacity that will pass an inflow design flood of one percent (1%) probability of occurrence (i.e., Q100) or more, with the reservoir or the impoundment full to the spillway crest while maintaining the freeboard required by Rule 050.06. ()

b. The Director may lessen or waive the spillway requirement for dams that demonstrate out-of-stream (off-channel) storage. ()

c. The release capability or discharge capacity can include the combined rates of flow for multiple appurtenances; for example, spillways, outlets, diversion facilities, or other constructed conveyance features. Approved operating procedures which can be shown to utilize upstream storage, diversion, and reservoir flood routing to reduce flood runoff events may also be considered. The remainder of the required release capacity, if any, may be met by the following: ()

i. Reconstruction, enlargement or addition of spillways, outlets, diversion facilities, or other constructed conveyance features. ()

ii. A showing acceptable to the Director that potential failure of the dam during a flood of the specified magnitude described in Rule 050.11 would be incrementally small in comparison to the flood being considered, and that the release of reservoir would not substantially increase downstream damages to life and property which are anticipated to result from any natural flood equal to or exceeding that magnitude. ()

iii. A showing acceptable to the Director that limiting physical factors unique to the project site exist that prevent construction of a spillway or other release capability mechanisms during a flood of the specified magnitude described in Rule 050.11, and provided the owner implements storage operational procedures, or

restrictions, or provides for emergency warning to protect life and property. ()

d. Seismic loads shall be evaluated and applied to dam stability. The Director may require that evaluation of seismic loads for large and high hazard structures shall use the maximum ground motion/acceleration generated by the maximum credible earthquake. *For any existing dam, the Director may accept maximum ground motion/acceleration corresponding to specified return intervals using a probabilistic evaluation of earthquake history in accordance with USGS hazard maps using a minimum return interval of 2 percent (2%) probability of exceedance in fifty (50) years, or greater interval, as determined by the Director.* ()

e. The Director may accept existing studies relative to requirements of Rule 060.01.a. and Rule 060.01.d., if the Director determines the information provided fulfills the requirements of the rules. ()

f. The Director may allow the owner of an existing dam a compliance period to complete structural modifications or implement other improvements deemed necessary to provide the necessary hydraulic capability. ()

g. The Director may allow the owner of an existing dam a compliance period to complete structural modifications or implement other improvements deemed necessary to resolve seismic stability or safety concerns. ()

h. Within thirty (30) days after completing the analyses required in Rules 060.01.a. or 060.01.d., the owner of an existing dam found deficient by either analyses shall file with the Director a plan and schedule for mitigating the deficiency. ()

02. Other Requirements. ()

a. Routine maintenance items include the following: ()

i. Eradication of rodents and filling animal burrows; ()

ii. Removal of vegetation and debris from the dam; ()

iii. Restoring original dimensions of the dam by the addition of fill material; ()

iv. Addition of bedding or riprap material which will not increase the height or storage capacity; ()

v. Repair or replacement of gates, gate stems, seals, valves, lift mechanisms or vent pipes with similar equipment; or ()

vi. Repair or replacement of wingwalls, headwalls or aprons including spalling concrete. ()

b. The following are not routine maintenance items and are subject to design review and approval prior to commencing construction: ()

i. Alteration or modification of embankment slopes; ()

ii. Replacement, reconstruction, or extension of outlets; ()

iii. Foundation stabilization; ()

iv. Filter or drain construction or replacement; ()

v. Spillway size alteration or modification; ()

vi. Installation of instrumentation or piezometers; or ()

vii. Release capability or reservoir storage modification. ()

c. Items not specifically described in Rules 060.02.a. and 060.02.b. will be determined by the Director as either routine or non-routine upon receipt of a written request from the owner or *their* representative seeking such a determination. ()

d. Where riprap is required to prevent erosion and to maintain a stable embankment, pipes, cables, brush, tree growth, logs, or floating debris are not acceptable substitutes for rock riprap and granular bedding material. Dams or portions thereof which are stable without riprap, are not required to have riprap. ()

e. Upon completion of reconstruction of a dam or feature of a dam included in Rule 060.02.b., the owner or *their* engineer shall provide the Director a written narrative account of all items of work. Record drawings and revised specifications shall be submitted to the Director if the completed project has been substantially changed from the plans and construction specifications originally approved. ()

f. Upon request, the owner of every dam shall provide *their* name and address to the Director and shall advise the Director of future changes in ownership. If the owner does not reside in Idaho, the owner shall provide the name and address of the person residing in Idaho who is responsible for the operation, maintenance, and repair of the dam. ()

061. – 999. (RESERVED)

[proposed section omitted]

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.10 – WELL DRILLER LICENSING RULES

DOCKET NO. 37-0310-2201 (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. This action is authorized pursuant to Sections 42-238, 42-1734(19), and 42-1805(8), Idaho Code.

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

This rule establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rule also establishes the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The rule is applicable to all individuals and companies drilling or contracting to drill wells.

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 October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 909-919](#).

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

IDAPA 37.03.10 establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. The rules also implement the application licensing fees set forth in Idaho Code, § 42-238.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

DATED this 14th day of November, 2022.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

**39.02.02 – RULES GOVERNING VEHICLE AND VESSEL DEALER
LICENSE REQUIREMENTS – MOTOR VEHICLES**

DOCKET NO. 39-0202-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. In support of the Governor’s Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the Department’s [5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 69-71](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December, 2022.

Colby Cameron
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd., Bldg. 8
208.334.8849
colby.cameron@itd.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.22 – RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION AND TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

DOCKET NO. 39-0222-2201 (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 through this rulemaking. The pending rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending fee rule, and it is being adopted as originally proposed. In support of the Governor's Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the Department's [5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

The original text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 72-79](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fees or charges are being increased.

This rule provides for installment payment plans for commercial motor vehicle registrations. It covers administrative costs for services provided by the Department, which includes a \$50 fee for setting up each installment payment plan. To reinstate a payment plan that has been suspended, a \$40 fee is required. If there are insufficient funds, the rule allows the Department to collect a \$20 insufficient funds fee and provides the Department with the ability to collect a \$40 fee for reinstatement of a revoked or suspended commercial motor vehicle registration.

In Subchapter A, the rule allows the Department to authorize and issue temporary clearance for a carrier who needs to immediately operate a commercial motor vehicle and who is in the process of obtaining and submitting requirements for full issuance of vehicle registration and license plates. This temporary permit provides for a 45-day intermediate clearance. The \$18 fee for this permit has been struck from this rule, as it is already defined in 49-202(2)(m), Idaho Code. (See §49-434 and §49-501, 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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December 2022.

Colby Cameron
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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.26 – RULES GOVERNING TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

DOCKET NO. 39-0226-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. In support of the Governor's Red Tape Reduction Initiative, the Department has continued to work on making changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the Department's respective chapters. During this year's rules review, the Department has combined two chapters into one. Therefore, this administrative rule is being repealed and consolidated into IDAPA 39.02.22. For additional information, please visit: <https://itd.idaho.gov/rulemaking/>.

The original text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, Vol. 22-8, page 79.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December 2022.

Colby Cameron
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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.70 – RULES GOVERNING RESTRICTED DRIVING PERMITS
DOCKET NO. 39-0270-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. In support of the Governor’s Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the Department’s [5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 80-83](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December, 2022.

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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.71 – RULES GOVERNING DRIVER'S LICENSE VIOLATION POINT SYSTEM AND ACCIDENT PREVENTION COURSES

DOCKET NO. 39-0271-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. In support of the Governor's Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the Department's [5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 84-89](#).

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December, 2022.

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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.72 – RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS
DOCKET NO. 39-0272-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. In support of the Governor’s Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the Department’s [5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 90-94](#).

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December, 2022.

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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.73 – RULES GOVERNING ACCIDENT PREVENTION COURSE
DOCKET NO. 39-0273-2201 (ZBR CHAPTER REPEAL)
NOTICE OF RULEMAKING – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. In support of the Governor's Red Tape Reduction Initiative, the Department has continued to work on making changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the Department's respective chapters. During this year's rules review, the Department has combined two chapters into one. Therefore, this administrative rule is being repealed and consolidated into IDAPA 39.02.71. For additional information, please visit: <https://itd.idaho.gov/rulemaking/>.

The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, Vol. 22-8, page 95.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December, 2022.

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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 – ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312, 49-201 and 67-5229, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. The rulemaking updates an incorporation by reference in IDAPA 39.03.43 – Rules Governing Utilities on State Highway Right-of-Way to the 2023 edition of the ITD Utility Accommodation Policy (UAP). The rulemaking focuses on updating portions of the UAP that directly relate to fixed broadband permitting, accommodation, criteria, standards and policies. The rulemaking is in response to Idaho Legislature’s passage of HB640aaS-2022, which created the Idaho Broadband Dig Once and Right-of-Way Act.

The original text of the proposed rule was published in the September 7, 2022, Idaho Administrative Bulletin, Vol. 22-9, pages 310-311.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, please contact Robert Beachler, Planning 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/>.

DATED this 7th Day of December, 2022.

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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.44 – RULES GOVERNING HIGHWAY RELOCATION ASSISTANCE FOR PERSONS DISPLACED BY PUBLIC PROGRAMS

DOCKET NO. 39-0344-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

There are no changes to the pending rule, and it is being adopted as originally proposed. In support of the Governor's Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the Department's [5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

The complete text of the proposed rule was published in the August 3, 2022, Idaho Administrative Bulletin, [Vol. 22-8, pages 96-97](#).

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Colby Cameron at (208) 334-8849.

DATED this 7th Day of December, 2022.

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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)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) 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. However, the deletion of Sections 517 through 527, Motor Vehicle Inspection and Maintenance Program, will not become effective until July 1, 2023; those sections will remain in effect until July 1, 2023.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. 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.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2022, [Vol. 22-9, pages 325 through 488](#).

After consideration of public comments, sections 002, 006.31, 008.02, 008.04, 009, 387, 791.01, and 794.02 have been revised. The effective date of the deletion of Sections 517 through 527 due to legislative action has been clarified (see [Senate Bill No. 1254](#).) The remainder of the rule has been adopted as initially proposed. The Board meeting documents are available at <https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2101/> or by contacting the undersigned.

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.

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).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the rulemaking, contact the undersigned.

Dated this 7th day of December, 2022

Caroline Moores
Operations Senior Analyst
Department of Environmental Quality
1410 N. Hilton Street
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DOCKET NO. 58-0101-2101 – ADOPTION OF PENDING FEE RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made to the pending fee rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-9, September 7, 2022, pages 325 through 488.

This rule has been adopted as a pending fee rule by the agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE FOR DOCKET NO. 58-0101-2101
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)

002. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality has written statements that pertain to the interpretation *of* or compliance *with* these rules at 1410 N. Hilton, Boise, Idaho, the Department regional offices, and <https://www.deq.idaho.gov>.

()

(BREAK IN CONTINUITY OF SECTIONS)

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 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. ()

b. *Any physical change in, or change in the method of operation of, a stationary source or facility that 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.* ()

c. Fugitive emissions are not considered in determining whether a permit is required for a modification unless required by federal law. ()

d. 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

Criteria Pollutant	Emission Rate (tons/year)
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
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)
H ₂ S	10
TRS (including H ₂ S)	10
Reduced sulfur compounds (including H ₂ S)	10
H ₂ SO ₄ 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 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$		25 $\mu\text{g}/\text{m}^3$	
PM ₁₀	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$			
PM _{2.5}	0.3 $\mu\text{g}/\text{m}^3$	1.2 $\mu\text{g}/\text{m}^3$			
NO ₂	1.0 $\mu\text{g}/\text{m}^3$				
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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. Allowance. *An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year; one (1) ton of sulfur dioxide.* ()

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): ()

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. ()

04. Designated Representative. *A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit.* ()

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. ()

06. 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. ()

07. General Permit. A Tier I permit issued pursuant to Section 335. ()

08. 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. DEFINITIONS FOR THE PURPOSES OF 40 CFR PARTS 60, 61, AND 63.
Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Parts 60, 61, and 63 will have the meaning given in those Parts, except that the term “Administrator” means “Department.” ()

010. -- 106. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

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 *described* 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.

()

(BREAK IN CONTINUITY OF SECTIONS)

Note: Sections 517 through 527 remain in effect until the repeal of Idaho Code § 39-116B on July 1, 2023 (see [Senate Bill No. 1254](#)).

517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.

518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.

519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.

520. INSPECTION FREQUENCY.

521. TEST PROCEDURE REQUIREMENTS.

522. TEST STANDARDS.

523. TEST EQUIPMENT.

524. INSPECTION FEE.

525. PUBLIC OUTREACH.

526. WAIVERS.

527. EXTENSIONS.

Note: The deletion of Sections 517 through 527 is not effective until the repeal of Idaho Code § 39-116B on July 1, 2023 (see [Senate Bill No. 1254](#)).

517. –527. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

791. GENERAL CONTROL REQUIREMENTS.

01. Prohibition. No owner or operator of a nonmetallic mineral processing plant *may* 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. ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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 the applicable requirements set forth in Sections 795 through 799 are deemed to have a permit by rule (PBR) and *are* not 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. ()

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-2201

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule will become final and effective upon the adjournment sine die of the First Regular Session of the Sixty-seventh Idaho Legislature unless the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. 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.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2022, [Vol. 22-9, pages 489 through 490](#). DEQ received no comments, and the rule has been adopted as initially proposed. The board meeting documents are available at <https://www.deq.idaho.gov/hazardous-waste-docket-no-58-0105-2201/> or by contacting the undersigned.

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 the rulemaking, contact the undersigned.

Dated this 7th day of December, 2022.

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IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 – RECYCLED WATER RULES

DOCKET NO. 58-0117-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule will become final and effective upon the adjournment sine die of the First Regular Session of the Sixty-seventh Idaho Legislature unless the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2022, [Vol. 22-9, pages 491 through 515](#).

After consideration of public comments, Subsection 100.01.a. has been revised. The remainder of the rule has been adopted as initially proposed. The board meeting documents are available at <https://www.deq.idaho.gov/recycled-water-docket-no-58-0117-2201/> or by contacting the undersigned.

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 the rulemaking, contact the undersigned.

Dated this 7th day of December, 2022

Caroline Moores
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DOCKET NO. 58-0117-2201 – ADOPTION OF PENDING RULE (Zero Based Regulation (ZBR) Chapter Rewrite)

Substantive changes have been made in the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 22-9, September 7, 2022, pages 491 through 515](#).

This rule has been adopted as a pending rule by the agency and is now awaiting review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 58-0117-2201

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

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 applied according to *the originating dairy's* 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. ()

Sections Affected Index

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.01 – Idaho Time Sensitive Emergency System Council

Docket No. 16-0201-2201 (ZBR Chapter Rewrite)

000. Legal Authority	33
001. Scope And Intent	33
010. Definitions	33
081. Realignment Of TSE Region	35
082. Regional TSE Committees	36
105. Trauma Designation Centers	36
106. -- 109. (Reserved)	36
110. Stroke Designation Centers	36
111. -- 114. (Reserved)	36
115. STEMI Designation Centers	36
116. -- 119. (Reserved)	36
120. Designation Of Centers -- General Requirements	36
121. -- 189. (Reserved)	36
190. TSE Designation -- Length Of Designation	36
195. Notification Of Loss Of Certification Or Licensure	36
196. -- 199. (Reserved)	36
200. Designation And TSE Site Survey Fees	37
201. -- 249. (Reserved)	38
250. TSE Site Survey	38
251. TSE Site Survey -- General Requirements	38
252. Site Survey -- Survey Team Composition	39
253. Site Survey -- Additional Surveys	39
254. -- 259. (Reserved)	39
260. Designation Decision	39
261. -- 269. (Reserved)	40
270. Waivers	40
271. -- 279. (Reserved)	41
280. Denial And Modification	41
281. -- 284. (Reserved)	41
285. Revocation And Suspension	41
286. -- 289. (Reserved)	42
290. Designation At A Lesser Level	42
291. -- 999. (Reserved)	42

16.02.08 – Vital Statistics Rules

Docket No. 16-0208-2201

251. Fees For Copies, Searches, And Other Services	44
--	----

16.02.19 – Idaho Food Code

Docket No. 16-0219-2201 (ZBR Chapter Rewrite)

000. Legal Authority	47
001. Applicability	47
002. Incorporation By Reference	48
003. -- 049. (Reserved)	49
050. Training And Informational Materials	49
051. -- 099. (Reserved)	49
100. Purposes And Definitions	49
101. -- 109. (Reserved)	49
110. Definitions And Abbreviations -- A Through K	49

111. Definitions And Abbreviations -- L Through Z	50
112. -- 199. (Reserved)	51
200. Management And Personnel	51
201. Person In Charge	51
202. -- 209. (Reserved)	51
210. Demonstration Of Knowledge	51
211. -- 299. (Reserved)	52
300. Food	52
301. -- 319. (Reserved)	52
320. Meat And Poultry	52
321. -- 324. (Reserved)	52
325. Game Animals	52
326. -- 354. (Reserved)	53
355. Food Processing Plants	53
356. -- 359. (Reserved)	54
360. Advising Consumers Of Health Risk Of Raw Or Undercooked Foods	54
361. -- 369. (Reserved)	54
370. Adulterated Or Misbranded Food	54
371. -- 599. (Reserved)	54
600. Physical Facilities	54
601. -- 619. (Reserved)	54
620. Private Homes And Living Or Sleeping Quarters, Use Prohibition	54
621. -- 699. (Reserved)	54
700. Poisonous Or Toxic Materials	54
701. -- 719. (Reserved)	55
720. Restriction And Storage Of Medicines	55
721. Refrigerated Storage Of Medicines	55
722. -- 799. (Reserved)	55
800. Compliance And Enforcement	55
801. -- 829. (Reserved)	55
830. Application For A License	55
831. Summary Suspension Of License	55
832. -- 839. (Reserved)	56
840. Inspections And Correction Of Violations	56
841. Inspection Scores	57
842. -- 844. (Reserved)	57
845. Verification And Documentation Of Correction	57
846. -- 849. (Reserved)	58
850. Enforcement Inspections	58
851. Enforcement Procedures For Adulterated Or Misbranded Food	58
852. -- 859. (Reserved)	58
860. Revocation Of License	58
861. Appeal Process	60
862. -- 889. (Reserved)	60
890. Criminal And Civil Proceedings	60
891. -- 999. (Reserved)	60
 16.03.19 – Certified Family Homes	
Docket No. 16-0319-2201 (ZBR Chapter Rewrite)	
009. Criminal History And Background Check Requirements	64
101. Application For Certification	65
110. Issuance Of Certificate	65
115. Required Ongoing Training	66

130. Nursing Facility Level Of Care Variance	67
160. Investigations	67
402. Assistance With Medication	67
500. Environmental Sanitation Standards	69
600. Fire And Life Safety Standards	70
16.05.06 – Criminal History and Background Checks	
Docket No. 16-0506-2201 (ZBR Chapter Rewrite)	
000. Legal Authority	76
001. Policy.....	76
002. -- 009. (Reserved).....	77
010. Definitions	77
011. -- 049. (Reserved).....	78
050. Fees And Costs For Background Checks	78
051. -- 059. (Reserved).....	78
060. Agency Responsibilities	78
061. -- 069. (Reserved).....	79
070. NonCompliance With These Rules	79
071. -- 099. (Reserved).....	79
100. Individuals Subject To A Background Check	79
101. Department Individuals Subject To A Background Check	80
102. -- 119. (Reserved).....	81
120. Application For A Background Check	81
121. -- 124. (Reserved).....	81
125. Idaho Child Protection Central Registry Checks	81
126. Applicants Receiving A Department Enhanced Clearance	82
127. -- 139. (Reserved).....	82
140. Submission Of Fingerprints.....	82
141. -- 149. (Reserved).....	83
150. Time Frame For Submitting Fingerprints.....	83
151. -- 159. (Reserved).....	83
160. Withdrawal Of Application	83
161. -- 169. (Reserved).....	83
170. Availability To Provide Services Pending Completion Of The Background Check	83
171. -- 179. (Reserved).....	84
180. Background Check Results.....	84
181. Application Status	84
182. -- 189. (Reserved).....	84
190. Background Check Clearance	84
191. -- 194. (Reserved).....	85
195. Use Of Previously Completed Background Checks	85
196. -- 199. (Reserved).....	86
200. Unconditional Denial	86
201. -- 209. (Reserved).....	87
210. Disqualifying Crimes Resulting In An Unconditional Denial	87
211. -- 269. (Reserved).....	90
270. Criminal Or Relevant Record - Action Pending	90
271. -- 299. (Reserved).....	90
300. Background Check Records	90
301. -- 999. (Reserved).....	90

16.06.02 – Child Care and Foster Care Licensing

Docket No. 16-0602-2201 (ZBR Chapter Rewrite)

001. Scope and Policy.	95
009. Criminal History And Background Check Requirements.....	96
100. Licensing.....	96

16.07.33 – Adult Mental Health Services

Docket No. 16-0733-2201 (ZBR Chapter Rewrite)

000. Legal Authority.	100
001 – 002. (Reserved).....	100
003. Administrative Appeals.....	100
004. Incorporation By Reference.	100
005. -- 008. (Reserved).....	100
009. Criminal History And Background Check Requirements.....	100
010. Definitions.....	101
011. -- 099. (Reserved).....	102
100. Accessing Adult Mental Health Services (AMHS).....	102
101. Eligibility Screening And Mental Health Assessment.....	102
104. Crisis Intervention Services.....	102
120. Participant’s Rights And Responsibilities.....	103

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

Docket No. 24-0000-2201F

100. Licensure And Registration.....	121
200. Practice Standards.....	122
100. Licensure.....	123
101. -- 149. (Reserved).....	124
150. Educational and Credentialing Requirements for Licensure.....	124
050. General Qualifications For Licensure And Renewal.....	125
002. Definitions.....	126
003. Use Of Titles, Abbreviations, And Designations For The Practice Of Nursing.....	129
004. -- 099. (Reserved).....	129
100. Licensure.....	129
101. -- 149. (Reserved).....	134
150. Nursing Education for Registered and Practical Nurses.....	134
151. -- 199. (Reserved).....	135
200. Practice Standards.....	135
201. -- 299. (Reserved).....	139
300. Discipline.....	139
301. -- 399. (Reserved).....	141
400. Initial license, Renewal and Reinstatement Fees.....	141
401. -- 999. (Reserved).....	141

Docket No. 24-0000-2202F

100. Certificates of Competency and Registration.....	149
---	-----

Docket No. 24-3501-2201 (ZBR Chapter Rewrite)

200. License Production.....	155
201. Third-Party Agreement.....	155
202. Standards For Non-Use.....	155
259. River, Lake, And Reservoir Power And Float Outfitter Limits.....	156

24.39.10 – Rules of the Idaho Electrical Board**Docket No. 24-3910-2201 (ZBR Chapter Rewrite)**

100. Licensure And Registration.....	171
101. – 199. (Reserved).....	172
200. Practice Standards.....	172

IDAPA 35 – IDAHO STATE TAX COMMISSION**35.01.01 – Income Tax Administrative Rules****Docket No. 35-0101-2202 (ZBR Chapter Rewrite)**

571. -- 579. (Reserved).....	178
------------------------------	-----

35.01.09 – Idaho Beer and Wine Taxes Administrative Rules**Docket No. 35-0109-2201 (ZBR Chapter Rewrite)**

011. Beer And Wine Sales Subject To Tax (Rule 011).....	180
014. Financial Security (Rule 014).....	181

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD****Docket No. 37-0306-2201 (ZBR Chapter Rewrite)**

010. Definitions.....	187
020. Dam Size Classification.....	190
021. – 024. (Reserved).....	190
025. Hazard Classification.....	190
035. Design Reports, Drawings, And Specifications.....	191
036. – 044. (Reserved).....	194
045. Emergency Action And Operation Plans.....	194
046. – 049. (Reserved).....	194
050. New Dams And Reservoirs.....	194
051. – 059. (Reserved).....	198
060. Existing Dams And Reservoirs.....	198
061. – 999. (Reserved).....	200

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)**

002. Written Interpretations.....	212
006. General Definitions.....	212
008. Definitions For The Purposes Of Sections 300 Through 386.....	220
009. Definitions For The Purposes Of 40 CFR Parts 60, 61, and 63.....	222
010. -- 106. (Reserved).....	222
387. TIER I Registration Fee.....	222
517. Motor Vehicle Inspection And Maintenance Program.....	223
518. Requirements For Licensing Authorized Inspection Stations Or Retest Stations.....	223
519. Requirements For Licensing Authorized Emissions Technicians.....	223
520. Inspection Frequency.....	223
521. Test Procedure Requirements.....	223
522. Test Standards.....	223
523. Test Equipment.....	223
524. Inspection Fee.....	223
525. Public Outreach.....	223
526. Waivers.....	223
527. Extensions.....	223

517. –527. (Reserved)	223
791. General Control Requirements	223
794. Permit Requirements	224
<i>58.01.17 – Recycled Water Rules</i>	
Docket No. 58-0117-2201 (ZBR Chapter Rewrite)	
100. Applicability	227

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

*THERE ARE NO PROPOSED RULES PUBLISHED IN
THE DECEMBER 7, 2022, IDAHO ADMINISTRATIVE BULLETIN, VOL. 22-12*

Please refer to the Idaho Administrative Bulletin [December 7, 2022, Volume 22-12](#), 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
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CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

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

March 31, 2022 – December 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 Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

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

02.04.25, Rules Governing Private Feeding of Big Game Animals

02-0425-2201 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 22-10

02.04.29, Rules Governing Trichomoniasis

02-0429-2201 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

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 Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

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** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)
- 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** Adoption of Pending Fee Rule (New Chapter), Bulletin Vol. 22-12 (PLR 2023)
- 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** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)
- 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 Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-10
- 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 Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10
- 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 Proposed Rulemaking, Bulletin Vol. 22-10
- 08-0202-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

08.02.03, Rules Governing Thoroughness

- 08-0203-2203** Adoption of Temporary Rule, Bulletin Vol. 22-11 (eff. 10-20-22)T
- 08-0203-2202** Adoption of Temporary Rule, Bulletin Vol. 22-8 (eff. 6-15-22)T
- 08-0203-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-10
- 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 Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10
- 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 Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

11.04.01, Rules Governing the Idaho State Racing Commission

- 11-0401-2201** Adoption of Pending Fee Rule (New ZBR Chapter), Bulletin Vol. 22-12 (PLR 2023)
- 11-0401-2201** Notice of Proposed Rulemaking (New ZBR Chapter, Fee Rule), Bulletin Vol. 22-10
- 11-ZBRR-2201** *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Bulletin Vol. 22-7

11.04.02, Rules Governing Simulcasting

- 11-0402-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0402-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

- 11-0403-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0403-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

- 11-0404-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0404-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

- 11-0405-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0405-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

- 11-0406-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0406-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

- 11-0407-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0407-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

- 11-0408-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0408-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
- 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

- 11-0409-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 11-0409-2201** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10

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

11-0410-2201 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)

11-0410-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10

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**

11-0411-2201 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)

11-0411-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10

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

11-0413-2201 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)

11-0413-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10

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

11-0414-2201 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)

11-0414-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10

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

11-0415-2201 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)

11-0415-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10

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

11.10.01, Rules Governing Idaho Public Safety and Security Information System

11-1001-2201 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 22-10

11.10.03, Rules Governing the Sex Offender Registry

11-1003-2201 Notice of Proposed Rulemaking, Bulletin Vol. 22-10

11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

11-1101-2201 Notice of Proposed Rulemaking, Bulletin Vol. 22-10

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

13-0000-2200P6 Notice of Adopted / Amended Proclamation for Calendar Year 2022, Bulletin Vol. 22-10

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 Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-10
*Renames chapter from: “Rules Governing Mandatory Education and Mentored Hunting”
to: “Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges”
- 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 Proposed Rulemaking, Bulletin Vol. 22-10
- 13-0104-2202** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 22-4
- 13-0104-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-10
- 13-0104-2201** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 22-4

13.01.10, Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife

- 13-0110-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10
- 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 Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10
- 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

- 13-0118-2201*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10
*Renames chapter from: “Rules Governing Feeding of Pronghorn Antelope, Elk, and Deer”
to: “Rules Governing Feeding of Wild Cervids”
- 13-0118-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

IDAPA 15 – OFFICE OF THE GOVERNOR

Executive Orders of the Governor

- Executive Order No. **2022-05** Establishing the Idaho Early Childhood Advisory Council, Bulletin Vol. 22-11
- Executive Order No. **2022-04** Assignments of All-Hazard Prevention, Protection, Mitigation, Response and Recovery Functions to State Agencies in Support of Local and State Government Relating to Emergencies and Disasters, Bulletin Vol. 22-10
- Executive Order No. **2022-03** Adopting Idaho's 2021 Sage-Grouse Management Plan and Idaho Sage-Steppe Mitigation Process, Bulletin Vol. 22-4
- Executive Order No. **2022-02** Activation of the Idaho National Guard to Provide Support in Response to the COVID-19 Pandemic, Bulletin Vol. 22-3
- Executive Order No. **2022-01** Governor's Task Force on Children at Risk – Bulletin Vol. 22-2

Idaho Commission On Aging

15.01.02, Rules Governing Adult Protective Services Programs

- 15-0102-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10
- 15-0102-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-3

Division of Human Resources and Personnel Commission

15.04.01, Rules of the Division of Human Resources and Idaho Personnel Commission

- 15-0401-2202** Adoption of Temporary Rule, Bulletin Vol. 22-11 (eff. 11-1-22)T
- 15-0401-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-10

Idaho Military Division / Idaho Public Safety Communications Commission

15.06.01, Rules Governing the Idaho Public Safety Communications Commission

15-0601-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

Idaho State Liquor Division

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

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.01.03, Emergency Medical Services (EMS) -- Agency Licensing Requirements

16-0103-2201 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)

16-0103-2201 Notice of Proposed Rulemaking, Bulletin Vol. 22-7

16.01.06, Emergency Medical Services (EMS) -- Date Collection and Submission Requirements

16-0106-2201 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)

16-0106-2201 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 22-7

16.02.01, Idaho Time Sensitive Emergency System Council

16-0201-2201 Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)

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 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)

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

16-0302-2201 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)

16-0302-2201 Notice of Temporary and Proposed Rule, Bulletin Vol. 22-7 (eff. 9-1-22)T

16.03.09, Medicaid Basic Plan Benefits

16-0309-2201 Adoption of Pending Rule, Bulletin Vol. 22-11 (PLR 2023)

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

16-0313-2101 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 21-11

16.03.17, Medicare/Medicaid Coordinated Plan Benefits

16-0317-2201 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)

16-0317-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10

16-0317-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-3

16.03.19, Certified Family Homes

- 16-0319-2201 Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 16-0319-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9
- 16-0319-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-5

16.03.24, The Medically Indigent Program

- 16-0324-2201 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 22-11 (PLR 2023)
- 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 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 22-11 (PLR 2023)
- 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* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
- 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* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
- 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,”
 - to: “Domestic Violence Council Grants”
- 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 Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 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 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)
- 16-0601-2202 Proposed Rulemaking, Bulletin Vol. 22-9

- 16-0601-2201 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)
- 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* Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
 - *Renames chapter from: “Child Care Licensing,” to: “Child Care and Foster Care Licensing”
- 16-0602-2201* Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9
- 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

16.06.12, Idaho Child Care Program (ICCP)

- 16-0612-2201 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)

16-0612-2201 Notice of Proposed Rulemaking, Bulletin Vol. 22-10

16.07.33, Adult Mental Health Services

16-0733-2201 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)

16-0733-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9

16-0733-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-2

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01, Administrative Rules Under the Worker's Compensation Law

17-0101-2202 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)

17-0101-2202 Notice of Temporary and Proposed Rule, Bulletin Vol. 22-9 (eff. 8-3-22)T

17-0101-2201 Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)

17-1101-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-10

17-1101-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

IDAPA 18 – DEPARTMENT OF INSURANCE

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)

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 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)

- 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** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
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

18.07.09, Life and Health Actuarial Opinion and Memorandum Rule

- 18-0709-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
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

18.08.02, Fire Protection Sprinkler Contractors

- 18-0802-2201** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
18-0802-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), 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 08, Chapter 02 – Bulletin Vol. 22-4

IDAPA 20 – DEPARTMENT OF LANDS

20.02.14, Rules for Selling Forest Products on State-Owned Endowment Lands

- 20-0214-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
20-0214-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9
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*** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
*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 Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9
20-0317-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

IDAPA 21 – DIVISION OF VETERANS SERVICES

21.01.01, Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure

- 21-0101-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-11

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – Adopts Title 03, Chapter 01; Title 06, Chapter 01; Title 09, Chapter 01; Title 10, Chapter 01; Title 11, Chapter 01; Title 12, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 17, Chapter 01; Title 19, Chapter 01; Title 23, Chapter 01; Title 24, Chapter 01; Title 26, Chapter 01; Title 27, Chapter 01; Title 31, Chapter 01; Title 33, Chapters 01, 02, 04-07; Title 34, Chapter 01; and Title 36, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
24-0000-2201F *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – Proposes Title 03, Chapter 01; Title 06, Chapter 01; Title 09, Chapter 01; Title 10, Chapter 01; Title 11, Chapter 01; Title 12, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16,

Chapter 01; Title 17, Chapter 01; Title 19, Chapter 01; Title 23, Chapter 01; Title 24, Chapter 01; Title 26, Chapter 01; Title 27, Chapter 01; Title 31, Chapter 01; Title 33, Chapters 01, 02, 04-07; Title 34, Chapter 01; and Title 36, Chapter 01 – Bulletin Vol. 22-10

24-0000-2201F *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 03, Chapter 01; Title 06, Chapter 01; Title 09, Chapter 01; Title 10, Chapter 01; Title 11, Chapter 01; Title 12, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 17, Chapter 01; Title 19, Chapter 01; Title 23, Chapter 01; Title 24, Chapter 01; Title 26, Chapter 01; Title 27, Chapter 01; Title 31, Chapter 01; Title 33, Chapters 01, 02, 04-07; Title 34, Chapter 01; and Title 36, Chapter 01 – Bulletin Vol. 22-6 (eff. 3-31-22)T

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 Pending Fee Rule – Adopts 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 20, 31, 40, 50, 70, 90 – Bulletin Vol. 22-12 (PLR 2023)

24-0000-2202F *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – Proposes 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 20, 31, 40, 50, 70, 90 – Bulletin Vol. 22-10

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 Pending Fee Rule – Adopts Title 02, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)

24-0201-2200F *Rules of the State Athletic Commission* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – Proposes Title 02, Chapter 01 – Bulletin Vol. 22-10

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 Pending Fee Rule – Adopts Title 05, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)

24-0501-2200F *Rules of the Board of Drinking Water and Wastewater Professionals* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – Proposes Title 05, Chapter 01 – Bulletin Vol. 22-10

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

24.10.01, Rules of the State Board of Optometry

24-0000-2201F *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 10, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)

24-0000-2201F *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 10, Chapter 01 – Bulletin Vol. 22-10

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

24.12.01, Rules of the Idaho State Board of Psychologist Examiners

- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 12, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 12, Chapter 01 – Bulletin Vol. 22-10
- 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

- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 17, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 17, Chapter 01 – Bulletin Vol. 22-10
- 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

- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 23, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 23, Chapter 01 – Bulletin Vol. 22-10
- 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

24.25.01, Rules of the Idaho Driving Businesses Licensure Board

- 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 Pending Fee Rule – ZBR Chapter Rewrite of Title 25, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2202F** *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 25, Chapter 01 – Bulletin Vol. 22-10
- 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

24.26.01, Rules of the Idaho Board of Midwifery

- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 26, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 26, Chapter 01 – Bulletin Vol. 22-10
- 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

24.30.01, Idaho Accountancy Rules

- 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 Pending Fee Rule – ZBR Chapter Rewrite of Title 30, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2202F** *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 30, Chapter 01 – Bulletin Vol. 22-10
- 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

24.34.01, Rules of the Idaho Board of Nursing

- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 34, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2201F** *Rules of the Division of Occupational and Professional Licenses (health care related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 34, Chapter 01 – Bulletin Vol. 22-10
- 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

24.35.01, Rules of the Outfitters and Guides Licensing Board

- 24-3501-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 24-3501-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9
- 24-3501-2200** *Rules of the Outfitters and Guides Licensing 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 Licensing 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

24.38.01, Rules of the State of Idaho Board of Veterinary Medicine

- 24-3801-2200F** *Rules of the Idaho Board of Veterinary Medicine* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – Adopts Title 38, Chapter 01 – Bulletin Vol. 22-12 (PLR 2023)
- 24-3801-2200F** *Rules of the Idaho Board of Veterinary Medicine* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – Proposes Title 38, Chapter 01 – Bulletin Vol. 22-10
- 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** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 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

- 24-0000-2202F** *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 39, Chapter 20 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2202F** *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 39, Chapter 20 – Bulletin Vol. 22-10
- 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)

- 24-3930-2201** 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 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

- 24-0000-2202F** *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule – ZBR Chapter Rewrite of Title 39, Chapter 70 – Bulletin Vol. 22-12 (PLR 2023)
- 24-0000-2202F** *Rules of the Division of Occupational and Professional Licenses (occupations, building, construction, and real estate related)* – Notice of Omnibus Rulemaking – Proposed (Fee) Rule – ZBR Chapter Rewrite of Title 39, Chapter 70 – Bulletin Vol. 22-10
- 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

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.30, Idaho Safe Boating Rules

- 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

IDAPA 31 – PUBLIC UTILITIES COMMISSION

31.61.01, Rules for the Measurement of Stray Current or Voltage (The Stray Voltage Rules)

- 31-6101-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)
- 31-6101-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7
- 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

- 31-8101-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)
- 31-8101-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7
- 31-8101-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

IDAPA 35 – STATE TAX COMMISSION

35.01.01, Income Tax Administrative Rules

- 35-0101-2202** Adoption of Pending Rule (ZBR Chapter Rewrite 2 of 2, Sections 300-699), Bulletin Vol. 22-12 (PLR 2023)
- 35-0101-2202** Notice of Proposed Rulemaking (ZBR Chapter Rewrite 2 of 2, Sections 300-699), Bulletin Vol. 22-10
- 35-0101-2201** Adoption of Pending Rule (ZBR Chapter Rewrite 1 of 2, Sections 000-299 and 700-999), Bulletin Vol. 22-12 (PLR 2023)
- 35-0101-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite 1 of 2, Sections 000-299 and 700-999), Bulletin Vol. 22-10
- 35-0101-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

35.01.09, Idaho Beer and Wine Taxes Administrative Rules

- 35-0109-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 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** Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)
- 35-0201-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-8

IDAPA 36 – IDAHO BOARD OF TAX APPEALS

36.01.01, Idaho Board of Tax Appeals Rules

- 36-0101-2200** *Idaho State Board of Tax Appeals* – Notice of Omnibus Rulemaking – Adoption of Pending Rule – Reauthorizes Title 01, Chapter 01 – Bulletin Vol. 22-10 (PLR 2023)
- 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

IDAPA 37 – DEPARTMENT OF WATER RESOURCES

37.02.03, Water Supply Bank Rules

- 37-0203-2201** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 37-0203-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-10
- 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** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 37-0304-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-10
- 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** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 37-0305-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-10
- 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** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 37-0306-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-10
- 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** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 37-0310-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-10
- 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*** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
- 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** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-11 (PLR 2023)
- 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** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
- 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** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-11 (PLR 2023)
- 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** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-11 (PLR 2023)
- 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

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

- 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** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 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*** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
*Renames chapter from: “*Rules Governing Registration and Permit Fee Administration*”
to: “*Rules Governing Registration and Permit Fee Administration and Temporary Vehicle Clearance for Carriers*”
- 39-0222-2201*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), 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 22 – Bulletin Vol. 22-5

39.02.26, Rules Governing Temporary Vehicle Clearance for Carriers

- 39-0226-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 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** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 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*** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
*Renames chapter from: “*Rules Governing Driver’s License Violation Point System*”
to: “*Rules Governing Driver’s License Violation Point System and Accident Prevention Courses*”
- 39-0271-2201*** 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 71 – Bulletin Vol. 22-5

39.02.72, Rules Governing Administrative License Suspensions

- 39-0272-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 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** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 22-12 (PLR 2023)
- 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** Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)
- 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
- 39-0343-2201** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 22-6

39.03.44, Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs

- 39-0344-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 39-0344-2201** 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 03, Chapter 44 – Bulletin Vol. 22-5

IDAPA 47 – DIVISION OF VOCATIONAL REHABILITATION**47.01.01, Rules Governing Vocational Rehabilitation Services**

- 47-0101-2200** **Idaho Division of Vocation Rehabilitation** – Notice of Omnibus Rulemaking – Temporary and Proposed Rulemaking – Reauthorizes Title 01, Chapter 01 – Bulletin Vol. 22-7 (eff. 7-1-22)T

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD**57.01.01, Rules of the Sexual Offender Management Board**

- 57-0101-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9
- 57-0101-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-8

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

TMDLs:

- 58-0000-2203** Notice of Final Decision, Beaver-Camas Subbasin 2022 Total Maximum Daily Loads (TMDLs) (HUC 17040214), Bulletin Vol. 22-11
- 58-0000-2202** Notice of Final Decision, Lower Clark Fork River Subbasin 2022 Total Maximum Daily Loads (TMDLs) (HUC 17010213), Bulletin Vol. 22-8
- 58-0000-2201** Notice of Final Decision, Spokane River Total Maximum Daily Load (TMDL) – Lead and Zinc (HUC 17010305), Bulletin Vol. 22-8

58.01.01, Rules for the Control of Air Pollution in Idaho

- 58-0101-2101** Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 58-0101-2101** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-9
- 58-0101-2101** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 21-10

58.01.02, Water Quality Standards

- 58-0102-2201** Adoption of Pending Rule, Bulletin Vol. 22-7 (PLR 2023)
- 58-0102-2201*** Notice of Proposed Rulemaking, Bulletin Vol. 22-3 (*rulemaking includes negotiated docket 58-0102-1801)
- 58-0102-2201** Notice of Meeting of the Idaho Board of Environmental Quality, Bulletin Vol. 22-3

58.01.05, Rules and Standards for Hazardous Waste

- 58-0105-2201** Adoption of Pending Rule, Bulletin Vol. 22-12 (PLR 2023)
- 58-0105-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-9

58.01.17, Recycled Water Rules

- 58-0117-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 58-0117-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9
- 58-0117-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.01, Rules for the Public Employee Retirement System of Idaho (PERSI)

- 59-0101-2201** Notice of Proposed Rulemaking, Bulletin Vol. 22-9

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

- 61-0000-2200** *Rules of the Idaho State Public Defense Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapters 01-04 – Bulletin Vol. 22-7 (eff. 7-1-21)T

61.01.01, General Provisions and Definitions

- 61-0000-2200** *Rules of the Idaho State Public Defense Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 01 – Bulletin Vol. 22-7 (eff. 7-1-21)T

61.01.02, Requirements and Procedures for Representing Indigent Persons

- 61-0000-2200** *Rules of the Idaho State Public Defense Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 02 – Bulletin Vol. 22-7 (eff. 7-1-21)T

61.01.03, Records, Reporting, and Review

- 61-0000-2200** *Rules of the Idaho State Public Defense Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 03 – Bulletin Vol. 22-7 (eff. 7-1-21)T

61.01.04, Financial Assistance and Training Resources

- 61-0000-2200** *Rules of the Idaho State Public Defense Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 04 – Bulletin Vol. 22-7 (eff. 7-1-21)T

Subject Index

A

- Accessing Adult Mental Health Services (AMHS) 102
- Administrative Appeals 100
- Adulterated Or Misbranded Food 54
- Advising Consumers Of Health Risk Of Raw Or Undercooked Foods 54
 - Consumption of Animal Foods That are Raw, Undercooked, or not Otherwise Processed to Eliminate Pathogens 54
 - How to Inform Consumers of Health Risk 54
- Agency Responsibilities 78
 - Applicant Screening 78
 - Change in Name or Ownership 78
 - Discovery of Criminal Convictions or Disqualifying Records After Clearance is Issued 79
 - Employment Determination 79
 - Initial Registration 78
 - Retention of Records 79
 - Review Background Check Results 78
 - Time Frames For Compliance 78
- Appeal Process 60
 - Appeal to The Director 60
 - Compliance Conference 60
- Applicability 47, 227
 - Applicability to Reuse Facilities 227
 - Reuse Policy 227
- Applicants Receiving A Department Enhanced Clearance 82
 - Adoptive Parent Applicants 82
 - Behavioral Health Programs 82
 - Certified Family Homes 82
 - Children's Agency Facility Staff 82
 - Children's Residential Care Facilities 82
 - Children's Therapeutic Outdoor Programs 82
 - Citizen Review Panel Members 82
 - Idaho Child Care Program (ICCP) 82
 - Licensed Day Care 82
 - Licensed Foster Care 82
 - Mental Health Services 82
 - Substance Use Disorders Services 82
- Application For A Background Check 81
 - Application Form 81
 - Disclosures 81
 - Failure to Disclose Information 81
- Application For A License 55
 - Food License Expiration 55
 - License is Non-Transferable 55
 - Renewal of License 55
 - Revocation of License 55
- Summary Suspension of License 55
 - To Apply for a Food Establishment License 55
- Application For Certification 65
 - Completed Application Signed by Applicant 65
 - Electrical Inspection 65
 - Heating and Air Conditioning Inspection 65
 - List of Individuals Living in the Home 65
 - Other Information as Requested 65
 - Plumbing Inspection 65
 - Proof of Insurance 65
 - Statement Disclosing Revocation or Disciplinary Actions 65
 - Statement to Comply 65
- Application Status 84
- Assistance With Medication 67
 - Condition of the Resident 68
 - Containers 68
 - Disposal of Medication 69
 - Documentation of Assistance 69
 - Nursing Assessment 68
 - Safeguarding Medications 68
 - Scope of Practice 69
- Availability To Provide Services Pending Completion Of The Background Check 83
 - Employees of Providers, Contractors, Bureau of Emergency Medical Services (EMS), or the Department 83
 - Individuals Licensed or Certified by the Department 83

B

- Background Check Clearance 84
 - Clearance 84
 - Clearance Types 84
 - Revocation of Clearance 84
- Background Check Records 90
 - Department Retention of Records 90
 - Release of Background Check Records 90
 - Use & Dissemination Restrictions for FBI Criminal Identification Records 90
- Background Check Results 84
 - Department Employees That Have Access to the Internal Revenue Service Federal Tax Information File 84
 - Findings for Court-Required Criminal History & Background Checks 84
 - Results of Background Checks 84
- Beer And Wine Sales Subject To Tax 180
 - In General 180
 - Supplementing Inventory 181

C

- Certificates Of Competency -- Issuance, Renewal, Expiration -- Revival 149
 - Apprentice and Specialty Apprentice Registration and Renewal 149
 - Contractor and Specialty Contractor Certificate of Competency 149
 - Journeyman Certificate of Competency 149
 - Specialty Journeyman Certificate of Competency 149
 - Compliance & Enforcement 55
 - Criminal & Civil Proceedings 60
 - Civil Proceedings 60
 - Criminal Proceedings 60
 - Injunctive Relief 60
 - Criminal History & Background Check Requirements 64, 96, 100
 - Availability to Work or Provide Service 100
 - Background Check at Any Time 96
 - Background Check Clearance 64
 - Background Checks 100
 - Compliance with Department Background Check 96
 - Exceptions to Background Checks for Certain Youths 96
 - Individuals Subject to Background Check Requirements 96
 - Minor Child Turning Eighteen 64
 - New Adults in the Home After Certification 64
 - Renewal of Clearance 64
 - Substitute Caregivers & Staff 64
 - Visitors 64
 - Waiver of Background Check Denial 101
 - When Certification Can Be Granted 64
 - When License is Granted 96
 - Criminal Or Relevant Record - Action Pending 90
 - Availability to Provide Services 90
 - Notice of Inability to Proceed 90
 - Reconsideration of Action Pending 90
 - Crisis Intervention Services 102
 - Determination of the Need for Crisis Intervention Services 103
 - Identification of the Crisis Intervention Services Needed 103
 - Immediate Intervention 103
- ## D
- Dam Size Classification 190
 - Definitions 77, 101
 - Adult 101

- Adult Mental Health Services (AMHS) 101
- Applicant 101
- Clinical Assessment 101
- Clinical Team 101
- Crisis Intervention Services 101
- Department 101
- Eligibility Screening 101
- Mental Health Crisis 101
- Network Treatment Provider 101
- Participant 101
- Serious and Persistent Mental Illness (SPMI) 102
- Serious Mental Illness (SMI) 102
- Definitions & Abbreviations
 - A Through K 49
 - Agricultural Market Board 49
 - Consent Order 49
 - Core Item 49
 - Cottage Food Operation 49
 - Cottage Food Product 49
 - Department 49
 - Director 49
 - Embargo 49
 - Enforcement Inspection 49
 - Farmers Market 50
 - Food Establishment 50
 - Food Processing Plant 50
 - Good Retail Practice 50
 - High-Risk Food Establishment 50
 - Roadside Stand 51
 - TCS 51
 - Agency 77
 - Application 77
 - Background Check Unit 77
 - Clearance 77
 - Conviction 77
 - Criminal History & Background Check 77
 - Denial 77
 - Department 77
 - Direct Patient Access Employee 77
 - Disqualifying Crime 77
 - Employer 78
 - Enhanced Clearance 78
 - L Through Z 50
 - License Holder 50
 - Low-Risk Food Establishment 50
 - Medium-Risk Food Establishment 50
 - Priority Foundation Item 51
 - Priority Item 50
 - Regulatory Authority 51
 - Risk Control Plan 51
 - Risk Factor Violation 51
 - Relevant Record 78
- Definitions For The Purposes Of 40 CFR Parts 60, 61 and 63 222
- Definitions For The Purposes Of Sections 300 Through 386 220
 - Affected States 220
 - Allowance 220
 - Applicable Requirement 220
 - Designated Representative 221
 - Draft Permit 221
 - Final Permit 221
 - General Permit 221
 - Major Facility 221
- Definitions, IDAPA 16.02.01 33
 - Department 33
 - EMS Agency 33
 - Facility 33
 - Heart Attack 34
 - Idaho Time Sensitive Emergency (TSE) System Council 34
 - National Accrediting Body 34
 - Regional Time Sensitive Emergency (TSE) Committee 34
 - STEMI 34
 - Stroke 34
 - Time Sensitive Emergency (TSE) 34
 - Trauma 34
 - TSE Registry 35
 - TSE System 35
 - TSE-Designated Center 34
- Definitions, IDAPA 24.34.01 126
 - Accreditation 126
 - Advanced Practice Registered Nurse 126
 - Approval 126
 - Assistance With Medications 126
 - Certification 126
 - Certified Nurse Practitioner 126
 - Certified Nurse-Midwife 126
 - Certified Registered Nurse Anesthetist 126
 - Charge Nurse 127
 - Clinical Nurse Specialist 127
 - Curriculum 127
 - Diagnosis 127
 - Disability 127
 - Intervention 127
 - Licensed Practical Nurse (LPN) 127
 - Licensed Registered Nurse (RN) 127
 - Nursing Assessment 127
 - Nursing Intervention 127
 - Nursing Jurisdiction 127
 - Organized Program of Study 128
 - Peer Review Process 128
 - Plan of Care 128
 - Population Focus 128
 - Practice Standards 128
 - Prescriptive and Dispensing Authorization 128
 - Restricted License 128
 - Scope of Practice 128
 - Specialization 128
 - Specialty Nursing Organization 128
 - Supervision 128
 - Unlicensed Assistive Personnel (UAP) 128
- Definitions, IDAPA 37.03.06 187
 - Alterations or Repairs 187
 - Appurtenant Structures 187
 - Artificial Barrier or Embankment 187
 - Borrowed Fill Embankment 187
 - Certificate of Approval 187
 - Conduit 187
 - Core 187
 - Cutoff Trench 187
 - Dam 187
 - Days 188
 - Department 188
 - Design Evaluation 188
 - Director 188
 - Embankment 188
 - Emergency Action Plan (EAP) 188
 - Enlargement 188
 - Factor of Safety 188
 - Flashboards 188
 - Flood 188
 - Flood Surcharge 188
 - Freeboard 188
 - Hazard Classification 188
 - Hydraulics 189
 - Hydrology 189
 - Inflow Design Flood (IDF) 189
 - Intermediate Dams 189
 - Large Dams 189
 - Levee 189
 - Lift Construction 189
 - Maximum Water Storage Elevation 189
 - Operation Plan 189
 - Owner 189
 - Professional Engineer 189
 - Release Capacity 190
 - Reservoir 190
 - Small Dams 190
 - Spillway 190
 - Storage Capacity 190
- Demonstration Of Knowledge 51
 - Approved Courses 51
 - Certified Food Protection Manager 52
 - No Priority Violations 51
- Denial & Modification 41
 - Denial 41
 - Modification 41
 - Notification & Appeal 41
- Department Individuals Subject To A Background Check 80
 - Emergency Medical Services (EMS) Employees 81
 - Employees at State Institutions 81
 - Employees of Bureau of Compliance 81
 - Employees, Contractors, & Volunteers 81
 - Other Employees 81
- Design Reports, Drawings, & Specifications 191
 - Additional Information/

- Waiver 194
- Alternate Plans 194
- Applying for & Obtaining Written Approval 191
- Changes to the Approved Design 192
- Design Report 193
- Information Included with Plans 192
- Inspection, Examination & Testing of Materials 193
- Inspections 193
- Preparation & Submission of Plans 191
- Rejection of Defective Material 193
- Responsibility of Engineer 193
- Submission of Duplicate Plans, Drawings & Specifications 191
- Suspension of Work 193
- Designation & TSE On-Site Survey Fees
 - Application Without National Verification 37
 - Designation Fee Payment 38
 - STEMI (Heart Attack) Designation & TSE On-Site Survey Fees 37
- Designation & TSE Site Survey Fees
 - Application With National Verification 37
 - Stroke Designation and TSE On-Site Survey Fees 37
 - Trauma Designation & TSE Site Survey Fees 37
- Designation And TSE Site Survey Fees 37
- Designation At A Lesser Level 42
 - Inability to Meet Criteria 42
 - Notification & Appeal 42
- Designation Decision 39
 - Denial 40
 - Final Determination 39
 - Provisional Designation 39
 - Summary Report 39
 - Written Report 39
- Designation Of Centers -- General Requirements 36
 - Application 36
 - Initial Designation 36
- Discipline 139
 - Disability Due to Substance Use Disorder or Mental Health Disorder 140
 - Emergency Action 141
 - Grounds 139
 - Grounds for Discipline of an Advanced Practice Registered Nurse License 139
 - Restricted Status 140
- Disqualifying Crimes Resulting In An Unconditional Denial 87
 - Disqualifying Crimes 87
 - Disqualifying Five-Year Crimes 88
 - Disqualifying Three-Year Crimes 89
 - Underlying Facts & Circumstances 89
- E**
- Educational & Credentialing Requirements For Licensure 124
 - Content of Program 125
 - Training in Professional Psychology 125
 - Training Program 125
- Eligibility Screening & Mental Health Assessment 102
 - Clinical Assessment 102
 - Eligibility Screening 102
- Emergency Action & Operation Plans 194
- Enforcement Inspections 58
 - Enforcement Inspections on Consent Order 58
 - Follow-Up Inspection 58
 - Regulatory Action 58
 - Written Notice 58
- Enforcement Procedures For Adulterated Or Misbranded Food 58
 - Embargo Order is Effective When Served 58
 - Embargo Release 58
 - Removal of Embargo Tag or Label 58
 - Serving an Embargo Order 58
 - Storage of Embargoed Food 58
 - Tagging Embargoed Food 58
- Environmental Sanitation Standards 69
 - Garbage & Refuse Disposal 70
 - Housekeeping & Maintenance 70
 - Insect & Rodent Control 70
 - Laundry 70
 - Sewage Disposal 70
 - Water Supply 69
 - Yard 70
- Existing Dams & Reservoirs 198
 - Analyses Required 198
 - Other Requirements 199
- Extensions 223
- F**
- Fees & Costs For Background Checks 78
- Fees For Copies, Searches, & Other Services 44
 - Certified Copies 44
 - Fees for Other Services 44
 - Searches 44
 - Statistical, Research, or Public Health Services 44
 - Verifications 44
 - Waiver of Fee Requirement 45
- Financial Security 181
- Financial Security
 - Financial Security for Payment of Tax 181
 - Security for a New Taxpayer 181
- Fire & Life Safety Standards 70
 - Emergency Drills 73
 - Emergency Preparedness Plan 72
 - Fire and Life Safety Requirements 71
 - General Requirements 70
 - Maintenance of Equipment 73
 - Smoking 72
- Food 52
- Food Processing Plants 53
 - Approval of Process Methods 53
 - Bottled Water Processing 53
 - Labels 53
 - Processing of Acidified Foods 53
 - Quality Assurance Program 53
 - Testing 53
 - Thermal Processing of Low-Acid Foods 53
- G**
- Game Animals 52
 - Donated Game Meat 52
 - Field Dressed Game Animals 52
 - Processing Game Animals 52
 - Un-Inspected Game Animals 52
- General Control Requirements 223
 - Control of Fugitive Dust 223
 - Prohibition 223
- General Definitions, IDAPA 58.01.01 212
 - Accountable 212
 - Actual Emissions 212
 - Air Quality 213
 - Allowable Emissions 213
 - Ambient Air 213
 - Ambient Air Quality Violation 213
 - Attainment Area 213
 - Commence Construction or Modification 213
 - Control Equipment 213
 - Controlled Emission 213
 - Criteria Air Pollutant 213
 - Emission 213
 - Emission Standard 213
 - Emissions Unit 214
 - Environmental Remediation Source 214
 - Existing Stationary Source or Facility 214
 - Facility 214
 - Federal Land Manager 214
 - Federally Enforceable 214
 - Fuel-Burning Equipment 214
 - Fugitive Dust 214
 - Fugitive Emissions 214
 - Gasoline 214
 - Gasoline Cargo Tank 214
 - Gasoline Dispensing Facility (GDF) 214
 - Hazardous Air Pollutant (HAP) 214
 - Incinerator 214

- Integral Vista 215
Mandatory Federal Class I Area 215
Mercury Best Available Control Technology (MBACT) 215
Modification, Stationary Source or Facility 215
National Ambient Air Quality Standard (NAAQS) 215
New Stationary Source or Facility 215
Nonattainment Area 216
Particulate Matter 216
Portable Equipment 216
Potential to Emit/Potential Emissions 216
Process or Process Equipment 216
Regulated Air Pollutant 216
Replicable 217
Responsible Official 217
Secondary Emissions 217
Significant 217
Significant Contribution 219
Source 219
Source Operation 219
Stack 219
Stationary Source 220
Tier I Source 220
Toxic Air Pollutant 220
TRS (Total Reduced Sulfur) 220
Unclassifiable Area 220
Uncontrolled Emission 220
General Qualifications For Licensure & Renewal 125
 Additional Circumstances 125
 Board Determinations 126
 Postgraduate Training Program 126
 Special Purpose Examination 126
- H**
Hazard Classification 190
- I**
Idaho Child Protection Central Registry Checks 81
 Department Response 82
 Fee Amount 82
 Request for an Idaho Child Protection Central Registry Check 82
Incorporation By Reference 48, 100
Individuals Subject To A Background Check 79
Initial license, Renewal And Reinstatement Fees 141
 Assessed Fees 141
 Other Fees 141
 Reinstatement Fee 141
Inspection Fee 223
Inspection Frequency 223
Inspection Scores 57
 High-Risk Food Establishment 57
 Medium-Risk Food Establishment 57
 Written Violation Correction Report 57
Inspections & Correction Of Violations 56
 Inspection Interval Section 8-401.10(A) 57
 Section 8-401.10(B) 57
 Section 8-401.10(C) 57
 Section 8-405.11 57
Investigations 67
 Complaints 67
 Critical Incidents 67
 Investigation Method 67
 Public Disclosure 67
 Written Report 67
Issuance Of Certificate 65
 Full Certificate 65
 Temporary Certificate 65
- L**
Legal Authority 33, 47, 76, 100
License 50
License Production 155
Licensing 96
 Exceptions and Exemptions to Daycare and Foster Home Licensing 97
 Exceptions and Exemptions to Daycare Licensing 97
 Responsibilities of the Foster Parent or Operator 96
 Responsible for Agency Staff Knowledge 97
 Responsible for Knowledge of Standards 96
 Return of License 97
Licensure 123, 129
 Continuing Education 124
 Examination and Re-Examination 131
 Examination for Provisional Certification of Prescriptive Authority 123
 Licensure
 General Requirements 129
 Licensure by Equivalency and Endorsement Licensure 132
 Persons Exempted by the Board 129
 Persons Exempted from Advanced Practice Registered Nursing License Requirements 133
 Provisional Certification of Prescriptive Authority 124
 Provisional Licensure for Prescriptive Authority 124
 Qualifications for Advanced Practice Registered Nurse 133
 Qualifications for Licensure by Endorsement 132
 Qualifications for Licensure by Examination 131
 Qualifications for Licensure of Graduates of Schools of Nursing Located Outside the United States, Its Territories, or Commonwealths 132
 Recognition of National Certifying Organizations for Advanced Practice Registered Nursing 133
 Reinstatement 134
 Reinstatement of Advanced Practice Registered Nurse License 134
 Renewal of Advanced Practice Registered Nurse License 133
 Temporary Licensure 130
 Temporary Permits 123
 Written Exam Required 123
Licensure & Registration 121, 171
 Application 121
 Approved Exam 121
 Continuing Education 172
 Continuing Education In Optometry 121
 Electrical Contractor & Limited Electrical Contractor 171
 Journeyman 171
 Licensure by Endorsement 121
 Limited Electrical Installer 171
 Master 171
 Method of Application- Examination of Applicants 121
- M**
Meat & Poultry 52
 Custom Meat 52
 Poultry Exemption 52
Motor Vehicle Inspection & Maintenance Program 223
- N**
New Dams & Reservoirs 194
 Cutoff Trenches or Walls 195
 Drains 196
 Embankment Stability 194
 Freeboard 196
 Gates & Valves 196
 Impermeable Core Material 195
 Inspection & Completion Reports 198
 Outlet Conduits 196
 Outlet Controls 197
 Release Capacity 197
 Reservoir Site 198
 Riprap 196
 Top Width 195
NonCompliance With These Rules 79
Notification Of Loss Of Certification Or Licensure 36
Nursing Education For Registered & Practical Nurses 134
 Board Notification 135
 Continuance of Full Approval of Educational Program 135

Nursing Educational Programs 134
Nursing Facility Level Of Care Variance 67
 Conditions for Variance 67
 Request for Variance 67

P

Participant's Rights And Responsibilities 103
Permit Requirements 224
 Permit by Rule 224
 Permit By Rule Eligibility 224
 Permit to Construct 224
 Tier I Operating Permits 224
 Tier II Operating Permits 224
Person In Charge 51
Physical Facilities 54
Poisonous Or Toxic Materials 54
Policy 76
Practice Standards 122, 135, 172
 Certification & Approval of Electrical Products & Materials 175
 Connecting and Energizing Prior to Inspections 173
 Contractor Scope 172
 Decision-Making Model 135
 Electrical Contracting Work 172
 Expired Contact Lens Prescription 123
 Fitting and Dispensing Contact Lenses 123
 Limited Electrical Installations 173
 Preceptorship Program 123
 Prescriptions for Spectacles and Contact Lenses 122
 Prescriptive and Dispensing Authorization for Advanced Practice Registered Nurses 139
 Professional Responsibility 137
 Standards of Conduct 137
 Standards of Practice for Advanced Practice Registered Nursing 138
 Standards of Professional Conduct 122
 Supervision 172
 The Right to Obtain and Use Pharmaceutical Agents 123
 Valid Advanced Practice Registered Nurse/Patient Relationships 139
 Vision Therapy 122
Private Homes & Living or Sleeping Quarters, Use Prohibition 54
Public Outreach 223
Purposes & Definitions, IDAPA 16.02.19, Food Safety & Sanitation Standards For Food Establishments 49

R

Realignment of TSE Region 35
 Copies of Request 35
 Requesting Entity 35
 TSE Decision 36
Refrigerated Storage Of Medicines 55
 Accessibility of Stored Medicines 55
 Medicines Stored in a Leak-Proof Container 55
Regional TSE Committees 36
Required Ongoing Training 66
 Content of Training 66
 Documentation of Training 66
 Initial Provider Training 66
Requirements For Licensing Authorized Emissions Technicians 223
Requirements For Licensing Authorized Inspection Stations Or Retest Stations 223
Restriction & Storage Of Medicines 55
 Labeling of Medicines 55
 Medicines Allowed in a Food Establishment 55
Revocation & Suspension 41
 Notification & Appeal 42
 Revocation 41
 Suspension 42
Revocation Of License 58
 Effective Date of Revocation 59
 Notice to Revoke a License 59
 Reasons a License may be Revoked 59
River, Lake, & Reservoir Power & Float Outfitter Limits 156

S

Sales Subject To Wine Tax
 All Sales Presumed Taxable 181
Scope & Intent 33
Scope & Policy 95
Site Survey -- Additional Surveys 39
Site Survey -- Survey Team Composition 39
Standards For Non-Use 155
 Definitions 155
 Required Records 155
STEMI Designation Centers 36
Stroke Designation Centers 36
Submission Of Fingerprints 82
 Department Fingerprinting Locations 82
 Submission of Reprints 83
 Submitting Fingerprints by Mail 82
Summary Suspension Of License 55
 Length of Summary Suspension 56
 Prior Notification is Not Required for a Summary Suspension 56
 Reasons a Summary Suspension may be Issued 56
 Re-Inspection of Food

Establishment 56
Reinstatement of License 56
Written Notice of Summary Suspension 56

T

Test Equipment 223
Test Procedure Requirements 223
Test Standards 223
Third-Party Agreement 155
TIER I Registration Fee 222
 Facility Emission Units 222
 Facility Information 222
 Owner/Operator Information 222
 Pollutant Registration 222
Time Frame For Submitting Fingerprints 83
 No Extension of Time Frame 83
 Time Frame 83
Training & Informational Materials 49
Trauma Designation Centers 36
TSE Designation -- Length Of Designation 36
TSE On-Site Survey 38
TSE Site Survey -- General Requirements 38
 Communication Between Surveyors and Facilities 39
 Facility Notification to TSE Council of Potential Conflict of Interest 39
 Notification of Decision for Conflict of Interest 39
 Notification to Applicant of Survey Team Members 39
 Survey Team Member Notification of Potential Conflict of Interest 39
 Survey Team Member Requirements 38

U

Unconditional Denial 86
 Appeal of an Unconditional Denial 86
 Challenge of Department's Unconditional Denial 86
 Issuance of an Unconditional Denial 86
 Reasons for an Unconditional Denial 86
Use Of Previously Completed Background Checks 85
 Agency Discretion 85
 Department Discretion 86
 New Background Check 85
 Use of Background Check Within Three Years of Completion 85
Use Of Titles, Abbreviations, & Designations For The Practice Of Nursing 129
 Abbreviations 129
 More Abbreviations 129
 Title

“Licensed Practical Nurse” and the
abbreviation “LPN/VN” 129
“Registered Nurse” and the abbrevi-
ation “RN” 129

V

Verification & Documentation Of
Correction 57
Risk Control Plan 57
Written Report of Correction 57

W

Waivers 40, 223
Granting a Waiver 40
Notice Distribution 40
Notification & Appeal 41
Post Notice 40
Waiver Application 40
Waiver Application
Distribution 40
Waiver Application Review 40
Waiver Application
Submission 40
Waiver Conditions 40
Waiver Renewal 41
Waiver Revocation 41
Withdrawal Of Application 83
Written Interpretations 212